



Remarks by ESTONIA

2018 Group of Governmental Experts on Lethal Autonomous Weapons Systems

First meeting: 9–13 April 2017

Agenda item 6(a). Characterization of the systems under consideration in order to promote a common understanding on concepts and characteristics relevant to the objectives and purposes of the Convention

Thank you, Mr Chair!

We would like to thank you, Mr Chair, for the helpful way in which you framed the debate under this agenda item yesterday and today. We also appreciate the statements made by other High Contracting Parties, as those have helped us better articulate our position.

Mr Chair,

We take the floor with the assumption that any characteristics of the systems under consideration identified at this stage are **solely meant to facilitate a discussion**. An agreed set of characteristics should not predetermine any future policy options.

One distinguished representative made the important observation yesterday that definitions are closely linked to values. We agree. Hence, there should first be consensus on the most appropriate solution to a perceived problem, and then definitions should be formulated to support and serve that solution. In short, policy should drive definitions, not the other way around.

That said, we consider an autonomous weapon system in the broad sense to be **any weapon system that can select and engage targets without human intervention**. This understanding aligns with the definitions put forward by some other High Contracting Parties and by the ICRC. At the same time, this definition is broader than the notion of LAWS as it has been used by a number of experts in this forum. In particular, the notion of LAWS appears to exclude weapon systems that have been described yesterday and today as automated or semi-autonomous.

However, we agree with the observation made by the distinguished representative of Finland that the boundaries of these categories remain blurry. As concerns the critical functions of target selection and engagement, weapons systems do not fall into neat categories but cover a spectrum.

- At one end of the spectrum are systems that have **no autonomy** in critical functions, even though they may be technologically quite advanced. This includes unmanned combat aerial vehicles – often called ‘drones’ – that are remotely controlled by human operators. These systems remain clearly outside the mandate of the GGE.

- In the middle of spectrum are systems that have **some degree** of autonomy in critical functions. This includes close-in weapon systems, which autonomously engage incoming targets matching a very specific threat profile. These systems have been used for decades without raising major legal or moral concerns.
- At the other end of the spectrum would be hypothetical systems with a very high degree of autonomy, such as the ability to learn and evolve.

LAWS refer to systems that lie towards this higher end of the autonomy spectrum. The difficulty, however, lies in deciding on a point on the spectrum where autonomy becomes legally and ethically problematic. We are not sure whether a suitable set of purely technical characteristics could be devised to definitively establish that point. Thus, a focus on human-machine interaction might be a more promising way ahead.

Mr Chair,

We agree with the distinguished representative of the ICRC that the focus of the GGE should be on increased autonomy in the critical functions of a weapon system, that is selecting and engaging targets. Thus, platforms that have, for example, the ability to navigate autonomously but rely on a human operator to make real-time targeting decisions, should fall outside the scope of our discussion.

Nevertheless, we should not forget that autonomy in other functions of a weapon platform may also raise issues under international law. For instance, a state would be in breach of its obligation under international law if it permitted an unmanned weapon platform to autonomously **navigate** into the airspace of another state without its consent. In the context of an armed conflict, the duty to respect neutrality would need to be considered while operating autonomously navigating systems.

Furthermore, **Article 57(1)** of Additional Protocol I to the Geneva Conventions has relevance here. This provision requires states to take constant care to spare the civilian population, civilians and civilian objects not just in attacks but in the conduct of military operations more generally. At the very least this suggests that the autonomous navigational functions of military platforms need to be developed with the safety of civilians in mind.

Autonomy in non-critical functions thus clearly raises some issues, but these can be adequately addressed within the existing legal framework.

Mr. Chair,

We would like to conclude by making an observation concerning the term ‘lethal’ which appears in the mandate of the GGE and that has been mentioned yesterday as one of the characteristics of the systems under consideration. We think that there should be more clarity about that aspect of our mandate.

Lethality is in our view not a defining feature of any weapon system, autonomous or otherwise. An instrument that is intended to cause **less-than-lethal** injuries to persons, or harm to objects, is nonetheless a weapon. Also, a weapon intended to be non-lethal may well prove to be lethal in certain circumstances.

Thus, we would welcome the views of other states and civil society groups as to what they mean by the term ‘lethal’ and what significance they place on it as a potential characteristic of the systems under consideration.

One possibility is that lethality refers to the systems being designed to engage human targets. If the GGE is in fact focused on **anti-personnel autonomous weapons**, that could be made clear by borrowing language from protocols of the CCW, such that our discussion is limited to systems ‘primarily intended to injure or kill persons’.

I thank you, Mr Chair!