



LAWS at the CCW: Transparency and information sharing measures

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1. Introduction

Despite constructive debate over the last five days, further efforts to promote agreement on key aspects of the issues related to LAWS (technical, definitional, legal, ethical and military related) are needed.

To the extent that information about policies, intentions and capabilities can be made openly available, the space for discussion and debate will be easier to identify.

To narrow the gaps between current positions and create a constructive base for future negotiation there is a need for a more structured approach to transparency¹.

In the past, transparency measures have included both voluntary, unilateral actions by states as well as information sharing measures. Such measures can help to avoid possible misinterpretations or exaggerations that might otherwise arise. Promoting transparency has been one core mission of the Stockholm International Peace Research Institute since its foundation in 1966. SIPRI was originally established to provide an independent point of reference for information related to armament and disarmament as a contribution to enhancing understanding between East and West during the Cold War.

Today, I would like to make the case that is not too early to talk about possible transparency measures on LAWS, or to consider a more structured approach to information sharing. Better information about policies, programmes and capabilities in the areas of LAWS can help identify points of agreement, and also help pinpoint the areas of genuine disagreement or uncertainty that need to be the focus of further discussion.

During my presentation I will first present possible information sharing mechanisms that could be explored by the CCW to foster common understanding and to build trust between the states parties. I will then provide

¹ In the political realm, transparency can be defined as the extent to which 'information about governmental preferences, intention and capabilities is made (openly) available' Finel, B. I. And Lord, K. M-, 'Transparency and world politics', eds. B.I. Finel and K. M. Lord, *Power and Conflict in the Age of Transparency* (Palgrave: New York, 2000), p.3.

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concrete recommendations as regard the type of information that would be most valuable as of today to support future discussions.

2. Transparency and information sharing mechanisms to support the discussion at the CCW

It is probably too soon at the moment to launch a transparency initiative in an official framework using standardized formats at a regional or international level. The United Nations Register on Conventional Arms (UNROCA), for example, was only made possible after a dialogue on the scope of the exercise, the development of common definitions and agreed templates.

At this point transparency is more likely to be promoted through joint efforts linking a variety of different actors, including non-governmental actors, who have a shared interest in promoting a better understanding of current and future developments related to lethal autonomous weapons. This is an area where SIPRI has considerable experience—for example, by collecting data on an annual basis on military expenditure, arms transfers and nuclear forces. The data sets are made available on SIPRI's website and are used on a daily basis by governments, NGOs, journalists and academics.

In preparation for this meeting, SIPRI tried to collect data on how states approach the discussions on LAWS. However, our main finding is that there is very little official data available outside the statements that have been made in this forum (i.e. CCW). As far as we can tell, the USA and the UK are so far the only countries that have issued an official policy document related to autonomous weapons.

The first priority is to make sure that the official information describing the current state of play is collected systematically and made widely available. To achieve that objective there needs to be a system for harvesting information from states. Furthermore, to make sure that momentum is sustained in the discussion, the system should not depend on infrequent meetings. The purpose of future meetings like this one should be to assess the output of transparency initiatives, not to generate inputs.

The debate on LAWS requires expertise from various ministries (defence, foreign affairs) and different departments within these ministries (typically the departments in charge of disarmament issues and the department in charge of issues related to international law and human rights). From one country to another, the repartition of expertise and responsibilities on LAWS may vary to a great extent between ministries and departments. This fragmentation makes it difficult for government officials to identify relevant interlocutors in other countries.

The information system requires several elements.

1. Interested states should appoint a LAWS focal point within their own system. The focal point would be tasked with outreach to all relevant agencies and authorities within their own system, to build a comprehensive picture of current national thinking related to LAWS.

2. Interested states should create a point of contact (logically the focal point would also be the point of contact) who can provide other states with available information about the national approach to various dimensions of the LAWS issue.
3. There should be regular and structured meetings where national positions can be presented and explained.

Participation would be voluntary, and the primary objective of this system would be to facilitate understanding of national positions without a presumption of convergence or agreement. This system should be seen as a platform where relevant information would be shared to the benefit of all parties at the CCW, not held within the group.

3. Valuable piece of information that could be exchanged on a voluntary basis

Moving on from the issue of *how to share information* to the issue of *what information should be shared*, most States are still in process of understanding the issue: the nature of the technologies, whether they are strategically necessary and desirable and whether they need to be controlled or prohibited. Yet, considering the current status of the debate, it is our view at SIPRI that certain issues that should be the first focus of discussions.

There is a need for more transparency regarding weapons systems that have some advanced degree of automation/autonomy in their critical functions.

Development and acquisition. It would be valuable to understand how States ensure that they comply with the obligations established in Article 36 of Additional Protocol I. The article states that ‘In the study, development, acquisition or adoption of a new weapon, means or method of warfare, a High Contracting Party is under an obligation to determine whether its employment would, in some or all circumstances, be prohibited by this Protocol or by any other rule of international law applicable to the High Contracting Party’.

At the moment there is too little understanding of how states implement or could implement Article 36 in their national processes. States parties could answer some basic questions such as:

- Is there a formal weapons review procedure in place?
- If yes, who is responsible for the review?
- What kind of expertise and experts are involved in the process?
- What is the mandate of the institution in charge of the review?
- Are weapons reviews conducted from the sole perspective of IHL, or do they also take into consideration human rights law, disarmament law and international discussion that could lead to further prohibition?
- At what stage of the R&D process do the reviews of weapons systems take place?
- What kinds of testing and risk assessment procedures are conducted?
- Do the reviews take into account how the technology may evolve?

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- What kind of comments and recommendations is the weapon review committee empowered to make?

The exchange of such information would not only provide reassurance that States Parties are meeting their obligations, it could help identify best practices and contribute to the definition of standards that would later be useful for the legal review of LAWS. The methodologies used to review other weapons types could also be relevant, as could the methodologies used for technology assessment.

Transparency on the outcome of the Article 36 weapon reviews is a more problematic objective as it touches legitimate strategic and national security concerns. State Parties could, nonetheless, begin to explore what kinds of information they would be willing to share, and discuss how that information could promote understanding and provide a more solid platform for discussing the humanitarian and security impacts of new weapons.

Use. Explanations of the policies that apply to the use of existing automatic and automated weapons – e.g. fire and forget missiles or automatic air defence systems – would also be very valuable for future discussions at the CCW.

Information on current practice for existing weapons could inform the discussion of parameters for MHC for LAWS. What are the existing standard operating procedures? What are the parameters by which meaningful human control (MHC) is ensured? What is the relation between the human operator and the weapon system? Is the decision by the military commander to deploy and use these weapons in operation dependent on advice by a legal expert?

Procedures to ensure accountability in the use remotely-operated weapons and automatic weapons systems could perhaps be described. How would responsibility be assessed and assigned between the operator, military command or the developers of the systems if a violation of IHL is alleged? Here again, this type of information would be invaluable in helping to identify procedures that might be applicable to LAWS.

Conclusion

Information sharing could significantly improve future discussions.

SIPRI therefore recommends establishing a voluntary but regular and systematic information sharing mechanism to support the future discussion on LAWS at the CCW. The process should expand the archive of information and data about national approaches to various aspects of LAWS.

The information sharing should promote regular and focused dialogue, with an initial focus on 1) implementation of article 36 of the Additional Protocol I; and 2) existing national policies that apply to the use of weapons systems.