

UNITED KINGDOM

(FALKLAND ISLANDS/
MALVINAS)

ARTICLE 4 DEADLINE: 1 NOVEMBER 2020 (NOT ON TRACK TO MEET DEADLINE)

PROGRAMME PERFORMANCE	2015	2014
Problem understood	6	6
Target date for completion of cluster munition clearance	3	3
Targeted clearance	6	6
Efficient clearance	3	3
National funding of programme	7	7
Timely clearance	3	3
Land-release system in place	8	8
National mine action standards	9	9
Reporting on progress	5	5
Improving performance	5	5
PERFORMANCE SCORE: AVERAGE	5.5	5.5

RECOMMENDATIONS FOR ACTION

- The UK should acknowledge it has outstanding Article 4 obligations to survey and, where contamination is found, to clear CMR in the Falkland Islands.
- The UK should present detailed plans and timelines for clearance of all known or suspected cluster strike areas in mined and other suspected hazardous areas (SHAs) in the Falkland Islands in accordance with its international legal obligations.

CONTAMINATION

An unknown number of CMR remain on the Falkland Islands¹ as a result of use of BL755 cluster bombs by the UK against Argentine positions during the 1982 armed conflict.

In February 2009, the Ministry of Defence (MoD) 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 BL 755s 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."²

In 2015, the UK affirmed that no known areas of CMR contamination exist outside SHAs on the islands, in particular mined areas, all of which are fenced and marked.³ In 1982–84, battle area clearance (BAC) was undertaken over large areas looking for CMR and other unexploded ordnance (UXO). 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. Clearance operations involved both surface and subsurface clearance, using the British 4C metal detector.⁴

The UK has stated that potential CMR contamination has, in part, been taken into account during mine clearance operations in the Falkland 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.⁵

In 2010, the UK reported destruction of two submunitions in Stanley Area 3, during clearance operations across four mined areas in 2009–10.⁶ In June 2015, the UK reported destruction of 19 submunitions during Phase 4(a) clearance operations, in January to April 2015, also in Stanley Area 3.⁷ UK records suggest that four cluster bombs were dropped in this area.⁸ No further CMR were encountered during Phase 4(b) clearance operations in September 2015 to March 2016 in Stanley Area 2 and Stanley Area 3.⁹

The UK conducted CMR clearance in the aftermath of the Falklands conflict, along with comprehensive perimeter marking of mined areas potentially containing remaining CMR. No civilians are believed to have been killed or injured by CMR on the islands.¹⁰

1 There is a sovereignty dispute with Argentina, which also claims jurisdiction over the islands.

2 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, Foreign and Commonwealth Office (FCO), 11 June 2015.

3 Email from an official in the Arms Export Policy Department of the FCO, 1 July 2015.

4 Ibid.

5 Ibid.

6 Statement of UK, Anti-Personnel Mine Ban Convention (APMBC), Tenth Meeting of States Parties, Geneva, 1 December 2010.

7 Email from an official in the Arms Export Policy Department of the FCO, 11 June 2015.

8 Email from an official in the Arms Export Policy Department of the FCO, 1 July 2015.

9 Email from an official in the Arms Export Policy Department, FCO, 4 May 2016.

10 Statement of UK, APMBC intersessional meetings (Standing Committee on Mine Action), Geneva, 27 May 2009.

Other ERW and Landmines

As referenced previously, the Falkland Islands is also contaminated by anti-personnel mines, (see annual "Clearing the Mines" reports on the UK), and other explosive remnants of war (ERW). These are the explosive threat against which the majority of the UK's demining efforts are directed.

Since 2010, mine clearance and Battle Area Clearance (BAC) in the Falkland Islands has been conducted in four phases. Phase 1 took place from October 2009 to June 2010; Phase 2 from January to March 2012; Phase 3 from January to March 2013; Phase 4(a) from January 2015 to April 2015; and Phase 4(b) from September 2015 to March 2016.

Mine clearance operations in the Falkland Islands during Phases 1, 3, and 4(a) and (b) resulted in the release of 35 mined areas totalling just over 2km², with the destruction of 4,372 anti-personnel mines, 975 anti-vehicle mines, 53 items of UXO, and 21 submunitions. Of the 21 submunitions destroyed, two were discovered during Phase 1 of mine clearance operations and the other nineteen were found during Phase 4(a). None was encountered during Phase 4(b) clearance operations.¹¹

BAC operations conducted during Phases 2, 3, and 4b, resulted in just over 5km² of suspected hazardous area being cleared, with the destruction of 87 items of UXO and no submunitions. This comprised 3.49km² cleared in Phase 2, with 85 UXO items destroyed; 0.18km² in Phase 3 with no UXO destroyed, and 1.32km² in Phase 4b, with 2 UXO items destroyed.¹²

PROGRAMME MANAGEMENT

A National Mine Action Authority (NMAA) was established in 2009 to oversee clearance of mined areas.¹³ The Foreign and Commonwealth Office (FCO) chairs the NMAA, and the Falkland Islands government and project contractors are also represented.¹⁴

Operators

In October 2014, the Governor's Office in Port Stanley announced that demining contracts had been awarded to two companies for Phase 4 of clearance on the islands. Battle Area Clearance, Training, Equipment and Consultancy International Ltd. (BACTEC) was awarded the land release contract, while Fenix Insight was responsible for the Demining Project Office, which ensures quality management of demining operations. While the announcement by the Governor's Office asserted that 108 minefields existed at the start of Phase 4,¹⁵ the FCO subsequently confirmed that the correct figure was 107.¹⁶ Over the course of Phases 4a and 4(b), 25 suspected mined areas were released,¹⁷ as well as one hazardous area suspected to contain ERW.¹⁸

To implement Phase 4, which began in January 2015, BACTEC had a team of 46 deminers.¹⁹ BACTEC deployed three demining machines during the project: two flails and a tiller.²⁰

LAND RELEASE

Nineteen submunitions were destroyed in Phase 4(a) of clearance operations in January to April 2015, during clearance of a 47,027m² minefield in Stanley Area 3.²¹

Progress in 2016

During Phase 4(b) of clearance operations in September 2015 to March 2016, a further 15 mined areas were cleared, in addition to BAC of an SHA behind the Stanley Common fence to the west of Eliza Cove Road, totalling more than 1.3km².²² Furthermore, as part of Phase 4(b), a limited technical survey was completed of areas MF45, MF46, and MF007 (the latter is located in the sand-duned Yorke Bay area).²³ No further CMR contamination was encountered during Phase 4(b).²⁴

Phase 4(b) had been expected to conclude in December 2015, but was extended by an additional three months as one minefield proved especially difficult to clear due to the entirely unexpected inaccuracy of the relevant minefield records. The UK allocated additional funding to the project which allowed contractors to complete, at the same time, more tasks than originally planned.²⁵

As at June 2016, the UK was continuing to review how it might address the many challenges posed by Falkland Islands demining, as it prepared plans for a new phase of demining. No details of plans were available as at July 2016.²⁶

ARTICLE 4 COMPLIANCE

Under Article 4 of the Convention on Cluster Munitions (CCM), the UK is required to destroy all CMR in areas under its jurisdiction or control as soon as possible, but not later than 1 November 2020. The UK is not on track to meet this deadline.

The UK does not consider itself to have an obligation under Article 4 of the CCM, and considers any remaining CMR, if found to exist, to be “residual”.²⁷ The UK also asserts that it has addressed the humanitarian and developmental effects of CMR on the Falkland Islands.²⁸

However, Article 4(2)(a) of the CCM stipulates that each state party shall, “as soon as possible ... [s]urvey, assess and record the threat posed by cluster munition remnants, making every effort to identify all cluster munition contaminated areas under its jurisdiction or control”. Mine Action Review believes that the UK has still to fulfil this obligation, in particular by conducting survey and clearance in mined areas in which cluster munitions are known or suspected to have been used. The decision to discontinue clearance of mined areas in the 1980s means that several cluster strike areas located within these mined areas have not been surveyed. Accordingly, an assertion that the remaining threat from CMR is only residual is purely speculative.

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- 11 Email from an official in the Arms Export Policy Department of the FCO, 14 July 2016. The data for Phase 4(a) is inconsistent with what was reported previously (264,800m² cleared, with 2,425 anti-personnel mines and 26 anti-vehicle mines destroyed). However, the FCO confirmed that the revised data reported (264,921m², with 723 anti-personnel mines and 24 anti-vehicle mines destroyed) is the correct data set. The inconsistency was due to Phase 4(a) tasks that were suspended in April 2015 due to winter weather conditions, subsequently being reported in full under Phase 4(b), rather than partially reported at the end of Phase 4(a), as was the previously the case.
- 12 Email from an official in the Arms Export Policy Department of the FCO, 14 July 2016.
- 13 Statement of the UK, intersessional meetings (Standing Committee on Mine Action), Geneva, 27 May 2009.
- 14 Email from an official in the Arms Export Policy Department of the FCO, 3 June 2015.
- 15 Governor’s Office, “Falkland Islands demining contracts awarded”, 28 October 2014, at: <https://www.gov.uk/government/world-location-news/falkland-islands-demining-contracts-awarded>.
- 16 Email from an official in the Arms Export Policy Department of the FCO, 3 June 2015.
- 17 Email from an official in the Arms Export Policy Department of the FCO, 4 May 2016.
- 18 APMBC Article 7 Report (for 2015), Form F.
- 19 In total, 74 staff are said to have been employed on the project.
- 20 Email from an official in the Arms Export Policy Department of the FCO, 3 June 2015.
- 21 Emails from an official in the Arms Export Policy Department of the FCO, 11 June 2015 and 14 June 2016.
- 22 Statement of the UK, APMBC intersessional meetings (Standing Committee on Mine Action), Geneva, 19 May 2016; and APMBC Article 7 Report (for 2015), Form F.
- 23 Ibid.; and email from an official in the Arms Export Policy Department of the FCO, 21 June 2016.
- 24 Email from an official in the Arms Export Policy Department of the FCO, 4 May 2016.
- 25 Emails from an official in the Arms Export Policy Department of the FCO, 14 and 21 June 2016.
- 26 Ibid.
- 27 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.
- 28 Email from an official in the Arms Export Policy Department of the FCO, 21 June 2016.