

# The Trump Administration Is Right to Correct U.S. Landmine Policy

*Ted R. Bromund, PhD*

## KEY TAKEAWAYS

The Trump Administration has canceled the Obama Administration's policy prohibiting the use of anti-personnel landmines outside the Korean Peninsula.

The Obama Administration's policy denied U.S. troops the use of weapons that could help the U.S. military prevail in future conflicts.

The new U.S. policy rightly authorizes Combatant Commanders to employ advanced, non-persistent landmines in exceptional circumstances.

On January 31, 2020, the Trump Administration canceled the Obama Administration's policy that prohibited U.S. military forces from employing anti-personnel landmines (APLs) outside the Korean Peninsula. The Obama Administration adopted this policy against the advice of the U.S. military, and with the avowed desire to bring the U.S. into line with the Ottawa Convention, a treaty that the U.S. has not signed and which the Senate has not ratified. The convention was a creation of a progressive campaign that seeks to replace state sovereignty with transnational governance, and was thus as undesirable politically as it was unwise militarily.

In practice, the Ottawa Convention has, of course, not persuaded the world's autocracies and terrorists to abandon APLs; it has only disarmed democracies. Indeed, the era of the Ottawa Convention has

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coincided with a golden age for the terrorist use of improvised explosive devices (IEDs), many of which qualify as landmines. The new U.S. policy, which authorizes Combatant Commanders in exceptional circumstances to employ advanced, non-persistent<sup>1</sup> landmines specifically designed to reduce unintended harm to civilians and partner forces, corrects the errors of the Obama Administration, recognizes the will of Congress, and rightly respects the professional views of the U.S. military on the continued utility of APLs.

## **Pre-Obama U.S. Landmine Policy**

On February 27, 2004, the George W. Bush Administration announced a new U.S. policy on landmines. Among other provisions, the U.S. decided to end the use of all persistent landmines (both anti-personnel and anti-vehicle) by 2010, and to continue to research and develop new and existing self-destructing and self-deactivating “smart” mines to lessen humanitarian threats, while preserving U.S. military capabilities.<sup>2</sup> This policy complied with the U.S.’s obligations under Amended Protocol II of the Convention on Certain Conventional Weapons, which the U.S. ratified on May 24, 1999.<sup>3</sup>

## **The Obama Administration’s Review of U.S. Landmine Policy**

On November 24, 2009, the Obama Administration announced a review of U.S. landmine policy.<sup>4</sup> On March 6, 2014, America’s highest-ranking military officer, Chairman of the Joint Chiefs of Staff General Martin Dempsey, called APLs “an important tool in the arsenal of the armed forces of the United States.” The Administration also had before it two major studies—one conducted by the National Research Council (NRC) and the other by the North Atlantic Treaty Organization (NATO)—concluding that APLs provide crucial tactical capabilities on the battlefield.

The Obama Administration’s review concluded on September 24, 2014. In defiance of Chairman Dempsey’s advice, and the studies by the NRC and NATO, the review decided to prohibit U.S. military forces from employing APLs outside the Korean Peninsula. The Administration’s justification for this step was that it was important for the U.S. to “underscore its commitment to the spirit and humanitarian aims of the Ottawa Convention.”<sup>5</sup>

At the same time, the Administration announced that the Defense Department would conduct a detailed study of alternatives to APLs and the operational impact of abandoning the use of this weapon. No results of this study were ever announced. In the 2017 National Defense Authorization

Act (NDAA), Congress responded to the review by prohibiting the destruction of U.S. APL stockpiles before the Defense Department completed a comprehensive study on defense policy on the use of landmines, as required by the 2016 NDAA.<sup>6</sup>

## The Ottawa Convention Is Unacceptable on Substance and Process

The Obama Administration's policy on landmines was driven by its desire to move the U.S. toward compliance with the Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and on their Destruction, otherwise known as the Ottawa Convention. The Ottawa Convention and the process that created it are flawed and dangerous. The Ottawa process was based on the denigration of state sovereignty and the elevation of unelected and unaccountable progressive nongovernmental organizations to a central role in arms control diplomacy. The convention that resulted from the Ottawa process is an unverifiable, unenforceable, all-or-nothing exercise in moral suasion.<sup>7</sup>

## Landmine Casualties and U.S. Assistance

Landmines are controversial because they are alleged to cause excessive civilian casualties. No one alleges that it is U.S. landmines causing these casualties, but the supporters of the Ottawa Convention want the U.S. to abandon landmines because this will purportedly encourage other, less-responsible users of landmines to do so. In practice, the idea that democratic disarmament will cause dictatorships and terrorists to disarm has proven to be a fantasy, as China, Iran, and Russia, among other autocracies, have not signed the Ottawa Convention.

Nor are landmines manufactured by nation-states a significant source of civilian casualties. The *Landmine Monitor*, published by the International Campaign to Ban Landmines (ICBL)—the self-appointed guardian of the Ottawa Convention—reports that conventional landmines caused 715 casualties (deaths and injuries) in the entire world in 2008, and only 332 in 2018.<sup>8</sup> The simple fact is that, according to the data reported by the pro-ban activists themselves, APLs manufactured by nation-states make only a vanishingly small contribution to civilian suffering.

Most of the deaths and injuries attributed to landmines laid by nation-states are in fact caused by terrorist use of IEDs—many of which qualify legally as landmines—and the unintended detonation of unexploded

ordnance—known as explosive remnants of war (ERW)—left over from the world’s wars, ordnance that has no legal or practical connection to landmines.<sup>9</sup> The pro-ban activists report this fact accurately in their underlying data, but their headline figures invariably leave the misleading impression that conventional APLs, those manufactured and laid by nation-states, are responsible for these casualties.

Thus, in 2019, the ICBL reported that “[i]n 2018...6,897 people were killed or injured by mines/ERW.” In fact, 3,789 of these casualties were caused by IEDs and 1,410 by ERW.<sup>10</sup> Casualties caused by landmines are thus driven overwhelmingly by the use by terrorists and insurgents of landmine-like IEDs. In fact, far from reducing landmine use, the era of the Ottawa Convention has witnessed the rise of the IED as a weapon of war. The point of the Ottawa Convention now is to try to persuade the U.S. to abandon landmines in the hope that this will cause Al-Qaeda, ISIS, and their terrorist brethren to abandon their use of IEDs. In practice, this gives terrorists the freedom to target the very civilian populations that the U.S. is seeking to protect, and makes it easier for great powers like Russia to employ large troop formations, while denying U.S. forces the ability to use landmines to make it harder for the insurgents to get to the civilian populations or to shape the battlefield against conventional state enemies.

In fact, the amount of unexploded ordnance in the world—and the number of IEDs used—is a lagging function of the number and viciousness of the world’s wars. The late 1980s and 1990s saw many wars, in Afghanistan, Colombia, Eritrea, and the former Yugoslavia, among other places. It is not surprising that, as some of these wars cooled and unexploded ordnance was cleared, the number of casualties recorded by the *Landmine Monitor* declined steadily from 1999 to 2013.<sup>11</sup> As war came to Libya, Syria, Ukraine, and Yemen, casualties caused by IEDs and unexploded ordnance increased. The Ottawa Convention is irrelevant to these trends.

What is relevant to the decline in the number of casualties caused by conventional APLs is the billions of dollars the United States has spent cleaning up minefields that were laid by the world’s dictators. This humanitarian de-mining program, like those of other democracies, has been of far more practical use than any of the unverifiable and one-sided commitments contained in the Ottawa Convention. Since 1993, the United States has provided more than \$3.4 billion in assistance to more than 100 countries, making the United States the world’s single largest financial supporter of conventional weapons destruction.<sup>12</sup>

## What the U.S. Should Do

The Trump Administration's cancellation of the Obama landmine policy has, in effect, restored the policy the Obama Administration inherited from the George W. Bush Administration, which allowed U.S. forces to use non-persistent landmines outside the Korean Peninsula and emphasized the U.S. reliance on "smart" landmines. This policy was right in 2004, and it is right in 2020.

Under the Obama Administration, the U.S. abandoned the production and acquisition of APLs in 2014, though efforts to develop next-generation anti-vehicle landmines have continued.<sup>13</sup> As of 2014, the U.S. had a stockpile of approximately 3 million APLs, which the Pentagon estimated would begin to decay in 2024 and would be "completely unusable" by 2034.<sup>14</sup>

The U.S. should therefore:

- **Continue** its support for humanitarian demining;
- **Assess** the size and reliability of its existing stockpile of anti-personnel landmines;
- **Develop, produce, and acquire** advanced, non-persistent anti-personnel landmines in sufficient numbers to make the new policy effective in practice; and
- **Announce** that the U.S. has no intention of acceding to the Ottawa Convention unless and until a fully effective alternative to anti-personnel landmines is developed and deployed.

In his memo announcing the new U.S. policy, Defense Secretary Mark Esper was at pains to point out that land mines "serve as a force multiplier, helping U.S. forces to fight effectively against enemy threats, which may be numerically superior or capable of exploiting operational or tactical advantages over U.S. forces," and that—like any weapon—landmines should be used in accordance with the international obligations the U.S. has accepted, and in ways that minimize unintended civilian casualties.<sup>15</sup> This responsible assessment, which rightly rejects the all-or-nothing approach of the Ottawa Convention, is a sound basis for U.S. policy.

**Ted R. Bromund, PhD**, is Senior Fellow in Anglo-American Relations in the Margaret Thatcher Center for Freedom, of the Kathryn and Shelby Cullom Davis Institute for National Security and Foreign Policy, at The Heritage Foundation.

## Endnotes

1. A non-persistent landmine is one designed to deactivate or self-destruct after a set period of time.
2. Steven Groves and Ted R. Bromund, "The Ottawa Mine Ban Convention: Unacceptable on Substance and Process," Heritage Foundation *Backgrounder* No. 2496, December 13, 2010, p. 2, <https://www.heritage.org/global-politics/report/the-ottawa-mine-ban-convention-unacceptable-substance-and-process>.
3. *Ibid.*, p. 3.
4. *Ibid.*, p. 5.
5. Steven Groves and Ted R. Bromund, "Obama Says No to Landmines," *National Review Online*, September 25, 2014, <https://www.nationalreview.com/2014/09/obama-says-no-landmines-steven-groves-ted-r-bromund/> (accessed February 5, 2020).
6. Ted R. Bromund, "Why Liberals Are Wrong About Land Mines," *The Daily Signal*, December 23, 2015, <https://www.dailysignal.com/2015/12/23/why-liberals-are-wrong-about-land-mines/>.
7. For a comprehensive history of the Ottawa Convention, see Groves and Bromund, "Ottawa Mine Ban Convention," pp. 11–17.
8. International Campaign to Ban Landmines, *Landmine Monitor 2009*, <http://www.the-monitor.org/en-gb/reports/2009/landmine-monitor-2009.aspx> (accessed February 10, 2020), and International Campaign to Ban Landmines, *Landmine Monitor 2019*, <http://www.the-monitor.org/en-gb/reports/2019/landmine-monitor-2019/casualties.aspx> (accessed February 4, 2020).
9. Unexploded ordinances are covered by the Protocol on Explosive Remnants of War, which the U.S. ratified in 2009.
10. International Campaign to Ban Landmines, *Landmine Monitor 2019*.
11. *Ibid.*
12. Marik String, "To Walk the Earth in Safety: New U.S. Government Report Showcases U.S. Global Leadership in Landmine Clearance and Conventional Weapons Destruction," U.S. State Department DipNote blog, April 3, 2019, <https://blogs.state.gov/stories/2019/04/03/en/walk-earth-safety-new-us-government-report-showcases-us-global-leadership> (accessed February 6, 2020).
13. William Branigin, "U.S. Declares It Will Not Produce Any More Antipersonnel Land Mines," *The Washington Post*, June 27, 2014, [https://www.washingtonpost.com/world/national-security/us-declares-it-will-not-produce-any-more-antipersonnel-land-mines/2014/06/27/f20f6f74-fdf5-11e3-932c-0a55b81f48ce\\_story.html](https://www.washingtonpost.com/world/national-security/us-declares-it-will-not-produce-any-more-antipersonnel-land-mines/2014/06/27/f20f6f74-fdf5-11e3-932c-0a55b81f48ce_story.html) (accessed February 10, 2020), and John Ismay, "The U.S. Army Is Trying to Develop New Land Mines—Ones That Don't Harm Civilians," *The New York Times Magazine*, November 13, 2018, <https://www.nytimes.com/2018/11/13/magazine/army-landmines.html> (accessed February 4, 2020).
14. Jefferson Morley, "U.S. Formally Ends Landmine Production," Arms Control Association, July 2014, <https://www.armscontrol.org/act/2014-07/news/us-formally-ends-landmine-production> (accessed February 6, 2020).
15. Tony Bertuca, "Esper Says Overturning Landmine Ban Will Protect U.S. Forces," *Inside Defense*, February 6, 2020, <https://insidedefense.com/insider/esper-says-overturning-landmine-ban-will-protect-us-forces> (accessed February 6, 2020).