

GGE on LAWS – 2019

“Human element” - Agenda Item 5 (d)

Intervention by Brazil

Brazil strongly believes that lethal autonomous systems should be understood as a function of the human element. As stated by many delegations, there should always be a human in the loop, with the prerogative and effective situational awareness and understanding of the system to make critical decisions, particularly those related to life and death, and with full capacity to interrupt autonomous processes.

We recognize the centrality of the human element, so that all critical decisions, especially target designation and use of force, must be made by humans to ensure accountability under international law. Brazil believes a legally binding instrument to ensure qualified human control over weapons systems is the most straightforward and natural development of this realization, which is widely shared.

The human element is the key to consider, understand and regulate the development, deployment and use of weapons systems with autonomous functions. The most practical approach to consider and respond to the challenges posed by LAWS is the in-depth consideration of the interplay between the human commander or operators and the specific autonomous features of weapons systems. The concepts of control by design and control in use can be useful to that end, as they encompass engineering and military aspects from development to fielding. Notwithstanding, the brunt of IHL obligations relates to the use phase, particularly to the decision to engage, and so it must remain as the primary reference for further work.

It has been repeatedly recognized in the CCW discussions on this issue thus far that the human element is the key to characterize LAWS and to deal with the challenges posed by them. We reiterate therefore what we have stated during the opening: those two agenda items (human element and characterization) should have been kept together to facilitate our discussions.

Mr chairman,

We should bear in mind the results we achieved in our latest discussions on this topic. Human control was at the epicenter of our discussions during 2018. We have managed to build consensus on the centrality of the human element, even though this consensus remains generic in nature and is subject to differing interpretations and terminologies. This emerging consensus must be deepened and reinforced, with a view to concrete decision making,

This understanding was articulated in concise terms in the working paper Brazil presented to the second session of the 2018 GGE, and remains valid in our view.

The human element is what binds autonomous systems to Humanitarian International Law, since it provides a subject for accountability. In other words, IHL is only applicable to LAWS as long as there is someone to be held accountable. Therefore, the human element is not only

the essential concept in understanding the limits and challenges of weapons systems with autonomous functions, but also the element that ensure its compliance to existing norms.

Mr chairman

As we seem to approach a common ground regarding the centrality of the human element, we should move forward and build upon this lest we lose the work done so far. On this regard, Brazil has proposed, alongside with Austria and Chile, a mandate to negotiate a legally-binding instrument to ensure meaningful human control over all weapons systems.

To be actionable, this positive obligation would certainly have to be further refined and defined, with a focus on patterns of human-machine interactions, its operational consequences, and its legal meaning in terms of compliance. There is already a wealth of work on this issue to draw from, including the excellent work which has been carried out on critical functions by the ICRC. The critical mass is there to start negotiations, even though further refining must be carried out, particularly with regard to the type and degree of human control necessary. In fact, it is possible that this clarification can only be fully accomplished through structured negotiations, whereby all parties will work on the same basis and towards a common result.