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U.S. Antipersonnel Landmine Use Policy

Current United States Policy on Anti-Personnel Landmines (APLs)

On June 21, 2022, National Security Council (NSC) Spokesperson Adrienne Watson announced the United States would "align its policy concerning use" of antipersonnel landmines (APLs) "outside of the Korean Peninsula" with key provisions of *The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction*—commonly known as the Ottawa Convention. The convention requires States Parties to stop the production, use, and transfer of APLs, as well as to destroy all stockpiled APLs, except for the "minimum number absolutely necessary" for training purposes. According to a June 21, 2022, White House fact sheet, the Biden Administration arrived at this decision after conducting a "comprehensive policy review."

Background

Following the 1991 end of the Cold War, a number of governments began to question the utility of APLs in light of increasing civilian and U.N. peacekeeper casualties resulting from abandoned, unmarked, or unregistered minefields.

In 1996, President Clinton announced a policy that immediately discontinued U.S. use of "persistent APLs" except in the demilitarized zone (DMZ) separating North and South Korea. Persistent APLs lack self-destructing and self-deactivating features. President Clinton also supported negotiation in the U.N. of a worldwide ban on APLs. In November 1996, the United States introduced a resolution to the U.N. General Assembly urging governments "to pursue vigorously an effective, legally-binding international agreement to ban the use, stockpiling, production and transfer" of APLs. While many governments supported such a ban, others were concerned that verifying such a ban would be difficult and that APLs still played a useful role in military operations.

At the conclusion of an October 1996 conference in Ottawa, a number of governments agreed to work toward "the earliest possible conclusion of a legally-binding international agreement to ban anti-personnel mines." Using language identical to the U.S.-sponsored version described above, the General Assembly adopted a resolution in December 1996 exhorting governments to adopt an international ban on APLs. Following several multilateral meetings, a September 1997 conference in Oslo adopted the Ottawa Convention text, and the treaty entered into force in 1999. The Clinton Administration declined to sign the Ottawa Convention, arguing then that the agreement would preclude U.S. use of APLs in the DMZ.

In February 2004, the George W. Bush Administration announced the United States would use persistent APLs only in the DMZ until 2010, after which the United States would not use such mines anywhere. The Bush Administration also indicated that the United States would develop alternatives to persistent landmines.

Following a review of U.S. APL policy, the Obama Administration announced several changes to that policy. An NSC spokesperson stated in June 2014 that the United States would not in the future "produce or otherwise acquire any" APLs, including replacing expiring stockpiles. The Department of State noted in December 2014 that the United States was "pursuing solutions that would be compliant" with the Ottawa Convention and that would "ultimately allow us to accede to the convention while ensuring that we are still able to meet our alliance commitments" to South Korea.

In 2014 the Obama Administration announced the APL policy, which the Administration later issued in January 2016 as Presidential Policy Directive-37 (PPD-37). PPD-37 forbade the use of APLs "outside the Korean Peninsula," as well as assisting, encouraging, or inducing "anyone outside the Korean Peninsula to engage in activity prohibited by the Ottawa Convention." Pursuant to this policy, the United States would "undertake to destroy APL stockpiles not required for the defense" of South Korea.

In January 2020 the Department of Defense (DOD) announced a new APL policy. According to a January 31, 2020 DOD memorandum, President Trump, subsequent to an internal DOD review, "decided to cancel" PPD-37. The DOD memorandum permitted Combatant Commanders to authorize the use of nonpersistent APLs regardless of geographic location "when necessary for mission success in major contingencies or other exceptional circumstances." The new policy authorized DOD to "acquire, retain, and transfer a limited number of persistent landmines" for training purposes.

During a January 31, 2020, press briefing, a DOD official noted the potential need for the United States to develop new self-destructing APLs for use in accordance with the new policy. The above-cited memorandum stipulated that "Military Departments should explore acquiring landmines and landmine alternatives that could further reduce the risk of unintended harm to noncombatants."

Additional Information on June 2022 APL Policy Decision

A June 21, 2022 White House Fact Sheet stated the United States would not develop, produce, or acquire APLs; export

or transfer APLs; use APLs outside of the Korean Peninsula; or assist, encourage, or induce anyone to engage in any activity prohibited by the Ottawa Convention. According to the fact sheet, the United States would also destroy all APL stockpiles not required for the defense of South Korea.

Then Principal Deputy Assistant Secretary Brown noted during an April 21, 2022, briefing that the United States had an estimated 3 million APLs in its stockpile, but he did not specify the number needed to defend South Korea. Although South Korea "owns" all minefields in the DMZ, U.S. accession to the Ottawa Convention would still prohibit the United States from meeting its defense responsibilities to South Korea, Brown explained, citing the Ottawa Convention's provision that parties must not "assist, encourage or induce, in any way, anyone to engage in any activity prohibited" by the treaty. President Biden directed DOD "to undertake diligent efforts to pursue alternatives to anti-personnel landmines that would be compliant with and ultimately allow the United States to accede to the Ottawa Convention," then NSC Spokesperson Watson stated. Asked during a June 21, 2022, briefing about the status of such alternatives, then-Principal Deputy Assistant Secretary Brown referred the questioner to DOD "for the specific acquisition and operational capabilities of future devices."

Congressional Activity

On September 21, 2022, the Ranking Members of the Senate and House Armed Services Committees and the Senate and House Foreign Relations Committees sent a letter to the Secretary of State, Secretary of Defense, and the Chairman of the Joint Chiefs of Staff expressing their concerns with the Administration's new landmine policy, particularly with the overall review process cited by the Administration. In the letter, Members requested the Secretary of Defense provide the committees with

- DOD policies or regulations derived from the new landmine policy, including methods for Combatant Commanders to seek waivers to use APLs outside of the Korean peninsula;
- a 10-year projection of inventory levels for all APLs;
- a 10-year projection of the cost to achieve the inventory levels projected above; and
- a 10-year cost projection to develop and produce new landmine munitions DOD deems necessary to meet the demands of current operational plans.

Members also requested the Chairman of the Joint Chiefs of Staff provide an assessment of the effects of the elimination of the existing anti-personnel landmine inventory. Finally, the Members asked the Secretary of State to provide committees with

- a description of consultations with South Korea regarding the landmine policy review cited by the Biden Administration;
- an assessment if Russia, China, or North Korea have taken steps toward accession to the Ottawa Convention and if the Administration's new landmine policy would incentivize any of these governments to join the convention;
- an assessment of the ability to effectively verify compliance with the Ottawa Convention;
- an assessment of bilateral discussions with States Parties to the Ottawa Convention regarding the implications of remaining compliant with the terms of the Convention in light of Russian aggression;
- a description of consultations with allies and partners about the timeline, military effectiveness, and cost of transferring treaty-compliant anti-personnel landmines, including with Ukraine and the NATO Alliance; and
- a description of consultations with the then President of the Ottawa Convention regarding her statement from April 5, 2022, regarding the use of anti-personnel mines in Ukraine.

Potential Issues for Congress

The June 2022 APL policy potentially raises a number of issues for consideration, including the following:

- If the Administration responds to the Ranking Member's September 21, 2022, letter, will Congress take legislative action on the current U.S. APL policy based on the Administration's response or lack thereof?
- How has alleged use of persistent APLs in the Ukraine conflict shaped Administration thinking on the need for/utility of APLs?
- What are DOD's plans for destroying the remaining U.S. APL stockpile? How many and what types of APLs will be destroyed? Where will this destruction take place? What is the program timeline for the destruction of excess APLs, and what is the estimated budget requirement for APL destruction?
- Are there any current DOD or Service programs that will need to be modified or terminated to comply with the new APL policy? If so, what are the specific programs involved and what are the associated operational and budgetary costs?
- What is the current status of DOD efforts to develop alternatives to persistent APLs? What are the associated budgetary costs of such efforts?

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