

UNITED KINGDOM (FALKLAND ISLANDS)

MINE
ACTION
REVIEW

CLEARING CLUSTER
MUNITION REMNANTS
2019

CONVENTION ON CLUSTER MUNITIONS ARTICLE 4 DEADLINE: 1 NOVEMBER 2020
NOT ON TRACK TO MEET DEADLINE / UNCLEAR
(THE UNITED KINGDOM DOES NOT CONSIDER IT HAS AN OBLIGATION UNDER CCM ARTICLE 4)

KEY DATA

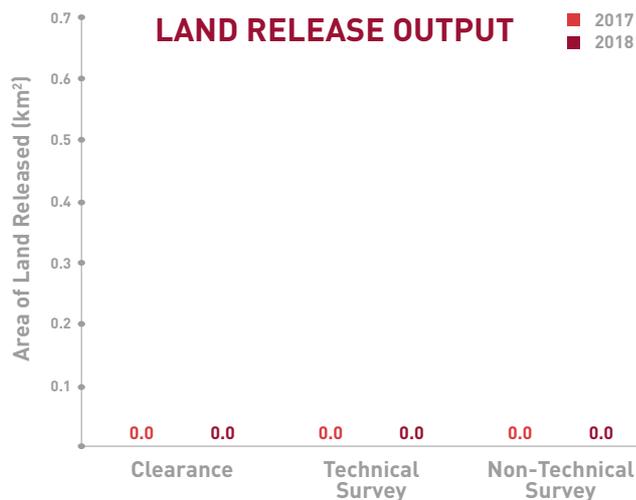
**CLUSTER MUNITION
CONTAMINATION:
UNKNOWN, BUT LIKELY
TO BE LIGHT**

SUBMUNITION
CLEARANCE IN 2018

0 KM²

SUBMUNITIONS
DESTROYED IN 2018

0



KEY DEVELOPMENTS

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 mine survey and clearance operations. Since October 2009, the United Kingdom has destroyed a total of 21 submunitions and 1 cluster munition dispenser.

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, 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 by 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 UK bombing data, it is unclear whether or not these areas could also contain CMR. The fact that any remaining CMR contamination might be located in fenced minefields or other suspected hazardous areas (SHAs) does not negate the United Kingdom's obligations under Article 4 of the Convention on Cluster Munitions (CCM).

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 SHAs on 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 by the end of the current phase of demining in March 2020 might also contain CMR.
- If an analysis of bombing data reveals that CMR may be present in such areas, the United Kingdom should present detailed plans and timelines for survey and, where contamination is found, clearance, in accordance with its CCM Article 4 obligations. If an analysis of bombing data reveals that cluster munitions were not used in those areas, the United Kingdom could declare fulfilment of its Article 4 obligation.

ASSESSMENT OF NATIONAL PROGRAMME PERFORMANCE

Criterion	Score (2018)	Performance commentary
UNDERSTANDING OF CLUSTER MUNITION REMNANT (20% of overall score)	5	Any submunitions remaining in the Falkland Islands are likely to be in fenced minefields or SHAs, which are being addressed under the Anti-Personnel Mine Ban Convention (APMBC). The United Kingdom has not revealed whether it has analysed its cluster munition bombing data to determine the likelihood of cluster munition remnants (CMR) being present in these or other areas on the Falkland Islands. Therefore, Mine Action Review maintains that the United Kingdom may have an unfulfilled Article 4 obligation, which requires every effort be made to identify if any CMR-contaminated areas still exist.
NATIONAL OWNERSHIP AND PROGRAMME MANAGEMENT (10% of overall score)	8	There is strong national ownership of mine action on the Falkland Islands, with oversight from a National Mine Action Authority, a Demining Project Office and land release contractor, and 100% national funding for all survey and clearance. However, while the United Kingdom is making good progress in implementing its obligations under Article 5 of the APMBC, it considers it has made every effort to identify all cluster munition-contaminated areas under its jurisdiction or control, and believes any remaining CMR, if found to exist, to be residual.
GENDER (10% of overall score)	7	Good gender policies and procedures are in place to cover mine action in the Falkland Islands, including at the level of the UK FCO, the National Mine Action Authority, the land release contractor (currently SafeLane Global), and the Demining Project Office (currently Fenix Insight). While one third of management positions in SafeLane Global in the Falkland Islands are held by women, none of the survey or clearance personnel is female. This is despite equal employment opportunities.
INFORMATION MANAGEMENT AND REPORTING (10% of overall score)	6	The United Kingdom has its own well-functioning information management system in place, to record and monitor progress in land release operations on the Islands. However, the amount of land released by technical survey is not disaggregated from that released by clearance in the United Kingdom's reporting.
PLANNING AND TASKING (10% of overall score)	6	The United Kingdom has a clear workplan in place to address remaining mined areas and SHAs on the Islands. However, the UK government has not revealed whether it has analysed its cluster munition bombing data to determine the likelihood of CMR remaining in those areas on the Islands.
LAND RELEASE SYSTEM (20% of overall score)	7	The United Kingdom does not have its own national mine action standards, but survey and clearance operations on the Islands are said to meet or exceed the International Mine Action Standards (IMAS). However, there are indications that the land release methodology may be overly risk-adverse, based on full clearance of eleven uncontaminated areas, despite technical survey prior to clearance. While no animal detection systems are deployed, mechanical assets are used in addition to manual survey and clearance.
LAND RELEASE OUTPUTS AND ARTICLE 4 COMPLIANCE (20% of overall score)	4	The United Kingdom does not consider itself to have an obligation under Article 4 of the CCM. However, until analysis of bombing data is made public, it is possible that remaining minefields and SHAs in the Falklands may contain CMR. The United Kingdom will address these areas under its APMBC Article 5 obligation, for which the deadline is 1 March 2024. However, it is likely that not all the remaining mined areas and SHAs, which may also contain CMR, will be released prior to the United Kingdom's CCM Article 4 deadline of 1 November 2020.
Average score	5.9	Overall programme performance: AVERAGE

CLUSTER MUNITION SURVEY AND CLEARANCE CAPACITY

MANAGEMENT

- National Mine Action Authority (chaired by the United Kingdom Foreign and Commonwealth Office (FCO) and comprised of representatives from the Ministry of Defence, the Falkland Islands government, and a strategic advisor)
- Fenix Insight (current Demining Project Office)

NATIONAL OPERATORS

- SafeLane Global (formally Dynasafe BACTEC, and current Land Release Contractor)

INTERNATIONAL OPERATORS

- None

OTHER ACTORS

- None

UNDERSTANDING OF CMR 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 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.⁵

The United Kingdom has 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.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, it 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 As at March 2019, no further CMR have been encountered during survey or clearance operations in the Falkland Islands,¹⁰ but 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.¹¹

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 2009, mine clearance and BAC in the Falkland Islands have been conducted in a series of phases. Phase 5(b) began in April 2018 and is expected to conclude at the end of March 2020.¹² At the end of this Phase, it is expected that only eight mined areas will remain, covering an estimated 163,460m², all located in Yorke Bay.¹³ 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.¹⁴

As previously noted, mine clearance operations in the Falkland Islands have, to date, resulted in the destruction of 21 submunitions and 1 cluster munition container.¹⁵ BAC operations conducted thus far resulted in 7.85km² of SHA being cleared, with the destruction of 87 items of UXO and no submunitions.¹⁶

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 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 (SafeLane Global (formally, Dynasafe BACTEC)) and the Demining Project Office (currently Fenix Insight), are invited “where appropriate”.¹⁷

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 of concern or interest to the committee, and includes explanation of the land release process, including when land has been released for public use.¹⁸

However, while the United Kingdom is making good progress in implementing its obligations under Article 5 of the APMBC, it does not consider itself to have an obligation under Article 4 of the CCM. It considers that it has made every effort to identify all cluster munition

contaminated areas under its jurisdiction or control, and believes any remaining CMR, if found to exist, to be residual.

Survey and clearance operations in the Falkland Islands are entirely funded by the UK Government.¹⁹

GENDER

The NMAA requires SafeLane Global and Fenix Insight to meet contractual conditions to prevent unlawful discrimination either directly or indirectly on protected characteristics such as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age. The provisions also set out that the Contractor shall adhere to the current relevant codes of practice or recommendations published by the Equality and Human Rights Commission.²⁰

Fenix Insight holds a gender policy which it applies, though there is limited opportunity to pursue 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, one third is occupied by a woman, but none of the survey or clearance staff is female.²¹

In 2018, the UK Government wrote to suppliers setting out safeguarding policies and procedures in light of sexual exploitation and abuse in the aid sector, which raised questions regarding the ethical behaviour of organisations being funded by UK taxpayers' money and the safeguarding of the communities across the world that it is intended to support. The contractors working to deliver the UK's Falkland Islands Demining Programme were contacted as part of this wider engagement.²²

Women are involved in key positions at the UK FCO, such as Senior Responsible Officer, Deputy Senior Responsible Officer and Project Manager.²³

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 extension request). This forms the basis of the declarations to the 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.²⁴

Historically, the United Kingdom has not collated data on area cancelled and on area reduced,²⁵ and does not disaggregate land released by technical survey from land released by clearance in its reporting.²⁶

PLANNING AND TASKING

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 this Phase (2016–20), which aims to release 79 mined areas measuring an estimated total of just under 10.86km².²⁷

The current stage of demining, Phase 5(b), which began in April 2018, is due to conclude by the end of March 2020.²⁸ At the end of this Phase, 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.²⁹ 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.³⁰

There is no reference to suspected CMR-contaminated areas in either the United Kingdom's CCM Article 7 transparency report for 2018, or in its 2018 APMBC Article 5 deadline extension request. It is unclear whether analysis of United Kingdom 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.

LAND RELEASE SYSTEM

STANDARDS AND LAND RELEASE EFFICIENCY

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.³¹ Each project's Statement of Requirement contains the standards specific to the tasks being addressed.³² Applicable environmental standards are agreed on in coordination with the Falkland Islands Government Environmental Planning Department to minimise damage to the fragile environment and to aid remediation.³³

However, it is possible that the land release methodology adopted in the Falkland Islands might be overly risk adverse, based on the fact that eleven mined areas in 2018 were technically surveyed, but were then fully cleared, and found to contain no anti-personnel mines. According to the United Kingdom, full clearance was undertaken of these areas (which were included in the original 122 fenced and marked areas) for "full assurance", because of the lack of minefield records, and to ensure all reasonable effort was taken.³⁴

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. SafeLane Global (formally Dynasafe 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.³⁵ Capacity for Phase 5 operations was increased from previous phases, with a total of 108 personnel. Mechanical equipment includes one anti-vehicle mine machine, three anti-personnel mine machines, and two armoured excavators, in addition to the required transportation equipment.³⁶

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 so far.³⁷

OPERATIONAL TOOLS

In addition to manual survey and clearance, mechanical assets are deployed as part of land release operations on the Falkland Islands.³⁸

Drones have been used for reconnaissance over large areas not accessible behind minefield fences and for aerial mapping. Mechanical systems are extensively used: flails and tillers to aid technical survey; and excavators, bulldozers, dumper trucks, and sand-sifting machines on sand areas such as Yorke Bay.³⁹

No animal detection systems are used in the Falkland Islands.⁴⁰

LAND RELEASE OUTPUT AND ARTICLE 4 COMPLIANCE

LAND RELEASE OUTPUT IN 2018

No submunitions were found in the Falkland Islands in 2018,⁴¹ but 619 anti-personnel mines were destroyed during survey and clearance operations which saw the release of 24 SHAs.⁴²

SURVEY AND CLEARANCE IN 2018

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.⁴³ 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.⁴⁴

ARTICLE 4 DEADLINE AND COMPLIANCE

CCM ENTRY INTO FORCE FOR UNITED KINGDOM: 1 NOVEMBER 2010

ARTICLE 4 DEADLINE: 1 NOVEMBER 2020

ON TRACK TO MEET ARTICLE 4 DEADLINE:
NO / UNCLEAR
(IN THE ABSENCE OF DATA ON WHICH, IF ANY,
REMAINING MINEFIELDS OR SHAS MAY CONTAIN CMR
AND WHEN THESE ARE SCHEDULED FOR CLEARANCE)

Under Article 4 of the 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. In the absence of information from the United Kingdom on the mapping of target bombing data to determine which, if any, remaining minefields or SHAs may contain CMR and when these are scheduled for clearance, Mine Action Review finds that the United Kingdom is not on track to meet this deadline.

The United Kingdom does not consider itself to have an obligation under Article 4 of the CCM, and maintains that it considers that it has made every effort to identify all cluster munition contaminated areas under its jurisdiction or control, and believes any remaining CMR, if found to exist, to be “residual.”⁴⁵ 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.

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, the United Kingdom has not revealed whether it has analysed its cluster munition bombing data to determine the likelihood of CMR being present in the mined areas and SHAs that remain in the Falkland Islands. If bombing data reveals there are still remaining mined areas or SHAs which could contain CMR, the United Kingdom should conduct survey and clearance of these areas. Accordingly, an assertion that the remaining threat from CMR is only residual is purely speculative. If bombing data reveals that remaining mined areas were not subject to CMR strikes, then it can be determined that the United Kingdom does not have an obligation under Article 4.

If the United Kingdom proceeds according to the workplan laid out in its 2018 draft APMBC 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. Under APMBC Article 5, the United Kingdom has committed to complete release of the remaining mined area deadline by 1 March 2024.⁴⁶

Finally, there are two further areas, Don Carlos Bay and Beatrice Cove, which have never been considered as mined, and which were not included in the 122 mined areas established in the feasibility study in 2007, but which are located behind the long Murrell Peninsula fence. This area has been out of bounds to all persons on the Islands since 1982, so it has not been possible to check whether these two areas were mined. If these two areas are found to require clearance, they will be added to the list of mined areas, and the United Kingdom expects they could be cleared within the five-year extension period.⁴⁷ Again, due to the absence of analysis of United Kingdom bombing data, it is not known whether these two further areas may or may not contain CMR.

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- 1 Second APMBC Article 5 deadline Extension Request (2018), p. 14.
- 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.
- 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.
- 4 Email from an official in the Arms Export Policy Department of the FCO, 1 July 2015.
- 5 Ibid.
- 6 Ibid.
- 7 Statement of United Kingdom, APMBC Tenth Meeting of States Parties, Geneva, 1 December 2010.
- 8 Email from an official in the Arms Export Policy Department of the FCO, 11 June 2015.
- 9 Email from an official in the Arms Export Policy Department of the FCO, 1 July 2015.
- 10 Emails from an official in the Arms Export Policy Department of the FCO, 4 May 2016 and 15 March 2019; and interview with an official in the Arms Export Policy Department of the FCO, London, 19 April 2018.
- 11 Emails from an official in the Arms Export Policy Department of the FCO, 22 and 23 June 2017.
- 12 Second APMBC Article 5 deadline Extension Request (2018).
- 13 Ibid., pp. 7 and 14.
- 14 Ibid., p. 14.
- 15 Ibid., p. 6.
- 16 Ibid., Annex A.
- 17 Ibid., p. 8.
- 18 Ibid., p. 9.
- 19 Second APMBC Article 5 deadline Extension Request (2018).
- 20 Email from an official in the Arms Export Policy Department of the FCO, 24 April 2019.
- 21 Ibid.
- 22 Ibid.
- 23 Ibid.
- 24 Email from an official in the Counter Proliferation and Arms Control Centre, FCO, 21 August 2018.
- 25 Second APMBC Article 5 deadline Extension Request (2018), Annex A.
- 26 APMBC Article 7 Report (for 2018), Form F; and email from an official in the Arms Export Policy Department of the FCO, 15 March 2019.
- 27 Additional Information to the Second APMBC Article 5 deadline Extension Request (2018), received 6 August 2018, Annex 3 (update to the UK Extension Request).
- 28 Second APMBC Article 5 deadline Extension Request (2018), p. 7; and email from an official in the Arms Export Policy Department of the FCO, 15 March 2019.
- 29 Second APMBC Article 5 deadline Extension Request (2018), pp. 7 and 14.
- 30 Ibid., p. 14.
- 31 Email from an official in the Arms Export Policy Department, FCO, 26 June 2018; Second APMBC Article 5 deadline Extension Request (2018), pp. 3 and 7; and APMBC Article 7 Report (for 2016), Form F.
- 32 Email from an official in the Arms Export Policy Department, FCO, 15 July 2016.
- 33 APMBC Article 7 Report (for 2016), Form F.
- 34 Email from an official in the Arms Export Policy Department of the FCO, 24 April 2019.
- 35 Second APMBC Article 5 deadline Extension Request (2018), p. 9.
- 36 Email from an official in the Arms Export Policy Department of the FCO, 28 July 2017.
- 37 Second APMBC Article 5 deadline Extension Request (2018), p. 9.
- 38 Email from an official in the Arms Export Policy Department, FCO, 28 July 2017.
- 39 Email from an official in the Arms Export Policy Department, FCO, 24 April 2019.
- 40 Email from an official in the Arms Export Policy Department, FCO, 28 July 2017.
- 41 Email from an official in the Arms Export Policy Department of the FCO, 15 March 2019.
- 42 APMBC Article 7 Report (for 2018), Forms F and G.
- 43 Email from an official in the Arms Export Policy Department of the FCO, 2 June 2017.
- 44 Emails from an official in the Arms Export Policy Department of the FCO, 22 and 23 June 2017; and interview, London, 19 April 2018.
- 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 Second APMBC Article 5 deadline Extension Request (2018).
- 47 Second APMBC Article 5 deadline Extension Request (2018), p. 13.