



Security Council

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Letter dated 6 April 2020 from the Secretary-General addressed to the President of the Security Council

During the course of the current conflict in the Syrian Arab Republic, a number of incidents have occurred in which facilities that were on the United Nations deconfliction list or that were receiving support from the United Nations were reported to have been hit or to have otherwise sustained damage in the course of military operations. A considerable number of these incidents are reported to have occurred in the north-west of the Syrian Arab Republic since the signing of the Memorandum on the Stabilization of the Situation in the Idlib De-escalation Area by the Russian Federation and the Republic of Turkey on 17 September 2018.

In my capacity as Chief Administrative Officer of the Organization, I decided to establish a United Nations Headquarters Board of Inquiry to review and investigate a number of these incidents.

My aim in taking this step was to develop a clear record of the facts of these incidents, their causes and the persons or entities to which they might be attributable. This would make it possible for me, inter alia, to identify any gaps or shortcomings that there might have been in the Organization's procedures and to take any measures and put in place any arrangements that might be needed to prevent the recurrence of such incidents in the future or at least minimize their number and mitigate their effects. It would also put me in a better position to determine what steps I might need to take to protect and better manage the Organization's resources, in particular the funds entrusted by Member States to the United Nations to finance programmes in the humanitarian field.

I would emphasize in this connection that a board of inquiry is not a judicial body or court of law; it does not make legal findings or consider questions of legal liability or legal responsibility.

The difficulties that any board of inquiry would face in developing a clear picture of precisely what occurred in the case of each incident naturally placed limits on the number of incidents that the Board could reasonably be expected to investigate within the time frame that is usually given to such a body. This was all the more the case in view of the complexities of the situation in the north-west of the Syrian Arab Republic and the fact that the Organization did not have any personnel on the ground in that part of the country who could have been potential eyewitnesses to the incidents under investigation. A decision was consequently taken to limit the number of incidents to be investigated to seven. Even then, it proved necessary to extend the mandate of the Board by nearly three months beyond the date that was originally set for it to complete its work.



I appointed Lieutenant General (retired) Chikadibia Obiakor as Head of the Board. The other members of the Board were Janet Yuen Kheng Lim and Marta Santos Pais. I also appointed two senior experts to support the Board: Major General Fernando Ordóñez and Pierre Ryter. Hanna Dreifeldt Lainé served as Secretary of the Board, with the assistance of Carla Gomes Horner Hoe.

The Board was convened on 13 September 2019 and held its first meeting on 30 September 2019 in New York. From 2 to 16 November 2019, it conducted field visits to Amman and to Ankara and Gaziantep, Turkey. The Government of the Syrian Arab Republic did not respond to repeated requests for the issuance of visas to the members of the Board. The Board was therefore unable to visit the Syrian Arab Republic, in particular the scenes of the incidents that it had been tasked with investigating. Obviously, this greatly complicated its work.

The Board submitted its report to me, through the Chef de Cabinet, on 9 March 2020.

As with all United Nations boards of inquiry, the report of the Board is an internal document and is not for public release. It contains significant amounts of information that external parties shared with the Board in strict confidence.

I am aware, however, that my decision to establish the Board of Inquiry has generated considerable interest. In view of this, and in the light of the seriousness of the events that have taken place over the past year and a half in the north-west of the Syrian Arab Republic, I have accordingly taken the decision to release a summary of the Board's report, which is contained in the annex to the present letter.

I wish to emphasize that this is a summary of the Board's report and not the report itself. Notwithstanding the difficulties encountered by the Board in obtaining evidence, the report is 185 pages long and is accompanied by over 200 appendices and annexes of supporting materials.

I would also emphasize that this summary of the report of the Board was prepared by the Secretariat and has been neither prepared nor reviewed by the Board or any of its members. It faithfully and objectively reflects the full report of the Board and includes a description of six of the seven incidents that the Board was tasked with reviewing and investigating, together with a summary of the key findings of the Board on the facts of each of those incidents, their causes and the entities to which they might be attributable. The seventh incident was found by the Board to fall outside its mandate. A summary of the Board's conclusions is also included. The Board's recommendations to me have been reproduced in full from the Board's report.

I am satisfied that the Board has done a thorough and professional job in seeking to provide me with a clear record of the facts of the incidents, of their causes and of the persons or entities to which they might be attributable. Its report therefore provides a basis for me to consider what I might do to better protect and manage the Organization's resources, in particular the funds entrusted by Member States to the United Nations to finance programmes in the humanitarian field.

The Board has made a series of recommendations, which I am considering carefully. Some of the issues raised are complex, including the question of which parties to a conflict should be given information intended to support deconfliction. In order to help to determine how best to address the recommendations of the Board, I am planning to appoint a senior independent adviser with expertise and experience in this area. I will also be open to receiving views from Member States on this matter.

The impact of the hostilities on civilian and humanitarian sites in the north-west of the Syrian Arab Republic is a clear reminder of the importance for all parties to the conflict to observe and ensure respect for international humanitarian law, in particular

the obligations to distinguish at all times between civilians and combatants and between civilian objects and military objectives and to direct attacks only against combatants and military objectives; the obligation to take all feasible precautions in conducting an attack to avoid and, in any event, minimize incidental harm to civilians and civilian objects; the obligation not to conduct attacks that may be expected to cause incidental harm to civilians and civilian objects that would be excessive in relation to the concrete and direct military advantage anticipated; and the prohibition of indiscriminate attacks, including the indiscriminate use of high explosive weaponry in populated areas. According to numerous reports, the parties have failed to do this.

I would emphasize in this connection, as the Security Council has done, that any measures that Member States may take to counter terrorism must be consistent with their obligations under international law, in particular international humanitarian law, international human rights law and international refugee law.

I would be grateful if you could bring the present letter and its annex to the attention of the members of the Security Council for their information.

(Signed) António **Guterres**

Annex

Summary by the Secretary-General of the report of the United Nations Headquarters Board of Inquiry into certain incidents in the north-west of the Syrian Arab Republic since 17 September 2018 involving facilities on the United Nations deconfliction list and United Nations-supported facilities

1. On 1 August 2019, I announced my decision to establish a United Nations Headquarters Board of Inquiry to investigate certain incidents that had occurred in the north-west of the Syrian Arab Republic since 17 September 2018, when the Memorandum on the Stabilization of the Situation in the Idlib De-escalation Area was signed by the Russian Federation and Turkey, in which facilities on the United Nations deconfliction list or supported by the United Nations were destroyed or damaged as a result of military operations.

2. On 13 September 2019, I proceeded to convene the Board and tasked it with reviewing and investigating the following specific incidents:

(a) Damage done to the Martyr Akram Ali Ibrahim al-Ahmad secondary school in Qal'at al-Madiq, Hama Governorate, on 28 April 2019;

(b) Damage done to the Rakaya primary health-care centre in Rakaya Sijnah, Idlib Governorate, on 3 May 2019;

(c) Damage done to, and deaths and injuries occurring at, the Kafr Nabudah primary health-care centre and surgical unit in Kafr Nabudah, Hama Governorate, on 7 May 2019;

(d) Damage done to, and deaths and injuries occurring at, the Neirab Palestine refugee camp in Aleppo, Aleppo Governorate, on 14 May 2019;

(e) Damage done to, and injuries occurring at, the Suqaylibiyah national hospital in Suqaylibiyah, Hama Governorate, on 26 May 2019;

(f) Damage done to the Kafr Nubl surgical hospital in Kafr Nubl, Idlib Governorate, on 4 July 2019;

(g) Damage done to, and injuries occurring at, the Ariha protection centre in Ariha, Idlib Governorate, on 28 July 2019.

3. The Board was headed by Lieutenant General (retired) Chikadibia Obiakor, a former Military Adviser in the Department of Peacekeeping Operations. It also comprised Janet Lim, a former Assistant High Commissioner for Operations in the Office of the United Nations High Commissioner for Refugees, and Marta Santos Pais, my former Special Representative on Violence against Children. Hanna Dreifeldt Lainé served as Secretary. I appointed two senior experts to support the work of the Board: Major General Fernando Ordóñez of the Peruvian Air Force and Pierre Ryter, formerly of the International Committee of the Red Cross.

4. As set out in the Board's terms of reference, the detailed tasks of the Board were:

(a) To gather and review all evidence, available investigation reports and other relevant source materials regarding the incidents, including any available report or reports that may result from national investigations;

(b) To identify and interview all relevant witnesses and others who can help the investigation and make a record of their statements;

(c) To visit the sites where the incidents occurred;

(d) To produce a report on the incidents, to include the following:

(i) Findings on the facts of and the circumstances relating to the incidents, including:

- a. The full names and professions of persons who were killed or injured;
- b. The dates, times and places of their deaths or injuries;
- c. The nature of their injuries;
- d. The causes of their deaths or injuries;
- e. Descriptions of losses of, or damage to, United Nations property, of the organizations operating the facilities concerned and of the persons who were killed or injured;
- f. The involvement of the United Nations with respect to the facilities concerned before and at the time of the incident;

(ii) Findings on the causes of the incidents;

(iii) Findings on the attributability of the incidents to any individuals or entities;

(iv) Findings on compliance with applicable United Nations protocols, procedures, rules and regulations;

(v) Recommendations concerning any action that, in the opinion of the Board, should be taken by the United Nations, including any actions or measures that should be taken to avoid or at least minimize the recurrence of such incidents or to mitigate their effects;

(vi) Relevant evidence, to be added as appendices and annexes, including photographs and post-mortem reports.

5. As is standard practice for United Nations boards of inquiry, the Board was directed not to include in its report any findings of law or any recommendations regarding compensation, disciplinary action or legal liability.

6. The Board commenced its work at United Nations Headquarters in New York on 30 September 2019. According to its terms of reference, the Board was to submit its report to me by 13 December 2019 or 40 days after the return of the Board from the area, whichever was the later. The terms of reference also stated that the Board might request me to adjust that time frame depending on the progress of its work. In view of the delays experienced by the Board in obtaining information relevant to its task from various sources and the volume of work involved in investigating the seven incidents specified in its terms of reference, the Board requested an extension of its mandate until 31 January 2020 and, subsequently, to 13 March 2020. I approved both of these requests.

Methodology followed by the Board in its work

7. The Board made several requests to the Government of the Syrian Arab Republic to visit the country but never received a response. It was therefore not possible for it to visit the sites of any of the incidents that it had been tasked with reviewing and investigating. In these circumstances, the Board stated that it considered it essential to obtain information from a wide variety of sources – all the more so given the time that had passed since those incidents had taken place and the complexities surrounding the ongoing conflict in the country. The Board also stated that it placed great emphasis on evaluating each item of evidence for the reliability of

its source and for the credibility of the information that it contained. The Board's findings, it said, were based on information that, in each case, had been corroborated by more than one source of information that the Board itself had gathered.

8. The Board wrote to 10 Member States that were identified as possibly having information relevant to the Board's work, asking them to share with it any such information that they might have. It followed up with written reminders. A number of Member States that might have been in a position to provide crucial information, including from military sources, assured the Board that they would cooperate with it. In the end, however, only four provided information to the Board, and that information was limited in its nature. The Board received no information or documentation from the Government, despite several formal requests and follow-up telephone calls and emails.

9. The Syrian Negotiation Commission provided the Board with information on incidents involving health facilities, schools, protection centres and camps that had occurred in the geographical areas and within the time frame specified in the Board's terms of reference.

10. The Board sought and received information from a number of United Nations entities, as well as from entities within the broader United Nations system. This included information on the conflict in the north-west of the Syrian Arab Republic, the United Nations cross-border operation in that area, the support that they had provided to the facilities involved in the incidents under investigation and the deconfliction mechanism and its operation. They also provided the Board with information on the incidents themselves. Some of this information included raw data, such as witness statements and email exchanges, but much of it did not. The Board was also provided with photographs and video recordings that the United Nations system entities concerned had received from third parties.

11. Since the United Nations did not have a presence on the ground in the north-west of the Syrian Arab Republic, the Board considered it essential to receive information from organizations and entities that did. This naturally included non-governmental organizations that were directly involved in the operation of those facilities that had been in areas that were outside the control of the Government at the time. They provided information on the support that, as the Organization's implementing partners, they had received from the United Nations to run programmes at those facilities, details of those programmes, information that they had provided to the United Nations for the deconfliction of the facilities and reports on the incidents themselves, as well as photographs and video recordings. However, in the case of the two facilities that were located in areas that had been under government control at the time of the incidents that were to be investigated, the Board was unable to identify or engage with any such organization or entity.

12. The Board also obtained information from non-governmental organizations that, although not directly involved in the operation of the facilities specified in its terms of reference, had nevertheless had a presence in the area. In addition, the Board received information from organizations or entities that had data relating to military activities, including flight data. The Board corroborated and triangulated such information with information that the Board itself had gathered from other sources.

13. The Board interviewed a number of witnesses to the incidents, including eyewitnesses. Because the Board was not able to gain access to the country, most of these interviews had to be conducted remotely, by electronic means.

14. The Operational Satellite Applications Programme of the United Nations Institute for Training and Research provided the Board with aerial satellite images. While recognizing their limitations, the Board considered these critical to its work.

The Programme also provided the Board with meteorological information for the days of the incidents.

15. The Board gathered photographs and video recordings of the sites of the incidents, in vast numbers for some and in scant numbers for others. Most lacked metadata. In such cases, the Board cross-referenced them with other information to establish their reliability. Where this was not possible, the Board disregarded them.

16. The Board reviewed large amounts of open source material, but approached it with great caution.

17. Owing to the concerns expressed by a number of organizations and entities that cooperated with the Board for the safety of their staff and the security of their operations, the Board put in place the measures necessary to protect their identities. For similar reasons, it did the same for the witnesses interviewed by it. The organizations, entities and individuals concerned are not named in the Board's report or in this summary.

United Nations involvement in the north-west of the Syrian Arab Republic

Humanitarian cross-border operation

18. The Security Council, in its resolution [2165 \(2014\)](#), expressed grave alarm at the significant and rapid deterioration of the humanitarian situation in the Syrian Arab Republic and noted that the steps taken by the Syrian parties to facilitate the expansion of humanitarian relief operations of the United Nations, its specialized agencies and humanitarian actors had not had the necessary impact on the delivery of humanitarian assistance to all people in need throughout the country. Deeply disturbed by the continued, arbitrary and unjustified withholding of consent to relief operations and the persistence of conditions that impeded the delivery of humanitarian assistance, the Security Council decided that United Nations humanitarian agencies and their implementing partners were authorized to use routes across conflict lines and four specified border crossings, including two at the Turkish border with the north-west of the Syrian Arab Republic, to ensure that humanitarian assistance reached people in need throughout the country through the most direct routes. The Security Council repeatedly renewed that decision up to and including the dates of the incidents that the Board was tasked with reviewing and investigating.

19. Cross-border operations authorized by the Security Council in its resolution [2165 \(2014\)](#) were conducted by the World Food Programme (WFP), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the Office of the United Nations High Commissioner for Refugees, the International Organization for Migration, the Food and Agriculture Organization of the United Nations and the United Nations Population Fund (UNFPA), together with their implementing partners.

20. The Board noted that facilities that were engaged in humanitarian work in the north-west of the country received different forms of support from the United Nations pursuant to resolution [2165 \(2014\)](#). Some received commodities from the United Nations, such as flour, educational materials and medical supplies; some received supplies procured with United Nations funds; and some had staff who received their salaries from the United Nations.

21. The Board noted that a humanitarian response plan for the Syrian Arab Republic served to establish a framework within which United Nations agencies, funds and programmes, the Syrian Arab Red Crescent and humanitarian international and national non-governmental organizations would respond to the large-scale humanitarian and protection needs in the country for a given year, on the basis of priorities that were established across and within sectors.

22. The Office for the Coordination of Humanitarian Affairs coordinated the cross-border humanitarian operation from Turkey to the northern part of the Syrian Arab Republic. The coordination framework was composed of nine thematic clusters, an inter-cluster coordination group, other coordination forums and the Humanitarian Liaison Group under the leadership of the Deputy Regional Humanitarian Coordinator. The thematic clusters were groups of United Nations and non-United Nations humanitarian organizations with programmes in each of the main sectors of humanitarian action, such as water, health, education and protection. Each thematic cluster was generally headed by two coordinators, one representing a United Nations system entity and the other a non-governmental organization. The functions of each thematic cluster were to ensure that service delivery was coordinated and driven by the humanitarian response plan, to avoid duplication of effort, to assist in the identification of gaps in coverage and ensure that they were met, and to monitor implementation.

23. Funding for the cross-border humanitarian operation from Turkey was provided by individual United Nations entities and the Syria Cross-border Humanitarian Fund, which is managed by the Office for the Coordination of Humanitarian Affairs on behalf of the Deputy Regional Humanitarian Coordinator. The Board noted that the Fund financed projects and services, not facilities. Its funds were to finance projects and services carried out by humanitarian actors that were assessed to be eligible for that purpose. Those actors included United Nations entities and non-governmental organizations that were active members of a relevant thematic cluster. The Office screened implementing partners before they were eligible to receive such funding. The Board understood that, if the Office had concerns about a particular facility that was to be supported by a project, it could use third parties on the ground to visit that facility and report back. The Office also operated an email account to receive reports of any undue activity. To ensure oversight of funding from the Fund, implementing partners that received funds from it were required to report to the Office when an incident affecting their operations resulted in a loss of funds or goods. These reports helped, inter alia, to identify the most vulnerable and most severe situations.

Humanitarian deconfliction

24. The Board noted that the Office for the Coordination of Humanitarian Affairs defined deconfliction as the exchange of information and planning advisories by humanitarian actors with military actors in order to prevent or resolve conflicts between the two sets of objectives – humanitarian and military – to remove obstacles to humanitarian action and to avoid potential hazards for humanitarian personnel. The Board was informed that the Office had established deconfliction mechanisms in a variety of settings, the Syrian Arab Republic being just one. Through those mechanisms, the Office notified parties to the conflict of United Nations static locations and mission movements, as well as the static locations and movements of other humanitarian actors. Some humanitarian organizations, such as Médecins sans frontières and the International Committee of the Red Cross, made their own notification arrangements with parties to the conflict when they were present in conflict zones.

25. In 2014, the Office for the Coordination of Humanitarian Affairs, at the request of the humanitarian country team in Damascus, established a humanitarian deconfliction mechanism in the Syrian Arab Republic, which was described in a guidance document. That document had gone through several iterations and was being adjusted once more in consultation with relevant implementing partners and Member States while the Board was conducting its work. According to the version that was being used at the time of the incidents under investigation, the Office served as a channel between those humanitarian organizations that chose to provide deconfliction

information and designated focal points of the international coalition forces, the Russian Federation and Turkey. In order to increase awareness at the political level, the Office also shared deconfliction information through the mechanism with the Chairs of the International Syria Support Group in Geneva – the Russian Federation and the United States of America. The Office did not communicate deconfliction information directly to the Government of the Syrian Arab Republic, the Russian Federation being expected to share the information with it. The Office also did not communicate deconfliction information to armed opposition groups that were present in the area concerned.

26. The deconfliction mechanism was open to all humanitarian organizations operating in the Syrian Arab Republic. Participation in it was purely voluntary. Under the mechanism, as it was operating at the time of the incidents under investigation, the Office for the Coordination of Humanitarian Affairs received deconfliction information from those organizations that chose to participate and transmitted that information exactly as it was received. It did not verify that information, and responsibility for its accuracy rested entirely with the submitting organization (according to a subsequent iteration of the guidance document, the Office was to check the data that it received against a map and, in the event of discrepancy, was to revert to the humanitarian actor that provided the information to address the issue before transmitting the information to the parties). The template that participating organizations were to use when submitting deconfliction information contained an assurance by that organization that the information that it was submitting was true and correct. It also stated that the submitting organization accepted that the Office would share the data with the coalition forces, Turkey, the Russian Federation and the Chairs of the International Syria Support Group.

27. Although this was not addressed in the version of the guidance document that was being used at the time of the incidents under investigation, the Board was informed that it was the standard practice of the Office for the Coordination of Humanitarian Affairs to request that the parties acknowledge receipt of the deconfliction information that was transmitted to them. The guidance document also did not address the question of what was to happen if a facility or operation that had been deconflicted through the mechanism was hit or otherwise affected by military operations. The Board was informed that it had become the practice of the Office to notify the parties and request an investigation. However, it was not clear to the Board when this practice had begun.

28. The Board noted that the Office for the Coordination of Humanitarian Affairs had explained to Member States and humanitarian organizations that, from a legal point of view, the purpose of the deconfliction mechanism was to help parties to the conflict to comply with their existing obligations under international humanitarian law and that it did not in any way dilute those obligations.

29. The Board was informed that the Office for the Coordination of Humanitarian Affairs had recently made a number of adjustments to the deconfliction mechanism. It had established a new centralized unit in Amman to manage it, and, since September 2019, the mechanism had become a seven-step process, whereby a participating humanitarian organization submitted its deconfliction information to a centralized email address, using the relevant standard form on the Office's website; the Office mapped the coordinates and sent the mapping back to the participating organization for validation; the humanitarian organization validated and confirmed the deconfliction information; the Office assigned a reference number to the deconfliction notification; the Office sent the deconfliction information to the international coalition forces, Turkey and the Russian Federation, as well as to the Chairs of the International Syria Support Group (however, if the humanitarian organization specifically requested this, the Office would notify only the party or parties that the

organization had specified); the Office requested an acknowledgement of the deconfliction information from those parties; and the parties provided that acknowledgement.

Findings of the Board on the incidents and their attribution

30. The Board reached the following conclusions regarding the facts, causes and attribution of the incidents enumerated in its terms of reference. Complete findings, together with supporting evidence and documentation and the rationale for the Board's conclusions, are contained in the Board's full report, which was submitted to me in strict confidence, consistent with the Board's terms of reference and with standard practice with respect to United Nations boards of inquiry.

Incident (a): Damage done to the Martyr Akram Ali Ibrahim al-Ahmad secondary school in Qal'at al-Madiq, Hama Governorate, on 28 April 2019

31. The Martyr Akram Ali Ibrahim al-Ahmad secondary school is located in Qal'at al-Madiq city, Qal'at al-Madiq subdistrict, Suqaylibiyah district, Hama Governorate. Qal'at al-Madiq city is in the western countryside of Hama. The school is situated in the northern part of Qal'at al-Madiq city, in a compound of five buildings comprising the secondary school itself, Hospital 111, the Martyr Akram Ali al-Ahmad preparatory school, the Martyr Ali Ahmad primary school and the Fawwaz Nasrallah school, the construction of which had not been completed at the time of the incident. The compound is situated on the corner of a block where a side road joins the main road that runs through Qal'at al-Madiq city. The front of the secondary school is on the side road. The Education Directorate is located on the other side of the side road, on the corner with the main road. Directly north of the compound are the grain silos of Qal'at al-Madiq. A mosque is close by. The secondary school was built by the Government and had been functioning on the site since 1978.

32. The Board understood that, at the time of the incident, Qal'at al-Madiq was controlled by Jaysh al-Nasr, an armed opposition group, and that Hay'at Tahrir al-Sham was present in the area. The closest front line was approximately 2.5 to 3 km away and the closest checkpoint operated by armed opposition groups was 2.5 km away. The Board was informed that none of the armed groups would come to the school and that the area was civilian. The Board was informed that the Education Directorate was part of the opposition administration and was linked to the armed opposition groups, but was nevertheless civilian.

33. The secondary school was supported by a non-governmental organization registered in the United States with offices in Turkey. That non-governmental organization was a member of the education cluster and an implementing partner of the Office for the Coordination of Humanitarian Affairs. It received funds from the Syria Cross-border Humanitarian Fund for a project that was to be implemented in seven schools in the Governorates of Hama and Idlib, including the Martyr Akram Ali Ibrahim al-Ahmad secondary school. It provided education services. The project proposal that the implementing partner had submitted to the Office and that was funded from the Syria Cross-border Humanitarian Fund stated that some 140 children, typically between the ages of 16 and 18 years, would receive education services at the school. The implementing partner began to support the school in September 2018, providing salaries to the teachers, furniture, educational materials and heaters. It also attended to other logistical needs of the school and organized training courses for the teachers.

34. The school was not on the United Nations deconfliction list.

35. When the grain silos near the school were hit in early April 2019, services and hours at the school were reduced. In late April 2019, the Government of the Syrian

Arab Republic and its allies launched a military offensive in the area of Qal‘at al-Madiq. The Government eventually succeeded in reasserting control over the area on or around 10 May 2019. The Board understood that educational services at the school were suspended on or around 20 April 2019. The implementing partner informed the Office for the Coordination of Humanitarian Affairs that this was because of the daily bombardment that had been taking place.

36. At around 1 a.m. on 28 April 2019, the compound housing the secondary school was hit. Owing to its proximity to the place of impact, the school suffered damage to its facade, including its outer wall and windows. No one was killed or injured. After considering all the information available to it, the Board concluded that the school had been hit from the air by a fixed-wing aircraft. For lack of any forensic evidence, the Board could not conclusively determine the nature of the weapons that had been used. However, having considered all the information available to it, the Board concluded that it was highly probable that guided munitions had been used.

37. The Board found it highly probable that the Government of the Syrian Arab Republic and/or its allies had carried out the air strike. However, the evidence that it had gathered was not sufficient for it to reach a conclusive finding.

38. The Board understood that the grain silos of Qal‘at al-Madiq also sustained damage from air strikes on 28 April 2019.

Incident (b): Damage done to the Rakaya primary health-care centre in Rakaya Sijnah, Idlib Governorate, on 3 May 2019

39. The Rakaya primary health-care centre is located in Rakaya Sijnah village, Hish subdistrict, Ma‘arras district, Idlib Governorate. Rakaya Sijnah is a small village with approximately 5,000 residents. The primary health-care centre is located in the middle of the village, about 50 m from the main road, and is surrounded by residential houses. The Government of the Syrian Arab Republic had originally constructed it as a municipal building in or around 2010, but, with the start of the conflict in the country, building work was halted. Around November 2011, the community of Rakaya Sijnah took over the building, completed the construction work and transformed it into a medical facility. A cave beneath the centre served as a shelter for medical personnel and patients when shelling or air strikes occurred nearby.

40. From 2015, the centre provided health-care services, specifically in the fields of internal medicine, emergency services, family planning and reproductive health, obstetrics and gynaecology, antenatal and postnatal care, paediatrics and dermatology, including treatment for leishmaniasis. It also dispensed medicine and had been selected by WHO to run a non-communicable diseases pilot programme. It employed more than 20 staff. Volunteers also worked there. It provided services 24 hours a day, seven days a week, although only the emergency unit was open at night and on days off. It served both Rakaya Sijnah and its neighbouring villages.

41. The area of Rakaya Sijnah was controlled by armed opposition groups and Hay‘at Tahrir al-Sham at the time of the incident. The Board was informed that there were no military locations near the centre, and it received no information to contradict that. It was informed that individuals affiliated with Hay‘at Tahrir al-Sham might conduct police patrols near the centre, but it received no information that individuals affiliated with armed opposition groups or Hay‘at Tahrir al-Sham would enter the facility.

42. The Board recalled that the Permanent Representative of the Syrian Arab Republic to the United Nations had, in a letter dated 16 July 2019 to me and the President of the Security Council (S/2019/572), stated that all health-care facilities in Idlib Governorate had been overrun by terrorist groups, that they no longer served

their original purpose, that they could not be considered hospitals, health-care centres or even civilian objects under international humanitarian law and that they had been converted by armed terrorist groups into military posts, prisons, arms depots, workshops for manufacturing weapons and explosives, sharia courts and launch pads from which to fire shells and rockets at residential districts and safe areas. The Board stated that, in the case of the Rakaya primary health-care centre, it had received no information to corroborate these assertions. On the contrary, it found that health-care services were being provided at the centre at the time of the incident.

43. UNFPA had begun to support the centre in January 2019, working through a non-governmental organization registered in Turkey, which served as its implementing partner. That organization was a member of the health cluster. UNFPA was the centre's main donor, providing staff salaries, medical equipment, medical supplies and reproductive health kits for basic emergency obstetric and newborn care. It also helped to meet the centre's running costs. WHO also provided material and training support.

44. In January 2019, the Office for the Coordination of Humanitarian Affairs transmitted deconfliction information regarding the centre by email to the Russian Federation. It did not send deconfliction information to the international coalition forces, Turkey or the Chairs of the International Syria Support Group in Geneva. The Board found that the coordinates for the centre that the UNFPA implementing partner had provided to the Office and that the Office had transmitted to the Russian Federation were accurate.

45. The Board understood that there was an escalation of hostilities in southern Idlib in April and May 2019. It was told that, on 1 May 2019, two barrel bombs were dropped on Rakaya Sijnah, one falling approximately 100 m from the centre, causing damage to its doors and windows. The implementing partner instructed staff to suspend services. However, on the insistence of some staff, the centre continued to provide emergency services, including for childbirth, but with reduced staff.

46. The day of the incident, 3 May 2019, was a Friday; the centre was therefore functioning with reduced staff. About nine persons were there, including a patient who was delivering a baby and her companion. Having learned that helicopters were over the area, everyone had moved to the cave to take shelter. At around 11.30 a.m., an explosion occurred approximately 15 m from the centre. A volunteer and others who were assisting the patient with her delivery had not managed to fully enter the cave and were impacted by the blast, but did not sustain any injuries.

47. The facade, main entrance, reception area, toilets, dispensary, walls, windows and doors of the centre sustained damage and the external guard room was destroyed. No one was killed or injured. Property of the implementing partner located in the centre was damaged, including medical equipment, medical supplies, medicines, chairs, desks, mirrors and tables. As a result of the incident, the centre went out of service and remained closed at the time that the Board was writing its report. The Board understood that the implementing partner might have relocated or be in the process of relocating some of the services previously provided at the centre to another facility in the north-west of the country.

48. The Board found that the incident had been caused by an air strike. For lack of forensic evidence, the Board could not reach a conclusive finding on the weapon that had been used. However, on the basis of the evidence before it, it was highly probable that it had been a barrel bomb and that it had been dropped by a rotary-wing aircraft.

49. In the light of the information available to it, the Board concluded that it was highly probable that the Government of the Syrian Arab Republic had conducted the

air strike. However, the evidence that it had been able to gather was not sufficient for it to reach a conclusive finding on the attribution of the incident.

50. The Board was told that subsequently, on 28 May 2019, air-to-ground missiles had impacted about 10 m from the centre. The Rakaya Sijnah area came under the control of the Government in early 2020.

Incident (c): Damage done to, and deaths and injuries occurring at, Kafr Nabudah primary health-care centre and surgical unit in Kafr Nabudah, Hama Governorate, on 7 May 2019

51. The Kafr Nabudah primary health-care centre was located in Kafr Nabudah, Qal'at al-Madiq subdistrict, Suqaylibiyah district, Hama Governorate. Kafr Nabudah is one of the last towns in the northern countryside of Hama. The centre was in the northern part of the town. It was located in a building with an annex in a compound of some 300 m², surrounded by a wall. The building had been constructed in the 1980s by the Government, which had used it as a clinic. After the outbreak of the Syrian conflict, the residents of Kafr Nabudah had decided to open a health-care centre in the facility. The centre consisted of an inpatient clinic offering internal medicine services, a paediatric clinic, a gynaecology clinic, a dental clinic and a pharmacy. It did not provide trauma services or carry out surgery. The centre was in the process of expanding its services when the incident took place. It served a large geographical area with about 30,000 people, comprising the town of Kafr Nabudah and the neighbouring rural areas.

52. The Board found that there was no surgical unit connected to the centre. There was a surgical unit in Kafr Nabudah, located about 300 m from the centre, but it was a quite separate facility, which was supported by a different organization and managed by different people and provided different services and which, the Board understood, had been damaged by military activity on a different date from that specified in its terms of reference, specifically, 1 May 2019. The Board accordingly considered that to be a separate incident that was not within its remit to investigate. It therefore investigated only the incident at the primary health-care centre.

53. Kafr Nabudah is located almost on the border of the southern part of one of the four de-escalation areas established pursuant to the memorandum on the creation of de-escalation areas in the Syrian Arab Republic, signed in Astana on 4 May 2017. The Board was informed that there were no military concentrations or encampments near the centre and that the Free Syrian Army and other fighting factions did not have any presence in the town. The Board received no other information suggesting that there were military locations near the centre, nor any information suggesting that individuals affiliated with armed opposition groups or Hay'at Tahrir al-Sham would enter the facility.

54. Since March 2015, the centre had been supported by a non-governmental organization that was registered in the United States, with offices in other countries, including Turkey. That organization was an implementing partner of both UNICEF and WFP and a member of the health cluster. Pursuant to its arrangement with UNICEF, the implementing partner had, since at least August 2017, provided support for a number of health-care facilities in the north-west of the Syrian Arab Republic, including the Kafr Nabudah centre. That support included the payment of staff salaries, the defrayment of operational costs, the provision of medicines, supplies and equipment, as well as capacity-building. Pursuant to an agreement concluded with WFP in November 2018, the implementing partner provided specialized food commodities to the centre, in particular nutrition supplements for pregnant women and children. WHO was also providing medicines, medical equipment and material to the centre around the time of the incident.

55. In March 2018, the Office for the Coordination of Humanitarian Affairs transmitted deconfliction information regarding the centre by email to the Russian Federation. It did not send deconfliction information to the international coalition forces, Turkey or the Chairs of the International Syria Support Group in Geneva. The Board found that the coordinates for the centre that the implementing partner had provided to the Office and that the Office had transmitted to the Russian Federation were accurate.

56. The Board understood that the Government of the Syrian Arab Republic and its allies launched a military offensive in the area around Kafr Nabudah on or around 27 April 2019. Heavy fighting took place between the Government and its allies and armed opposition groups and Hay'at Tahrir al-Sham, involving both air and ground attacks. On 30 April 2019, there was heavy shelling at military positions around Kafr Nabudah, and, by 1 May 2019, almost all civilians had fled the area. Owing to the security situation in the area, the implementing partner suspended services at the centre on 27 and 28 April 2019. The centre reopened briefly on 29 April 2019, but services were suspended once more on 30 April 2019, at which point the implementing partner decided to evacuate the facility and relocate it elsewhere. The fact that services at the centre had been suspended and most of the population had fled the town made it difficult for the Board to establish a clear and detailed record of what happened next. However, it was able to find that the centre was damaged during the continuing offensive, most probably on 1 and 7 May 2019, and that, as a result of those incidents, the building, its doors and windows and the property inside, as well as the compound wall, sustained damage. No one was killed or injured. In view of the intense fighting that had taken place and the many kinds of weaponry that had been employed, the Board was unable to reach a finding on the kind or kinds of weaponry that had caused damage to the centre.

57. On the basis of the information that it received, the Board found it plausible that the damage to the centre was attributable to the Government of the Syrian Arab Republic and its allies. It noted that it had received no information suggesting that other parties to the conflict had hit the facility.

Incident (d): Damage done to, and deaths and injuries occurring at, the Neirab Palestine refugee camp in Aleppo, Aleppo Governorate, on 14 May 2019

58. The Neirab refugee Camp is located 13 km east of the city of Aleppo, in Jabal Sim'an subdistrict, Sim'an district, in Aleppo Governorate. Aleppo international airport and Nayrab military airport are nearby. It is 12 km from the 15 to 20 km-wide demilitarized zone that was established pursuant to the Memorandum on the Stabilization of the Situation in the Idlib De-escalation Area, signed in Sochi, Russian Federation, on 17 September 2018, along the inside edge of the de-escalation area that had been created pursuant to the memorandum on the creation of de-escalation areas in the Syrian Arab Republic of 4 May 2017. The camp was established between 1948 and 1950 for Palestine refugees who had fled to the Syrian Arab Republic in 1948. It was managed by the General Administration for Palestine Arab Refugees, an agency within the Government of the Syrian Arab Republic. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) had a number of installations in the camp, including schools, a food distribution centre, a health centre, a community centre and a training centre, as well as an office, through which it served the camp's residents. These installations were all marked as United Nations buildings. At the time that the Board wrote its report, there were some 18,000 registered residents. In addition to Palestine refugees, these included Syrians who had been displaced as a result of the conflict.

59. Given its location close to Aleppo international airport and Nayrab military airport, the camp had repeatedly been affected by hostilities since the Syrian conflict began in 2011. In particular, it was under siege between late 2012 and October 2013.

60. In April 2018, the Office for the Coordination of Humanitarian Affairs transmitted by email to the international coalition forces and Turkey deconfliction information relating both to the camp in its entirety and to individual UNRWA installations within it. The Office did not send that information to the Russian Federation or the Chairs of the International Syria Support Group. The Board received no information indicating that the deconfliction information had been brought to the attention of armed opposition groups active in the area.

61. Aleppo and the territory east of the city, where the camp is located, were under the control of the Government at the time of the incident. Armed opposition groups controlled the territory to the west of Aleppo and Hay'at Tahrir al-Sham was present in that area. The Quds Brigade had a strong presence at the camp and at the nearby Nayrab military airport, approximately 600 m to the north. Either Iranian forces or Iranian-backed militias were located near Aleppo international airport, immediately to the north of Nayrab military airport.

62. In the evening of 14 May 2019, before or around 7 p.m., projectiles landed inside the camp, hitting houses and apartments and killing 10 persons. Another person died of his injuries 15 days later. Five of those who died were children between the ages of 6 and 11 years. The Board understood that a further 29 persons were injured, 19 seriously. UNRWA closed its schools the following day as a precautionary measure. They reopened on 16 May 2019. No UNRWA installations sustained damage and no UNRWA personnel were killed or injured. The Board concluded that the camp had been hit by ground-to-ground fire and that it was highly probable that the munitions used had been Grad rockets or rockets of a similar type.

63. The Board found that it was probable that the strike had been carried out either by armed opposition groups or by Hay'at Tahrir al-Sham, noting that the vast majority of the evidence provided to it was to that effect. However, there was no evidence that allowed it to reach a conclusive finding.

Incident (e): Damage done to, and injuries occurring at, the Suqaylibiyah national hospital in Suqaylibiyah, Hama Governorate, on 26 May 2019

64. The Board found that the Suqaylibiyah national hospital was not on the United Nations deconfliction list. The Board was also unable to establish whether the hospital received support from the United Nations, be it from the Office for the Coordination of Humanitarian Affairs, UNFPA, UNICEF or WFP. It was informed that WHO provided material support to the hospital around the time of the incident. However, WHO is a specialized agency of the United Nations within the meaning of Article 57 of the Charter of the United Nations and, although part of the United Nations system, is a separate intergovernmental organization.

65. The Board recalled that its terms of reference stipulated that it was to review and investigate incidents in which facilities on the United Nations deconfliction list or supported by the United Nations were destroyed or damaged as a result of military operations. The hospital was not such a facility. It therefore had no mandate to review and investigate the incident concerned.

Incident (f): Damage done to the Kafr Nubl surgical hospital in Kafr Nubl, Idlib Governorate, on 4 July 2019

66. The Kafr Nubl surgical hospital is located in the city of Kafr Nubl, Kafr Nubl subdistrict, Ma'arras district, Idlib Governorate. It is in the northern neighbourhood

of the city, on the edge of town, on the road between Kafr Nubl and the town of Barah. A bakery and residential houses are nearby. The Board understood that the hospital had been built by the Government some time before 2011 as a cultural centre. Around 2013, the local community decided to convert it into a makeshift hospital. The building in which the hospital was located used to consist of three floors, but these had been damaged between 2015 and 2018 and were no longer in use. In 2016 and 2017, excavations took place under the hospital to create a purpose-built underground hospital and safe space. On 5 February 2018, the hospital was hit by an air strike and severely damaged. All services were then moved to the underground space, where they had remained since. The one exception was the dialysis unit. In addition to the dialysis unit, there were 24 inpatient beds and an intensive care unit with four intensive care beds. About 100 staff worked in shifts at the hospital. It was one of the only hospitals providing services for kidney dialysis in the area.

67. The area around the hospital was under opposition control at the time of the incident. In this connexion, the Board recalled once more the letter dated 16 July 2019 from the Permanent Representative of the Syrian Arab Republic to the United Nations to me and the President of the Security Council (S/2019/572), in which he had stated that all health-care facilities in Idlib Governorate had been converted by armed terrorist groups into military posts, prisons, arms depots, workshops for manufacturing weapons and explosives, sharia courts and launch pads from which to fire shells and rockets at residential districts and safe areas. The Board stated that it had received no information to corroborate these assertions in respect of the hospital. On the contrary, the Board found that the hospital was providing health-care services at the time of the incident, specifically in the fields of internal medicine, otorhinolaryngology, general surgery, orthopaedic and trauma surgery and kidney dialysis. The Board was informed that armed opposition groups had their own health-care facilities and that staff at the hospital were instructed not to allow anyone carrying weapons or in military dress to enter. The Board also received no information that there were armed opposition groups in close proximity to the hospital. Indeed, it was informed that there were no armed opposition groups within a 5 km radius of it and that neither they nor Hay'at Tahrir al-Sham were present in the city, but on the front line.

68. Since 2016, the hospital had been supported by a non-governmental organization registered in the United Kingdom of Great Britain and Northern Ireland. A Member State was the organization's main donor. The organization was a member of the health cluster. The organization received funds from the Syria Cross-border Humanitarian Fund from November 2016 to 2017 to create the underground hospital and safe space. The Board was informed that, up to and at the time of the incident, the hospital had been receiving support from WHO in the form of trauma, surgical and dialysis kits, medication and equipment.

69. In February 2018, the Office for the Coordination of Humanitarian Affairs transmitted deconfliction information regarding the hospital by email to the Russian Federation. It did not send deconfliction information to the international coalition forces, Turkey or the Chairs of the International Syria Support Group in Geneva. The Board found that the coordinates for the hospital that the Office had transmitted to the Russian Federation were accurate.

70. The Board understood that the hospital had been affected by air strikes on several occasions in the course of the Syrian conflict prior to the incident under investigation, including the incident of 5 February 2018 mentioned above. An air strike took place on 5 May 2019, causing damage to the main entrance of the hospital. The entrance was hit once more on 6 November 2019, after the incident under investigation. The Kafr Nubl area came under the control of the Government at the end of February 2020.

71. On 4 July 2019, the hospital was functioning normally. Some 30 members of staff were present, as well as some patients and their companions. Intense air strikes on the city took place throughout the day, conducted by rotary- and fixed-wing aircraft. They began at approximately 10.30 a.m., peaked at around 2 p.m. and then continued until around 7 p.m. Between 2 and 2.45 p.m., more than one air strike hit at or around the main entrance to the hospital, necessitating the removal of rubble so that people could enter the facility once more. Material and equipment inside the hospital were also damaged. No one was killed or injured. As a result of the incident, services were suspended for several days while water connections, the ventilation system and some doors were replaced or repaired. The hospital reopened on or around 7 July 2019.

72. The Board found that it was highly probable that the strikes had been carried out by rotary- and fixed-wing aircraft. For lack of forensic evidence, the Board could not conclusively determine the nature of the weapons that had been used, but it was highly probable that an air-to-ground missile and a barrel bomb had been employed.

73. In the light of the information available to it, the Board found that it was highly probable that the strikes had been carried out by the Government of the Syrian Arab Republic and/or its allies. However, the evidence at its disposal was not sufficient for the Board to reach a conclusive finding on the attribution of the incident to any individual or entity.

Incident (g): Damage done to, and injuries occurring at, the Ariha protection centre in Ariha, Idlib Governorate, on 28 July 2019

74. The Ariha protection centre, also known as the child-friendly space, was located in the community of Ariha, Ariha subdistrict, Ariha district, Idlib Governorate. The centre was in a stand-alone, single-story building, rented from a private landlord and situated in the middle of the community of Ariha. There was a mosque nearby and a shop opposite. The area was under opposition control at the time of the incident. However, the Board received no information suggesting that there were military centres or camps near the centre at that time. The Board was informed that, before renting the centre, the organization running it had ensured that its landlord was neither affiliated with, nor belonged to, any armed group.

75. The centre provided child protection services. It employed 15 staff members. It opened its doors in June 2018. From then until the end of 2018, UNICEF funded a project that was being run there by a Turkish non-governmental organization as its implementing partner. During that period, the centre provided a structured programme in parenting skills, structured psychosocial support, recreational activities, awareness-raising conducted through mobile teams, awareness-raising on risk education and child protection case management. From January to June 2019, the implementing partner funded its own work at the centre. During that time, the centre provided structured psychosocial support, recreational activities and awareness-raising sessions through an outreach team. From 1 July 2019, the work of the implementing partner was funded by an international non-governmental organization. That organization, or “donor”, in turn received funding for the project from the Syria Cross-border Humanitarian Fund. It also received funding from the Fund for two other projects that the same implementing partner was running elsewhere in the north of the country. The “donor” organization was a member of the child protection subcluster.

76. In September 2018, the Office for the Coordination of Humanitarian Affairs transmitted deconfliction information regarding the centre by email to the Russian Federation. It did not send deconfliction information to the international coalition forces, Turkey or the Chairs of the International Syria Support Group in Geneva. The

Board found that the coordinates for the centre that the implementing partner had provided to the Office and that the Office had transmitted to the Russian Federation were accurate.

77. The Board was informed that there had been no attacks in Ariha before July 2019. At around midday on 27 July 2019, there was an air strike, which impacted about 50 m from the centre, causing damage to its doors and windows. Since it was a Saturday, there were no staff or beneficiaries at the centre, and no one was therefore killed or injured. In view of the air strike, a decision was taken to suspend services at the centre. However, because of the damage that it had sustained, it was feared that the centre might be burgled. The implementing partner therefore asked one of its staff members to sleep in the centre overnight to keep an eye on the place. The following day, at around 11 to 11.45 a.m., there was another air strike on Ariha. It impacted about 2 or 3 m in front of the centre, causing the entire facade and the walls of the building to collapse. The implementing partner's assets and furniture inside the centre were lost, burned or damaged. Its staff member who had stayed overnight at the centre was hit by falling rubble, suffering minor injuries to his chest, hand and leg. The frontage of the shop opposite the centre also collapsed, and some people were trapped under the rubble. As a result of the incident, the centre was put out of service for about a month and had to be relocated elsewhere in Ariha.

78. The Board found that the air strike of 28 July 2019 had been carried out by a fixed-wing aircraft. For lack of forensic evidence, the Board could not conclusively determine the type of weapon that had been used, but it found it highly probable that missiles had been employed.

79. Having considered all the evidence available to it, the Board found it highly probable that the air strike had been conducted by the Government of the Syrian Arab Republic and/or its allies. However, the evidence before it was not sufficient for it to reach a conclusive finding.

Conclusions

80. The Board reached a number of conclusions as a result of its work.

Cross-border operations for humanitarian assistance

81. The Board recognized the significant, comprehensive and efficient system of cross-border support and assistance to the north-west of the Syrian Arab Republic managed by the Office for the Coordination of Humanitarian Affairs in compliance with Security Council resolution [2165 \(2014\)](#). This had been achieved through its convoys of aid delivery and its financial support for humanitarian activities and facilities from the Syria Cross-border Humanitarian Fund. Thanks to this decisive effort, the cross-border humanitarian operation had, since its inception in 2014, provided aid to an impressive number of people in need in the north-west of the country. This could not have been achieved, the Board recognized, without the dedication, hard work and relentless efforts of the United Nations personnel involved.

Access of United Nations personnel to the north-west of the Syrian Arab Republic

82. The Board noted that humanitarian access is critical for principled humanitarian action, which depends on the ability to independently assess needs and deliver assistance and to independently monitor and evaluate the impact thereof, including by regularly engaging directly with affected people. However, United Nations personnel were not present on the ground in the north-west of the Syrian Arab Republic at the time of any of the incidents that were investigated by the Board. Consequently, aid had been provided and its use monitored remotely, through implementing partners.

83. The Board recognized that the security of staff needs to be taken very seriously. It was also aware of the regular assessments undertaken by the Department of Safety and Security on risk management and mitigating measures for the north-west of the Syrian Arab Republic. However, it was unable to receive information on assessments that the Security Management Team in the country might have made on programme criticality. Upon enquiry, it was informed by the Office for the Coordination of Humanitarian Affairs that operational deliberations on the deployment of staff in the north-west of the country were not conducted as part of a formal exercise and that a written record was not produced.

84. The Board considered that the absence of any United Nations presence in, or visits to, the north-west of the Syrian Arab Republic raised a number of concerns. Access by United Nations personnel was critical to preserving humanitarian space and delivering aid to all people in need in accordance with the humanitarian principles of humanity, neutrality, impartiality and independence. It was equally crucial to promoting respect for international law and assessing any breaches that might take place. Moreover, it was fundamental to undertaking an accurate assessment of needs, informing strategic humanitarian action and monitoring implementation. It was also fundamental to monitoring, in an accurate and accountable way, United Nations support for humanitarian facilities and the use of United Nations resources. Furthermore, it was indispensable to demonstrating solidarity with the civilian population and influencing positive change through engagement with all parties to the conflict.

85. The Board stated that engagement with armed groups was of particular importance in this regard. Engagement did not confer legitimacy on them, it said, but was of decisive relevance to promoting respect for international humanitarian law, to ensuring the effective provision of humanitarian assistance and to promoting the formal commitment of the groups to ensuring the protection of civilians and humanitarian sites, stopping attacks on populated areas and the use of humanitarian sites for military purposes and to achieving a no-weapons policy inside health-care facilities and other humanitarian sites.

86. The Board noted in this connection that, under the auspices of the Office for the Coordination of Humanitarian Affairs, some armed opposition groups in the north-west of the country had signed a declaration of commitment on compliance with international humanitarian law and humanitarian assistance. By this declaration, armed opposition groups committed themselves to protecting and assisting civilians and to respecting international humanitarian law at all times. The declaration also emphasized the responsibility of signatories for the implementation of local deconfliction arrangements and days of tranquillity and for the investigation of alleged violations. However, the Board was unable to access information about the implementation of the declaration. The Office informed the Board that the declaration helped to structure the engagement of humanitarian actors with armed opposition groups and was not a framework for monitoring and assessing adherence. An evaluation of its implementation had not been conducted.

87. In view of the considerations set out above, the Board stated that the United Nations should continuously negotiate with the authorities and relevant actors for United Nations access to, and seize on any opportunity that might arise to secure United Nations presence in, the north-west of the Syrian Arab Republic. The Board welcomed in this regard the one-day United Nations inter-agency mission to the north-west of the country that had taken place on 2 March 2020, just as it was completing its work.

Cross-border funding, record-keeping and accountability

88. One of the Board's tasks was to make findings on compliance with applicable United Nations protocols, procedures, rules and regulations. In reviewing the incidents detailed in its terms of reference, the Board found that there was overall compliance with United Nations protocols, rules and regulations with respect to the funding of cross-border operations by implementing partners. However, it identified two areas of concern, both of which indicated that there was a need for a strengthened system of record-keeping and for better tracking of the operations of the Office for the Coordination of Humanitarian Affairs.

89. In the case of incident (g), funds were disbursed from the Syria Cross-border Humanitarian Fund to one non-governmental organization, which then transmitted them to another, which in turn administered the programme at the facility concerned. The systems that were in place did not allow for the ready identification of that second organization – the “sub-grantee”. The Office for the Coordination of Humanitarian Affairs had first informed the Board that the Syria Cross-border Humanitarian Fund did not fund any activities at the facility in question. It was the Board itself that established that there was such funding, through information that it received from the “sub-grantee” organization. The Office provided the Board with the relevant funding information only when asked to provide the specific grant agreement with the organization that was the direct recipient of the funds – the “donor” organization. Similarly, UNICEF had initially stated to the Board that it did not provide support to the facility in question, and it was the “donor” and the “sub-grantee” organizations that informed the Board that they had received UNICEF funds for that purpose. Only after various requests for clarification did UNICEF confirm that it had provided support, albeit for a period preceding the incident under investigation. This situation raised serious concerns from a data accuracy and accountability perspective, the Board observed.

90. In the case of incident (a), funds were disbursed from the Syria Cross-border Humanitarian Fund to an implementing partner to finance a programme that it ran at several facilities, some in the town concerned and some in other areas of the north-west of the country. The systems in place did not allow for the ready identification of those specific facilities. The Board therefore encountered difficulties in confirming whether the United Nations did in fact provide support to the facility that was the subject of the incident in question. The project documents between the Office for the Coordination of Humanitarian Affairs and the implementing partner did not specifically mention that facility, and the implementing partner itself was initially unsure whether its programme included it. The Board again considered that this raised concerns from a data accuracy and accountability perspective.

Thematic clusters and incident reports

91. The Board noted that thematic clusters played a critical role in ensuring the efficient coordination of the delivery of humanitarian services. However, the clusters did not have a direct overview of incidents occurring at facilities supported by their members, despite the fact that such incidents obviously had an impact on the programmatic and protection work carried out by the clusters.

92. There was therefore no requirement that members of a cluster report such an incident to it. Such reporting was certainly encouraged, but it remained voluntary. When an incident was reported, clusters did not verify the information provided to them and nothing was done, it seemed, to document and follow up on them. Cluster coordinators might give briefings to the members of the cluster, but they were usually on the trends of incidents, rather than the details of the specific incidents themselves. There was also no integrated cross-cluster system to record information on incidents and to coordinate necessary response action, in particular when the incident raised concerns that were of relevance to more than one cluster. The Board considered that this limited the coordination work that clusters carried out and their ability to monitor programme implementation and ensure strategic follow-up.

Humanitarian deconfliction

93. The Board received briefings from the Office for the Coordination of Humanitarian Affairs and other United Nations entities on the deconfliction mechanism operated by the Office. It also held discussions with implementing partners that ran programmes at facilities in the north-west of the Syrian Arab Republic that were included in the deconfliction list. The Board identified a number of concerns regarding the guidance document that the Office had issued as a standard operating procedure for the mechanism and the process of its implementation.

94. With respect to the guidance document, the Board considered that it did not explicitly situate the deconfliction mechanism within the context of international humanitarian law. This had led to implementing partners misinterpreting it as a replacement for, or alternative to, the standards established by that law. The document also did not make clear the purpose of the mechanism, with the result that implementing partners understood it in different ways. The document emphasized that the mechanism was designed to identify and protect humanitarian personnel, offices, facilities, distribution sites, internally displaced person sites and routes taken by mobile clinics; the Office for the Coordination of Humanitarian Affairs nevertheless cautioned against using the mechanism as a “protection tool”.

95. The participation of all relevant parties to the conflict in the mechanism was crucial to its effective implementation, the Board observed; the guidance document did not, however, provide for the communication of deconfliction information to the Government of the Syrian Arab Republic, and it remained unclear whether deconfliction information had been transmitted and received by it. The guidance document also did not provide for the communication of deconfliction information to armed opposition groups.

96. The version of the guidance document that appeared on the website of the Office for the Coordination of Humanitarian Affairs at the time that the incidents occurred was also unclear and lacking in a number of respects. It did not make clear the role and responsibility of the Office in relation to the verification of the accuracy of the deconfliction information that it received from participating organizations; it did not provide detailed guidance on how the coordinates of deconflicted facilities should be established; and it did not address the question of what follow-up actions should be taken in the event that an incident occurred at a facility that had been deconflicted through the mechanism. The Board noted that some of these issues had been addressed to a certain extent in a more recent version of the guidance document, but noted that confusion remained with respect to its implementation.

97. The Board observed that these concerns, which had been communicated to it by implementing partners, had led to mistrust in the mechanism and hampered its effective implementation.

98. Turning to the implementation of the guidance document, the Board observed that it had lacked rigour and consistency.

99. As appeared from the incidents that the Board had been tasked with investigating, deconfliction information had not been systematically shared with all the entities listed in the guidance document. The Board noted that it was possible that participating organizations might have identified only some of those entities as being ones to which they wished the information to be transmitted. However, there were no records to show that they had exercised such a choice. There was also a lack of consistency in the way in which participating organizations established the coordinates of deconflicted facilities; however, there was a need to establish them in a standardized way. There was, moreover, a need for a clear system for verifying the accuracy of deconfliction information, as well as for storing and updating it. Furthermore, parties had not been systematically required to acknowledge receipt of deconfliction information communicated to them or to signify their acceptance of the humanitarian nature of the facilities concerned. This, the Board observed, had led to scepticism towards, and a lack of confidence in, the mechanism among participating organizations, aggravated by the fact that several facilities that had been deconflicted through the mechanism had been hit.

100. The Board found that, as a result of the above, humanitarian organizations and their personnel felt hampered in their ability to make informed decisions and mitigate risks. In a number of cases, organizations had participated in the mechanism, not because it was thought to prevent or mitigate the risk of attacks, but rather with a view to providing evidence for accountability purposes.

101. Concluding, the Board stated that, although there was an ongoing effort by the Office for the Coordination of Humanitarian Affairs to make adjustments to it, the overall mechanism needed to be revisited in the light of lessons learned and the work of other humanitarian organizations in that field.

Recommendations

102. The Board's terms of reference included making recommendations concerning any action that, in its opinion, should be taken by the United Nations, including any actions or measures that should be taken to avoid or at least minimize the recurrence of incidents of the kind under investigation.

103. In the light of its findings, the Board made the following recommendations:

1. In order to further strengthen the implementation of international humanitarian law, the United Nations should enhance its awareness-raising and capacity-building efforts with all parties to the conflict in the north-west of the Syrian Arab Republic, including armed opposition groups.
2. Based on the regular assessment of staff security risks, mitigating measures and programme criticality, the United Nations should seize on any opportunity that may arise to secure United Nations access to or presence in the north-west of the Syrian Arab Republic.
3. Building upon lessons learned from past experience, including the declaration of commitment on compliance with international humanitarian law and humanitarian assistance signed by a number of armed opposition groups in the north-west of the Syrian Arab Republic, the United Nations should issue clear guidance on United Nations engagement with non-State actors in the north-west of the Syrian Arab Republic and monitor its implementation.
4. In any situation where an entity has access to resources under the Syria Cross-border Humanitarian Fund and transmits such resources to an

implementing partner, both entities – that is, the entity receiving the funds and its implementing partner – should be explicitly identified and acknowledged in project agreements signed with the United Nations.

5. In any situation where a project is conducted by an implementing partner using funds of the Syria Cross-border Humanitarian Fund in a number of facilities, all such facilities should be specifically and individually identified in the project agreements and in any subsequent amendments or revisions to them.

6. Upon receipt of an incident report concerning a facility which benefits from United Nations support, thematic clusters should engage and share any relevant information about the incident with other concerned thematic clusters and assess in a coordinated manner the incident's impact on the implementation of the humanitarian response plan and the need for any follow-up action.

7. With regard to the deconfliction mechanism managed by the Office for the Coordination of Humanitarian Affairs:

(a) The Office should consider renaming it the “humanitarian notification mechanism” to highlight its distinct nature in the overall framework of international humanitarian law;

(b) The Office should develop a comprehensive and publicly available guidance document to clarify its role and responsibilities in relation to the humanitarian notification mechanism and to provide clear and detailed guidance on its implementation process;

(c) The Office should directly notify all parties to the conflict, including the Government of the Syrian Arab Republic, of the deconfliction information, unless for security reasons an implementing partner formally requests that such information is not brought to the attention of one or more parties;

(d) Armed opposition groups relevant in the north-west of the Syrian Arab Republic should be involved in the deconfliction mechanism;

(e) The Office should consistently request all parties involved in the deconfliction mechanism to acknowledge receipt of the deconfliction information;

(f) Implementing partners should be required to inform the Office of any incident against any of its deconflicted facilities;

(g) The Office should consistently notify the parties involved in the deconfliction mechanism of any incident affecting a facility on the deconfliction list and request that the incident be duly investigated;

(h) The Office should keep implementing partners informed of any follow-up actions taken upon receipt of an incident report;

(i) The Office should keep comprehensive, accurate and reliable records of all sites included in the deconfliction mechanism, as well as of the communications with those involved in the deconfliction mechanism;

(j) Only specifically identified sites or installations inside a refugee camp should be submitted for deconfliction, rather than the camp in its entirety.

8. Given the complexity and multifaceted nature of the responsibilities of the Office for the Coordination of Humanitarian Affairs in the north-west of the Syrian Arab Republic and the very high demands on its important work, the Office should further strengthen its capacity for record-keeping and tracking all aspects of its operations. That includes the need for detailed records of all the projects funded through the Syria Cross-border Humanitarian Fund and of the facilities where the projects are implemented.