



Remarks by ESTONIA

2018 Group of Governmental Experts on Lethal Autonomous Weapons Systems

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Agenda item 6(b) – Statement by Estonia

Thank you, Mr Chair!

We very much appreciate the candour with which the other delegations have expressed their views under this critical agenda item.

Mr Chair,

As a general matter, we agree with other High Contracting Parties and with civil society groups that human control and judgment are essential in the use of force. ‘Control’ and ‘judgment’ are, however, flexible terms, even when qualified by adjectives such as ‘meaningful’ or ‘appropriate’. Indeed, different experts in this forum have used the expressions ‘meaningful human control’ or ‘appropriate human judgment’ to signify different things.

We do not consider ‘meaningful human control’ or a similar notion to reflect a new or emerging norm of international law. Rather, a requirement of human control reflects existing international law and can be derived from it in the following manner.

The obligation to ensure respect for international humanitarian law ultimately rests with States. However, States are abstract entities that can only comply with international law through the acts of their agents – that is to say, human beings whose actions or omission are attributable to States. Furthermore, international humanitarian law is a branch of international law that also regulates the conduct of individuals directly. Most relevantly to our discussion, individuals who plan, decide upon and carry out attacks are duty-bound to comply with the rules and principles governing the conduct of hostilities.

Thus, either indirectly or directly, the focal point of international humanitarian law is the conduct of human beings in armed conflict. Weapons, including autonomous weapon systems, are instruments that human beings choose to use in the conduct of hostilities. These human beings must ensure that they use such instruments consistently with the law.

Accordingly, **each State and military commander must exercise such control over a weapon system as may be necessary to ensure the operation of that weapon system consistently with international law.**

We assume that States and military commanders in fact want to maintain more control over a weapon system. Indeed, individual combatants are rarely, if ever, allowed to operate to the full extent tolerated by international humanitarian law. Domestic law and military orders, including rules of engagement, curtail their ability to use force. There is little reason to think

that a military commander would want an autonomous system to be less tightly bounded. Nevertheless, the absolute minimum that international law requires is **human control appropriate for ensuring legal compliance.**

Mr Chair,

Human control can be exercised in various ways and at various times during the process leading up to engaging a target. Humans can exert influence on the operation of a weapon system not only by making real-time targeting decisions, but also through the design, programming, testing, procurement and deployment processes. Ensuring the appropriate cyber security of an advanced weapon system also amounts to an element of control.

We find it difficult to make a general statement about the nature and amount of human intervention required at each of these ‘touchpoints’. Much would depend on the capabilities of the weapon system and its intended use. Rather, we take the view that, the combination of all these human interventions must ensure that any application of force by the weapon complies with international humanitarian law.

With regard to an autonomous weapon system, perhaps the most critical ‘touchpoint’ is the decision to use the weapon system in conflict. The characteristics of the weapon and the operational context must be such that the commander has confidence in the performance of the autonomous weapon system within the confines of the law. If the commander has no such confidence, she must not authorise the use of the weapon or must operate it ‘manually’.

Mr Chair,

In any event, human control should not be equated to the ability of a human to manipulate every aspect of the performance of a weapon at the time the weapon is used. Human operators can sometimes achieve greater control over force by relinquishing some aspects of their ability to adjust the way in which the force is applied. Certain types of precision guided munitions, for example, have a high degree of accuracy precisely because of the reduced amount of interaction required between the operator and the weapon.

Thank you, Mr Chair!