

## ANTI-PERSONNEL MINE BAN CONVENTION ARTICLE 5 DEADLINE: 1 MAY 2018 HAS FULFILLED ARTICLE 5 OBLIGATIONS

### KEY DEVELOPMENTS

In April 2019, the Governor of Peleliu – the only Palauan State in the Second World War where a prolonged ground battle took place – issued an official statement declaring that “Peleliu State believes the presence of anti-personnel (AP) landmines has been eradicated from our state.” The Governor further noted that, “Cleared Ground’s local teams from Peleliu have been systematically surveying and clearing ERW [explosive remnants of war] across Peleliu Island for almost 10 years now with funding from many countries

including Palau, and of the hundreds of caves, no known cave has gone unchecked for AP landmines. In May 2018, Palau’s 10 year treaty deadline to be free of AP mines was met, and continuing ERW surveys have found no AP landmine since.”<sup>1</sup> Mine Action Review has, as a consequence, deleted Palau from the list of mine-affected states parties with outstanding Anti-Personnel Mine Ban Convention (APMBC) Article 5 obligations.

### RECOMMENDATIONS FOR ACTION

- Palau should submit an APMBC Article 7 transparency report confirming there are no mined areas under its jurisdiction or control suspected to contain anti-personnel mines.

## UNDERSTANDING OF AP MINE CONTAMINATION

Until recently, it was unclear whether or not Palau still had mined areas suspected to contain anti-personnel mines, as the results of survey in Peleliu state, by Cleared Ground Demining (CGD), had not been made public. In 4 April 2019, however, the Governor of Peleliu issued an official statement noting that while small stocks of anti-personnel mines were discovered by survey teams, before and since the expiry of Palau's APMBC deadline for clearance of emplaced anti-personnel mines no emplaced anti-personnel mine has been discovered.<sup>2</sup>

Palau became a state party to the APMBC in 2008 and invited CGD to help Palau deal with its Second World War explosive ordnance contamination, with particular emphasis on determining whether anti-personnel mines remained. According to the Governor, Peleliu state was the only one in Palau where significant combat took place during the Second World War.<sup>3</sup> Survey activities "discovered some small stores of Japanese Type 93 AP landmines in the defensive caves constructed by Japanese Forces in 1944 on Bloody Nose Ridge (Omlebelochek Mountains) on Peleliu Island, with 22 mines found the first year, 7 mines the next year, and one or two in the next years. The mines, some still in their packing boxes, had decayed badly over 75 years, and in many instances the explosives were eaten away by termites".<sup>4</sup>

According to the Governor of Peleliu, there have been no reported accidents on Peleliu from anti-personnel mines.<sup>5</sup> Furthermore, military maps made available by Japan did not indicate the use of anti-personnel mines,<sup>6</sup> and archival research, including a 1945 Cave Fighting Manual by the US military, based on the Peleliu cave systems, shows no reference to the use of anti-personnel mines. Rather, artillery was wheeled out from protection within the caves and Japanese Forces frequently infiltrated the cave system, often at night, supporting the argument that mines would not have been emplaced around the caves.<sup>7</sup>

However, since 2011, there has been a lack of clarity and consistency in the reporting of anti-personnel mines destroyed in Palau, in particular whether anti-personnel mines discovered and destroyed were abandoned stocks of anti-personnel mines, which fall under Article 4 of the APMBC, or emplaced and armed anti-personnel mines, which fall under Article 5.

In its initial Article 7 report following entry into force of the APMBC, Palau had declared no known or suspected mined areas.<sup>8</sup> However, in 2011, Palau stated for the first time that it had mined areas on its territory and that contamination to date had included Japanese anti-vehicle and anti-personnel mines as well as sea mines, with anti-personnel mines reported in the Umubrogol mountains and Death Valley regions of Peleliu state.<sup>9</sup> In December 2011, in its statement to the APMBC Eleventh Meeting of States Parties, Palau claimed (wrongly) that it was not "obligated under the AP Convention to destroy emplaced antipersonnel mines because it never produced, stockpiled, used, nor transported them."<sup>10</sup>

In its subsequent Article 7 report submitted in 2012, Palau stated that clearance had been completed of all anti-personnel mines at the only two areas with confirmed contamination. Palau further reported that areas containing abandoned anti-personnel mines remained in caves at Bloody Nose Ridge in the Umubrogol mountains in Peleliu state, recording that: "Landmines have been found stored in the complex cave and tunnel systems of the former battlefield. A total of 608 caves exist – operations have only taken

place in 34 caves to date."<sup>11</sup> At that time, CGD confirmed that anti-personnel mine contamination was only of abandoned stockpiled mines.<sup>12</sup>

In its Article 7 report for 2012, Palau reported that "AP Landmines have been found on Bloody Nose during the course of ERW clearance over the past three years. The AP landmines have been found emplaced and fused but unarmed in the ground as well as stored within defensive cave and tunnel complexes", and that "ongoing clearance operations are removing these AP Landmines".<sup>13</sup> In addition, Palau also reported that sea mines had been found in two locations in Airai state, noting that the mines had been used in both anti-boat and anti-personnel roles.<sup>14</sup> Palau also reported that its contamination "was a result of a fiercest battle fought in the Pacific during WWII [the Second World War]. With such circumstance, Palau is seeking assistance toward [an] island-wide survey to know its mine[d] areas and or suspected mine[d] areas."<sup>15</sup>

In December 2015, CGD reported having cleared emplaced and armed anti-personnel and anti-vehicle mines in Palau between January 2014 and November 2015 in Peleliu state.<sup>16</sup> This included clearance of five type 93 HE blast anti-personnel mines, which were reportedly laid and armed, in two separate caves, between January 2014 and November 2015.<sup>17</sup> Palau did not submit Article 7 reports for 2013, 2014, or 2015, as it is obligated to do by the APMBC, but in its Article 7 report for 2016, submitted in 2017, it included the back-dated period and reported the five type 93 HE blast anti-personnel mines destroyed by CGD under Article 4, rather than Article 5, of the APMBC.<sup>18</sup> CGD also reported clearing during the same period: one yardstick anti-vehicle mine, found on a beach; three JB spherical anti-vehicle mines, found in three separate locations (underwater and in mangroves); 12 JE HE blast mines, found in nine different locations (in mangroves and residences); and one mine of an improvised nature (using modified aircraft bomb components), found on a beach.<sup>19</sup> According to CGD, these mines can "be classed as anti-vehicle or anti-personnel (as both of those types deployed in World War II in Palau can be activated by people)".<sup>20</sup> These mines are covered and prohibited by the APMBC, but were not included in Palau's reporting under Article 7 of the Convention.

In its UXO [unexploded ordnance] Action Plan 2017–19, Palau records that "A total of 43 anti-personnel landmines have been cleared", and that "it has 'cleared all known mined areas' in compliance with the APMBC."<sup>21</sup>

While it has now been confirmed that Palau does not have mined areas known or suspected to contain anti-personnel mines, it continues to be contaminated by ERW, including UXO on many of its 200 islands, and sea mines, left over from World War II,<sup>22</sup> when it was the scene of land and naval battles between Japanese and American forces. An estimated total of 2,800 tons (2.8 million kg) of ordnance was dropped or fired on Palau.<sup>23</sup> Much of this ordnance failed to detonate or was abandoned after the war, and as a result, an unknown amount of UXO remains on the land and in the sea, including in sunken ships.<sup>24</sup> In February 2017, defensive maps detailing laid aircraft bombs, depth charges, and sea mines were provided to the Palau authorities by the Japanese military, via a Japanese demining non-governmental organisation (NGO), the Japan Mine Action Service (JMAS).<sup>25</sup>

## NATIONAL OWNERSHIP AND PROGRAMME MANAGEMENT

Palau is in the process of establishing a mine action programme to address its ERW contamination. Under the authority of Executive Order No. 335 of 14 May 2013, issued by the Office of the President, a UXO Advisory Committee was established.<sup>26</sup> The UXO Advisory Committee is composed of government ministries, states, agencies, and organisations. The Director of the Bureau of Domestic Affairs within the Ministry of State acts as the secretariat.<sup>27</sup>

Palau's national mine action programme is now structured according to its UXO Policy, which was enacted by Presidential Executive Order 392 in March 2017, and which authorises the establishment of a national coordination system and a unified database mechanism.<sup>28</sup>

As at August 2018, the National Safety Office team had an operational capacity of 16 personnel, in addition to 2 safety officers (responsible for coordinating operations) and 1 international NPA advisor.<sup>29</sup> National Safety Office ERW team personnel also provide explosive ordnance disposal (EOD) cover to Palau's water and sewer improvement projects,<sup>30</sup> and will conduct risk assessments for all planned infrastructure work.<sup>31</sup>

## GENDER

Details are not available on the extent to which gender is reflected in Palau's ERW action programme.

## INFORMATION MANAGEMENT AND REPORTING

With the support of NPA, the National Safety Office established a national UXO database in January 2017,<sup>32</sup> to help in the coordination of survey and clearance of explosive ordnance. With the adoption of the UXO Policy and UXO Action Plan 2017–19, the Palau authorities now have a formal mandate to collect historical data from operators conducting ERW clearance in Palau, and to verify and assess data for reporting to the Palau authorities, local communities, and the international community.<sup>33</sup>

The National Safety Office now receives both historical and current data on contamination, survey, and clearance, to populate the Information Management System for Mine Action (IMSMA) database.<sup>34</sup> All items found to date have been reported by clearance operators, and entered into the UXO database, with the exception of certain historical data from CGD.<sup>35</sup>

## PLANNING AND TASKING

The UXO Advisory Committee has overseen the development of the UXO Policy and UXO Action Plan 2017–19, which were enacted by Presidential Executive Order 392, signed on 1 March 2017.<sup>36</sup>

The UXO policy outlines national coordination measures and assigns responsibilities to the relevant ministries and documents the role of the UXO Advisory Committee.

Palau, in conjunction with international partners including NPA, CGD, and JMAS, has been implementing a nationwide, non-technical survey, referred to in the UXO Action Plan 2017–19 as a "general UXO survey", to confirm the UXO-affected areas of the country.

## LAND RELEASE SYSTEM

### STANDARDS AND LAND RELEASE EFFICIENCY

In March 2017, Palau enacted Presidential Executive Order 392, which formally adopted the Palau UXO Policy.<sup>37</sup>

The UXO Advisory Committee is also tasked to determine rules and regulations for the quality and standard of work performed by agencies such as the National Safety Office, the police, international organisations, NGOs, and foreign militaries. These rules and regulations, known as 'Palau UXO Standards', are based on the International Mine Action Standards (IMAS) and have been drafted with the support of NPA.<sup>38</sup>

In July 2017, the draft standards were streamlined to concentrate more on permissions and legalities for the removal of ERW rather than the technical aspects of clearance.<sup>39</sup> As at August 2018, the draft UXO standards had been accepted and disseminated, but had yet to be formally approved and adopted by the national authorities.<sup>40</sup>

In its Article 7 report (for 2017), Palau reported that UXO Standard Operating Procedures (SoPs) had been drafted and were undergoing review prior to adoption.<sup>41</sup> As at July 2019, Palau had not submitted an Article 7 report for 2018.

## OPERATORS

CGD has been conducting ERW clearance operations in Palau, both on land and in the sea, since 15 September 2009.<sup>42</sup> The clearance project is focused on Peleliu and Angaur – two southern islands of Palau – and aims to reduce the immediate risk from ERW to local people and tourists.<sup>43</sup>

In 2012, JMAS, a Japanese demining NGO, began working in Palau, with a focus on underwater UXO clearance.<sup>44</sup>

In 2015, NPA received a grant to assist Palau to strengthen national capacity to manage and coordinate the UXO sector, and to help undertake surveys and UXO clearance; and subsequently initiated a programme of support. NPA reported that from April 2017 it had begun working under the National Safety Office, as the "ERW/UXO team

Palau now has capacity to direct trained national personnel to clear priority areas of ERW.<sup>45</sup> A new government demolition area became operational in early 2018, which is run by the National Safety Office, and which is also used by JMAS.<sup>46</sup>

## LAND RELEASE OUTPUTS AND ARTICLE 5 COMPLIANCE

### LAND RELEASE OUTPUTS IN 2018

No operators in Palau reported finding any anti-personnel mines in 2018.<sup>47</sup>

### SURVEY IN 2018

NPA started a nationwide non-technical survey on 18 September 2016 and, as at August 2018, NPA had completed non-technical survey of all states in Palau, except for Peleliu, where permission had not yet been granted for non-technical survey. Pre-2017 survey and clearance data had not yet been provided by CGD. NPA has found no evidence of anti-personnel mine contamination in its non-technical survey operations to date.<sup>48</sup>

In 2017, CGD concentrated its activities in validating whether any anti-personnel mines remain on Peleliu state, in the vicinity of the caves in the Umubrogol Mountains. CGD's work, which included non-technical survey, technical survey, and clearance, was reportedly requested by the UXO Advisory Committee and Government of the state of Peleliu, and funded by a consortium of donors including Palau itself, as well as Belgium, the Czech Republic, Ireland, and New Zealand. As part of this process, CGD stated that "methodologically wise any caves surrounding those caves where AP landmine stockpiles were previously found have also been checked thoroughly, and utilising sub-surface

landmine detection drills and equipment to search for the presence of emplaced (buried) landmines at the cave entrances, CGD teams have been systematically working their way up and down the valleys and sub-ridges of the Umurbrogol Mountain range." In addition, CGD reported that "cave search activities are taking place on the fringes of the Ridge, as well a number of cave systems not actually on Bloody Nose Ridge, even including caves on neighbouring Ngedebus Island, have been searched for the presence of landmines during these last 2 quarters to confirm that no AP mines remain in Palau".<sup>49</sup>

CGD reported undertaking door-to-door survey of every household in Peleliu, during which an example of a landmine found previously on Peleliu was shown. CGD's non-technical survey also included Second World War research on how the caves were used during the conflict, which indicated that anti-personnel mines had not been emplaced.<sup>50</sup> Finally, military maps made available by Japan did not indicate the use of anti-personnel mines.<sup>51</sup>

### CLEARANCE IN 2018

No operators in Palau reported finding any anti-personnel mines in 2018.<sup>52</sup>

### ARTICLE 5 DEADLINE AND COMPLIANCE

APMBC ENTRY INTO FORCE FOR PALAU: 1 MAY 2008

ORIGINAL ARTICLE 5 DEADLINE: 1 MAY 2018 (COMPLETED FULFILMENT OF ARTICLE 5 OBLIGATIONS)

Under Article 5 of the APMBC, Palau was required to destroy all anti-personnel mines in mined areas under its jurisdiction or control as soon as possible, but not later than 1 May 2018. On 4 April 2019, the Governor of Peleliu issued a statement that, "Peleliu State believes the presence of anti-personnel (AP) land mines has been eradicated from our state."<sup>53</sup>

- 1 Statement by the Governor of Peleliu, regarding "The status of presence of anti-personnel land mines within the territorial boundaries of the state of Peleliu", 1 April 2019.
- 2 Ibid.
- 3 Ibid.
- 4 Ibid.
- 5 Ibid.
- 6 Emails from Luke Atkinson, Programme Manager, Norwegian People's Aid (NPA), 11 and 12 July 2017; and Statement by the Governor of Peleliu, regarding "The status of presence of anti-personnel land mines within the territorial boundaries of the state of Peleliu", 1 April 2019.
- 7 CGD, "2nd and 3rd Quarter Report of GICHD (1st April to 31st October 2017)", 9 November 2017, p. 2 and annex, p. 3.; and Statement by the Governor of Peleliu, regarding "The status of presence of anti-personnel land mines within the territorial boundaries of the state of Peleliu", 1 April 2019.
- 8 Article 7 Report, Form C, for the periods 1 May to 14 September 2008 and 16 September 2008 to 16 September 2009.
- 9 Article 7 Report (for 2010), Form C.
- 10 Statement of Palau, APMBC 11th Meeting of States Parties, Phnom Penh, 1 December 2011.
- 11 Article 7 Report, Form C (for 2011).
- 12 Email from Cassandra McKeown, CGD, 18 July 2011.
- 13 Article 7 Report (for 2012), Form C.
- 14 Ibid.
- 15 Ibid.
- 16 Email from Steve Ballinger, Operations Director, CGD, to the Palau Authorities, 1 December 2015.
- 17 Ibid.
- 18 Article 7 Report (for 2017), Form G.
- 19 Email from Steve Ballinger, CGD, to the Palau Authorities, 1 December 2015.
- 20 Ibid.
- 21 Government of Palau, "UXO Action Plan 2017-19", 1 March 2017, p. 7.
- 22 Statement of Palau, APMBC 6th Meeting of States Parties, Zagreb, 29 November 2005; and emails from Luke Atkinson, NPA, 11 and 12 July 2017.
- 23 US military statistics included in the document provided to Landmine Monitor by email from Cassandra McKeown, Finance Director, CGD, 19 May 2010.
- 24 Government of Palau, "UXO Action Plan 2017-19", 1 March 2017, p. 6; and "UXO Policy", 1 March 2017.
- 25 Emails from Luke Atkinson, NPA, 11 and 12 July 2017.
- 26 Article 7 Report (for 2016).
- 27 Email from Balkuu Kumangai, Ministry of Public Infrastructure, Industries and Commerce, 3 April 2017.
- 28 Emails from Balkuu Kumangai, Ministry of Public Infrastructure, Industries and Commerce, 3 April 2017; and Luke Atkinson, NPA, 21 March 2017; Article 7 Report (for 2016), Form J.
- 29 Interview with Luke Atkinson, NPA, 31 August 2018.
- 30 Email from Luke Atkinson, NPA, 30 August 2017; and interview, 31 August 2018.
- 31 Email from Luke Atkinson, NPA, 21 March 2017.
- 32 Email from Eunice Akiwo, Ministry of State, 21 April 2017.
- 33 Article 7 Report (for 2016 and 2017), Form A.
- 34 Government of Palau, "UXO Action Plan 2017-19", 1 March 2017; and email from Balkuu Kumangai, Ministry of Public Infrastructure, Industries and Commerce, 3 April 2017.
- 35 Interview with Luke Atkinson, NPA, 31 August 2018.
- 36 Article 7 Report (for 2016), Form A.
- 37 Article 7 Report (for 2017), Form A.
- 38 Government of Palau, "UXO Policy" and "UXO Action Plan 2017-19", 1 March 2017; and Article 7 Report (for 2016).
- 39 Email from Luke Atkinson, NPA, 30 August 2017.
- 40 Interview with Luke Atkinson, NPA, 31 August 2018.
- 41 Article 7 Report (for 2017), Form A.
- 42 CGD, "Republic of Palau Project", accessed 12 October 2016, at: [bit.ly/2SmK1Nd](http://bit.ly/2SmK1Nd); and M. L. Poso, "Team removes WWII ordnance in Palau", Palau Horizon, 3 May 2010, at: [bit.ly/2XUpX6a](http://bit.ly/2XUpX6a).
- 43 CGD, "Republic of Palau Project".
- 44 Pacific Islands Report, "Team From Japan Removes Depth Charges From Palau Wreck", 22 December 2015, at: [bit.ly/2LncFxe](http://bit.ly/2LncFxe); Government of Palau, "UXO Action Plan 2017-19", 1 March 2017, p. 6; and email from Yasuo Terada, Programme, JMAS, 17 March 2017.
- 45 Interview with Luke Atkinson, NPA, 31 August 2018.
- 46 Ibid.
- 47 Interview with Luke Atkinson, NPA, 14 August 2019.
- 48 Interview with Luke Atkinson, NPA, 31 August 2018.
- 49 CGD, "2nd and 3rd Quarter Report of GICHD (1st April to 31st October 2017)", 9 November 2017, p. 2 and annex.
- 50 CGD, "2nd and 3rd Quarter Report of GICHD (1st April to 31st October 2017)", 9 November 2017, p. 2 and annex, p. 3.
- 51 Emails from Luke Atkinson, NPA, 11 and 12 July 2017.
- 52 Interview with Luke Atkinson, NPA, 14 August 2019.
- 53 Statement by the Governor of Peleliu regarding the status of presence of anti-personnel land mines within the territorial boundaries of the state of Peleliu, 1 April 2019.