

**Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects**

3 April 2024

English only

**Group of Governmental Experts on Emerging Technologies in the Area of Lethal Autonomous Weapons System**

Geneva, 4-8 March and 26-30 August 2024

Agenda item 5

Further consider and formulate, by consensus, a set of elements of an instrument, without prejudging its nature, and other possible measures to address emerging technologies in the area of lethal autonomous weapon systems, taking into account the example of existing Protocols within the Convention, proposals presented by High Contracting Parties and other options related to the normative and operational framework on emerging technologies in the area of lethal autonomous weapon systems, building upon the recommendations and conclusions of the Group, and bringing in expertise on legal, military, and technological aspects

**Chair's summary – First 2024 session of the GGE on LAWS**

**Submitted by the Chairperson**

*The Chairperson submits this summary, under his sole authority, with the intention of capturing his understanding of the work carried out during the first 2024 session of the Group and to maintain an informal record of proceedings to help inform the work of the Group in 2024 and ahead.*

**I. Background and procedural aspects**

1. This first 2024 session of the Group of Governmental Experts (GGE) on emerging technologies in the area of lethal autonomous weapons systems (LAWS) (hereinafter “the Group”) was opened by the Chairperson, H.E. Mr. Robert in den Bosch of the Kingdom of the Netherlands, on Monday 4 March 2024. It was then closed on Friday 8 March 2024.

2. The Group's mandate was decided by the 2023 Meeting of the High Contracting Parties to the Convention on Certain Conventional Weapons (CCW). The Meeting decided as follows: “That the work of the open-ended Group of Governmental Experts related to emerging technologies in the area of lethal autonomous weapon systems established by Decision 1 of the Fifth Review Conference as contained in document CCW/CONF.V/10, adhering to the agreed recommendations contained in document CCW/CONF.V/2, is to continue, to strengthen the Convention. In the context of the objectives and purpose of the Convention, the Group is to further consider and formulate, by consensus, a set of elements of an instrument, without prejudging its nature, and other possible measures to address emerging technologies in the area of lethal autonomous weapon systems, taking into account the example of existing Protocols within the Convention, proposals presented by High Contracting Parties and other options related to the normative and operational framework on emerging technologies in the area of lethal autonomous weapon systems, building upon the recommendations and conclusions of the Group, and bringing in expertise on legal, military, and technological aspects.” (CCW/MSP/2023/7, paragraph 20).

3. Prior to the first session, the Chairperson circulated an indicative timetable to better organize the work of the Group, containing the following topics: (1) Characterizations and definitions; (2) Application of international humanitarian law (IHL), including the relation of IHL with the concept of human control, judgement and/or involvement; (3) Risk mitigation and confidence-building measures. With the aim of making concrete progress during the first session on these three topics, the Chairperson invited delegations to provide their replies to a set of guiding questions corresponding to each of the three topics, and which are presented below. The answers to those questions were then compiled in a document shared with the Group before the first session (CCW/GGE.1/2024/CRP.1). The Group also had before it an agenda, which is contained in document CCW/GGE.1/2024/1/Rev.1, and which was adopted as orally amended to include the item on “Adoption of the report”.

4. After the general statements, the Chairperson shared, on screen, summaries of the replies to the guiding questions provided by States under each topic, as also shared in document CCW/GGE.1/2024/CRP.1, for consideration by the Group and to support the discussions.

5. During the first session, which gathered 81 High Contracting Parties, 1 Signatory State, 5 Observer States, 1 organization which has been granted observer status in the United Nations, 1 United Nations entity, the International Committee of the Red Cross (ICRC), 6 academic organizations and 15 non-governmental organizations, the Group held very substantive, technical and detailed discussions.

## II. Overview of discussions

### A. Characterizations and definitions

On the topic of “Characterizations and definitions”, delegations were invited to consider the following questions:

- Please provide a concrete explanation or characterization of what is considered an “emerging technology in the area of LAWS”;
- Based on that explanation or characterization, what functions of LAWS would be “autonomous”? How could “autonomy” be described or explained”?

6. Most delegations welcomed exchanges on this aspect and emphasized the need to have clarity on characterizations and/or definitions of LAWS to advance the Group’s work. Many participants stated that it was not possible to achieve the goal of the Group if there did not exist at least a basic common understanding on the weapon systems which would be prohibited and/or regulated under a possible future instrument. Overall, while some delegations insisted on having a precise definition of LAWS, for others a general characterization was sufficient to enable the Group to make further progress. Still some other delegations were of the view that neither a definition nor characterization were needed in order to discuss future measures, including prohibitions and regulations.

7. There were divergences on the need to continue using the term “lethal” when referring to autonomous weapon systems. Some delegations argued that the term “lethal” should be maintained, given that it is the terminology which was chosen when the mandate of the Group was decided, while others did not see the need for this term, as the term “lethality” does not find justification in IHL. These delegations explained that “lethality” was not an inherent property of a weapon system and whether the use of a weapon results in death is dependent on the weapon itself and the context in which it is used, among others. Furthermore, the use of a weapon described as “non-lethal” could also result in fatalities and permanent injuries; if the term is used to distinguish between “offensive” and “defensive” autonomous weapon

systems, it is not relevant because the rules of IHL apply to all acts of violence, whether in offense or in defense (as per Article 49 of Additional Protocol I to the Geneva Conventions).

8. Several delegations expressed the view that autonomy is on a spectrum, and that the need for prohibition or regulation of a weapon system with autonomous features would depend on its exact characteristics and effects. Other delegations expressed the view that the Group needed to come to an understanding on the distinction between “fully” autonomous and “partially” autonomous weapon systems and what may fall in between those two categories, such as “semi-autonomous” weapon systems. Many delegations promoted the idea of having an instrument based on this distinction: there would be a prohibition of “fully autonomous” weapon systems, and regulations regarding the use of “partially” autonomous systems. This was mainly based on the premise that it was not possible to use “fully” autonomous weapon systems in compliance with international humanitarian law, as the level of human involvement behind their use would not be sufficient. However, some delegations were of the view that it would be difficult to define a clear point of distinction between these different levels of autonomy. A view was also expressed that it was outside of the mandate of the Group to consider any type of weapon system other than “fully” autonomous ones.

9. Moreover, diverse views were expressed regarding whether autonomy would be considered a capability of a weapon system or an intrinsic characteristic.

## **B. Application of IHL, including the relation of IHL with the concept of human control, judgement and/or involvement**

On the topic of “Application of IHL, including the relation of IHL with the concept of human control, judgement and/or involvement”, delegations were invited to consider the following questions:

- Which elements/characteristics would make a LAWS incompatible with IHL? Does compliance with IHL depends on the use of LAWS in a specific context and if so, in which manner?

10. Many delegations referred to the need to rely on language already agreed by the Group, such as the Guiding Principles and conclusions adopted by the Group in past reports.

11. Most delegations reaffirmed that existing IHL applies fully to LAWS and referred to Guiding Principle (a) in this regard.<sup>1</sup> Notwithstanding, differences remained among delegations regarding whether new law is needed. Some delegations were of the view that current IHL is sufficient to deal with any possible challenges and risks raised by LAWS. Others argued that even though existing IHL rules and principles apply to LAWS and must consequently be observed by States, new IHL rules must be defined by the Group to address all potential risks associated with LAWS. Moreover, some delegations who saw current IHL as being sufficient considered that a new instrument was not needed, while others believe that a new instrument would be useful to specify how current IHL applies and/or to create new law.

12. Some delegations suggested that the Group could look beyond existing IHL rules and principles when developing future measures, including elements of an instrument that contains prohibitions and regulations with regard to LAWS, and referred to international human rights law and international criminal law.

13. Regarding how to determine which elements/characteristics would make a LAWS incompatible with IHL, several delegations said that (meaningful) human control, judgement

<sup>1</sup> Guiding Principle (a): “International humanitarian law continues to apply fully to all weapons systems, including the potential development and use of lethal autonomous weapons systems.”, Annex IV to CCW/GGE.1/2019/3.

and/or involvement was essential for compliance with IHL and to ensure that the development and use of LAWS remain in accordance with international law, in particular IHL. The necessity of ensuring that all weapon systems continue to operate within a responsible chain of human command and control was also underscored. Different elaborations of the concept of human control and judgement were presented by delegations in their statements. For some delegations, the level of control required would depend on several considerations, including the operational environment. Some delegations argued that it would be necessary to specify that human control should not be nominal, and therefore suggested to use the term human “agency” instead.

14. Delegations had different views of the point at which compliance with IHL would be ensured. Some delegations argued that respect for IHL lies with the users of the weapon systems, while others stated that a weapons system itself must be designed in a way that it can be used in compliance with IHL.

15. It was also suggested that the Group might benefit from considering in future discussions how existing IHL applies to LAWS, what measures are required to ensure compliance with IHL and, based on those analyses, identify whether/what new law is needed.

### C. Risk mitigation and confidence-building measures

On the topic of “Risk mitigation and confidence-building measures”, delegations were invited to consider the following questions:

- Please indicate a list of concrete risks and/or risk mitigation measures with regard to the development and use of LAWS;
- Please indicate a list of concrete confidence-building measures with regard to the development and use of LAWS.

16. Most delegations stated that it was necessary to clearly identify which kinds of risks the Group was discussing, to then address them comprehensively through mitigation measures. Several categories of risks were highlighted by participants, such as humanitarian, ethical, security and geopolitical, as well as technical and system security risks. Some delegations discussed more specifically the notion of algorithmic bias, and some underlined it was a difficult risk to address given that bias is something prevalent in societies.

17. Many delegations argued that risks could be reasonably managed through the establishment and implementation of risk mitigation and confidence-building measures at the national level, such as legal reviews. Participants also referred to the notion of human control, to refer to the necessary involvement of a human throughout the life-cycle of the weapon systems to minimize risks as much as possible. The view was also expressed that the Group should also discuss advantages that the use of LAWS could bring, for example for assisting military forces to better implement and comply with IHL by increasing precision of weapon systems and reducing errors caused by human operators.

18. Regarding mitigation and confidence-building measures, several delegations suggested that it could be useful to make a distinction between different categories of measures and that these could be included in a technical annex to an instrument on LAWS. Some delegations were of the view that such measures could not replace regulations and/or prohibitions on LAWS. Others indicated that they saw some of these measures as being part of existing legal obligations, such as the obligation to conduct weapons reviews for States Parties to Additional Protocol I to the Geneva Conventions. For most delegations, risk mitigation and confidence-building measures were complementary to prohibitions and regulations.

### **III. Way forward**

19. The Group also briefly discussed ideas for the way forward for the work of the Group in fulfilling its mandate. The Chairperson informed the Group that he would share his proposals on the intersessional period and the way forward post-session.

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