

**Convention on Prohibitions or Restrictions on the
Use of Certain Conventional Weapons Which
May Be Deemed to Be Excessively Injurious
or to Have Indiscriminate Effects**

8 March 2023

English only

**Group of Governmental Experts on Emerging Technologies
in the Area of Lethal Autonomous Weapons System
Geneva, 6-10 March, and 15-19 May 2023**

Item 5 of the Provisional agenda

Intensify the consideration of proposals and elaborate, by consensus, possible measures, including taking into account the example of existing protocols within the Convention, and other options related to the normative and operational framework on emerging technologies in the area of lethal autonomous weapon systems, building upon the recommendations and conclusions of the Group of Governmental Experts related to emerging technologies in the area of lethal autonomous weapon systems, and bringing in expertise on legal, military, and technological aspects

**Proposal for an international legal instrument on Lethal
Autonomous Weapons Systems (LAWS)**

Submitted by Pakistan

I. Context

1. 2023 marks the tenth anniversary of commencement of deliberations within the ambit of the Convention on Certain Conventional Weapons (CCW) on the various facets of lethal autonomous weapons systems, their devastating impacts and destabilizing effects.
2. Ten years on, there is reasonable level of understanding and varying degree of convergence among High Contracting Parties (HCPs) over the technical, legal and ethical dimensions of these weapon systems.
3. However, the decade long discussions have yet to yield a set of agreed rules, principles and norms while the military applications of Artificial Intelligence (AI) in general and integration of autonomy in these weapon systems continues apace.
4. Fundamental concerns persist over the compatibility of these autonomous systems with the existing principles and norms of applicable international law, UN Charter and International Humanitarian Law (IHL).
5. Meanwhile, LAWS, like any other category of weapons or weapon systems, do not exist in isolation. Nor are these weapon systems separable from their development and deployment to use as well as their broader security impacts.
6. The following CCW provisions are clear with respect to the prohibitions and regulations due to their security dimension and therefore remain central to the work of the GGE:
 - The desire of the Convention to contribute to international détente, the ending of the arms race and the building of confidence among States.
 - The importance of pursuing every effort which may contribute to progress towards general and complete disarmament under strict and effective international control.

- The need to continue the codification and progressive development of the rules of international law applicable in armed conflict.
- Prohibiting or restricting further use of certain conventional weapons may facilitate the main talks on disarmament.
- The right of parties to an armed conflict to choose methods or means of warfare is not unlimited.
- Weapons, projectiles and material and methods of warfare that cause superfluous injury or unnecessary suffering are prohibited.

7. While the aforementioned provisions speak to the object and purpose of CCW, its Protocols clearly demonstrate that the production and use of certain categories has been banned (Protocols I & IV) and the development, deployment and use of others specifically regulated.

8. Taking into account these considerations, there is a clear case for developing an international legal instrument envisaging prohibitions and regulations on the development, deployment and use of LAWS to achieve the object and purpose of the CCW.

A. Mandate of the GGE (2023 Session)

9. The 2022 Meeting of High Contracting Parties to CCW decided that:

“the work of the open-ended Group of Governmental Experts related to emerging technologies in the area of lethal autonomous weapon systems established by Decision 1 of the Fifth Review Conference as contained in document CCW/CONF.V/10, adhering to the agreed recommendations contained in document CCW/CONF.V/2, is to continue, to strengthen the Convention. In the context of the objectives and purpose of the Convention, the Group is to intensify the consideration of proposals and elaborate, by consensus, possible measures, including taking into account the example of existing protocols within the Convention, and other options related to the normative and operational framework on emerging technologies in the area of lethal autonomous weapon systems, building upon the recommendations and conclusions of the Group of Governmental Experts related to emerging technologies in the area of lethal autonomous weapon systems, and bringing in expertise on legal, military, and technological aspects.”

10. The GGE’s work, thus, is to be governed by the purposes and objectives of the CCW; to strengthen it; to intensify consideration of proposals and elaborate possible consensus measures, including taking into account the example of existing protocols within the Convention, and other options related to the normative and operational framework on emerging technologies in the area of LAWS; while building on the recommendations and conclusions of the GGE.

B. Challenges, risks and dangers posed by LAWS

11. LAWS are not one or two types of weapons. Instead, they are a capability category i.e. a weapon system incorporating autonomy in its critical functions, specifically in target selection and engagement. The challenges associated with these weapon systems stem from this capability, which lends itself to layers of unpredictability and cascading impacts.

12. LAWS are therefore force multipliers, including due to growing sophistication of these systems as well as integration with other weapons, such as but not limited to cyber weapons etc. Since these weapons incorporate autonomous functions, their deployment and use will entail significant human costs and destabilizing effects.

13. There are already known problems of data bias and unpredictability that are compounded by growing autonomy of these weapons, based on machine learning algorithms. Their increased speed of actions during operations further reduces predictability of their behaviour.

14. LAWS will propel asymmetric methods and means of warfare, given the limited to no loss of soldiers and citizens on the battlefield by user states. The asymmetric factor will engender force multiplication; increase the risks of miscalculation; lower the threshold for nations to start wars; and thereby trigger conflict escalation. The possession of LAWS could also appeal to destabilizing notions of pre-emptive strikes, thereby posing serious risks and dangers for regional and international stability, including possibilities of unintended or uncontrolled levels of escalation. In crisis situations or settings, these could turn into a spiral of reprisals, perpetuating or expanding the conflict.

15. LAWS could also entail additional consequences such as anonymous and clandestine operations including targeted killings in the territory of other states, as well as possible reprisals on other fronts by targeted state. Such dangers not only deny combatants and civilians of the targeted state the protections offered by International Humanitarian Law (IHL), they could also lead to further weakening of compliance with existing IHL, since states would be tempted to mitigate the military advantage of adversaries through asymmetrical means.

16. These weapon systems are already being factored into strategic and security doctrines of states. Absent any meaningful restraints, these developments are bound to trigger costly arms races in the area of LAWS. Such a scenario could also lead to access, possession, production and use of these weapons by non-State actors, with unimaginable consequences.

17. Accordingly, the military and security dimensions of LAWS are both relevant and essential to the work of the GGE. The fundamental principles of IHL i.e. distinction, proportionality, precautions in attack, humanity and military necessity must be upheld at all times, particularly during the dynamic and complex environments of war.

18. Delegating critical functions of a weapon system i.e. target selection and engagement, including application of force, is extremely problematic for upholding these principles. IHL is designed with “humans” at its center and continues to rely on “human agency” for IHL to be applied in its true spirit. Machines, algorithms and software, regardless of their sophistication cannot replace the “human factor”. Machines cannot be anthropomorphized, nor can they substitute for singular human judgments and decisions. Thus any weapons system with critical functions outside “human control” becomes non-compliant with IHL.

C. CCW’s role in addressing the challenges, risks and dangers posed by LAWS

19. The GGE established by HCPs is to work in line with the principles and objectives of the Convention. For the GGE to fulfill its mandate faithfully, its work and outcomes must be aligned with the Convention’s principles and objectives. As noted earlier, the Convention acts as an instrument for codification and progressive development of IHL.

20. In order to do so, the GGE’s outcomes must explicitly outlaw those weapon systems related to emerging technologies in the area of LAWS, which are non-compliant with IHL principles and rules. Further, for weapon systems which are not prohibited, adequate rules must be evolved to ensure that the development, deployment and potential use of these weapons strictly conforms to IHL principles and rules as well as the imperatives of security and stability at all levels.

D. Options for the normative and operational framework on LAWS

21. As regards the options available to HCPs for the normative and operational framework governing autonomous weapons systems through their entire lifecycle, the direction ought to remain very clear. Even as consensus is yet to be reached on the level of prohibitions and regulations at this stage, the GGE’s primary purpose should be geared towards developing internationally agreed legal norms and their codification to plug existing legal gaps.

22. The operational aspects of military and security dimensions of LAWS may inter alia include demonstration of responsible state behaviour and restraint in the security doctrines

as well as their development, deployment and use; eschewing measures that propel arms race; and crafting of trust and confidence-building among States.

23. The future normative framework should clearly aim at developing international rules and regulations through a Protocol under the CCW. The operational framework should implement these rules and regulations, with international and national elements. National regulations and responses alone such as national weapons reviews are useful but not sufficient. The GGE is not the platform to confer legitimacy on national measures, which cannot be verified.

24. National measures related to LAWS will also lack harmonization and consistency of their application by all states. Moreover, questions surrounding compliance with IHL and possible further codification of IHL in response to development and use of these weapon systems cannot be left to the sole prerogative of national authorities. Compliance and verification provisions are key ingredients for developing international legally binding rules.

25. Non-legally binding options, including Transparency and Confidence Building Measures (TCBMs), find their meaning, context and purpose in the backdrop of internationally agreed binding rules, which such non-binding measures complement but cannot replace.

E. Proposal for an international legally binding instrument on Lethal Autonomous Weapons Systems (LAWS)

26. In light of the above considerations, Pakistan proposes the following elements for the development of an international legally binding framework on Lethal Autonomous Weapons Systems (LAWS), under the Convention. The framework, once agreed by HCPs, could conceivably also require a technical annex, which can be negotiated keeping in view the agreed prohibitions and regulations.

27. The proposed instrument must ensure compliance with international humanitarian law, stipulate the objectives and purposes of the CCW as well as ethical imperatives and cater to security dimensions.

(a) Prohibitions on development, deployment and use in all circumstances of an autonomous weapon system that:

- takes decisions on the use of force without “human control over the decision to use force”;
- cannot distinguish between civilian population, hors de combat, and combatants or indiscriminately targets civilian objects;
- causes unnecessary suffering or superfluous injuries;
- is not able to take all feasible precautions to protect civilians and civilian objects during an attack;
- causes incidental harm to civilians and civilian objects that exceeds the direct military advantage anticipated;
- has effects which cannot be adequately predicted, understood and explained.

(b) Restrictions and regulations in relation to development, deployment and use:

i. Weapons with “human control over the decision to use force” shall:

- not be able to change their situation of use without explicit approval by a human;
- not be able to change their targeting parameters without explicit approval by a human.

ii. Weapons with “human control over the decision to use force” must:

- restrict their targeting capability to only objects which are military objectives by nature;

- be designed to limit their scope and scale of use, including temporal and spatial limits;
- be designed to be transparent, indubitable, reliable and predictable in the identification and selection of potential targets;
- be designed to only operate in situations where civilians and civilian objects are not present;
- be interruptible during all stages of operation and use, by a human.

F. Accountability and State Responsibility

28. Humans responsible for and in control of any weapons system based on emerging technologies in the area of LAWS remain accountable for the consequences of using such weapons, in line with the Responsibility of States for Internationally Wrongful Acts.

29. In addition, states would be required to evolve effective oversight and redressal mechanism for any suspected, reported or documented violation(s) in relation to the development, deployment or use of such weapon systems. These could take the form of internationally agreed measures and national measures.

II. Conclusion

30. The GGE must be enabled to develop a meaningful normative framework that responds to all challenges and concerns associated with LAWS.

31. Failure to do so would not only entail dire humanitarian consequences, but also oblige states to defend themselves with the capabilities at their disposal vis-à-vis their perceived adversaries. Failure to evolve legal norms would have the undesirable but likely consequences of a spiraling arms race, weakening of the already stressed arms control architecture, and lead to a more precarious regional and international security environment.
