THE LANDMINE BAN RACE:
AMERICAN POLICY
ON THE OTTAWA CONVENTION

by

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LIST OF ABBREVIATIONS

AP: Anti-personnel
AT: Anti-tank
AV: Anti-vehicle
CCW: Convention on Conventional Weapons
CD: Conference on Disarmament
DOD: United States Department of Defense
DMZ: Demilitarized Zone
DPRK: Democratic People’s Republic of Korea
EIF: Entry into force
FY: Fiscal Year
GDP: Gross domestic product
HRW: Human Rights Watch
ICBL: International Coalition to Ban Landmines
ICRC: International Committee of the Red Cross
IO(s): International organization(s)
KORUS FTA: United States-Korea Free Trade Agreement
MI: Medico International
NGO(s): Nongovernmental organization(s)
NRC: National Research Council
PDD 64: Presidential Decision Directive 64
PHR: Physicians for Human Rights
Protocol II: Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices
ROK: Republic of Korea
SD: Self-destruction
SDA: Self-deactivation
UK: United Kingdom
UN: United Nations
US: United States of America
USCBL: United States Coalition to Ban Landmines
VVAF: Vietnam Veterans of America
ABSTRACT

The United States is in the company of the minority of the global community by remaining outside of an international human rights treaty that bans anti-personnel landmines. This thesis provides an overview of said treaty, known as the Ottawa Convention, with a specific focus on American policy. Organized by presidency, it analyzes the changes in US landmine policy from the beginning of landmine advocacy in the 1990s to present day. It identifies significant variations in attitudes toward the Ottawa Convention, and any policy changes enacted in reflection of those attitudes. It then goes into depth of the problem the Korean peninsula poses in the United States acceding to the treaty. This thesis concludes with possible explanations for recent announcements that show the US aligning its landmine policy with the Ottawa Convention, and why the US is putting effort into participating in this particular human rights treaty when it has rejected so many others.
INTRODUCTION

Today, ten people in the world are killed or maimed by anti-personnel (AP) landmines each day (ICBL). In the 1990s, AP mines claimed one victim every twenty minutes (J. Williams 187). This reduction in AP mine victims, which are mostly comprised of unarmed civilians, is attributed to the creation of the Convention on the Prohibition on the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction in September of 1997. This human rights treaty, herein after referred to as the Ottawa Convention, makes AP mines illegal under international humanitarian law, and provides provisions for the funding of mine clearance and programs for victim reintegration and rehabilitation.

A nation’s decision to participate in a human rights treaty, such as the Ottawa Convention, is motivated by a number of political factors. Humanitarian concern can conflict with religious beliefs, cultural practices, and economic feasibility. The United States (US) is no stranger to remaining outside of popular human rights treaties. “American exceptionalism,” the concept that the US is different or special from other nations, helps explain why the US acts in a manner counter to that of the majority of the world when it comes to these treaties. For a multitude of reasons, the US is currently not party to three of the seven core human rights treaties of the United Nations (UN). In the case of the US and the Ottawa Convention, banning a weapon of humanitarian concern has been directly weighed against national security interests. The three presidents that have been in office since the treaty’s creation (Bill Clinton, George W. Bush, and Barack Obama) have had to consider this balance when deciding
the landmine policy of the US. As a result of changes in global affairs and international conflicts and varying security agendas, US landmine policy has changed from presidency to presidency. However, the scales currently appear to be tipping in favor of US accession to the treaty taking into account the recent changes that align US landmine policy to the standards of the Ottawa Convention.

Considering this history of US non-participation in certain human rights conventions, many of which have been in existence longer than the Ottawa Convention, it raises the question of “Why this treaty, and why now?” This thesis aims to answer this question by focusing on American policy on the Ottawa Convention. Beginning with an overview of AP mines, Chapter 1 discusses the global landmine problem and how the Ottawa Convention arose as a means to solve that problem through a method of diplomacy known as the Ottawa Process. Chapter 2 analyzes the landmine policies of each president that has taken office since the Ottawa Convention’s creation, and whether those policies have moved the US closer or farther away from acceding to the treaty. It then looks at US security interests in the Korean peninsula, since AP mine use in this area has consistently been identified as a necessity by every president. Chapter 3 provides explanations for recent changes in US landmine policy which suggest the US will soon accede to the treaty. This thesis concludes that although US landmine policy is currently closely aligned to the Ottawa Convention, this may change with the election of the next president. Considering the variation in attitudes toward the Ottawa Convention under the leadership of three different presidencies, US accession to the treaty is dependent on the executive agenda.
Chapter 1

THE OTTAWA CONVENTION

The Ottawa Convention was born out of the growing belief that anti-personnel landmines were a conventional weapon that should be illegal under international humanitarian law. Due to their indiscriminate nature and the disproportionality of their military utility compared to their humanitarian threat, non-governmental organizations (NGOs) started a movement to ban AP mines in the 1990s. This movement took the world by rapid force, and culminated in the creation of the Ottawa Convention in December of 1997. This chapter provides an overview of AP mines and the problem they cause to civilians around the world, and gives a history of the events leading up to the treaty banning landmines.

An Overview of Anti-personnel Landmines

The Ottawa Convention defines an anti-personnel mine as:

A mine designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons. Mines designated to be detonated by the presence, proximity or contact of a vehicle as opposed to a person, that are equipped with anti-handling devices, are not considered anti-personnel mines as a result of being so equipped. (Convention)

These weapons are made with metal and/or plastic and some type of explosive for the purpose of being used against human beings. AP landmines were developed after World War I as a response to anti-tank mines. Because anti-tank (AT) mines could easily be seen, enemy soldiers often removed AT mines to use them for their own purposes. This led to the use of AP mines as a means of protection to keep AT mines in place. Eventually, countries began using AP mines as a weapon on their own, and
governments began to develop more sophisticated versions of them (Stover 6). Landmines were first used on a wide-scale during World War II, and were extensively used in other major wars that followed such as Vietnam, Bosnia, and in the Gulf. However, the locations of these mined areas were not recorded, placing civilians who returned to their homes after warfare in danger, because the land was infested with landmines.

Military Utility

The military utility of AP mines has long been in question, with extensive debate over whether their military utility outweighs the humanitarian threat they pose. AP mines have a tactical use in defensive operations. They direct enemy forces into a specific area to increase vulnerability to direct and indirect fire, protect friendly flanks, provide an advance warning of an attack, degrade an enemy advance by causing delays and casualties, and protect AT mines (Gaulin 211). AP mines are also used to defend borders against infiltration, and enhance the effectiveness of other weapons by halting the movement of enemy forces (Gard 136). Ted Gaulin emphasizes the psychological impact landmines have, in addition to their tactical uses. He writes, “By striking fear into the hearts of field commanders and soldiers these weapons undermine enemy morale cohesion of the command process” (Gaulin 214). He states that landmines create great fear among soldiers—the fear of the prospect of them hiding in the ground waiting to detonate at any misstep.

A study conducted by the National Research Council (NRC) also boasts of the military utility landmines have. It claims that landmines are capable of autonomously
delaying or killing enemies at a safe distance from friendly forces (Committee on Alternative Technologies 1). The study goes on to describe the benefits of minefields:

Minefields are used to place an enemy in a vulnerable position that can be exploited by friendly forces, cause the enemy forces to divide, interfere with enemy command and control, inflict damage on enemy personnel and equipment, exploit the capabilities of other weapon systems by delaying enemy forces in an engagement area, and protect friendly forces from enemy infiltration. (Committee on Alternative Technologies 1)

Landmines serve a distinct purpose in conflict by weakening the advance of the enemy while protecting the troops using them. Military forces create minefields with the belief that it will help them win in warfare.

There are other arguments that AP mines have questionable military utility, especially taking their negative humanitarian impact into consideration. The same study conducted by the NRC also concluded that minefields that were not properly marked or recorded can lead to the death of friendly combatants if the tide of battle changes rapidly, and cause friendly forces to be pushed back into their own minefields (Committee on Alternative Technologies 1). A study conducted by the Institute for Defense Analyses in 1994 reported that landmines have “quite modest” and “marginal” military utility (Guard 140-141). In a study commissioned by the International Committee of the Red Cross (ICRC), Patrick Blagden, a retired brigadier, analyzed the effectiveness of AP mines in twenty-six different conflicts. When senior military experts came together to discuss this report in February 1996, they unanimously concluded the military utility of AP mines was “questionable,” and disproportionate to their humanitarian consequences (Maslen 88). These arguments conclude that the tactical utility of landmines, if there is any, is not worth the humanitarian concern they cause.
The Global Landmine Problem

The humanitarian concern of AP mines is evident when looking at the long-term impact these weapons have had across the globe. AP mines used in conflict remained in the ground long after wars ended. Since countries had no obligation to clear them under international humanitarian law as it existed during the time they were planted, millions of these weapons were left scattered across the globe without demarcation, or to the knowledge of civilians that inhabited the land. There is some dispute regarding the magnitude of the global landmine infestation. In 1994, the US Department of State said there were as many as sixty-five to one hundred and ten million landmines worldwide (Hidden Killers 1994). Then in 1998, it noted that the problem was less severe than previously estimated, and reported the amount of landmines globally between sixty and seventy million (Hidden Killers 1998). However, many NGOs such as the ICRC, claimed that there were as many as one hundred and twenty million landmines in the ground before the creation of the Ottawa Convention (Mustoe 544).

AP mines cause a number of socioeconomic issues. Although landmines only cost around three US dollars to make, it can cost up to one thousand US dollars just to clear a single landmine (Hidden Killers 1994). The most heavily mined areas are located in the developing world. The governments of these countries normally do not have the funds for mine clearance or public education about landmine hazards. This inability to clear the land of landmines makes farming in these areas impossible. Additionally, civilians who fall victim to landmines often do not have access to immediate healthcare, causing the unnecessary loss of limbs and lives. Victims that do survive usually do not have access to institutions that can help them rehabilitate or reintegrate into society. The devastation of landmines to poor countries inspired NGOs
to take action. This action would eventually lead to the Ottawa Convention, which imposes a global ban on AP landmines.

**The Ottawa Process**

Landmines have been an issue of humanitarian concern since the 1950s when the ICRC identified them as a “conventional weapon of concern” (Maslen 82). However, the problem of landmines was not globally publicized until Asia Watch and Physicians for Human Rights (PHR) published a report appealing the world to ban landmines in 1991. This report, titled *A Coward’s War: Landmines in Cambodia* is based on the investigation of the effects of landmines in Cambodia and Thailand. It was later circulated amongst countries’ governments, and was a major piece of literature that inspired the passing of legislation on mine moratoria, a period in which governments prohibit the use, production, and/or export of mines. As more NGOs became advocates for the issue, the need to ban landmines turned into a global phenomenon.

**The International Coalition to Ban Landmines**

The major force behind the landmine ban movement was the International Coalition to Ban Landmines (ICBL), an umbrella group of over 1,000 NGOs that worked together in support of the cause. The creation of the ICBL began when Bobby Muller of the Vietnam Veterans of America Foundation (VVAF) contacted Thomas Gebauer of Medico International (MI) based in Germany. Both Muller and Gebauer had a special interest in landmines. Muller was inspired to address the landmine issue after his visit to mine-infested Cambodia in 1987. Gebauer was affected by the impact landmines had when he worked with victims in Central America as a psychologist.
After several meetings, in November 1991 the two decided to try to get landmines banned all over the globe in a joint-effort by their two NGOs (Timeline). To achieve this goal, they decided to hire coordinators to set up international campaigns in their respective countries. Muller hired Jody Williams to begin the campaign in the United States (Mekata 145-146) and Gebauer hired Angelika Beer to work in Germany (Mekata 146). Jody Williams would eventually go on to be the face of the campaign as the coordinator of the ICBL.

Williams began her work by first looking at existing movements to ban landmines, including NGOs interested in the cause and the existing literature on the issue. She found four other NGOs in addition to MI and VVAF that were interested in starting a campaign to ban AP mines: Handicap International, Human Rights Watch (HRW), Mines Advisory Group, and PHR. After these six NGOs met on October 6, 1992 at a conference in New York, the ICBL was officially launched with three main initiatives that made up the Landmine Campaign Call: (1) the complete ban on the use, production, trade, and stockpiling of antipersonnel landmines, (2) increased resources for mine clearance, and (3) increased resources for landmine victim assistance (J. Williams 163). The ICBL would continue to grow in size and importance, and play a major role in the making of the Ottawa Convention.

An international ban on AP mines was justified primarily by two points. First, their long-term negative effects are disproportionate to their military utility. Countries did not record or clear their mined areas at the end of conflicts. Since these AP mines remain in the ground, they threaten the everyday lives of civilians even in times of peace. Second, landmines are indiscriminant weapons by nature. Although they are meant to be used against military personnel during times of conflict, landmines cannot
tell the difference between the step of a soldier and a civilian. This has led to the injury and death of numerous civilians, particularly in developing nations. Because of the long-term threat they serve to civilians, as well as their indiscriminate nature, the ICBL denounced them as weapons that violated international humanitarian law.

First Review Conference on the Convention on Conventional Weapons

At the time of the ICBL’s creation, countries adhered to the Convention on Prohibitions of Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (1980) in regards to AP landmine use. This treaty, also known as the Convention on Conventional Weapons (CCW) represented the existing international humanitarian law on landmines. It was adopted on October 10, 1980 and entered into force on December 2, 1983. The CCW bans landmines under the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-traps and other Devices (Protocol II), which contains some restrictions for the use of AP mines.

The CCW contains provisions regarding mine use and the recording of mined areas. The treaty defines a mine as “any munition placed under, on or near the ground or other surface area and designed to be detonated or explode by the presence, proximity or contact of a person or vehicle” (Protocol II 1). Article 3 places general restriction on the use of mines, booby traps, and other devices. It prohibits the use of mines against civilian populations, and the indiscriminate use of the weapons. “Indiscriminate use” is defined as any placement of the weapon not for military objectives, or in a way that will probably cause injury to civilians (Protocol II 2). Article 4 prohibits the use of mines (excluding remotely delivered mines), booby traps, and other devices in populated areas. This includes any concentrated area of
civilians where ground combat is not taking place, unless the mines are for military objectives or measures to warn civilians are taken (Protocol II 2). Article 7 stipulates that States parties are to record the location of their pre-planned minefields, and ensure the recording of all locations in which they have laid mines. States parties are then to use these records to “take all necessary and appropriate measures” to protect civilians from the effects of minefields, and notify the UN Secretary General and adverse party of the mined areas at the cessation of active hostilities (Protocol II 4). Article 9 calls for the international co-operation of removing mines and booby traps at the end of active hostilities. States parties are to reach an agreement to “remove or otherwise render ineffective” minefields and mines (Protocol II 5).

The CCW has been criticized for its loopholes regarding mines and its overall weakness as a treaty. It still allows the use of landmines under certain circumstances, such as by military personnel for combat objectives, and permits the use of non-detectable mines. Although Article 4 has measures to prevent the use of landmines in civilian areas, such caution is overruled if it is deemed necessary for military objectives, or if civilians are warned of the dangers. In addition it has vague stipulations regarding mine clearance since it gives no designated time for which States parties must clear mined areas, and does not provide funding to help mine victims. Most importantly, it does not address problems caused by landmines that were laid before the treaty’s entry into force (EIF). States were not assigned responsibility to clear the thousands of landmines laid down in conflicts before the treaty was created in 1980. The CCW also lacked support from the global community. By 1993, ten years after the treaty’s EIF, only forty states had signed the convention (Mekata 143). The treaty also lacked provisions and mechanisms to monitor the
implementation of its articles. It did not provide a means to hold States parties accountable if they acted in a manner contrary to the treaty’s objectives.

Although the treaty had little support and did not place a comprehensive ban on landmines, the CCW was the first forum through which the ICBL tried to ban AP mines. The CCW could be amended through treaty review conference ten years after its EIF by a single government’s request through the UN. On February 11, 1993, French President Francois Mitterand announced that France would submit such a request to the UN Secretary General. This request was approved in December 1993.

The First Review Conference of the CCW took place in Vienna in September 1995. By this time, the ICBL had grown into a force of over three-hundred and fifty NGOs, and sixty of them were present at Vienna to follow the negotiations (Mekata 155). Although members of the ICBL were not allowed to observe or participate in the negotiations, they campaigned and put pressure on delegates outside of the meeting room. However, after three weeks of negotiations, no changes to the treaty were made because the participating governments had a wide variety of conflicting agendas. Although there were counties present in support of a ban, there were also disagreements over the exact definition of an AP mine, the allowance of smart mines (mines that self-destruct or self-deactivate), as well as outright objections from several countries (Mekata 155). Despite the 1.7 million signatures from citizens around the world showing support for an international ban, only fourteen nations publically took a pro-ban position. Countries agreed to further discuss the issue in Geneva in January 1996.

The First Review Conference of the CCW reconvened for its final two weeks in April and May 1996. By this time, the ICBL recorded a total of forty-one pro-ban
states. The ICBL lobbied governments to support a ban on landmines through multiple methods. The ICBL had landmine survivors speak in front of the delegates, and made the sound of a landmine exploding go off every twenty minutes near the meeting room, to remind negotiators that every twenty minutes someone around the world is killed or maimed by a landmine (J. Williams 187-188). The ICBL also made a wall of remembrance with the pictures of landmine victims’ faces. In addition, the ICBL circulated CCW News, a newsletter that exposed governments that had different positions in the conference room compared to their public pro-ban policy (J. Williams 188).

Despite all these efforts, the First Review Conference of the CCW did not end with a global ban of AP mines. The amended version of Protocol II, the Protocol on Prohibitions or Restrictions on the Use of Mines, Bobby-traps and other Devices as Amended on 3 May 1996 (Amended Protocol II), still permitted the use of AP mines for military objectives. Even though the revised document now had more specified restrictions on mine use and provisions regarding the recording and clearing of mines, the use of detectable landmines was still legal and widely accepted (Amended Protocol II). However, this proved not to be a setback for the landmine movement. At the final meeting of the conference on May 13, 1996, Canada announced it would hold a meeting for pro-ban states in Ottawa. This announcement was a turning point in the creation of the Ottawa Convention.

The Road to an International Ban

Canada’s announcement of its intention to hold a meeting in Ottawa for states in support of a ban launched what became to be known as the Ottawa Process. The Ottawa Convention is remarkable for being drafted and signed all in a fourteen month
period of time, beginning in October 1996 and ending with the successful signing of a treaty in December 1997 (Cameron et. al 5). The Ottawa Process is recognized for its method of fast-track diplomacy, strong participation from NGOs, and the leadership of small and medium-sized powers in negotiating a treaty without the presence of larger powers, such as the United States.

The 1996 Ottawa Conference took place from October 3-5, 1996. In addition to the attendance of seventy-five governments and international agencies (Timeline), the ICBL was allowed to sit in during the conference, unlike at the First Review Conference of the CCW. At the end of the Ottawa Conference, Canadian Foreign Minister Lloyd Axworthy challenged countries to come back in one year to sign a mine ban treaty. The second meeting of the Ottawa Process took place in Bonn from April 24-25, 1997, where the text drafted by Austrian Thomas Hanjnoczi was discussed (J. Williams 270). The third meeting took place in Brussels in June 24-27, 1997, where provisions for landmine victim assistance were added to the treaty text (White and Rutherford 111). In addition, countries that intended on participating in the treaty’s final negotiations in Oslo, which began on September 1, 1997, signed what is known as the “Brussels Declaration.” By signing this, governments pledged their support for a treaty banning landmines. The final draft of the treaty was completed after two weeks of negotiations in Oslo on September 18, 1997. The treaty was open for signature in Ottawa from December 3 to 4, and in New York at the UN Headquarters from December 5 until its EIF (Convention). A total of one-hundred and twenty two states signed the treaty in December of 1997 (Timeline). The treaty entered into force on March 1, 1999 after Burkina Faso ratified it in September 1998, making it the 40th member of the treaty.
States Parties Obligations under the Ottawa Convention

Ratifying the Ottawa Convention holds countries to certain responsibilities under international law. The main goal of the treaty is to prohibit mine use, destroy existing AP mines, and provide funds for mine clearance and victim assistance. Article 1 stipulates that countries have the obligation to "never under any circumstances" use, develop, acquire, stockpile, retain or transfer AP mines, or assist or encourage anyone to engage in prohibited mine activity. According to Article 3, mines may only be transferred for the development of and training in AP mine detection and clearance, or for their destruction. Second, States party to the Ottawa Convention have to destroy all AP mines under their jurisdiction according to Article 5. They must destroy their stockpiles of AP mines as soon as possible after ratification or ascension, but no later than four years after they enter the Ottawa Convention. In addition, States Parties must destroy their AP-mined areas as soon as possible, but no later than ten years after the treaty’s EIF (Convention).

Article 6 of the Ottawa Convention is dedicated to the raising of funds for mine clearance and victim assistance through international cooperation. Article 7 states that States Parties should freely share technological information and equipment for mine clearance. States Parties that are capable should provide assistance for the care, rehabilitation, and socio-economic reintegration of mine victims and mine awareness programs. States Parties with the capacity to do so should also provide assistance for mine clearance and other related activities through the UN, NGOs, or other related regional and international organizations (IOs) (Convention).

The road to the creation, signing, and EIF of the Ottawa Convention was truly a global phenomenon. The movement to internationally ban landmines, an initiative
that began with a small group of NGOs, gained incredible support in a short period of time. Campaigns were established in countries across the globe, and governments passed moratoria on landmines in response to their citizens’ demands. The ICBL was able to gain enough support for the cause to create a human rights treaty aimed at eradicating the problem of landmines in less than a decade. However, the Ottawa Process is often criticized because the Ottawa Convention was created without the support of major landmine producers such as China, Russia, and India. Furthermore, the Ottawa Convention lacked the participation of the United States. Although the United States showed interest in joining the movement, and sent a delegation to the Oslo negotiations, other nations refused to concede to the United States’ requests regarding landmine use and treaty implementation. The following chapter explores the United States’ policy during the creation of the Ottawa Convention, and explains the reasons the US was unable or unwilling to abide by the treaty’s provisions at the time of its creation.
Chapter 2

AMERICA AND THE OTTAWA CONVENTION

In the early stages of the landmine ban movement, the US appeared to be the forefront leader on the issue. It was the first nation to enact legislation that prohibited mine use, and encouraged other countries to follow its example and support the cause. The US was an active negotiator in the Oslo negotiations and the conferences leading up to them. However, when the US could not successfully get other countries to support its national security agenda, the US delegation left the negotiations before the Ottawa Convention was signed. The US remains outside of the treaty to this day.

The landmine movement gained great attention in the early 1990s when President George H.W. Bush was in office. Since then, Presidents Bill Clinton, George W. Bush, and Barack Obama have had different attitudes towards the use of AP mines and US participation in the treaty. However, each landmine policy has had the common theme of placing an exception for AP mine use in the Korean Peninsula. This chapter looks at the landmine policies that have been developed by the different presidential administrations since the Ottawa Convention’s creation. In addition, it analyzes the unique situation Korea poses to the US becoming party to the treaty.

Leahy-Evans Landmine Moratorium

Although the landmine issue was popularized during the term of President George H.W. Bush, he did not take a special interest in the problem during his time in office. Instead, landmines gained attention on Capitol Hill. Through the efforts of Democratic Senator Patrick Leahy from Vermont and Democratic Representative Lane Evans, the United States became the first country to adopt legislation placing a restriction on landmines.
On July 30, 1992 Senator Leahy introduced a bill proposing the United States impose a moratorium on the sale, transfer, and export of AP mines for a period of one year. The bill emphasized the need for the US to work with other governments in limiting the use of landmines, and asked Congress and the President to work with the international community to modify landmine protocol through the CCW. Representative Evans introduced similar legislation to the House on September 16, 1992. This bill was incorporated into the National Defense Authorization Act for Fiscal Year 1993, which President George H.W. Bush signed into law on October 23, 1992. The summary of the conference report filed in the House on October 1, 1992 briefly explains that the new landmine provision:

Imposes a one-year moratorium on: (1) any sale or transfer, or any issuance of an export license for, any anti-personnel landmine under the Arms Export Control Act; and (2) providing assistance under the Foreign Assistance Act of 1960 with respect to the provision of such mines. (H.R. 5006)

By signing this bill into law, the US became the first country to impose a temporary moratorium on landmines, and what seemed like a leader in banning landmines globally.

President Bill Clinton

The years leading to the Ottawa Convention took place under the administration of President Bill Clinton. In the early stages of landmine advocacy, the United States wanted to assert leadership on achieving a global ban on AP mines. Although President Clinton was adamant for the cause at the beginning of his first presidential term, the US lost its leadership role as the global community favored the Canadian-lead Ottawa Process over the other forums the United States tried to employ.
The US showed little support for the Ottawa Process, and its decision to send delegation to the Oslo negotiations came at the last minute. At Oslo, the US was unable to negotiate changes to the treaty, and the Ottawa Convention was created without its participation.

**Landmine Moratorium Extension Act of 1993**

Throughout 1993, Leahy and Evans continued to make landmines a priority in both the Senate and House, and President Clinton signed important landmine legislation into law. On July 22, 1993, Evans introduced a bill to extend the landmine moratorium by three years. This bill came to be known as the “Landmine Moratorium Extension Act of 1993” (H.R.2706). The moratorium was successfully extended when President Clinton signed the National Defense Authorization Act for Fiscal Year 1994 into law on June 14, 1993 (H.R. 2401). In addition to extending the moratorium by three years, the bill asked the President to submit the 1980 CCW to the Senate for review for ratification, in order to allow the United States to negotiate a modification to Protocol II to limit the use of landmines.

The National Defense Authorization Act for Fiscal Year 1994 contained very negative language regarding landmines, and encouraged the US to lead the movement in getting the weapon banned. Section 1094, subsection b, paragraph 1 states:

> Anti-personnel landmines, which are designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers around the world. Hundreds of thousands of noncombatant civilians, including children, have been the primary victims. Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing massive suffering to civilian populations. (H.R.2401)
Congress condemned landmines because of the problems they cause to civilians after the end of a conflict. The US acknowledged that they are indiscriminate, and have caused civilians to be maimed or killed. In addition, the bill proclaimed the United States as a leader in the movement. Paragraph 11 of the same subsection says:

The United States should continue to set an example for other countries in such negotiations by extending the moratorium on sales, transfers and exports of anti-personnel landmines for an additional three years. A moratorium of this duration would extend the current prohibition on the sale, transfer and export of anti-personnel landmines a sufficient time to take into account the result of a United Nations conference. (H.R. 2401)

The United States aimed to stigmatize the use of landmines, and hoped other countries would be inspired by its example to enact similar legislation. It prided itself on extending the moratorium it already had in place, and challenged other countries to do the same. The US saw itself as the leading nation that would accomplish a ban on landmines through a UN conference.

The Eventual Elimination of AP Mines

President Clinton famously called for the “eventual elimination” of landmines in his address to the 49th Session of the UN General Assembly (UNGA) on September 23, 1994:

And today I am proposing a first step toward the eventual elimination of a less visible but still deadly threat: the world's 85 million antipersonnel land mines, one for every 50 people on the face of the Earth. I ask all nations to join with us and conclude an agreement to reduce the number and availability of those mines. Ridding the world of those often hidden weapons will help to save the lives of tens of thousands of men and women and innocent children in the years to come. (Clinton)
In this address, President Clinton made an even stronger commitment to the landmine problem by not just calling for a ban of the weapon, but for their complete elimination. The White House sent out a press release that same day, announcing President Clinton’s plan for a “landmine control regime.” Under this policy, Clinton planned to work multilaterally to help solve the problem of landmines. By combining export, production, and stockpiling restrictions on AP mines, the proposed regime aimed to reduce the overall availability of AP mines, reduce reliance on the types of AP mines that cause the greatest danger to civilians, and reinforce the restrictions on landmines stated in the CCW (Fact Sheet). The policy also encouraged other nations to pass landmine moratoria, emphasized the US’s continued efforts to negotiate further mine restrictions through the CCW, and proclaimed the US’s plan to aid other nations in clearing mined areas.

Clinton’s landmine control regime prevailed as US landmine policy until the following year. On July 27, 1995, the U.S. Department of State Bureau of Public Affairs released a fact sheet titled, “U.S. Initiatives for Demining and Landmine Control.” It described a four-track strategy the United States planned on implementing in order to help the problem of landmines. First, it called for de-mining initiatives. The US would assist the de-mining programs in multiple countries worldwide by educating and training the local people in mine awareness and clearance. Second, the US ratified the CCW on March 24, 1995 so it could fully participate in the First Review Conference of the CCW with the intent to strengthen the treaty’s rhetoric on landmines in Protocol II. Third, the US emphasized landmine moratoria, and encouraged other countries to pass similar legislature. Fourth, it called for the establishment of an International Anti-Personnel Landmine Control Program, a
program the United Kingdom (UK) and US would work jointly on in order to develop alternatives to make the “eventual elimination” of landmines possible (Bureau of Public Affairs). Clinton’s landmine control regime was discussed at a meeting of thirty-one countries in Budapest on June 29-30, 1995. Here, the US and UK teamed up to create this twelve-point program focused on cutting stocks and exports of AP mines, with the suggestion of replacing them with smart mines. This program would later hit a dead-end at the First Review Conference of the CCW (Wareham 221).

On May 20, 1996, President Clinton launched his personal international campaign to ban AP mines. However, this four part campaign contained measures that did not comply with the stance of the ICBL, and did not have the aim to eradicate landmines. First, President Clinton ordered the US military to stop using “dumb” or persistent mines everywhere except in Korea. The US allowed the exception for Korea in order to protect its security interests. Second, Clinton announced that the US maintained the right to use smart mines. The ICBL’s goal of a global ban on AP mines included both dumb and smart mines. However, President Clinton claimed smart mines were necessary in order to save the lives of American armed forces. Third, President Clinton directed the Department of Defense (DOD) to examine alternatives to mines. Lastly, he also directed the DOD to develop technology for mine-detection and clearance. (Garamone).

The Conference on Disarmament

The Conference on Disarmament (CD) was established in 1979 as “the single multilateral disarmament negotiating forum of the international community” (An Introduction to the Conference). This UN conference has an established reputation of passing arms control treaties. A few of the treaties the CD and its preceding forums
have negotiated include the Treaty on the Non-Proliferation of Nuclear Weapons (1968), the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (1972), the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (1993), and the Comprehensive Nuclear-Test-Ban Treaty (1996). An article by Vinothan Naidoo and Penny McMillin acknowledges the credibility of the CD and regards it as "the disarmament negotiating forum of the UN and is favoured by those states who view the [AP mine] debate primarily as a security issue with a humanitarian dimension" (2). In addition to having successfully passed treaties banning inhumane weapons in the past, the CD has the advantage of its members (total of sixty-one in 1997) representing all major geographic areas.

On January 17, 1997, the Clinton administration announced its plans to achieve a landmine ban through the CD, as opposed to joining the Ottawa Process. The reasoning behind this was the lack of participation of important anti-landmine ban countries: Russia and China. The two nations had already announced they had no intention to participate in the Ottawa Process. As two of the world’s largest mine producers, the US felt that a landmine ban treaty without their participation was inadequate. Since both countries were part of the CD, the Clinton administration decided to negotiate a ban treaty through this already established conference (Walking). Bob Nell, the National Security Council Senior Director for Defense Policy and Arms Control at the time, said:

[O]ur best shot at this in terms of achieving the president's goal of a global ban—not just a ban among some countries but a ban that really touches the countries that are causing the problem on different continents around the world—is to take it to the CD where we have a
proven track record…we think we can get a landmines agreement out of the CD. (Walking)

The US believed that an international agreement on landmines without the participation of major landmine producers had no merit. Therefore, the US decided against joining the Ottawa Process, and proceeded to use the CD to negotiate further restrictions on AP mines.

Despite the CD’s past success in negotiating military treaties, an AP mine ban treaty was not negotiated through this forum. The 1997 "Report of the Conference on Disarmament to the General Assembly of the United Nations" shows that the CD meeting made very little progress towards an AP mine ban. The report notes that President Bill Clinton submitted two letters to the CD dated January 21, 1997. Although multiple delegations submitted proposals for the mandate of an ad hoc committee, no such committee was created (Report on the Conference of Disarmament). The CD was eventually rendered inactive since the outcome of the Ottawa Process would be known soon (Wareham 228). With the US unable to negotiate an AP mine ban through the CD, it was forced to turn its attention back to the initiative of the Ottawa Process.

Resisting the Ottawa Process

As can be seen through efforts to negotiate through the CD, the Clinton administration was very resistant to the Ottawa Process. The United States decided not to send a delegation to the June 24-27 Brussels Conference of 1997. However, US delegates held private meetings outside the building the conference was taking place in (J. Williams 218). Since the US was not in attendance at the conference, it did not sign the Brussels Declaration, and did not have the intention to send a delegation to negotiate in Oslo. However, on August 18, 1997, the Clinton administration
announced its decision to send delegates to the conference (Wareham 231). President Clinton planned on sending a US delegation to the conference with provisions that were non-negotiable.

The US delegation at Oslo was headed by Eric Newsom, Principal Deputy Assistant Secretary of the Bureau of Political-Military Affairs in the Department of State, and Senator Leahy’s former chief of staff (Wareham 231). Newsom made it clear that the US would only participate in the treaty if it received the following five demands:

1. A geographic exception for AP mines in the Korean Peninsula
2. The redefinition of AP mines to enable the US to keep its mixed AP and AT mine systems
3. EIF of the treaty only after ratification by sixty countries (including all five permanent members of Security Council and 75% of historic producers and users of AP mines)
4. An optional 9-year deferral period for compliance with certain provisions of the treaty
5. A "supreme national interest clause" that allowed the US to back out of its treaty obligations if it believed they interfered with its national security interests (Wareham 231).

The US expected its participation in the treaty was highly desired, and as a super power, it would have enough leverage to have its demands successfully negotiated into the treaty. However, instead of intimidating other nations to go along with the US, its all-or-nothing attitude only isolated and embarrassed the US at the conference (Wareham 231). With the end of the conference drawing to a close, the US was forced to ask for a twenty-four hour delay period. However, the twenty-four hour delay period that was granted turned into a four day break in the negotiations since the US made the request before a weekend, and the following day was an election day (J.
Williams 221-222). When the conference reconvened, the US was still unwilling to negotiate on any of its previsions, and nations in attendance were still unwilling to compromise. As a result, the US was forced to withdraw from negotiations, and an AP mine ban treaty was passed without American participation. Mary Wareham surmised that the US failed in negotiating in Oslo because it had miscalculated the Ottawa Process. The US was wrong to believe that it could enter negotiations with an agenda to make last-minute changes (Wareham 235). US delegates had underestimated the emerging form of diplomacy of the Ottawa Process and the role of NGOs (Wareham 234). At the Oslo negotiations, the US was treated as any other nation because the Ottawa Process placed less value on a country’s size and power, regardless of its importance in the past.

On September 17, 1997 President Clinton announced the US’s refusal to sign the Ottawa Convention at a White House Press Conference:

Unfortunately, as it is now drafted, I cannot in good conscience add America's name to that treaty….Our nation has unique responsibilities for preserving security and defending peace and freedom around the globe….As commander in chief, I will not send our soldiers to defend the freedom of our people and the freedom of others without doing everything we can to make them as secure as possible. (Clinton)

Clinton continued to speak on three of the five provisions the US refused to back down on during the Oslo Negotiations. In regards to the nine-year period delaying the EIF of the treaty, Clinton said the US needed more time to phase out AP mines in order to properly protect our armed forces and develop alternative technologies to the weapon. Second, Clinton explained that the treaty would not have allowed US mixed AT mine systems, which our armed forces rely on to delay the enemy in battle. Lastly, he emphasized the US need to maintain mines in Korea. If North Korea were to attack,
AP mines would provide an “overwhelming numerical advantage” in slowing down its advance (Clinton). Clinton claimed that AP mines in Korea are contained within the DMZ, and pose no threat to villages or civilians there. Therefore, he concluded that the mines in the Korean DMZ are not part of the global landmine problem that the international community was trying to solve.

**Presidential Decision Directive 64**

In May of 1998, President Clinton outlined another set of landmine goals for the United States in his Presidential Decision Directive (PDD 64). This policy included five milestones the President wanted the US to reach regarding landmines:

1. The destruction of all persistent AP mines by 1999, except those needed in Korea
2. The end of all use of AP mines, including smart mines, by the US outside of Korea by 2003
3. The aggressive pursuit of the objective of having alternatives to AP mines in Korea by 2006, including smart mines
4. The aggressive pursuit of alternatives to mixed AT mine systems by actively exploring the use of AP mine alternatives in place of self-destructing AP sub-munitions currently used. The US would also explore the development of AP mine technologies and/or operational concepts to enable the US to completely eliminate AT mine systems altogether
5. US signing the Ottawa Convention by 2006, if all efforts to identify and field suitable alternatives to US AP mines and mixed AT systems are possible by then (Humanitarian Demining).

President Clinton set clear, fast-approaching deadlines for the US to progress towards accession to the Ottawa Convention.

Although the United States was committed to banning AP mines at the beginning of the landmine ban movement, it changed its position when it realized it
would not be able to set the terms for which types of mines would be included in this ban. Presidential Clinton made banning AP mines a priority during his time in office. Although he intended to lead the movement to place an international ban on landmines, he felt that he could not compromise the security of our armed forces or US security interests in Korea to do so.

**President George W. Bush**

Just as President George W. Bush acted more unilaterally during his time in office, he also veered away from Clinton’s landmine policy. Banning AP mines was not a goal of President Bush’s agenda. There was no progress in US accession to the Ottawa Convention, as President Bush declared the US would not be giving up the use of smart mines, and preferred the Amended Protocol II of the CCW. Under President Bush, the US stopped trying to be in line with the Ottawa Convention. Considering the context of the 9/11 terrorist attacks and wars in the Middle East, it can be seen that US landmine policy placed greater value on national security as Bush encouraged the use of smart mines during his presidency.

**Equality of the CCW**

A letter written to Representative James McGovern by Assistant Secretary of State for Legislative Affairs Paul Kelly, demonstrated the Bush administration’s unwillingness to give up landmines. Kelly wrote that the Bush administration needed to “examine the need for landmines on the modern battlefields of the future…The United States bears unique security burdens and cannot undercut the effectiveness of [its] military on the way to that future” (Bush Team). The “unique security burdens” Kelly mentioned were the threat of North Korea and its obligation to protect South
Korea from possible attack. Kelly continued by saying that the US is already a State party to the Amended Mines Protocol of the CCW, which in his opinion was “equally important” to the Ottawa Convention (Bush Team). According to Kelly, the CCW was the most appropriate international treaty regarding mines because it successfully balanced the need to protect US armed forces while also minimizing risks to citizens. Kelly’s letter concluded that while the US wanted to continue being a leader in solving the humanitarian concerns that landmines pose, the US would not sacrifice them if it jeopardized national security (Bush Team). The feelings Kelly expressed in this letter correspond to the landmine policy Bush announced three years later.

Bush Landmine Policy

On February 27, 2004, the Bush administration announced a new US landmine policy. This policy, meant to protect both armed forces and civilians alike, was described as significantly different from previous landmine policies, but still intended to ensure that the US was the world’s leader in mine action. The fact sheet released by the U.S. Department of State Bureau of Political-Military Affairs declared mines as a weapon that caused humanitarian problems based on two main characteristics: persistence and hard detectability. It named mines as the only conventional weapon which, when functioning as designed, are lethal for a period of time after activation. While their persistence has a military purpose of hindering or influencing adversary movement, it is their longevity after combat has ended that causes these persistent mines to “become not military assets but humanitarian liabilities” (Landmine Policy White Paper). Second, mines that are made with less than eight grams of iron or of another metallic equivalent are not detectable by the metal detectors which are the primary tools for mine detection. This makes landmines a post-combat hazard to
civilians. Additionally, it makes mine clearance both more difficult and costly. The Bush administration focused on the humanitarian concern posed by dumb AP mines that are not composed of enough metal to be detected through common mine clearance tools.

President Bush’s landmine policy endorsed the use of smart mines because they have two features that the US government believed mitigated the humanitarian concern landmines cause. First, US landmines have a self-destruction (SD) design, in which they contain a timing device that will explode the mine after a period of time. This period of time ranges between four hours to fifteen days. The US believes this mine mechanism is extremely reliable. One hundred percent of the electronics of every mine are non-destructively tested before they are accepted. Second, many US mines have a self-deactivation (SDA) feature, a backup process that would occur in the unlikely event that a smart mine fails to self-destruct. All US mines contain a battery that is designed to have a limited lifespan of ninety days. After this battery life is exhausted, the mine cannot be detonated. Both SD and SDA mines have been tested extensively under a variety of conditions, including shock, vibration, high and low humidity, high and low temperature, and chemical exposure (Landmine Policy White Paper). Because of these two features of smart mines, the US deemed them as a humanitarian-safe landmine option.

This new landmine policy, which was meant to be more comprehensive than previous policies, was to be enacted in two phases. Until the policy was fully implemented, the US would prohibit the use of dumb mines outside the Korean Peninsula, unless otherwise authorized by the President. After 2010, Korea and any other geographic exception would also be exempt from dumb landmine use. The Bush
administration viewed this landmine policy as more comprehensive than past landmine policies because it targeted any mine that was persistent and non-detectable. While the Amended Protocol II of the CCW already bans non-detectable AP mines, the new landmine policy would extend this restriction to anti-vehicle (AV) mines as well. President Bush’s landmine policy criticizes the Ottawa Convention for allowing persistent AV mines. In addition, Bush landmine policy believed that the use of SD/SDA technologies posed less of a humanitarian threat than allowing any type of persistent mine, AT and AV mines included.

President Bush’s landmine policy appeared to shift the focus of the landmine issue. It changed the focus from AP mines in general by blaming the cause of the global landmine issue on certain characteristics of mines. It targeted mines that are persistent and non-detectable as the root cause of humanitarian concern. Bush’s landmine policy also shifted the blame of the landmine problem from state actors to rebels. The Bureau of Political-Military Affairs pinned a lot of the humanitarian concern from landmines on rebel groups, and not on government militaries. The fact sheet asserts:

Complicating the hazards posed by persistent, non-detectable landmines has been their employment by unprofessional, untrained and undisciplined militant groups that have often used landmines not as a weapon of war, but as a weapon of terror….Sadly, in the last thirty years rebel groups, terrorists, and unscrupulous governments have deliberately used mines against civilian populations. (Landmine Policy White Paper)

The Bush administration tried to shift the focus away from state governments using landmines by blaming the global landmine issue on rebel groups. This shows President Bush’s intent to move US landmine policy away from the Ottawa Convention, and instead build upon the Amended Protocol II of the CCW.
Under President Bush, the US claimed to be a leader in the landmine issue by looking at the global landmine problem in a different way. However, it is hard to see the US as a leader in solving the humanitarian landmine problem when it is outside the Ottawa Convention. President Bush’s landmine policy sharply veered away from President Clinton’s intentions for the US to eventually accede to the treaty. It disregarded it outright by valuing the use of smart mines, which is prohibited under the Ottawa Convention. President Bush’s changes to US landmine policy can be understood by taking into account the international context of the time. President Bush backed away from the Ottawa Convention so the US could continue to use smart mines in warfare. Less than three years after the 9/11 terrorist attacks and in the midst of wars in the Middle East, Bush valued national security interests and the protection of our armed forces abroad.

President Obama

President Barack Obama’s presidential campaign platform for election in 2008 centered on change. One such change was the promise to bring human rights back on to the political agenda of the US, and to restore our nation’s reputation as a leader in human rights. However, when President Obama took office, he continued the landmine policy of his predecessor. He ordered a review on the Ottawa Convention, which after seven years is still incomplete. Current events in the news show that the US is making progress to achieve the stipulations of the treaty, but it still doesn't appear that the US is willing to give up AP mines completely.
Keeping Bush’s Landmine Policy

In 2005, then-Senator Barack Obama wrote to a constituent that landmines cause “horrific injuries and loss of life,” and that he would use his power to help the US become party to the Ottawa Convention (Bender). However, when Barack Obama entered the White House, he announced that he would not be changing the landmine policy that was implemented by President Bush. On November 24, 2009, Ian Kelly, a spokesman of the US State Department, announced that the US was not going to change the current landmine policy. Kelly said:

The administration undertook a policy review and we decided our landmine policy remains in effect. We made our policy review and we determined that we would not be able to meet our national defense needs or our security commitments to our friends and allies if we sign this convention. (Keyes)

The commitment Keyes referred to is US security interests of South Korea. This announcement was made a few days before the Second Review Conference of the Ottawa Convention, which was held in Cartagena, Colombia from November 29 to December 4 of 2009.

Daniel Dombey wrote about the announcement in his article, “Bush Landmine Policy Stays.” He critiqued President Obama for a political agenda more similar to that of President Bush than his supporters had hoped for. He reported “the substance of US policy remains as under the Bush administration: a focus on developing self-deactivating landmines designed to avoid any threat after use in battle” (Dombey). At the beginning of his time in office, President Obama enacted no change on US landmine policy. The US officially still encouraged the use of smart mines, showing that President Obama did not have immediate plans to move the US closer in the direction of acceding to the Ottawa Convention.
Back on Track

After Obama’s unexpected announcement of his intention to keep Bush landmine policy in place, the US slowly started to show its returned support for the Ottawa Convention. The Landmine and Munition Monitor, a joint effort of the ICBL and the Cluster Munition Coalition, reports that since the Second Review Conference in 2009, the US has been an active participant in meetings of the Ottawa Convention by attending every Meeting of States Parties as an observer (United States). Meetings of States Parties occur twice a year. At these meetings, the ICBL, state governments, and IOs analyze the progression of the universal implementation of the Ottawa Convention (Treaty Meetings). Most importantly, the US decided to attend the Third Review Conference of the treaty, where the US had a very important announcement to make regarding its landmine policy.

The Third Review Conference of the Ottawa Convention took place in Maputo, Mozambique on June 27, 2014. At the conference, American Ambassador Douglas M. Griffiths made a significant announcement that the US was taking steps that would eventually enable the nation to join the treaty. He proclaimed that the US would stop all production and acquisition of AP mines, not replace expired mines with new ones, and reduce its current stockpile by a total of ten million mines. In addition, Griffiths announced that the US was “diligently pursuing solutions that would be compliant with the convention and that would ultimately allow us to accede to the convention” (Gladstone). Six years after President Obama entered office, the Obama administration finally changed US landmine policy from the one enacted by President Bush.

Further changes on US landmine policy were announced just a few months later. Obama delivered a speech at Clinton's Global Initiative on September 23, 2014,
the 20th anniversary of President Clinton’s speech to the UNGA calling for the “eventual elimination” of landmines. He praised the effort to get landmines banned by Jody Williams and Senator Patrick Leahy, and announced that the US would not use any type of AP mine, except in Korea. He said:

> Tireless advocates like Jody Williams fought for the Ottawa Convention; leaders like Patrick Leahy have led the charge in Washington. Twenty years ago, President Clinton stood at the United Nations and pledged that the United States would work toward the elimination of these landmines, and earlier today, we announced that we will take another important step. Outside of the unique circumstances of the Korean Peninsula — where we have a longstanding commitment to the defense of our ally South Korea — the United States will not use anti-personnel landmines. (Obama)

The White House released a fact sheet stating the changes America had made to its landmine policy. This release stated that the US was aligning its landmine policy with the provisions of the Ottawa Convention, and would do the following with the exception of Korea:

(1) not use APL outside the Korean Peninsula;

(2) not assist, encourage, or induce anyone outside the Korean Peninsula to engage in activity prohibited by the Ottawa Convention; and

(3) undertake to destroy APL stockpiles not required for the defense of the Republic of Korea. (Fact Sheet)

With this announcement, the US became the closest it ever has been in following the terms of the Ottawa Convention. No longer concerned with retaining the use of smart mines, the US announced that the only place it believes it still needs landmines is in the Korean Peninsula.

Obama’s recent announcements in US landmine policy give the world hope that the US will finally become party to the Ottawa Convention. However, there is still
the problem of landmines in the Korean peninsula. US persistence in retaining mines for the protection of South Korea is evident in the landmine policies of all three presidents. It raises questions as to whether the US will soon give up mines in this part of the world, or if it will remain outside of the Ottawa Convention until it finds an acceptable alternative to landmines in Korea. Although Obama changed US landmine policy just a few months after the Third Review Conference of the treaty, it took him six years in office to make those changes.

The Exception of the Korean Peninsula

A major road block to the US acceding to the Ottawa Convention is Korea. In every US landmine policy to date, the US has explicitly stated its right to maintain the use of landmines in the Korean peninsula. The US has continually reiterated its commitment to South Korea, and its obligation to help the nation in the event of a North Korean attack. Looking at the multi-faceted relationship between the US and the ROK gives insight as to the reasons Korea has been highlighted in every US landmine policy.

US-South Korea Relations

The United States and the Republic of Korea (ROK) have had a close relationship since the United States entered the Korean War in the 1950s. Phil Williams traced its long-standing commitment to South Korea by looking at the Mutual Defense Treaty between the United States and the Republic of South Korea, which was signed by both parties in 1953. This treaty has no specified time duration, but can be ended by either party with twelve months’ notice (P. Williams 193). Williams stresses the importance of Article 2, Article 3, and Article 4 in understanding
the relationship between the two countries. Article 2 links the security interests of the
US and the ROK:

The Parties undertake to settle any international disputes in which they
may be involved by peaceful means in such a manner that international
peace and security and justice are not endangered and to refrain in their
international relations from the threat or use of force in any manner
inconsistent with the Purposes of the United Nations, or obligations
assumed by any Party toward the United Nations. (Mutual Defense)

The US and the ROK agree to refrain from using violence to solve international
conflicts, and use peaceful means instead. Article 3 says that an armed attack in the
Pacific area on either the US or the ROK should be regarded as an attack on both
countries:

Each Party recognizes that an armed attack in the Pacific area on either
of the Parties in territories now under their respective administrative
control, or hereafter recognized by one of the Parties as lawfully
brought under the administrative control of the other, would be
dangerous to its own peace and safety and declares that it would act to
meet the common danger in accordance with its constitutional
processes. (Mutual Defense)

Under Article 3, the US would regard an attack on the ROK as an attack on itself.
Lastly, Article 4 allows the US to have a substantial military presence in the ROK. It
states, “The Republic of Korea grants, and the United States accepts, the right to
dispose U.S. land, air and sea forces in and about the territory of the Republic of
Korea as determined by mutual agreement” (Mutual Defense). South Korea fully
agreed to have US forces in the country, and still agrees to their presence there today.
Williams believes that Article 4 was, “Designed to deter another North Korean attack,
this presence has tied the United States to the security of South Korea far more closely
than a treaty alone would have done” (193). He asserts that this part of the treaty,
which allows the US great military capacity in the country has solidified a unique, and close relationship between the US and the ROK that persists to this day.

Because of Korea’s geographical location between China and Japan, ROK is a serious security concern for the US. Williams writes, “In strategic and geopolitical terms, South Korea remains a key element in the United States system of forward-based forces in the Pacific, a presence that is still seen as essential.” (198). He states that although it is highly unlikely Russia and the US will fight over this geographic area in the future, the possibility cannot be entirely ruled out. The United States does not want a foreign power to control it, and other smaller countries in the Pacific region would prefer the ROK to be under the control of the US as opposed to in the hands of Japan or China (P. Williams 199).

The United States also has a strong economic relationship with South Korea. On June 30, 2007, the US and the ROK signed the United States-South Korea Free Trade Agreement (KORUS FTA). This is the first free trade agreement (FTA) the United States has made with a North Asian partner. After its EIF on March 15, 2012, KORUS FTA is expected to have major benefits for domestic exporters and an overall positive effect on the US economy. It gives US exporters the chance to sell more goods, services, and agricultural products from the United States to Korean consumers. Additionally, it reduces or eventually eliminates many Korean tariffs, and should boost US annual gross domestic product (GDP) (U.S.-Korea). In 2014, the United States did $44,544.0 million in exports to South Korea, and imported $69,605.7 million (Trade). In addition to our military alliance with South Korea, the United States has a strong economic relationship to the country as well.
Landmines in the Korean Demilitarized Zone

The DOD Dictionary of Military Terms defines a demilitarized zone (DMZ) as “A defined area in which the stationing or concentrating of military forces, or the retention or establishment of military installations of any description, is prohibited.” (Joint Education and Doctrine Division, J-7, Joint Staff). Such an area was created between the two Koreas after the Korean War ended in a stalemate in 1953 (Blush 137). This four by two hundred and fifty kilometer (Ohe 226) strip of land separates the two Koreas along the 38th parallel. It is estimated to be filled with at least one million mines (Landmine Monitor Report 2000). This is the one place the US refuses to give up AP mines. In addition to the US’s persistence, both the ROK and DPRK desire to retain the use of landmines, and both remain outside of the Ottawa Convention (Monitoring and Research Committee).

Fears of North Korean Aggression

The purpose of the US landmines deployed in the Korean peninsula is to protect South Korea from an invasion by North Korea, or the Democratic People’s Republic of Korea (DPRK). Seoul, the capital of the ROK, is only fifty-six kilometers from the DMZ (O’Neil). The primary fear is that the DPRK will invade the ROK by crossing the demilitarized zone, and take control of Seoul. While this fear is understandable, considering the fact that the North invaded the South in 1950, causing the outbreak of the Korean War, the current size and budget of DPRK’s military bring additional concerns.

In 2005, the DPRK had 1.1 million active duty personnel and its capital, Pyongyang, had reserves of 7,480,000 men (Blush 138). North Korean’s budget holds its military as a top priority. Its official military budget states that the country spends
$1.5 billion annually, but experts estimate that in reality, the DPRK allocates 25% of its GDP, or $5 billion, to military spending. According to the International Institute for Strategic Studies, in 2004 the DPRK had 80% percent of its firepower deployed within one-hundred kilometers of the DMZ. This includes 8,000 artillery pieces, 2,000 tanks, and 700,000 troops (Blush 139). Considering the high level of on-going tension between the ROK and DPRK, having this much firepower within such close proximity to the DMZ causes the US and the ROK to feel they need to be as readily prepared and adequately equipped for a possible invasion.

In the scenario of a North Korean invasion, it has been predicted that South Korea would be the decisive winner. Although the DPRK boasts a large military, its quality is well below that of the militaries of other nations, including that of South Korea. According to J. Antonio Ohe, the North Korean military is in poor shape. Soldiers are equipped with outdated weapons and using obsolete aircraft. In addition, the country-wide shortage of food as a result of heavy economic sanctions places the entire military in questionable health.

Cristoph Blush asserts that the threat posed by North Korea lessened considerably after the Korean War, especially during the first two decades afterwards. Even the sheer size of the DPRK military does not compare favorably with the superior military technology possessed by the ROK, not to mention its alliance with the US. The military balance changed as the ROK experienced economic growth, and as the DPRK simultaneously experienced economic stagnation (Blush 185). The DPRK also does not have a decisive advantage in the realm of nuclear warfare. Even though the DPRK has nuclear weapons while the ROK does not, the ROK is protected by the US nuclear umbrella through the security alliance established in the Mutual
Defense Treaty. A nuclear umbrella “refers to the guarantee of military protection that nuclear weapons armed states are seen to extend, if need be with nuclear weapons, to their non-nuclear weapons armed allies” (International Law and Policy Institute). Although the DPRK has a larger military than the ROK, because of the difference in quality between the militaries, conflict between the two countries would most likely result in a victory for the ROK if the DPRK ever launched an attack.

While South Korea and the US might be able to protect Seoul without the AP mines in the DMZ, the DOD has estimated that 10,000 individuals in or around Seoul would die without those AP mines in place (Ohe 230). The AP mines in the DMZ are meant to serve as a way to deter North Korean forces. Without the AP mines there to slow down their advance, cause their forces to divide, and inflict damage to personnel and equipment, there would be losses to ROK and US troops that may have been preventable. Although it is hard to predict future outcomes, a US president would not remove the AP mines in the DMZ knowing that it could potentially lead to the loss of American soldiers.
Chapter 3

THE LANDMINE BAN RACE

The United States has a reputation of being selective in the international human rights efforts it participates in. In regards to human rights treaties, the Ottawa Convention is only one of the many that the United States is not party to. The International Convention on the Elimination of All Forms of Racial Discrimination (1965) the International Covenant on Economic, Social, and Cultural Rights (1966), the Convention to Eliminate All Forms of Discrimination Against Women (1979), the Convention on the Rights of the Child (1989) and the Convention on the Rights of Persons with Disabilities (2006) are other human rights treaties that the United States has not ratified, despite their having wide support from the majority of the world’s nations. Like the Ottawa Convention, the US has specific explanations for not participating in each of these human rights treaties. Although the Ottawa Convention is not part of the seven core human rights conventions of the UN (of which the US is only party to four), the US has shown a tremendous desire to be party to the treaty. Especially considering the relatively recent changes in US landmine policy under Obama, it warrants the question as to why the US is trying so hard to become party to this human rights treaty, while it has ignored participation in others. This chapter offers possible suggestions that can account for the new US landmine policy and its efforts to accede to the Ottawa Convention.

Pressure from NGOs

Ever since the United States negotiated the use of smart mines during the conferences that lead up to the Ottawa Convention, NGOs have continued to say “not good enough” to US efforts to ban landmines. While every human rights treaty that the
US is outside of has NGOs that put pressure on the US government for its participation, the ICBL is a massive, united, international front composed of over one thousand NGOs world-wide. Human Rights Watch, a founding NGO of the landmine movement, continues to be especially critical of the delay of US accession. Although Obama’s new landmine policy takes the US the closest it has ever been to meeting the standards of the Ottawa Convention, Steve Goose, director of the HRW, chair of the United States Campaign to Ban Landmines (USCBL), and an active NGO representative during the Ottawa Process criticizes the continued exception the United States allows for Korea. He comments, “A geographic exception to the ban is no more acceptable today than when the treaty was negotiated” (US: Ban Landmines Everywhere). The voice of the ICBL has not quieted since the Ottawa Convention was created. This massive coalition, especially the USCBL, is still placing pressure on the US to place humanitarian concerns first, and accede to the treaty.

“No Loopholes, No Exemptions, and No Reservations”

This lack of US participation in human rights treaties may be partially explained through the phenomena of “American exceptionalism,” a concept that the US is different or special compared to other nations. This idea stems from our nation’s history in its unique founding as a republic strongly opposed to monarchy rule. Since then, American exceptionalism has been used to explain US actions and behaviors in a global context. In regards to the US and human rights, American exceptionalism has been defined as “the U.S. aversion to formal acceptance and enforcement of international human rights norm.” (Moravcsik 147). Andrew Moravcsik explains the paradox of American exceptionalism in human rights policy. While the US shows wide support and leadership in human rights issues, it is simultaneously a unique
rejecter of human rights treaties and other international human rights norms. When the US does ratify human rights treaties, it only does so “after long delay with greater substantive and procedural reservations than any other developed democracy” (Moravcsik 148). The US is extremely selective in which provisions of human rights treaties it chooses to adhere to, while it continues to lead efforts to address humanitarian concerns.

In regards to the Ottawa Convention, American exceptionalism can be seen in the actions of US delegation during the Oslo negotiations. The delegation came in with provisions that it would not comprise on, based on the assumption that pro-ban states would accommodate US demands in order to have the superpower’s participation in the treaty. However, the ICBL made it clear that it was in favor of a landmine treaty with or without the participation of the United States. The group adopted the saying “No loopholes, no exemptions, and no reservations” in response to US delegation trying to negotiate changes to the draft text (J. Williams 220). This same sentiment is evident in the treaty’s text. Article 19 of the treaty states, “The Articles of this Convention shall not be subject to reservations” (Convention). This is a unique stipulation, because many human rights treaties allow countries to sign and ratify treaties with reservations, which allow them to modify or exclude aspects of treaties’ articles. Had the Ottawa Convention allowed reservations, it is very likely that the US would have signed the treaty at the time of its creation.

The ability to sign the Ottawa Convention closed when the treaty entered into force on March 1, 1999, meaning the US would have to accede if it ever decided to be party to the treaty. While Article 19 prevented the US from signing the Ottawa Convention in 1997, and is currently preventing the US from acceding to the Ottawa
Convention today, it helps explain why the Obama administration has made recent changes to US landmine policy. As previously stated, Obama landmine policy completely aligns with the Ottawa Convention besides the geographic exception for AP mines in Korea. Under Article 5, after acceding, the US would have ten years to destroy the mines in the Korean DMZ. If a solution for AP mines in Korea is found, the US would be able to quickly accede to the treaty since its landmine policy would finally be in full accordance with the Ottawa Convention.

**Technological Developments for AP Mine Alternatives**

In 2001, the National Research Council conducted a study to find alternative technologies to replace landmines. This study was launched as a direct response to Clinton’s promise to make the US a participant of the Ottawa Convention by 2006. The report explored a variety of nonmaterial and material alternatives that could possibly replace landmines. Despite the variety in approaches, the NRC concluded that was no existing, simple weapon at the time that could serve as an AP mine alternative, and could only offer solutions for technologies that should be further researched. However, the report was very hopeful that an alternative to AP mines could be found if the US allocated the funds to develop certain technologies.

In “Alternative Technologies to Replace Antipersonnel Landmines,” the NRC reported that its study did not find an equivalent alternative to AP mines. George Bugliarello, Chair of the Committee on Alternative Technologies to Replace Landmines summarized the findings of the study:

> No simple device today can provide capabilities comparable to those of APL, both as self-standing devices and as a part of other systems. Devices currently under development include mine-like devices that do not explode automatically on contact and nonlethal devices that could
complement lethal devices and systems. Thus, the functions of today’s APL could be performed by a combination of devices, carefully planned tactics, and appropriate operational procedures. In some circumstances, however, replacing APL could lead to higher casualties to our ground forces and/or could reduce our military capabilities. (Committee on Alternative Technologies vii)

Beginning in 1997, the study initially had a two-track approach. Track I was led by the US Army, with the goal of finding alternatives for the non-SD mines in the Korean Peninsula. Track II was sponsored by the Defense Advanced Research Projects Agency, and focused on assessing long-term alternatives that could effectively prevent access to areas. In 1999, Congress then provided funding for Track III, which merged the goals of the two initial tracks. This track aimed to find existing new technologies and operational concepts that could be used as an equivalent alternative for: (1) non-SD AP mines, (2) AP mines used in mixed AT mine systems, and (3) mixed landmine systems, including AT mines equipped with anti-handling devices (Committee on Alternative Technologies 2). This increased government funding was likely the result of Clinton’s PDD64, which called for the alternative to AP mines in Korea by the year 2006. Throughout the report, it is cited that acceding to the Ottawa Convention as the driving force behind the study.

The study ended in nine conclusions. Four of these conclusions regarding AP mine alternatives are discussed below:

- Conclusion 1: United States’ inventory of SD and SDA mines are militarily advantageous and safe, but do not comply with the Ottawa Convention. However, AP mine alternatives that do comply with the Ottawa Convention may objectively cause more humanitarian concern than US SD and SA landmines (Committee on Alternative Technologies 2).

- Conclusion 2: New technologies developed after 2006 will create opportunities for the development of systems that surpass the
effectiveness of current AP mines, and also comply with the Ottawa Convention (Committee on Alternative Technologies 3).

- Conclusion 3: Alternative tactics or operational concepts cannot provide tactical advantages similar to those provided by AP mines by 2006 without a significant increase in force structure (Committee on Alternative Technologies 5).

- Conclusion 5: No fully equivalent alternative to mixed mine systems are likely to be available by 2006 (Committee on Alternative Technologies 7).

In Conclusion 1, the NRC echoed the rhetoric of the Clinton and Bush administrations by reiterating that US SD and SDA mines do not pose a great humanitarian concern. Even though these types of mines do not comply with the Ottawa Convention, they are more humanitarian than other mine systems permitted by the treaty. While Conclusions 3 and 5 state that no AP mine alternative would be available by 2006, Conclusion 2 provides hope that an AP mine alternative could be developed in the future. The NRC recommends that the US invests in new technologies for AP mine alternatives, with the optimism that developing these new technologies will lead to an alternative that is both more effective than current AP mines, and also compliant with the Ottawa Convention.

This faith in the development of technologies gives hope that the US will soon have an alternative to AP mines. Although the US has already agreed to no longer use both persistent and SD/SDA mines everywhere except in Korea, this promise may have been made with the hope that an AP mine alternative will soon be available. If the US replaces the persistent mines in the Korean DMZ with these new alternatives, US landmine policy will be fully compliant with the Ottawa Convention, which would allow the US to accede to it.
United States’ International Humanitarian De-mining Efforts

The US is the global leader in international humanitarian de-mining efforts. It is the largest financial supporter of humanitarian mine action, which includes mine clearance, medical rehabilitation, and vocational training for victims. The United States Humanitarian Mine Action Program was established under President Clinton when he signed the National Defense Authorization Act for Fiscal Year 1995 into law on October 5, 1994 (S.2182). It has provided over $2.3 billion in aid to over ninety countries (Fact Sheet). It has helped fifteen countries become free from the humanitarian impact of landmines, and has provided emergency assistance to support the removal or mitigation of landmines and other unexploded ordnance in more than eighteen countries. Additionally, it has provided assistive and other rehabilitation services to over 250,000 people in thirty-five countries through the U.S. Agency for International Development-managed Leahy war Victims Fund (Fact Sheet). Although the US failed to take the lead in negotiating a treaty banning landmines, and remains outside of that treaty to this day, the US remains the top leader in funding humanitarian mine action.
CONCLUSION

Anti-personnel landmines were singled out as early as the 1950s by NGOs as a weapon that causes both physical and economic devastation to civilians. As the global landmine crisis became more publicized, NGOs started to believe there was an urgent need for the weapon to be internationally banned. The ICBL raised awareness for the cause, and successfully petitioned governments to enact legislation on landmines. Through the international efforts of the ICBL and the multilateral action of governments, an international treaty that bans AP mines was achieved with the creation of the Ottawa Convention in September of 1997.

The US initially took the lead in the initiative to ban landmines by becoming the first government to place a moratorium on the export of AP mines. While the ICBL, along with the majority of pro-ban states began drafting a treaty through the Ottawa Process, the US resisted this unique form of diplomacy under the leadership of President Clinton, who instead tried to negotiate a ban through the already established forum of the CCW. When these efforts failed, the US joined the Ottawa Process by sending a delegation to Oslo with an agenda filled with inflexible demands. The US was unsuccessful in negotiating its terms into the treaty, and refused to sign the Ottawa Convention at its creation.

Throughout his presidency, Clinton showed broad support for the Ottawa Convention, and set goals in his landmine policies for the US to eventually accede to the treaty. However, President Clinton’s efforts were halted when President W. Bush assumed office. President Bush rejected the Ottawa Convention altogether, and put in place a landmine policy that emphasized the effectiveness of smart mines. Under our current president, the US has gotten back on the track of one day acceding to the Ottawa Convention. Although President Obama did not prioritize a reform in US
landmine policy when first elected, his recent changes align US landmine policy extremely closely to the Ottawa Convention. The US has stopped all use of both persistent and smart AP mines, excluding mines located in the Korean DMZ. The US has a distinctive relationship with South Korea, and strongly believes it needs to use AP mines in this region to protect this relationship.

The Ottawa Convention is only one of the many international human rights treaties the US has elected to not participate in. This trend of acting against the majority of the world in terms of human rights norms can be explained through the concept of American exceptionalism. Possible reasons the US is trying to accede to the Ottawa Convention while efforts in becoming party to other human rights treaties are stagnant include strong pressures from the ICBL, the lack of the ability to have reservations to the Ottawa Convention, and hope an equivalent AP mine alternative will be developed in the near future.

After analyzing the different US landmine policies that have been in place over a period of twenty years, it appears that the fate of the US acceding to the Ottawa Convention is in part at the mercy of the presidential election cycle. Although the Obama administration has made US landmine policy fully compliant with the Ottawa Convention, except for AP mine use in Korea, it is impossible to know if the next presidential administration will share the same attitudes in wanting to accede. In addition, an unforeseeable event may cause a change in US security interests, and call for a reevaluation of the need to use AP mines. It is unlikely that the US will accede to the Ottawa Convention under the leadership of President Obama, since an alternative to landmines in Korea will likely not become available before he leaves office. US accession to the Ottawa Convention will only take place if and when AP mine
alternatives are developed, under the leadership of a president that believes in the progression of the current landmine policy and the importance of the treaty.
REFERENCES


