

UNITED KINGDOM

(FALKLAND ISLANDS)

ARTICLE 4 DEADLINE: 1 NOVEMBER 2020
 (UNCLEAR WHETHER ON TRACK TO MEET DEADLINE)

PROGRAMME PERFORMANCE	2017	2016
Problem understood	5	6
Target date for completion of cluster munition clearance	5	3
Targeted clearance	6	6
Efficient clearance	3	3
National funding of programme	8	7
Timely clearance	4	3
Land-release system in place	8	8
National mine action standards	9	9
Reporting on progress	5	5
Improving performance	6	5
PERFORMANCE SCORE: AVERAGE	5.9	5.5

PERFORMANCE COMMENTARY

As part of its demining efforts, the United Kingdom destroys cluster munition remnants (CMR), as well as other explosive remnants of war (ERW), that are discovered during anti-personnel mine survey and clearance operations. Since October 2009, it has destroyed a total of 21 submunitions and one cluster munition container.

The United Kingdom is making significant progress in the release of mined areas on the Falkland Islands as part of its Anti-Personnel Mine Ban Convention

(APMBC) Article 5 obligations, and as a consequence, it has been reducing the number of mined areas that might also contain CMR. The United Kingdom predicts that only eight mined areas, covering an estimated 163,460m², will remain as at the end of March 2020, all located in the Yorke Bay area of the Islands.¹ However, as the United Kingdom has not specified which, if any, of the remaining mined areas may contain CMR based on analysis of bombing data, it is unclear whether these eight mined areas could potentially contain CMR as well as anti-personnel mines.

RECOMMENDATIONS FOR ACTION

- The United Kingdom should analyse its bombing data to determine the likelihood of CMR being present in the remaining mined areas and other suspected hazardous areas (SHAs) in the Falkland Islands. In particular, the United Kingdom should assess whether or not cluster munitions were dropped on the Yorke Bay area. This would help determine whether the eight remaining mined areas expected to remain as at the end of the current phase of demining in March 2020 might also contain CMR.
- Based on the analysis of bombing data, the United Kingdom should present detailed plans and timelines for survey and, where contamination is found, clearance, in accordance with its Convention on Cluster Munitions (CCM) Article 4 obligations.

CONTAMINATION

CMR may remain on the Falkland Islands² as a result of use of BL755 cluster bombs by British forces against Argentine positions during the 1982 armed conflict. 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."³

In 2015, the United Kingdom 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.⁴ 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. Demining operations involved both surface and subsurface clearance.⁵

The United Kingdom 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.⁶

In 2010, the United Kingdom reported destruction of two submunitions in Stanley Area 3, during clearance operations across four mined areas in 2009–10.⁷ In June 2015, the United Kingdom reported destruction of 19 submunitions during clearance operations in January to April 2015, also in Stanley Area 3.⁸ UK records suggest that four cluster bombs were dropped in this area.⁹ No further CMR were encountered either during clearance operations in September 2015 to March 2016 in Stanley Area 2 and Stanley Area 3,¹⁰ or during survey and clearance operations in November 2016 to March 2018.¹¹ In June 2017, however, the main body of a BL755 cluster munition container was found in "minefield GG08", during BAC in the Goose Green region. No submunitions were found though and GG08 has now been declared cleared of all explosive ordnance.¹²

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. No civilians are believed to have been killed or injured by CMR on the islands.¹³

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* report on the United Kingdom for further information) and other ERW. These explosive threats are the focus of the United Kingdom's demining efforts.

Since 2010, mine clearance and BAC in the Falkland Islands have been conducted in the following 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 May 2015; Phase 4(b) from September 2015 to March 2016; and Phase 5(a) from November 2016 to March 2018. Phase 5(b) commenced in April 2018 and is expected to conclude at the end of March 2020.¹⁴

Mine clearance operations in the Falkland Islands during Phases 1, 3, and 4(a) and (b), and 5(a), resulted in the destruction of 21 submunitions and 1 cluster munition container.¹⁵ Of the 21 submunitions destroyed, two were discovered during the Phase 1 mine clearance operations and the other 19 were found during Phase 4(a). No submunitions were encountered in subsequent survey or clearance operations, but the body of a BL755 cluster munition container was discovered in June 2017, during Phase 5(a).¹⁶

BAC operations conducted during Phases 2, 3, 4(b), and 5(a) resulted in 7.85km² of SHA 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; 1.32km² in Phase 4(b), with 2 UXO items destroyed;¹⁷ and 2.86km² in Phase 5(a), with no UXO destroyed.¹⁸

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 and Commonwealth Office (FCO) and comprises representatives from the Ministry of Defence, the Falkland Islands government, and a strategic advisor. It meets "as required" (at least once every six months), and the Land Release Contractor (currently Battle Area Clearance, Training, Equipment and Consultancy International (BACTEC)) and the Demining Project Office (currently Fenix Insight), are invited "where appropriate".¹⁹

In addition, there is a Suspect Hazardous Area Land Release Committee (SHALARC), which is a body based on the Falkland Islands, comprising a wide range of local officials and a representative of the United Kingdom military. The SHALARC provides a forum for the contractors to discuss issues that may be of concern or interest to the committee, and includes explanation of the land release process, including when land has been released for public use.²⁰

Strategic Planning

At present, the United Kingdom is undertaking the fifth phase of demining operations in the Falkland Islands. The government has committed to spend more than £27 million on Phase 5 (a) and (b) (2016–20), which covers the clearance of 79 mined areas measuring an estimated total of just under 10.86km² (4.91km² in Phase 5a and 5.95km² in Phase 5b).²¹

Phase 5(a) commenced in November 2016 and concluded in March 2018.²² Following conclusion of Phase 5(a), the United Kingdom has a more accurate picture of the remaining mine clearance challenge, which has helped inform its strategic planning and its draft Article 5 extension request, which was submitted on 29 March 2018 for consideration by states parties to the APMBBC.²³

The current stage of demining, Phase 5(b), which began in April 2018, is due to conclude by the end of March 2020.²⁴ At the end of Phase 5(b), it is expected that only eight mined areas will remain, covering an estimated 163,460m², and located in the environmentally sensitive beach and sand dune area known as Yorke Bay.²⁵

Technical survey of Yorke Bay, which will be carried out during Phase 5(b), will inform the planning and costing for the release of the remaining eight mined areas.²⁶

There is no reference to suspected CMR-contaminated areas in either the United Kingdom's CCM Article 7 transparency report for 2017, or in its draft 2018 APMBBC Article 5 deadline extension request. It is unclear whether analysis of UK bombing data could provide evidence as to whether or not the eight mined areas in Yorke Bay forecast to still remain as at March 2020 could also contain CMR.

Legislation and Standards

Survey and clearance operations on the Falkland Islands are reported to meet or exceed International Mine Action Standards (IMAS), by adapting IMAS to meet the specifics of the situation on the Falkland Islands.²⁷

Quality Management

The Land Release Contractor (BACTEC, at present) in the Falklands undertakes its own internal Quality Assurance (QA) and Quality Control (QC), and Demining Project Office (Fenix Insight, at present) monitors this and is also able to conduct its own external QA and QC.²⁸

Information Management

The information management system for demining operations in the Falklands is not known.

Operators

The Land Release Contractor in the Falkland Islands is selected by international competitive tender prior to each phase, as required by the European Union. Based on a balance of merit and value for money, the same organisation, BACTEC, was awarded the land release contract for the current fifth phase of demining operations in the Falkland Islands, as for the previous four phases.²⁹ Capacity for Phase 5 operations was increased from previous phases, with a total of 108 personnel: 84 demining staff (7 teams of 12 (eight deminers, one supervisor, one team leader, a medic, and a driver per team); 7 technical staff (surveyors, mechanics, and excavator operators); 13 support staff, and 4 management staff. Mechanical equipment includes one anti-tank mine machine, three anti-personnel mine machines, and two armoured excavators, in addition to the required transportation equipment.³⁰

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. Based on merit, Fenix Insight has been awarded responsibility for the Demining Project Office for all five stages of demining so far.³¹

LAND RELEASE

No submunitions were found in 2017, but, as noted above, an empty BL755 cluster munition container was discovered in June 2017.³²

Survey and Clearance in 2017

Phase 5(a) of survey and clearance operations lasted from October 2016 to March 2018, with a three-month stand down over the winter on the Islands.³³ No CMR were encountered during Phase 5(a), but the United Kingdom did report that the main body of a BL755 container was found in June 2017 in “minefield GG08”, during BAC in the Goose Green region of the Falkland Islands. However, as already noted, no submunitions were found and GG08 has now been declared clear.³⁴

ARTICLE 4 COMPLIANCE

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

The United Kingdom 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”.³⁵ It also claims to have addressed the humanitarian and developmental effects of CMR on the Falkland Islands.³⁶ 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 United

Kingdom 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. Accordingly, an assertion that the remaining threat from CMR is only residual is purely speculative.

Any CMR-contaminated area that might exist is within existing mined areas or SHAs on the Falkland Islands, which the United Kingdom is addressing under its APMBC Article 5 obligations. If the United Kingdom proceeds according to the workplan laid out in its 2018 draft Article 5 deadline extension request, only eight mined areas in Yorke Bay, totalling an estimated 163,460m², will remain as at the end of March 2020. March 2020 falls ahead of the United Kingdom’s CCM Article 4 deadline of November 2020. However, the United Kingdom has not specified which, if any, of the remaining mined areas may contain cluster munition

remnants based on bombing data, and it is therefore unclear whether these eight remaining mined areas could potentially contain CMR, or whether the United Kingdom can be confident from bombing data that Yorke Bay is not contaminated with CMR. As such, it is difficult to ascertain whether or not the United Kingdom is on track to meet its November 2020 Article 4 deadline.

Technical survey of Yorke Bay will be carried out in the latter stages of Phase 5(b), and only then can the clearance be planned and costed. Depending on the survey results, there may not be time to complete clearance by the end of Phase 5 (31 March 2020 – the end of the UK financial year). In addition, it is unlikely

that the current pre-allocated funds will be sufficient to complete clearance and new funding cannot be requested until the costs are known. Once an accurate estimate is acquired through the results of technical survey in Phase 5(b), the FCO and the Ministry of Defence will seek funding to complete the work.³⁷ The United Kingdom has committed to providing updated information on progress and next steps at subsequent future meetings of States Parties to the Convention.³⁸ Under APMBC Article 5, the United Kingdom is requesting an extended deadline of March 2024 to complete release of the remaining mined area.³⁹

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| <p>1 Second APMBC Article 5 deadline Extension Request (draft), dated 29 March 2018, p. 14.</p> <p>2 There is a sovereignty dispute with Argentina, which also claims jurisdiction over the islands, which it refers to as the Malvinas. Argentina is not, though, a state party to the CCM.</p> <p>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, Foreign and Commonwealth Office (FCO), 11 June 2015.</p> <p>4 Email from an official in the Arms Export Policy Department of the FCO, 1 July 2015.</p> <p>5 Ibid.</p> <p>6 Ibid.</p> <p>7 Statement of United Kingdom, APMBC Tenth Meeting of States Parties, Geneva, 1 December 2010.</p> <p>8 Email from an official in the Arms Export Policy Department of the FCO, 11 June 2015.</p> <p>9 Email from an official in the Arms Export Policy Department of the FCO, 1 July 2015.</p> <p>10 Email from an official in the Arms Export Policy Department of the FCO, 4 May 2016.</p> <p>11 Interview with an official in the Arms Export Policy Department of the FCO, London, 19 April 2018.</p> <p>12 Emails from an official in the Arms Export Policy Department of the FCO, 22 and 23 June 2017.</p> <p>13 Statement of UK, APMBC intersessional meetings (Standing Committee on Mine Action), Geneva, 27 May 2009.</p> <p>14 Second APMBC Article 5 deadline Extension Request (draft), dated 29 March 2018.</p> <p>15 Ibid., p. 6.</p> <p>16 Interview with an official in the Arms Export Policy Department of the FCO, London, 19 April 2018.</p> <p>17 Email from an official in the Arms Export Policy Department of the FCO, 14 July 2016; and Second APMBC Article 5 deadline Extension Request (draft), dated 29 March 2018.</p> <p>18 Second APMBC Article 5 deadline Extension Request (draft), dated 29 March 2018, Annex A.</p> | <p>19 Ibid., p. 8.</p> <p>20 Ibid., p. 9.</p> <p>21 Ibid., pp. 7 and 14; and email from an official in the Arms Export Policy Department, FCO, 26 June 2018.</p> <p>22 Ibid., p. 3.</p> <p>23 Email from an official in the Arms Export Policy Department, FCO, 11 October 2017.</p> <p>24 Second APMBC Article 5 deadline Extension Request (draft), dated 29 March 2018, p. 7.</p> <p>25 Ibid., pp. 7 and 14.</p> <p>26 Ibid., p. 14.</p> <p>27 Email from an official in the Arms Export Policy Department, FCO, 26 June 2018.</p> <p>28 Ibid.</p> <p>29 Second APMBC Article 5 deadline Extension Request (draft), dated 29 March 2018, p. 9.</p> <p>30 Email from an official in the Arms Export Policy Department of the FCO, 28 July 2017.</p> <p>31 Second APMBC Article 5 deadline Extension Request (draft), dated 29 March 2018, p. 9.</p> <p>32 Emails from an official in the Arms Export Policy Department of the FCO, 22 and 23 June 2017; and interview with an official in the Arms Export Policy Department of the FCO, London, 19 April 2018.</p> <p>33 Email from an official in the Arms Export Policy Department of the FCO, 2 June 2017.</p> <p>34 Emails from an official in the Arms Export Policy Department of the FCO, 22 and 23 June 2017; and interview with an official in the Arms Export Policy Department of the FCO, London, 19 April 2018.</p> <p>35 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.</p> <p>36 Email from an official in the Arms Export Policy Department of the FCO, 21 June 2016.</p> <p>37 Second APMBC Article 5 deadline Extension Request (draft), dated 29 March 2018, p. 14.</p> <p>38 Ibid.</p> <p>39 Second Article 5 deadline Extension Request (draft), dated 29 March 2018.</p> |
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