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Statement on Lethal Autonomous Weapons Systems (LAWS)  
Weapon Legal Review

by

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Thank you, Mr. Chairman.

We take the opportunity to thank the panelists for their rich and enlightening presentations.

It seems widely accepted that, like every other means of warfare, the use of LAWS is subject to the Law of Armed Conflict. Another observation that seems to be widely supported, regards the importance of conducting legal reviews of weapons, including LAWS. Israel would like to take this opportunity and join others in sharing a general overview of its national procedure for legal review of weapons.

Israel researches, considers, develops, and procures weapons and weapon systems for the use of the Israel Defense Forces in accordance with strict procedures. One of the requirements therein, embedded in binding directives of the Israel Defense Forces, is that the weapon in question undergoes a legal review as a part of the process.

The legal review is conducted by a military lawyer from the Military Advocate General's Corps of the Israel Defense Forces, with expertise in the Law of Armed Conflict and in other rules of international law applicable to weaponry. The legal review of the weapon considers its planned uses and the normal circumstances in which it is expected to be used. It is not necessary to foresee or analyze unusual application or misapplication of the weapon, which lies outside the scope of purposes for which it was acquired. This process involves a dialogue with operational, technological, health, and other experts, and relies on materials received from these experts, where relevant.

In order to determine the legality of the weapon under consideration, the legal review focuses on examining three questions:

- a. Whether the weapon in question is capable of being used discriminately;
- b. Whether the weapon is calculated to cause superfluous injury or unnecessary suffering;
- c. Whether the weapon falls within a category of weapons that has been specifically prohibited or restricted by an international

convention to which Israel is a party, or under customary international law.

In some cases the outcome of the review may be a finding that the weapon is not unlawful *per se*, but that its legal use is subject to specific restrictions arising out of the applicable rules of international law. In such cases, the reviewing authority will mandate that these restrictions must be integrated into operational directives governing the use of the weapon, should the weapon eventually be approved for use. The review may also advise on practical measures aimed to ensure compliance with the applicable law, such as training programs.

Procedures require that a legal review take place at a relatively early stage in the process, before the formal approval of a weapon project. In practice, the military lawyer will be consulted at even earlier stages, while considering whether to initiate a project in the first place. It is also possible that the military lawyer will accompany the project's team in an ongoing manner throughout the process, depending on the project's complexity, whilst advising on the development and testing process from a legal standpoint, and conducting the legal review in light of the issues which may arise during this process.

Notwithstanding that Israel is not a party to the First Additional Protocol to the Geneva Conventions, and as such is not bound by Article 36 of that Protocol, Israel is of the view that applying legal reviews to new weapons is the best instrument for a State to ensure that it uses only lawful means of warfare during armed conflicts.

Israel believes that the CCW framework is an appropriate forum for exchanges on this issue, hopefully with the result of identifying recommended best practices that would aid States in improving or establishing their own national procedures. Such recommendations should be sufficiently flexible and able to acknowledge different types of review models, so that States that have yet to establish their own national procedures, can take inspiration from the various available models of legal review and adopt variations that best suit their own national systems.

In addition to the legal review, another aspect that has been raised in this context is the need to test and evaluate a weapon before its deployment. Testing is, in principle, not new or unique to weapon systems with autonomous characteristics. It is an essential requirement not only for legal and humanitarian reasons, but also to assess and ensure the weapon's military utility. While true that testing of sophisticated weapon systems, including systems with autonomous characteristics, could require more resources, the end goal is identical – the weapon should be reliable and its operation should be predictable. It is presumable that States who plan to develop LAWS would also have the resources to test them and ensure they are predictable.

Another related question that has been raised during this session addresses the issue of accountability. In Israel's view, it is safe to assume that human judgment will be an integral part of any process to introduce LAWS, and will be applied throughout the various phases of the research, development, programming, testing, review, approval, and decision to employ them. LAWS will operate as designed and programmed by humans. In cases where employment of LAWS would involve a violation of the law, individual accountability would be sought in accordance with the law.

Thank you, Mr. Chairman.