

The Biden Administration Is Wrong to Abandon Anti-Personnel Landmines

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KEY TAKEAWAYS

The Biden Administration has canceled the Trump Administration's policy that allows the use of anti-personnel landmines (APLs) outside the Korean Peninsula.

APLs provide vital defensive advantages when used in accordance with international obligations and in ways that minimize civilian casualties.

The Biden policy is a gift to Russia that will do nothing to curb the misuse of APLs by authoritarians and terrorists.

On June 21, 2022, the Biden Administration cancelled the Trump Administration's policy that allowed U.S. military forces to employ anti-personnel landmines (APLs) outside the Korean Peninsula. The Trump Administration's policy, announced on January 31, 2020, had in turn cancelled the Obama Administration's policy, which was the same as the Biden policy, and which had altered the policy that the George W. Bush Administration had adopted in 2004. The U.S. has now had four policy changes on APLs in 18 years.

The Obama and Biden Administrations adopted their policies against the advice of the U.S. military, and with the avowed desire to bring the U.S. into line with the Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and on their Destruction—known as the Ottawa Convention—a treaty that the U.S. has

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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.

The Ottawa Convention has not persuaded the world's autocracies and terrorists to abandon APLs; it has only stripped democracies of this weapon. Indeed, the era of the Ottawa Convention has coincided with a golden age for the terrorist use of improvised explosive devices (IEDs), many of which qualify as landmines banned by the convention. The Biden policy is particularly unwise because it comes as Russia continues its assault on Ukraine, an assault that APLs have been crucial in blunting.

The U.S. should return to a policy that authorizes combatant commanders in exceptional circumstances to employ advanced, non-persistent¹ landmines, which are specifically designed to reduce harm to civilians and partner forces. This policy would correct the errors of the Biden Administration and respect the professional views of the U.S. military on the continued utility of APLs. In the interim, Congress should ban funding to destroy U.S. APLs to ensure that a future Administration can reverse the errors of the current one.

The George W. Bush Administration's Landmine Policy

On February 27, 2004, the George W. Bush Administration announced a new 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.² This policy complied with U.S. obligations under Amended Protocol II of the Convention on Certain Conventional Weapons, which the U.S. ratified on May 24, 1999.³

The Obama Administration's Landmine Policy

On November 24, 2009, the Obama Administration announced a review of U.S. landmine policy.⁴ 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." Two major studies—one conducted by the National Research Council (NRC) and the other by the North Atlantic Treaty Organization (NATO)—had already concluded 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 Administration 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.”⁵

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.⁶

U.S. Landmine Policy Under President Trump

On January 31, 2020, the Trump Administration canceled the Obama Administration’s policy. This in effect restored the policy that 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 U.S. reliance on “smart” landmines.

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 civilian casualties.⁷

The Biden Administration’s U-Turn on Landmines

Then, on June 21, 2022, the Biden Administration cancelled the Trump Administration’s policy and in effect restored the Obama policy by committing the U.S. to refrain from developing, producing, or acquiring APLs; from exporting or transferring APLs; from using APLs outside the Korean Peninsula; from assisting other nations outside the Peninsula in activities prohibited by the Ottawa Convention; and from destroying APL stockpiles not required for the defense of the Korean Peninsula. The Biden policy also commits the U.S. to pursuing operational solutions that would be compliant with, and ultimately allow the U.S. to accede to, the Ottawa Convention.

The Biden Administration's Rationalizations

When briefing the press on its new policy (the Obama Administration's old policy), the Biden Administration offered only three rationalizations for its decision. First, candidate Biden had promised to "curtail" the use of landmines worldwide. Second, the new policy "[is] in sharp contrast to Russia's actions in Ukraine."⁸ Third, the new policy would "advance the humanitarian aims of the Ottawa Convention" which "has had a demonstrated positive impact in reducing civilian casualties from APL."⁹

The Biden Administration's decision purportedly came after a review that began in January 2021. It certainly came after the Chairman of the Joint Chiefs of Staff stated in April 2022 that land mines had been critical for Ukrainian successes against Russian armored vehicles.¹⁰ The Biden Administration was unwilling to respect this advice and rejected similar concerns raised by Secretary of Defense Lloyd Austin.¹¹

Conventional Landmines *Do Not* Cause Widespread Suffering

Landmines are controversial because they are alleged to cause excessive civilian casualties that continue after the conflict is over. No one alleges that U.S. landmines are causing any of these casualties, but the supporters of the Ottawa Convention want the U.S. to abandon APLs because this step will purportedly encourage other, less-responsible users of APLs to follow suit.

The convention does not ban all landmines; it does not cover anti-vehicle landmines, and it allows signatories to retain APLs that are activated by the APLs' user, not its target. But the mine-ban activists ignore these facts and claim that the convention is a framework for "comprehensively eradicating these weapons."¹²

The idea that democratic disarmament will cause dictatorships and terrorists to disarm has proven to be a fantasy. China, Iran, and Russia, among other autocracies, have not signed the Ottawa Convention, nor are landmines manufactured by 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 manufactured by states caused 438 casualties (deaths and injuries) throughout the entire world in 2020.¹³

In other words, the furor over APLs is driven by a weapon that, around the world, causes fewer than 500 casualties a year. Of course, all civilian casualties and suffering are terrible. But the idea that APLs cause

widespread suffering is refuted by the very publications of the mine-ban activists. The simple fact is that, according to the data reported by these activists themselves, APLs manufactured by states make only a vanishingly small contribution to civilian suffering.

IED Landmines Used by Terrorists Do Cause Significant Casualties

Most of the deaths and injuries attributed to landmines laid by 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 conventional APLs.¹⁴ The mine-ban activists report this fact in their underlying data, but their headline figures invariably leave the misleading impression that conventional APLs, those manufactured and laid by states, are responsible for these casualties.

Thus, the *Landmine Monitor 2019* reported, “In 2018...6,897 people were killed or injured by mines/ERW.” As the *Monitor* itself goes on to admit, 3,789 of these casualties were caused by IEDs, 1,410 by ERW, and 1,366 by other or unknown types of munitions. Only 332 casualties were caused by conventional APLs.¹⁵ Casualties caused by APLs are thus driven overwhelmingly by terrorist use of APL-like IEDs and by ERW. Far from reducing APL use, the era of the Ottawa Convention has witnessed the rise of the IED as a weapon of war.

The point of the convention now is to try to persuade the U.S. to abandon APLs in the hope that this will cause al-Qaeda and its terrorist brethren to abandon their use of IEDs. This gives terrorists the freedom to target the very civilian populations that the U.S. is seeking to protect and makes it easier for autocracies like Russia to employ large troop and armored formations, while denying U.S. forces, and their allies, 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.

The Ottawa Convention Does Not Drive Trends in Landmine Casualties

One of the Biden Administration’s rationalizations for its policy change was that the Ottawa Convention “has had a demonstrated positive impact in reducing civilian casualties from APL.” This is largely untrue. The amount

of unexploded ordnance in the world, the number of IEDs used, and the number of casualties these weapons cause is, in fact, a lagging function of the number and viciousness of the world's wars.

The late 1980s and 1990s saw wars in Afghanistan, Colombia, Eritrea, Iran, Iraq, and the former Yugoslavia, among other countries. 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 between 1999 and 2013.¹⁶ After 2011, as war came to Syria, Libya, Yemen, and Ukraine, and as terrorist groups discovered the utility of the IED, casualties caused by IEDs and unexploded ordnance rose. The convention is irrelevant to these trends.

U.S. De-Mining Assistance Makes a Valuable Contribution

The only way the Ottawa Convention is relevant to declining casualties from APLs—to the extent that casualties have actually declined—is the emphasis that it puts on clearing old minefields. But words do not clear mines: that takes courage, expertise, time, and money.

What is more 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 \$4.2 billion in assistance to more than 100 countries, making the United States the world's single largest financial supporter of conventional weapons destruction.¹⁷ The U.S. has done far more to reduce casualties from APLs than any other nation, and it has done this while retaining APLs in its arsenal.

The Ottawa Convention Is Unacceptable— on Process and Substance

The Biden Administration's policy on APLs is not just militarily unwise and based on factually flawed premises. It was also avowedly driven by its desire to move the U.S. toward compliance with 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.¹⁸ The effort to ban APLs is part of a much wider struggle between transnational governance and governments based on national sovereignty and the democratic control of policy.

Moreover, the convention is a treaty, as the Biden Administration acknowledges.¹⁹ It is therefore subject to the advice and consent of the Senate. By adopting the convention in its entirety, with the exception of the Korean Peninsula, the Biden Administration is deliberately evading the Senate, and de facto adopting the overwhelming majority of a treaty with complete disregard for the process set out in the U.S. Constitution.

The U.S.'s Flawed Policy Process on Landmines

The way the U.S. has approached the issue of APLs since 2004 is obviously undesirable. U.S. policy has changed four times in 18 years: in 2004, 2014, 2020, and 2022. The views of the U.S. Armed Forces on the utility of APLs have not changed over this period. The rise of the IED means that there is at least as much APL usage in the world today than there was in 1997, when the Ottawa Convention came into being. The threat from the kind of adversaries, such as Russia, that APLs are effective in countering has actually increased since 1997.

Yet while the world has remained the same, or even grown more dangerous, U.S. policy on APLs has fluctuated wildly. This is because the U.S. policy process has too often been governed not by realities, but by superficial political considerations. These regular oscillations in U.S. landmine policy need to end, and that can only happen if U.S. policymakers think less about superficial progressive applause and more about the need to deter authoritarian adversaries.

The Biden Administration's Policy Is a Win for Russia

It is incredible that the Biden Administration has abandoned APLs at precisely the time when the most senior military official in the U.S. has testified that APLs have been vital to Ukrainian defenses against Russian assaults. It is even more remarkable that the Administration justified its decision by stating that it was made in part to show the contrast between the U.S. and Russia. If the invasion of Ukraine and the brutal Russian use of huge artillery barrages, often against civilian targets, is not enough to damn Russia in the eyes of the world, it is impossible to believe that the U.S. abandoning APLs will do the trick.

In practice, giving up on APLs is a huge win for Russia, which employs the massed armored formations and large-scale troop concentrations against which APLs are especially effective, and which has long land borders with many NATO allies that the U.S. is committed to defend. For that reason alone, giving up APLs at this moment in history is a folly.

What the U.S. Should Do

The Biden Administration adopted its APL policy without regard for military advice. It was justified by nothing more than a desire to look good in the eyes of progressives and a wish to fulfill a political promise made during the 2020 presidential campaign. It is a gift to the Russian Federation and a slap in the face to the Senate. The “global humanitarian movement” that the White House lauded when it announced its policy *acknowledges* that conventional APLs cause very few civilian casualties. As Heritage analyst Dakota Wood rightly put it, the White House chose “political expediency over warfighting.”²⁰

Of course, like all weapons, APLs must be used responsibly. And according to the evidence presented by the mine-ban activists themselves, conventional APLs manufactured and used by states cause under 500 casualties a year worldwide, and U.S. use of APLs is responsible for none of those casualties. As retired U.S. Army Colonel David Johnson put it in his response to the Biden Administration’s policy, “the future envisioned when the Ottawa Convention was signed—a peaceful, post-Cold War world—is not reality.”²¹ The U.S. should craft policy based on realities, not on the fantasies of transnational progressives.

The Biden Administration should:

- **Continue** its support for humanitarian de-mining;
- **Develop, produce, and acquire** advanced, non-persistent APLs in sufficient numbers to allow their effective use on the battlefield; and
- **Announce** that the U.S. has no intention of acceding to the Ottawa Convention unless and until the U.S. develops and deploys a fully effective alternative to APLs.

The U.S. Congress should:

- **Require** the Defense Department to assess the size and reliability of its existing stockpile of APLs;

- **Request** a full briefing from the Defense Department on the military utility of landmines and on research and development into alternatives to APLs; and²²
- **Ban** funding for the destruction of the existing U.S. stockpile of APLs.

Time is wasting. Under President Obama, the U.S. abandoned the production and acquisition of APLs, though efforts to develop next-generation anti-vehicle landmines have continued.²³ 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 2034.²⁴

Unless Congress acts quickly, the unwise APL policy of the Biden Administration will destroy U.S. APL stockpiles. That will make this policy difficult to reverse without a major investment and will leave the U.S. unable to respond effectively if Russia menaces a NATO ally after it ends its war in Ukraine—or if another major power, such as China, attacks a U.S. ally, such as Taiwan. If that happens, the Biden Administration will be directly responsible not only for a major authoritarian victory but also for the deaths and injuries that will be inflicted on U.S. military personnel subjected to authoritarian attacks that would have been prevented or mitigated by the use of APLs.

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Endnotes

1. A non-persistent landmine is one designed to deactivate or self-destruct after a set period of time.
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14. Unexploded ordinances are covered by the Protocol on Explosive Remnants of War, which the U.S. ratified in 2009.
15. International Campaign to Ban Landmines, *Landmine Monitor 2019*, November 21, 2019, <http://www.the-monitor.org/en-gb/reports/2019/landmine-monitor-2019.aspx> (accessed July 13, 2022).
16. *Ibid.*
17. The White House, "Fact Sheet: Changes to U.S. Anti-Personnel Landmine Policy."
18. For a comprehensive history of the Ottawa Convention, see Groves and Bromund, "Ottawa Mine Ban Convention," pp. 11–17.
19. The White House, "Fact Sheet: Changes to U.S. Anti-Personnel Landmine Policy."
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