

UK EXTENSION REQUEST ON ARTICLE V SHOULD NOT BE APPROVED

Landmine Action, UK

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All signatories to the 1997 Mine Ban Treaty, including the United Kingdom, committed to clear, time-bound obligations. One of these was to ensure, as soon as possible but within 10 years from entry into force, the destruction of all anti-personnel mines in mined areas under their jurisdiction or control. The UK Government has failed not only to complete, but even to begin, substantive clearance of landmines from the Falkland Islands. It has now submitted a request for a 10-year extension to the original deadline that still does not demonstrate any evidence of serious plans to complete, or even begin, this work. Allowing a well-resourced, technically capable State such as the United Kingdom to effectively ignore its responsibilities would set a dangerous and ethically unacceptable precedent. The UK Government should not be granted an extension to its Article V deadline on the basis of the request submitted on 30 May 2008.

The UK Government has submitted a request for a ten-year extension to its Mine Ban Treaty Article V obligation to “ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after entry into force of the Convention [...]”¹ The UK has an obligation to clear some 735 hectares of known minefields and investigate further 578 hectares of suspect land in the Falkland Islands.²

A decade of insufficient action

The inadequacy of the United Kingdom’s request must be considered in the light of the history of inaction that has resulted in an extension being required.³ Since September 1998,⁴ the UK has known that its initial deadline for completion of clearance would be 1st March 2009. The first step in this process, as agreed in October 1999, was a feasibility study⁵ which the UK arranged to undertake, after ratifying the convention, jointly with Argentina (under a 1999 Joint Statement, the arrangements of which were explicitly open for ongoing review).⁶ The feasibility study did not begin until 2006, with its report being dated July 2007. The UK Government’s only explanation for this 8-year delay in taking the “first step” towards meeting its Article V obligation has been to blame a “difficult political backdrop.”⁷ Yet, the joint

¹ “Each State Party undertakes to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of this Convention for that State Party.” Mine Ban Treaty, 18 September, 1997; Article V, Section 1.

² See documents accompanying the letter of Simon Manley, Director Defence and Strategic Threats, UK Foreign and Commonwealth Office, 30 May 2008 to His Royal Highness Prince Mirad Raad Al-Hussein of Jordan, President of the Eight Meeting of the States Parties to the Ottawa Convention.

³ The UK is one of only two states parties that has not cleared a single mined area since becoming party to the treaty (the other is Venezuela).

⁴ The ratification of the Convention by Burkina Faso in September 1998 effectively set these clearance deadlines for Signatory States.

⁵ UK House of Commons, statement Mr. John Battle, Minister of State, Foreign & Commonwealth Office, 19 October 1999

⁶ UK and Argentina, Joint Statement, 14 July 1999, specifically the provisions on “Confidence building.”

⁷ Letter of Simon Manley, Director Defence and Strategic Threats, UK Foreign and Commonwealth Office, 30 May 2008 to His Royal Highness Prince Mirad Raad Al-Hussein of Jordan, President of the Eight Meeting of the

approach to this work was established *by the UK itself*.⁸ Furthermore, there is no evidence that the UK made substantial efforts to work around the problems, or to review the joint approach in an effort to make progress.

An internal UK Ministry of Defence report, from an assessment undertaken 16-22 February 2005,⁹ noted that: “It is unlikely that the Falkland Islands could be cleared of mines by the deadline under the Ottawa Convention *even if a policy decision were taken to do so in the near future*” [emphasis added.]

The same report clearly identified the risk of the UK breaching the Convention: “If the minefields are not cleared and there is no agreement on an extension, it is possible that the UK will be the first States Party to be in breach of the Treaty.”

Faced with this risk the report goes on to recommend that: “As time is short, it would make sense to start making the case for an extension to the UK’s clearance deadline. We also need to influence the debate in the Ottawa Convention on the implementation of Article 5, prompted by growing acceptance that the original aim of the Convention – a world cleared of anti-personnel mines by ten years after entry into force – will not be achieved.”

Thus it seems that internally the UK has been aware for some time that it would struggle to meet its Article 5 deadline and that it therefore risked breaching the treaty. However, there is no evidence that in response to this the UK has put in place practical plans to meet its obligations.

The extension request is inadequate

Alongside evidence of almost a decade’s worth of inattention, the UK’s extension request provides no concrete commitments towards meeting the Article V obligation. The request does not indicate that the UK has committed any resources to ensuring the clearance of these minefields, nor does it set out a timeline for such clearance. Despite it being more than one year since the completion of a *Field Survey to Examine the Feasibility of Clearing Landmines in the Falkland Islands*,¹⁰ the UK extension request does not even make a firm commitment to taking forward the process of methodological trials that is the most basic recommendation of that survey. For these reasons alone the extension request is fundamentally insufficient and should not be approved without significant revisions.

Conclusion

Whilst the direct humanitarian impact of failure to clear the minefields in the Falklands may be minimal, the broader signal that would be sent by approving the UK extension request would constitute a fundamental threat to the coherence of the Treaty and the credibility of States’ commitments. If the UK, in relation to this obligation, is considered to be in compliance with the treaty, then it is impossible to imagine what non-compliance would look like.

Landmine Action urges States Parties to the Mine Ban Treaty not to approve the UK request as submitted on 30 May 2008.

States Parties to the Ottawa Convention, also see a letter of 26 July 2006 from John Duncan, the UK’s Ambassador for Multilateral Arms Control and Disarmament to The Landmine Monitor.

⁸ Select Committee on Defence, First Special Report (24 February 1999); Memorandum from the Ministry of Defence responding to the Committee’s questions on the Landmines Bill (8 July 1998)

⁹ Produced by the MoD assessment team, undated but file referenced 20050304, *Falkland Islands – Impact of anti-personnel minefields*

¹⁰ Cranfield University, 9 July 2008, *Field Survey to Examine the Feasibility of Clearing Landmines in the Falkland Islands*