

**ARTICLE 4 DEADLINE: 1 NOVEMBER 2020**  
HAS FULFILLED ARTICLE 4 OBLIGATIONS

### KEY DEVELOPMENTS

The United Kingdom (UK) has said that UK bombing data for the Falkland Islands shows there is no evidence that cluster munitions were dropped on the four remaining minefields in Yorke Bay, which totalled an estimated 226,958m<sup>2</sup> as at end of March 2020.<sup>1</sup> As all other hazardous areas (including both cluster munition-contaminated and mined areas) in the Falkland Islands have already been released, there are no remaining areas in which cluster munition remnants (CMR) are suspected or confirmed.

If any CMR or other items of explosive ordnance are found following the conclusion of the United Kingdom's demining programme on the Falkland Islands, the authorities have confirmed that they will be addressed by the Explosive Ordnance Disposal (EOD) team from the Royal Air Force Armament Engineering Flight on the Falkland Islands, which has an "enduring" military presence there.

### CLUSTER MUNITION SURVEY AND CLEARANCE CAPACITY

#### MANAGEMENT

- National Mine Action Authority (chaired by the United Kingdom Foreign, Commonwealth and Development Office (FCDO) and comprising representatives from the Ministry of Defence, the Falkland Islands Government, and a strategic advisor)
- Fenix Insight (Demining Project Office)

#### NATIONAL OPERATORS

- SafeLane Global (formerly Dynasafe BACTEC, and land release contractor)

#### INTERNATIONAL OPERATORS

- None

#### OTHER ACTORS

- None

### UNDERSTANDING OF CMR CONTAMINATION

There are no longer any areas known or suspected to contain CMR in the Falkland Islands.<sup>2</sup>

The Falkland Islands were contaminated as a result of use of BL755 cluster bombs by British forces against Argentine positions during the 1982 armed conflict. While the Ministry of Defence conducted extensive battle area clearance (BAC) of CMR after the end of the conflict, it said in 2009 that the majority of those CMR remaining were contained within existing minefields that would be cleared in due course.<sup>3</sup> As the United Kingdom had not previously specified which, if any, of the remaining mined areas may contain CMR based on analysis of UK bombing data, it had remained unclear whether or not these mined areas could also contain CMR. Mine Action Review had therefore continued to deem the United Kingdom to have an Article 4 obligation. In May 2020, the United Kingdom said that bombing data showed that the remaining mined areas had not been bombed. Therefore, the suspicion of CMR potentially remaining within uncleared minefields has now been removed.

Previously, in February 2009, the Ministry of Defence stated that: "According to historical records either 106 or 107 Cluster Bomb Units (CBU) were dropped by British Harriers and Sea Harriers during the conflict. Each CBU contains 147 BL755 submunitions and using the higher CBU figure (107), a total of 15,729 submunitions were dropped. Using a 6.4% failure rate assessed during in-service surveillance over 15 years, we would estimate that 1,006 would not explode. Given that 1,378 BL755s were cleared in the first year after the conflict and that a further 120 have been found and disposed of since (totalling 1,498), clearly there was a slightly higher failure rate. Even if the rate had been closer to 10% and 1,573 had failed, we can only estimate that some 70 remain but that due to the very soft nature of the peat found on the islands, many of these will have been buried well below the surface. We believe that the majority of those remaining are now contained within existing minefields and these will be cleared in due course."<sup>4</sup>

In 2015, the United Kingdom affirmed that no known areas of CMR contamination exist outside suspected hazardous areas (SHAs) on the islands, in particular mined areas, all of which are fenced and marked.<sup>5</sup> In 1982–84, BAC was undertaken over large areas looking for submunitions and other unexploded ordnance (UXO). The United Kingdom conducted CMR clearance in the aftermath of the Falklands conflict, along with comprehensive perimeter marking of mined areas potentially containing remaining CMR. Based on bombing data, areas where unexploded submunitions were expected to be found were targeted “very quickly”, and a large number were located and destroyed. Demining operations involved both surface and subsurface clearance.<sup>6</sup>

The United Kingdom had previously stated that potential CMR contamination has, in part, been taken into account during mine clearance operations on the Islands, with two areas, Fox Bay 8W and Goose Green 11, selected for clearance partly based on records indicating that cluster munitions had been dropped there. No CMR were found in these two areas.<sup>7</sup>

Since October 2009, mine clearance operations in the Falkland Islands resulted in the destruction of a total of 21 submunitions and 1 cluster munition container.<sup>8</sup> In 2010, the United Kingdom reported destruction of two submunitions in Stanley Area 3, during clearance operations across four mined areas in 2009–10.<sup>9</sup> In June 2015, it reported destruction of 19 submunitions during clearance operations in January to April 2015, also in Stanley Area 3.<sup>10</sup> UK records suggest that four cluster bombs were dropped in this area.<sup>11</sup> In June 2017, the main body of a BL755 cluster munition container was found in “minefield GG08”, during BAC in the Goose Green region. GG08 has now been declared cleared of all explosive ordnance.<sup>12</sup>

## OTHER EXPLOSIVE REMNANTS OF WAR AND LANDMINES

As referenced previously, the Falkland Islands is also contaminated by anti-personnel mines (see Mine Action Review's *Clearing the Mines 2020* report on the United Kingdom for further information) and other explosive ordnance. At the end of March 2020, contamination had been reduced to four mined areas totalling an estimated 226,958m<sup>2</sup>, all of which are located in Yorke Bay. All four mined areas have already been technically surveyed and the United Kingdom planned to have completed clearance by the end of 2020.<sup>13</sup>

## NATIONAL OWNERSHIP AND PROGRAMME MANAGEMENT

A National Mine Action Authority (NMAA) was established in 2009 to regulate, manage, and coordinate mine action on the Falkland Islands. The NMAA is chaired by United Kingdom Foreign, Commonwealth, and Development Office (FCDO) and comprises representatives from the Ministry of Defence, the Falkland Islands Government, and the programme's strategic advisor. The NMAA ensures mine action is conducted in accordance with United Kingdom and Falkland Islands' legislation, and its approval is required before cleared areas are declared completed. It meets at least once every six months, and the land release contractors (SafeLane Global; formerly Dynasafe BACTEC) and the Demining Project Office (Fenix Insight), are invited to brief the NMAA “as appropriate”.<sup>14</sup>

In addition, there is a Suspect Hazardous Area Land Release Committee (SHALARC), which is a non-decision-making body based in the Falkland Islands, composed of a local officials and a representative of the British military. SHALARC provides a forum for the contractors to discuss issues of concern or interest to the committee, and includes explanation of the land release process, including when land has been released for public use.<sup>15</sup>

Survey and clearance operations in the Falkland Islands are entirely funded by the UK Government.<sup>16</sup> The first four phases of demining (2009 to March 2016) cost £11 million (approx. US\$14.5 million at the time),<sup>17</sup> and an additional £27 million (approx. US\$35.5 million at current exchange rates) was committed on Phase 5 through to March 2020.<sup>18</sup> Since 2018, the United Kingdom has sought additional financing to ensure the Programme will be fully funded through to completion, which will bring the total investment in demining of the Falklands from £38 million to £44 million (approx. US\$54 million).<sup>19</sup>

## GENDER AND DIVERSITY

The UK reported that it makes every effort to ensure that the different needs and perspectives of women, girls, boys, and men are considered in planning and implementation of mine clearance activities on the Falkland Islands.<sup>20</sup>

The UK government and its contractors adhere to an equal opportunities approach to recruitment for the demining programme in the Falkland Islands.<sup>21</sup>

The NMAA requires its contractors, SafeLane Global and Fenix Insight, to meet contractual conditions to prevent unlawful discrimination, either directly or indirectly, on the basis of race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age. The provisions also stipulate that the Contractor must adhere to the current relevant codes of practice or recommendations published by the Equality and Human Rights Commission.<sup>22</sup>

Fenix Insight has an organisational gender policy which it applies to its demining, though there is limited opportunity to pursue it on the Falklands given the deployed "team" is composed of only one (male) person. SafeLane Global has an equal opportunities policy and selects employees based on qualification and experience, without gender restrictions. Of management level positions employed by SafeLane Global in the Falkland Islands, women occupy one third, but none of the survey or clearance staff is female.<sup>23</sup> According to SafeLane Global, no female deminers presented themselves during the recruitment phases for the Falkland Islands operations and only one female applicant applied for a surveyor position, but was unsuccessful as she was not the most qualified candidate for the role.<sup>24</sup>

Within the FCD0 (the national authority), women are involved in the programme in key positions: Senior Responsible Officer, Deputy Senior Responsible Officer, and Project Manager.<sup>25</sup>

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## INFORMATION MANAGEMENT AND REPORTING

The information management system is managed at two levels. The Strategic Advisor maintains the public statement of progress through a "Cumulative Totals" spreadsheet (as demonstrated in the attached annex to the United Kingdom's 2018 Article 5 deadline extension request). This forms the basis of the declarations to the Anti-Personnel Mine Ban Convention (APMBC) Meetings of States Parties. Also, the Demining Project Office and the Land Release Contractor use an operational-level planning and information management tool which guides the work and ultimately leads to the Handover Certificate at the conclusion of each task.<sup>26</sup>

Historically, the United Kingdom has not collated data on area cancelled and on area reduced,<sup>27</sup> and does not disaggregate land released through technical survey from land released through clearance in its reporting.<sup>28</sup>

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## PLANNING AND TASKING

The United Kingdom is in the fifth and final phase of mine clearance, which includes tackling the most technically-challenging and environmentally-sensitive minefields.<sup>29</sup> The United Kingdom had expected that eight mined areas would remain upon completion of Phase 5(b) in March 2020, covering an estimated 163,460m<sup>2</sup>.<sup>30</sup> In April 2020, the United Kingdom reported that only four mined areas in fact remained, totalling an estimated 226,958m<sup>2</sup>, all of which are located in Yorke Bay.<sup>31</sup>

In April 2020, the United Kingdom confirmed that it had sought additional financing to ensure the Programme will be fully funded through to completion.<sup>32</sup>

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## LAND RELEASE SYSTEM

### STANDARDS AND LAND RELEASE EFFICIENCY

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The United Kingdom does not have its own national mine action standards, but survey and clearance operations on the Falkland Islands are reported to meet or exceed the International Mine Action Standards (IMAS), by adapting IMAS to meet the specifics of the situation on the Falkland Islands.<sup>33</sup> Each project's Statement of Requirement contains the standards specific to the tasks being addressed.<sup>34</sup>

The United Kingdom reported that it has "followed the principles set out in IMAS 09.10 (Clearance Requirements) and is very conscious of the statement that "The beneficiaries of humanitarian demining programmes must be confident that cleared and released land is safe for their use. This requires management systems and clearance procedures which are appropriate, effective, efficient and safe." The UK and its contractors have used all reasonable effort to achieve the best practicable outcome. On the issue of post clearance safety, the UK continues to use the principles set out in UK Health and Safety legislation to reduce the residual risk to As Low As Reasonably Practicable (ALARP) which is similar to the IMAS concept of 'all reasonable effort'.<sup>35</sup>

## OPERATORS AND OPERATIONAL TOOLS

The Land Release Contractor in the Falkland Islands is selected by international competitive tender prior to each phase, as required by the European Union. SafeLane Global (formerly Dynasafe BACTEC), was awarded the land release contract for the current and final phase of demining operations in the Falkland Islands, as for the previous four phases.<sup>36</sup>

SafeLane Global's operational capacity in the Falkland Islands in 2019 remained constant at seven manual clearance teams totalling 56 manual deminers (excluding team leaders and medics) and 16 mechanical assets, including sifters which are critical to the project.<sup>37</sup>

The Demining Project Office, which implements the policies of the NMAA and monitors the land release operations on the Falkland Islands, is also awarded through competitive tender. Fenix Insight has been awarded responsibility for the Demining Project Office for all five stages of demining.<sup>38</sup>

Drones have been used for reconnaissance over large areas not accessible behind minefield fences and for aerial

mapping. Use of drones to overfly SHAs helped to identify mine "dump" locations, row markers, and other evidence that might have otherwise taken a manual team several days to locate. The United Kingdom deems the use of drones to be an excellent addition to the demining toolbox and continues to use them when appropriate.<sup>39</sup> Yorke Bay, where the remaining mined areas are located, is a very large sandy area with dunes up to 10 metres in height. Aerial drones provide a viewpoint that is not otherwise available.<sup>40</sup>

Technical survey during phase 5(b) helped determine the most effective clearance methods given the unique conditions of the four remaining minefields at Yorke Bay and have informed the clearance plan. Technical survey identified where block excavation down to the rock or clay layer could take place, suggesting a combination of techniques (mechanical and manual clearance where necessary) and types of equipment to use, including sifting buckets, dump trucks, and screening machines.<sup>41</sup>

## LAND RELEASE OUTPUTS AND ARTICLE 4 COMPLIANCE

### LAND RELEASE OUTPUTS IN 2019

No submunitions were found in the Falkland Islands in 2019, but 319 anti-personnel mines, 108 anti-vehicle mines, and 6 items of UXO were destroyed during survey and clearance operations which saw the release of 15 SHAs.<sup>42</sup>

### ARTICLE 4 DEADLINE AND COMPLIANCE

CCM ENTRY INTO FORCE FOR UNITED KINGDOM: 1 NOVEMBER 2010



ARTICLE 4 DEADLINE: 1 NOVEMBER 2020 (HAS FULFILLED ARTICLE 4 OBLIGATIONS)

The United Kingdom has fulfilled its obligation under Article 4 to destroy all CMR in areas under its jurisdiction or control as soon as possible, but not later than 1 November 2020. In May 2020, the United Kingdom confirmed that UK bombing data for the Falkland Islands showed there is no evidence that cluster munitions were dropped on the four remaining minefields in Yorke Bay, which as at the end of March 2020, totalled an estimated 226,958m<sup>2</sup>.<sup>43</sup> According to the United Kingdom, bombing data records have been analysed many times since 1982 and all known BL755 strike targets were checked by British Troops over the years. All items found were destroyed.<sup>44</sup>

The United Kingdom had not considered itself to have an obligation under Article 4 of the CCM, and had reported that it considered that it had made every effort to identify all cluster munition contaminated areas under its jurisdiction or control. It believes any remaining CMR, if found to exist, to be "residual."<sup>45</sup>

### PLANNING FOR RESIDUAL RISK AFTER COMPLETION

Full and accessible records of all survey and clearance undertaken will be retained by national authorities in the Falkland Islands and the United Kingdom.<sup>46</sup> As reported above, the United Kingdom has bombing data of the cluster munition strikes on the Falkland Islands and has cleared all cluster munition contaminated areas. The United Kingdom believes there is a very low risk of previously unknown mine contamination being discovered post completion, but that it remains a possibility as there is no complete record of mines laid on the Falkland Islands.

If a mine or other item of explosive ordnance is found following the conclusion of the demining programme, it will be addressed by the EOD team from the UK's Royal Air Force Armament Engineering Flight on the Falkland Islands, which has an "enduring" military presence there.<sup>47</sup>

- 1 Email from an official in the Counter Proliferation and Arms Control Centre, Foreign and Commonwealth Office (FCO), 18 May 2020; and FCO, Falklands Demining Programme Work Plan under Article (5), 30 April 2020, pp. 3–4.
- 2 There is a sovereignty dispute over the Falkland Islands/Malvinas with Argentina, which claims jurisdiction over the Malvinas. Argentina is not, though, a State Party to the CCM.
- 3 Letter to Landmine Action from Lt.-Col. Scott Malina-Derben, Ministry of Defence, 6 February 2009; and email correspondence from a Foreign Office Official, Conventional Arms Policy Officer, Arms Export Policy Department, FCO, 11 June 2015.
- 4 Ibid.
- 5 Email from an official in the Arms Export Policy Department of the FCO, 1 July 2015.
- 6 Ibid.
- 7 Ibid.
- 8 Second Anti-Personnel Mine Ban Convention (APMBC) Article 5 deadline Extension Request (2018), p. 6.
- 9 Statement of United Kingdom, APMBC Tenth Meeting of States Parties, Geneva, 1 December 2010.
- 10 Email from an official in the Arms Export Policy Department of the FCO, 11 June 2015.
- 11 Email from an official in the Arms Export Policy Department of the FCO, 1 July 2015.
- 12 Emails from an official in the Arms Export Policy Department of the FCO, 22 and 23 June 2017.
- 13 FCO, Falklands Demining Programme Work Plan under Article (5), 30 April 2020, pp. 3–4; and email from an official in the Counter Proliferation and Arms Control Centre, FCO, 18 May 2020.
- 14 2018 Article 5 deadline Extension Request, p. 8; and FCO, Falklands Demining Programme Work Plan under Article (5), 30 April 2020, p. 7.
- 15 Ibid.
- 16 2018 Article 5 deadline Extension Request.
- 17 Ibid., pp. 3 and 10.
- 18 Email from an official in the Counter Proliferation and Arms Control Centre, FCO, 24 April 2019.
- 19 FCO, Falklands Demining Programme Work Plan under Article (5), 30 April 2020, p. 4.
- 20 United Kingdom, "Submission of information for the Convention's website", Intersessional Meetings, 30 June–2 July 2020.
- 21 Statement of the United Kingdom, Fourth APMBC Review Conference, Oslo, 27 November 2019.
- 22 Email from an official in the Counter Proliferation and Arms Control Centre, FCO, 18 May 2020; and Article 7 Report (covering 2019), "Additional Reporting for 2019".
- 23 Ibid.
- 24 Email from an official in the Counter Proliferation and Arms Control Centre, FCO, 10 July 2020.
- 25 Email from an official in the Counter Proliferation and Arms Control Centre, FCO, 18 May 2020; and Article 7 Report (covering 2019), "Additional Reporting for 2019".
- 26 Email from an official in the Counter Proliferation and Arms Control Centre, FCO, 21 August 2018.
- 27 2018 Article 5 deadline Extension Request, Annex A.
- 28 Article 7 Report (covering 2019), Form F; and email from an official in the Counter Proliferation and Arms Control Centre, FCO, 18 May 2020.
- 29 Statement of the United Kingdom, Fourth Review Conference, Oslo, 27 November 2019.
- 30 2018 Article 5 deadline Extension Request, pp. 7 and 14.
- 31 FCO, Falklands Demining Programme Work Plan under Article (5), 30 April 2020, pp. 3–4.
- 32 Ibid., pp. 4–5.
- 33 Email from an official in the Counter Proliferation and Arms Control Centre, FCO, 26 June 2018; 2018 Article 5 deadline Extension Request, pp. 3 and 7; Article 7 Report (covering 2016), Form F; and FCO, Falklands Demining Programme Work Plan under Article (5), 30 April 2020, p. 5.
- 34 Email from an official in the Counter Proliferation and Arms Control Centre, FCO, 15 July 2016.
- 35 FCO, Falklands Demining Programme Work Plan under Article (5), 30 April 2020, p. 5.
- 36 2018 Article 5 deadline Extension Request, p. 9.
- 37 Email from an official in the Counter Proliferation and Arms Control Centre, FCO, 18 May 2020.
- 38 2018 Article 5 deadline Extension Request, p. 9.
- 39 Emails from an official in the Counter Proliferation and Arms Control Centre, FCO, 15 July 2016, 28 July 2018, 24 April 2019, and 10 July 2020; and 2018 Article 5 deadline Extension Request, p. 8.
- 40 Email from an official in the Counter Proliferation and Arms Control Centre, FCO, 10 July 2020.
- 41 FCO, Falklands Demining Programme Work Plan under Article (5), 30 April 2020, p. 3; and email from an official in the Counter Proliferation and Arms Control Centre, FCO, 18 May 2020.
- 42 Article 7 Report (covering 2019), Form F; and email from an official in the Counter Proliferation and Arms Control Centre, FCO, 18 May 2020.
- 43 Email from an official in the Counter Proliferation and Arms Control Centre, FCO, 18 May 2020; and FCO, Falklands Demining Programme Work Plan under Article (5), 30 April 2020, pp. 3–4.
- 44 Email from an official in the Counter Proliferation and Arms Control Centre, FCO, 18 May 2020; and FCO, Falklands Demining Programme Work Plan under Article (5), 30 April 2020, pp. 3–4.
- 45 Interview with an official in the Arms Export Policy Department of the FCO, and with Lt.-Col. John Stroud-Turp, Security Policy and Operations, Ministry of Defence, in Geneva, 22 June 2015; and email from an official in the Arms Export Policy Department of the FCO, 15 March 2019.
- 46 APMBC 2018 Article 5 deadline Extension Request, Additional Information received 6 August 2018; and email from an official in the Counter Proliferation and Arms Control Centre of the FCO, 24 April 2019.
- 47 2018 Article 5 deadline Extension Request, Additional Information received 6 August 2018; email from an official in the Counter Proliferation and Arms Control Centre of the FCO, 24 April 2019; and FCO, Falklands Demining Programme Work Plan under Article (5), 30 April 2020, p. 5.