

Congress of the United States
Washington, DC 20515

May 6, 2020

The Honorable Mark Esper
Secretary of Defense
The Pentagon
Washington, DC 20301

Dear Mr. Secretary:

We were disappointed to learn of the Trump Administration's decision to reverse years of progress in limiting the production and use of antipersonnel landmines. We regret that the consultative process between the White House, the Department of Defense, Congress, and civil society organizations that produced policies on this issue during past Democratic and Republican administrations was ignored by this administration.

The Department of Defense's justification for the change in policy is not materially different from its position three decades ago. Yet since then, U.S. armed forces have been deployed in multiple protracted conflicts and it is our understanding that since 1991 they have not used these victim-activated weapons. There are well-documented reasons for that, which we need not repeat here. In the meantime, due in part to U.S. leadership, the use of antipersonnel mines, and the number of mine casualties, have plummeted. This decision puts that progress in jeopardy. We would appreciate your answers to the following questions:

Specific Policy Issues

1. What has changed since 2014 that required the U.S. to reverse the previous landmine policy?
2. Do either the U.S. Army Europe Operational Needs Statement (ONS) #18-22702 or the Joint Service Operational Requirement (JSOR) #0683 directly specify the necessity for the future use of victim-activated landmines? Alternatively, are either focused on the use of anti-vehicle mines to counter a mounted enemy threat in high-intensity operations? Please provide copies of both.
3. The 2014 policy set the goal of the U.S. joining the Mine Ban Treaty (Ottawa Convention) in the future. Does the 2020 policy abandon that goal in perpetuity?
4. U.S. arguments about the "safety" of its self-destruct/self-deactivating mines have been explicitly rejected by our closest allies for more than three decades. As far as we are aware, there have been no material advances in such technology during that time. What has changed that now enables DoD to insist on the safety and desirability of such mines?

5. Why has the authorization for the use of antipersonnel mines been changed to a lower level, from the President (since 1996) to a four-star general or admiral acting as a regional commander?
6. How does DoD define or determine the “exceptional circumstances” under which landmines are now permitted to be used? What criteria will be applied?

DoD Reports

7. How many landmine-related reports has DoD produced since the 2014 policy announcement of the Obama Administration? Please provide copies of such reports.
8. Please provide details on the “high fidelity” study on possible alternatives to mines on the Korean Peninsula that was cited in the 2014 Obama policy.
9. What was the purpose and outcome of the 2016 DoD report cited at the time of the 2020 announcement? When did it start, what were its terms of reference, and when was it completed?
10. What was the purpose and outcome of the 2017-2018 DoD report cited at the time of the 2020 announcement? When did it start, what were its terms of reference, and when was it completed?

Use

11. When and why did the U.S. last use antipersonnel mines, and with what result?
12. What alternative weapons, tactics, and strategies enabled DoD to agree in 2014 to ban the use of antipersonnel mines everywhere except on the Korean peninsula?
13. Where does DoD now envision that it might use existing stockpiles of antipersonnel mines, outside of the Korean Peninsula?

Research and Development / Alternatives

14. How do “terrain shaping area denial munitions” differ from antipersonnel mines?
15. Would any future “terrain shaping area denial munitions” be consistent with the Ottawa Convention banning antipersonnel mines?

Production / Acquisition

16. Is DoD contemplating re-opening production lines for existing antipersonnel mines, for example, the Gator and ADAM systems? If so, when?
17. Under the 2020 policy, will DoD replace and/or extend the life of the batteries in existing antipersonnel mine stocks?
18. Does DoD foresee production of new “terrain shaping area denial munitions” in the next few years?
19. Will the Standoff Activated Volcano Obstacle (SAVO) program only develop a system capable of only using Ottawa-compliant M87A1 Volcano anti-vehicle mine cannisters?
20. Do the modernization plans for the M7 Spider Networked Munition include re-introducing the “battlefield over-ride switch” that allows for the victim-activation of munitions it controls? Previously, Congress received assurances from the U.S. Army Vice Chief of Staff that Spider would only be procured in a configuration that only allowed command-detonation. Does the new policy nullify this commitment?
21. Are CBU-78 and CBU-89 Gator air-delivered landmines, a mixed system containing anti-vehicle and antipersonnel mines, now considered to be the Deep Terrain Shaping Obstacle (DTSO)? Budget justification materials state that existing stocks of this system have a life expectancy of 36 years (losing capability in 2025) and the methods used to make this determination were unknown to DoD. It is our understanding that approximately \$2 million in FY17 Army-wide RDT&E appropriations were used to test “the actual life expectancy and effectiveness of the current Deep Terrain Shaping Obstacle system in order to decide when a replacement capability needs to be fielded. In parallel, evaluation [of] the technical data package and determining the cost of producing additional units of the current Deep Terrain Shaping Obstacle.” Can DoD provide documentation of the findings and conclusions of this effort/program? Ref: Army-wide RDT&E Budget Activity 7, Program Element 0607131A / Weapons and Munitions Product Improvement Programs, Project ER2 / Close Combat Technology.
22. Does DoD’s statement that the 2020 “policy encourages the Military Departments to explore acquiring landmines and landmine alternatives that could further reduce the risk of unintended harm to non-combatants” reverse the previous landmine policy prohibition on acquisition of any type of antipersonnel mines? What specific types of mines or alternatives are contemplated?

Transfer / Acquisition

23. As part of the 2020 policy, does DoD envisage importing antipersonnel mines for operational use? If so, from where would it acquire the mines?

24. Is DoD committed to continuing to uphold the legislative prohibition on the export and transfer of antipersonnel mines?

Stockpiling

25. Please provide details on the size and composition of the current U.S. stockpile of antipersonnel mines.

26. How many, and what types of, mines have been made inactive and/or destroyed since 2014?

27. As the shelf-life of U.S. self-destruct/self-deactivating antipersonnel mines decreases with each year, when will the existing stockpile expire and no longer be usable? Previously, DoD has indicated a date in the early 2030s.

Thank you for your assistance. We look forward to your response.

Sincerely,

/s/ PATRICK LEAHY
United States Senator

/s/ JACK REED
United States Senator

/s/ MICHAEL F. BENNET
United States Senator

/s/ BENJAMIN L. CARDIN
United States Senator

/s/ JEANNE SHAHEEN
United States Senator

/s/ CHRIS VAN HOLLEN
United States Senator

/s/ DIANNE FEINSTEIN
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/s/ RICHARD J. DURBIN
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