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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 that the United States will “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 treaty requires states parties to stop the production, use, and transfer of APLs, as well as destroy all stockpiled APLs, except for the “minimum number absolutely necessary” for training purposes. The Biden Administration arrived at this decision after conducting a “comprehensive policy review,” according to a June 21 White House fact sheet.

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. The United States last used APLs during the 1991 Gulf War, except for “one single incident of one munition being used in the 2002 timeframe in Afghanistan,” Principal Deputy Assistant Secretary of State Stanley Brown explained in a June 21, 2022, briefing.

In 1996, President William 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 United Nations 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 “with a view to completing the negotiation as soon as possible.” 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 of 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; 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. policy regarding APLs, the Barack Obama Administration announced several changes to that policy. A National Security Council spokesperson stated in June 2014 that the United States would not in the future “produce or otherwise acquire any” APLs, including for the purpose of 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 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 memorandum permitted 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 states that the United States will not

- “develop, produce, or acquire” APLs;
- “export or transfer” such landmines, “except when necessary for activities related to” mine detection, removal, or destruction;
- “use APLs outside of the Korean Peninsula”; or
- “assist, encourage, or induce anyone, outside of the context of the Korean Peninsula, to engage in any activity that would be prohibited by the Ottawa Convention.”

According to the fact sheet, the United States will also “[u]ndertake to destroy all APL stockpiles not required for the defense” of South Korea. Principal Deputy Assistant Secretary Brown noted during the April 21, 2022, briefing that the United States has an estimated 3 million APLs in its stockpile, but he did not specify the number necessary for defending 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 “will direct the Department of Defense 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,” NSC Spokesperson Watson stated. Asked during the June 21, 2022 briefing about the status of such alternatives, Principal Deputy Assistant Secretary Brown referred the questioner to DOD “for the specific acquisition and operational capabilities of future devices.”

Potential Issues for Congress

The June 2022 APL policy potentially raises a number of issues for consideration. Some of these issues include the following:

- With an estimated 3 million APLs in U.S. military stockpiles, how many of these APLs will be retained for the defense of South Korea?
- 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?
- The new APL policy directs 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.” What is the current status of efforts to develop such alternatives? Are there specific DOD programs of record ongoing or under consideration? Are there related budget estimates for these efforts?
- Regarding the U.S. provision of APLs to Ukraine, Principal Deputy Assistant Secretary of State Brown explained during the June 21, 2022, briefing that the U.S.-supplied Claymore mines (M-18A1 APL) comply with the Ottawa Convention because the mines “are command-detonated with a person in the loop who can actually detonate them.” This statement suggests that M-18A1 Claymore APLs are still used by DOD. As DOD eventually develops “alternatives to APLs,” are there plans to phase out M-18A1 Claymore APLs or are they to be retained for use?

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