United States Landmine Policy: Questions and Answers
October 3, 2014

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On September 23, 2014, the United States government announced a new policy with a commitment not to use antipersonnel landmines outside of the Korean Peninsula and not to assist, encourage, or induce other nations to use, stockpile, produce, or transfer antipersonnel mines outside of Korea. On June 27, the US announced a policy foreswearing future production or acquisition of antipersonnel landmines. It said the Defense Department will conduct a detailed study of alternatives to antipersonnel mines and the impact of making no further use of the weapon.

Finally, the US announced that it is “diligently pursuing other solutions that would be compliant” with the 1997 Mine Ban Treaty—also known as the Ottawa Convention—and “that would ultimately allow us to accede” to it. President Barack Obama said, “We're going to continue to work to find ways that would allow us to ultimately comply fully and accede to the Ottawa Convention.”

President Obama made the September 23 landmine policy announcement in an address at the Clinton Global Initiative in New York, and it was detailed in a White House fact sheet. A number of US officials commented on the new policy, including Defense Secretary Chuck Hagel, the National Security Council spokesperson Caitlin Hayden, and the State Department press secretary Jen Psaki.

The June 27 landmine policy was announced by the US ambassador to Mozambique at the Mine Ban Treaty's Third Review Conference in Maputo, which the US attended as an observer, and also detailed in a White House fact sheet. A number of US officials commented on the policy, disclosing additional related information, including the Defense Department press secretary, Rear Adm. John Kirby; the Joint Chiefs of Staff; Hayden; the
State Department deputy spokesperson, Marie Harf; and the White House press secretary, Josh Earnest.

This review looks at the major elements of both parts of the new policy, drawing on the various statements made in association with the US policy announcement and other official information reviewed by Human Rights Watch.

1. What is new about this landmine policy?

The new elements in the landmine policy are 1) the ban on use of antipersonnel mines except on the Korean Peninsula; 2) the ban on production and acquisition of antipersonnel mines; 3) a study of the alternatives; and 4) the statement that the US will rejoin the path toward accession to the Mine Ban Treaty. The new policy also commits the US to destroy its antipersonnel mine stockpiles “not required for the defense of the Republic of Korea” and to “not assist, encourage, or induce anyone outside the Korean Peninsula to engage in activity prohibited” by the Mine Ban Treaty.

Based on the policy announced September 23, the United States will not use antipersonnel landmines outside the Korean Peninsula, while the policy announced June 27 declares that, “The United States will not produce or otherwise acquire any antipersonnel munitions that are not compliant with the Ottawa Convention in the future, including to replace such munitions as they expire in the coming years.”

Under the new policy, the Defense Department has been tasked with conducting “a high fidelity modeling and simulation effort to ascertain how to mitigate the risks associated with the loss of anti-personnel landmines.” In a June 27 statement emailed to Human Rights Watch, the Office of the Chairman of the Joint Chiefs of Staff said that landmines remain “a valuable tool in the arsenal of the United States,” but expressed support for the new US policy, which it said “protects current capabilities while we work towards a reliable and effective substitute.”

The new policy marks a return to the track toward accession to the Mine Ban Treaty, which prohibits antipersonnel landmines, requires the destruction of stockpiled mines within four years, and requires the clearance of mine-affected land and assistance to victims. The White House press secretary told media the new US policy “means ... we were signaling our clear aspiration to eventually accede to the Ottawa Convention,” and, “We are now
articulating our desire to be able to accede” to the treaty as a “notable adjustment of U.S. policy.”

Bill Clinton, when he was president, was the first world leader to call for the “eventual elimination” of antipersonnel mines, at the United Nations in September 1994. The US participated in the Ottawa Process, which led to the creation of the Mine Ban Treaty, but did not sign when the treaty was opened for signature in December 1997. The Clinton administration set the goal of joining in 2006. However, in 2004 the Bush administration announced a new policy that rejected both the treaty and the goal of the US ever joining. The 2014 policy by the Obama administration once again sets the goal of joining the Mine Ban Treaty, but provides no time frame.

Making the September 23 announcement, President Obama acknowledged President Clinton’s 1994 pledge to work to eliminate landmines and hailed the work of Senator Patrick Leahy in leading Congressional efforts against landmines. He credited the advocacy efforts of the International Campaign to Ban Landmines and Jody Williams, who jointly received the 1997 Nobel Peace Prize for their role in bringing about the Mine Ban Treaty, stating: “This started in civil society. That’s what prompted action by President Clinton and by myself. And promoting civil society that can surface issues and push leadership is not just in keeping with our values, it's not charity. It's in our national interests.”

The 2014 landmine policy announcements by the Obama administration will need to be codified and rapidly implemented. Previous landmine policies announced in 1996, 1998, and 2004 were all issued as presidential directives.

The Defense Department should immediately issue an administrative order permanently suspending all use of antipersonnel mines in combat or in training outside of Korea. The directive for all theater commanders except Korea should override whatever contingency plan each theater commander is responsible for implementing with respect to antipersonnel mines.
2. How does the US policy affect US use of antipersonnel mines?

The policy announced on September 23 commits the US not to use antipersonnel landmines outside of the Korean Peninsula and commits the US to destroy antipersonnel mine stockpiles “not required for the defense of the Republic of Korea.” Thus all US stockpiles of weapons containing antipersonnel mines as well as munitions containing a mix of both antipersonnel and antivehicle mines are no longer available for use anywhere in the world, except for the Korean Peninsula.

The policy announced June 27 did not address use of antipersonnel mines, which meant the 2004 landmine policy of President George W. Bush remained in effect, prohibiting US use of the most common types of antipersonnel mines, those that are buried in the ground (“dumb” or “persistent” antipersonnel landmines, which lack a self-destruct feature), and allowing the US to use only antipersonnel mines that self-destruct and self-deactivate anywhere in the world.

3. How does the US policy affect the situation on the Korean Peninsula?

According to the September 23 fact sheet issued by the White House, “The unique circumstances on the Korean Peninsula and our commitment to the defense of the Republic of Korea preclude us from changing our anti-personnel landmine policy there at this time.” The US again promises to “continue our diligent efforts to pursue material and operational solutions that would be compliant with and ultimately allow us to accede to the Ottawa Convention while ensuring our ability to meet our alliance commitments to the Republic of Korea. The security of the Republic of Korea will continue to be a paramount concern as we move forward with these efforts.”

During the 1997 negotiations for the Mine Ban Treaty, the US sought unsuccessfully to exempt self-destructing mines from the ban as well as to include a geographic exception for their use on the Korean Peninsula. The US was rebuffed by its closest military allies, which concluded that the humanitarian dangers of such mines outweighed any military utility and that permitting one geographic exception would encourage other nations to seek similar exemptions from the ban treaty.

Two concerns regarding the Korean Peninsula have emerged as sticking points during the US policy review. One relates to the arrangement for a joint combined command structure that would put a US general in charge of South Korean military forces in the event of active
hostilities, and the potential problems that might cause if the US were party to the Mine Ban Treaty but South Korea were not. A second concern is the possible need for the US to use antipersonnel mines in the event of an invasion by North Korea.

Numerous retired military officers have questioned the utility of antipersonnel landmines in both South Korea and elsewhere, citing the overwhelming technological superiority of other weapons in the US-South Korean arsenal in comparison with North Korea's as sufficient to compensate for not using mines. In addition, a former commander of US forces in South Korea, the late Lt. Gen. James Hollingsworth, said in 1997 that antipersonnel landmines' “minimal” utility to US forces is “offset by the difficulty ... [they] pose to our brand of mobile warfare... Not only civilians, but US armed forces, will benefit from a ban on landmines. U.S. forces in Korea are no exception.”

The Korea exception from the ban on landmine use is unnecessary and undercuts efforts to universalize the Mine Ban Treaty. A New York Times editorial on the policy observed, “The Pentagon could easily draw up plans for South Korea that exclude American landmines.”

The landmines already placed in and near the Demilitarized Zone between North and South Korea are the responsibility of South Korean forces and not the US. As part of the policy announcement, the Pentagon confirmed that, “There are no anti-personnel landmines that the U.S. has deployed anywhere,” and that, “We don't have any minefields of landmines anywhere deployed in the world.”

4. When did the United States last use antipersonnel mines?

In commenting on the US commitment to no longer use antipersonnel landmines outside the Korean Peninsula, Senator Leahy said, “This is a crucial step that makes official what has been de facto U.S. practice.”

As part of the June 27 policy announcement, the US acknowledged for the first time that since 1991, it has used only one antipersonnel mine. A US State Department official said the US is aware of only one confirmed “operational employment” of an antipersonnel landmine by US military forces since 1991, “a single munition in Afghanistan in 2002.”

Previously, the last US use of antipersonnel mines was believed to have been during the 1991 Persian Gulf War, when the US scattered 117,634 self-destructing/self-deactivating
landmines, mostly from airplanes, in Kuwait and Iraq. Retired Lt. Gen. Robert G. Gard, Jr. has said that use of the high-tech mines was “counter-productive” because the mines “impeded the maneuverability of our attacking units, slowed their operational tempo and inflicted casualties on our own troops.”

A September 2002 report by the US General Accounting Office (GAO) said that some US commanders were reluctant to use mines because of their impact on mobility, fratricide potential, and safety concerns. The report also found that the Defense Department did not provide any data to indicate, either directly or indirectly, that the US landmine use caused any enemy casualties, equipment loss, or maneuver limitations.

The US military has refrained from using antipersonnel landmines in part because the broadly ratified Mine Ban Treaty has stigmatized these weapons. Most US allies are party to the Mine Ban Treaty, including all European Union member states and all other NATO members, as well as Australia and Japan. The treaty's prohibition on assistance with activities banned by the treaty means that interoperability considerations have most likely helped to contribute to the lack of US antipersonnel mine use.

The US does not maintain any minefields globally after removing its mines from around Guantanamo Naval Base in Cuba from 1996-1999.

Over the past 20 years, the US has spent more than $1 billion on the development and production of systems that could be considered alternatives to antipersonnel mines. During this time it has fought a wide range of conflicts, both high- and low-intensity in a variety of environments, and has demonstrated that it can employ alternative strategies, tactics, and weaponry that avoid the use of antipersonnel mines.

5. When did the US last produce antipersonnel mines?

The US has not produced antipersonnel mines since 1997, and budget documents indicate no plans to produce them in the future. That led to Senator Leahy's description of the 2014 ban on US landmine production as an “incremental” but “significant” step because it “finally makes official policy what has been informal fact for a decade and a half.”

The last US antipersonnel mines were produced in 1997. The last non-self-destructing antipersonnel mines were procured in 1990, when the US Army bought nearly 80,000
M16A1 antipersonnel mines for $1.9 million, while the last self-destructing/self-deactivating antipersonnel mines were 450,000 ADAM and 13,200 CBU-89/B Gator mines produced between 1992 and 1997 for $120 million.

No victim-activated munitions are being funded in the procurement or the research and development budgets of the US Armed Services or Defense Department, but two related programs are being funded: the XM-7 Spider Networked Munition and the IMS Scorpion. These once had the potential for victim-activated features (thereby making them antipersonnel mines as defined by the Mine Ban Treaty), but they are now both strictly “man-in-the-loop” or command-detonated and therefore permissible under the treaty.

With the new US pledge to no longer produce or acquire antipersonnel mines, there are now just 11 countries left that either actively produce the weapons or reserve the right to do so: Burma, China, Cuba, India, Iran, North Korea, Pakistan, Russia, Singapore, South Korea, and Vietnam. Of these, Burma, India, Pakistan, and South Korea are thought to be actively producing these mines.

6. **How many landmines does the United States stockpile?**

As part of the June policy announcement the Pentagon has disclosed that the US has an “active stockpile of just over 3 million anti-personnel mines in the inventory.” This represents a significant reduction from the previous total reported in 2002 of approximately 10.4 million antipersonnel mines.

The US stockpile consists mostly of remotely delivered mines that are scattered over wide areas by aircraft, artillery, or rockets, and equipped with self-destruct feature designed to blow the mine up after a pre-set period of time and self-deactivating features. The active stockpile consists of the following types: Artillery Delivered Antipersonnel Mine (ADAM), Ground Emplaced Mine Scattering System (GEMSS), GATOR, Volcano (in M87 dispenser only), Pursuit Deterrent Munition (PDM), and Modular Pack Mine System (MOPMS).

Stockpiled landmines that are in an unusable condition or declared excess to war fighting requirements fall under the “inactive” category, where they await physical destruction and cannot be used or transferred back to the active inventory.
The shelf-life of existing antipersonnel mines stockpiled by the US decreases over time, including deterioration of batteries embedded inside mines as they age. The new policy precludes the US from extending or modifying the life of the batteries inside the existing stockpile. A US official confirmed to Human Rights Watch in Maputo that the US would not extend the shelf-life of existing systems, for example, by replacing their batteries.

In response to a journalist’s question about the shelf-life of existing antipersonnel mines, the Defense Department spokesperson stated that, “We anticipate that they will start to decline in their ability to be used about -- starting in about 10 years. And in 10 years after that, they’ll be completely unusable.”

In 2010, the Defense Department indicated that the batteries in self-destructing and self-deactivating mines have a shelf-life of 36 years and estimated that the shelf-life of batteries in the existing stockpile of antipersonnel mines would expire between 2014 and 2033.

Under the new policy, all US stockpiles of weapons containing antipersonnel mines as well as munitions containing a mix of both antipersonnel and antivehicle mines that are not required for Korea will need be removed from stocks located in the US, on supply ships, and in storage facilities overseas, then transported to a destruction facility.

Transparency is needed in carrying out the new landmine policy, including on the types and quantities of antipersonnel landmines to be removed from active inventory and destroyed, as well as on the stockpile destruction plan, with its timeline and cost.

During the Maputo Review Conference, a Chinese official informed campaign representatives that China’s stockpile consists of “less than five million” antipersonnel mines, significantly fewer than the 110 million mines estimate made back in the mid-1990s. Russia may now hold the world’s largest stockpile of antipersonnel mines. In 2004, Russia for the first time released official information on its stockpile, citing a total of 26.5 million landmines, but this number is likely to be significantly lower following stockpile destruction efforts.
7. When did the United States last export antipersonnel mines?

US law has prohibited all antipersonnel mine exports since October 23, 1992, through a comprehensive moratorium enacted at the initiative of Senator Leahy.

The US is one of at least 34 countries that exported antipersonnel landmines in the past, exporting over 5.6 million antipersonnel mines to 38 countries between 1969 and 1992. Deminers in at least 28 mine-affected countries have reported the presence of US-manufactured antipersonnel mines, including non-self-destructing and self-destructing/self-deactivating types.

Due in part to the US export moratorium, there has been a de facto global ban on the transfer of antipersonnel mines in effect since the mid-1990s, while a low level of illicit trade and of unacknowledged or denied trade has continued.

8. Does the new US policy affect its mine clearance contributions?

The important role that the US has played as the leading funder of mine clearance programs around the world is not affected by the US policy announcement. In his statement, President Obama pledged: “The United States will continue to lead as the world’s largest donor of global demining efforts, freeing communities and countries from these weapons.”

US officials have pledged continued US support for mine action and have indicated that the US is committed to a continuing partnership with Mine Ban Treaty states parties and nongovernmental organizations in addressing the humanitarian impact of antipersonnel mines.

The US has also provided assistive devices and other rehabilitation services to over 250,000 people with disabilities in 35 countries through the US Agency for International Development-managed Leahy War Victims Fund. The US signed the Convention on the Rights of Persons with Disabilities on July 30, 2009, but has yet to ratify the treaty.

9. Does the new landmine policy mark the end of the administration’s policy review?

According to US officials, the landmine policy announced June 27 and September 23 is not the final outcome of the policy review the Obama administration initiated in 2009, but rather interim or initial policy. In its statement to the Mine Ban Treaty’s Third Review
Conference, the US said that “other aspects of our landmine policy remain under consideration, and we will share outcomes from that process as we are in a position to do so.”

The US has participated as an observer in every meeting of the Mine Ban Treaty since the Second Review Conference in Cartagena, Colombia in December 2009. It is expected that this observer participation will continue.

Two-thirds of the US Senate must approve US accession to the Mine Ban Treaty. In a May 2010 sign-on letter to President Obama, 68 senators expressed their support for the Mine Ban Treaty. The letter expressed “strong support” for the decision to review US landmine policy and expressed confidence that the administration “can identify any obstacles to joining the Convention and develop a plan to overcome them as soon as possible.”

The US Campaign to Ban Landmines has called on President Obama to insist that the Pentagon study into alternatives be completed swiftly so that the Korea exception can be removed before he leaves office. It has also urged that the accession documents for the Mine Ban Treaty be prepared now so that President Obama can send the package to the Senate for its advice and consent before he leaves office on January 21, 2017.
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