

**2023 CCW GROUP OF GOVERNMENTAL EXPERTS ON  
EMERGING TECHNOLOGIES IN THE AREA OF LETHAL  
AUTONOMOUS WEAPONS SYSTEMS**

**First session**

**6-10 March 2023**

**Palais des Nations, Conference Room XIX**

**CLOSING REMARKS OF THE CHAIR**

**H.E. Mr. Flavio Soares Damico of Brazil**

Checked against delivery

Distinguished delegates and colleagues,

As we end our week-long deliberations, I am grateful for the engaging and insightful discussions on the issues of lethal autonomous weapons systems (LAWS). Over the past five days, we have examined the challenges and risks these systems pose and explored potential avenues for addressing them. To this end, we counted with the support of ten proposals tabled in 2022 and five additional proposals tabled in 2023.

We had significant participation in this session. The dynamics of our meeting have unfolded as follows:

*Topic 1: Characterization of LAWS*

Number of speakers: 57

*Topic 2: Application of IHL: Possible Prohibitions and Regulations*

Number of speakers: 44

*Topic 3: Human-Machine Interaction / Human Control / Human Judgment and Ethical Considerations*

Number of speakers: 29

*Topic 4: Responsibility and Accountability*

Number of speakers: 20

*Topic 5: Legal Reviews*

Number of speakers: 39

*Topic 6: Risk Mitigation and Confidence-Building Measures*

Number of speakers: 22

*Informal session of Friday morning*

Number of speakers: 26

*Session of Friday afternoon*

Number of speakers: 22

My educated guess is that the dwindling number of interventions as the week progressed might have been caused by the increasing specificities of our subject, coupled perhaps with the exhaustion of the delegates, who, after all, demonstrated remarkable resilience and commitment throughout our lengthy interactive debate. The trends are clear as to the topics that mobilized delegates, namely topics 1, 2 and 5.

Before briefly assessing some key takeaways from the discussions on each topic, I would like to underline – like many of you did this morning during our informal session – that convergences were observed in several areas. We had constructive discussions, and I believe we have made some progress. We have reasons to be optimistic for the future.

Nonetheless, as some of you correctly pointed out: “the devil is in the details”, and nuances of perception and divergences are not to be brushed aside.

This assessment is brief and imperfect, please be considerate if the views shared by your delegation are not directly contemplated here as we had to work with very important time and staff constraints.

### *Topic 1: Characterization of LAWS – definitions and scope*

On topic 1, I believe the engagement was particularly energetic. Early on in our debate, many delegations called for fresh ideas. I think we have succeeded. Many positions presented were either elaborations of traditional positions or engagements with other countries or groups' positions.

The discussions reiterated the long-consolidated position in this Group that IHL applies fully to LAWS, which means, in practice, that the use of such weapons systems must comply with the requirements and principles of IHL.

Moreover, we had to face the hard truth that the sufficiency or non-sufficiency of existing IHL is still an ongoing question.

On characterization, the difficulties regarding a consensual definition of LAWS were again described and discussed. At this juncture, achieving consensus around a working definition would be challenging, considering that such a definition might be restrictive and therefore not adequately cover all future types of weapons or weapon systems. A unified understanding of “autonomy” and autonomous functionalities could better serve us. In this case, the Secretariat is preparing a list of the proposed definitions and characterizations, as requested by some delegations and will be circulated as a conference room paper as soon as we are able to format it.

A technology-agnostic approach describing functions and capacities was mentioned as relevant with regards to possible future measures. The interventions have indicated an interest in further discussing characterization. Roughly speaking, the interventions gravitate around a possible definition of LAWS as systems other than ordnance that can engage targets without human intervention. This appears to be a candidate for future in-depth discussions.

Another point of interest was the degree of autonomy, considering that fully autonomous weapons (weapons that by design do not allow human intervention) would present fundamental challenges for predictability, reliability, and, according to some delegations, IHL compliance.

In an event, most views are inclined towards the notion that the absence of an agreed working definition should not preclude discussions of other aspects. A focused discussion on this

particular issue might also be needed in the future to reach a common understanding of our subject-matter and to determine its scope.

*Topic 2: Application of International Humanitarian Law (IHL): possible prohibitions and regulations*

The debate on topic 2 illustrated very clearly that beyond the fundamental premise of the applicability of IHL, divergences remain on how to ensure, promote, and assess compliance with it. There seems, however, to be convergence around the need to clarify existing rules and to define if, and how, they would be applicable.

As I mentioned in my introductory remarks, in general, the proposals indicate human participation as either an element, an aspect, or a requirement for the legal use of LAWS: This entails different perceptions of prohibitions and regulations. The two-tier approach, in this regard, indicates that machines operating without any degree of human control would be deemed illegal.

Indeed, the widely mentioned two-tier approach favours the notion that systems incompatible with IHL are, *ipso facto*, illegal and, thus, should be prohibited. The task at hand would then be to determine which systems or functionalities of LAWS would render them incompatible with IHL provisions. Nevertheless, reluctances remain regarding a strict prohibition. We are hopeful that other approaches could bridge this gap. Moreover, various interventions mentioned the need for additional approaches, often based on meaningful human control or human intervention, context-dependent assessment, submission to a chain of command and control, or requirements of predictability, reliability, explainability, and traceability.

The second tier refers to the need for regulation of other systems, which are systems that can be controlled by humans and, thus, could be used in accordance with IHL. Accordingly, this control could assume the form of limits in conducting attacks, especially regarding scope, time, space, scale, and types of targets. Human supervision would be crucial in regulating such systems, especially regarding features for interruption, deactivation, and self-destruction.

Many delegations supported structuring the debate on IHL compliance under this two-tier/prohibition-regulation prism. However, once more we are compelled to face the hard truth. Some delegations remain sceptical about this approach and warned against the risks of stigmatizing emerging technologies and the lack of a clear-cut technical ground for such proscription.

I believe this issue is made more difficult due to our lack of common understanding of characterization and scope. To solve this, perhaps we could contemplate another framing, perhaps via the elaboration of positive commitments or obligations, as referred to above.

In this regard, instead of prohibiting a category of systems based on its characteristics, we could examine the possibility of developing a general commitment based on IHL, under which states commit not to develop and use systems whose operations humans cannot control or supervise (that is, fully autonomous/uncontrollable systems/unacceptable systems). This commitment

would aim to prevent the development of systems that, by their very nature, are incapable of being used in accordance with IHL.

In the same vein, regarding the other category of systems (systems that would be permitted), we could discuss the need for commitments to limit types of targets, duration of the operation, geographic scope, and scale of use, as well as commitments regarding timely intervention and deactivation via context-dependent control or supervision. These commitments could also include measures for reducing automation bias and unintended bias.

These suggestions by the Chair are an attempt to reframe our discussions and unlock some of the difficulties identified by delegations regarding the two-tier approach as a model for characterization of LAWS and the consequential application of IHL. They would shift the perspective from a negative characterization of types of weapons to a positive commitment by states regarding risks and challenges. We could explore this further in future iterations or explore other framing options. Once again, there is no denying that it is up to the high-contracting parties to ascertain the best configuration of the framework for LAWS.

*Topic 3: Human-machine interaction/meaningful human control/human judgment and ethical considerations*

As I said in my introductory remarks, in some way or another, all proposals addressed the human element and its impacts on compliance with international law during the use of LAWS. The possibility of curtailing human agency is the aspect that singles out autonomous systems from other weapons systems. Therefore, the debate on human control/judgment is linked to specific challenges and risks regarding compliance with IHL.

The statements this week were very keen to provide more clarity regarding different aspects of human control or judgment. Here, we also saw some divergences. Delegations indicated human involvement as either an element, an aspect, or a requirement for the legal use of LAWS: This entails different sets of perceptions of prohibitions and regulations.

The perspectives which advocate for the centrality of the human element present an understanding of human control/judgment as the nexus that could link different topics, such as IHL compliance and risk mitigation. Other perspectives indicated that the role of humans should be conditioned by distinct aspects of context and modes of use.

In my remarks I pointed out that the capacity to demobilize those systems (or "timely intervention and deactivation") is often mentioned as an adequate manifestation of control. Indeed, in our discussions, concepts like the degree and contextual nature of control (or situational dependency) were presented in conjunction with similar ideas, such as effective oversight, reliability, predictability, explainability, among others.

This is something that I believe was very promising during our discussions. I am happy to see that these concepts were presented and discussed in a way that will surely inform our future conversations. There seems to be an increasing understanding that human involvement is not a binding, fixed concept, but rather a context-specific, value-based condition that allows for human judgment to be exerted in specific phases of the weapon's lifecycle.

In that regard, I believe that some delegation's concerns about the vagueness of that approach can somewhat be allayed by language aiming to operationalize and define the concept so that we get to the specificities of what is meant by 'adequate control'. Moreover, commitments on limits on the use, scope, time, and space could also be discussed under this topic.

#### *Topic 4: Responsibility and accountability*

As I explained in my introductory remarks about our fourth topic, responsibility and accountability are issues on which convergence already seems important enough to allow us to reach some conclusions this year.

Similarly, regarding the application of IHL, responsibility and accountability are topics in which the convergences seem important enough to allow for some conclusions; however, persisting differences remain in some aspects.

Nonetheless, your interventions and the language included in the proposals reinforce my feeling that we can find consensual language on this topic. We will have to seek a shared understanding of regulatory measures that might be required to ensure accountability.

In 2022, we arrived at the conclusion that every internationally wrongful act of a State, including those potentially involving LAWS, entails international responsibility of that State, in accordance with international law. This year, we might delve on the specificities and peculiarities of autonomous systems and try to establish how such specificities could entail the evasion of responsibility.

Our discussions focused mainly on provisions and procedures that ensure accountability and responsibility. Some proposals indicated the need for mechanisms to assess compliance, report violations, ensure prosecutions, and other similar measures. I am keen to reflect on that and try to find a common ground. I will try to harvest the interventions and the proposals to offer some other operational measures for State Parties that could eventually achieve consensus.

#### *Topic 5: Legal reviews*

On the issue of legal reviews I got the sense that, as some of you put it, this might be a 'low-hanging fruit'. And while not yet ready for harvest, there seems to be a general agreement on the importance of conducting legal reviews with regards to LAWS to ensure compliance with IHL. All the proposals tabled this year and last year, stress the importance of legal reviews of LAWS.

Nonetheless, further work will be needed to reach a shared understanding of whether such legal reviews should be conducted at national discretion as provided by Article 36 of Additional Protocol I of the 1949 Geneva Conventions, or if internationally agreed standards and oversight, such as a code of conduct, would be needed to avoid fragmented approaches. In this regard, it would then also be necessary to further discuss directives on the thresholds when new reviews might be needed.

Perhaps, for now, a framing on the voluntary sharing of best practices and other measures could help us bridge different views, in such a way that an eventual common standard would emanate naturally from the exchanges among different actors. Indeed, some delegations indicated their willingness to share expertise and present national accomplishments in that regard, as has been done by some delegations in the past. Such an effort, conducted, with due respect for national security concerns and proprietary rights, could further build a robust transparency and confidence building platform open to States, and perhaps be develop as a springboard to common standards and practices.

*Topic 6: Risk mitigation and confidence-building measures*

Finally, we discussed risk mitigation and confidence-building measures as a sixth topic. As many of you pointed out, it is an area in which we achieved some tangible progress this week. It is my perception that there seems to be a large amount of common ground on the relevance of predictability, understandability, proper training, explainability, reliability, adequate testing and limitations of targets, which is also reflected in many of the documents you tabled. The Group should now be able to define subsequent steps to overcome the remaining divergences regarding the role and nature of risk mitigation.

This concludes my takeaways of this week's exchanges. As you certainly noticed, all the topics are interconnected, and what is said for one, can sometimes be said for another. After discussing them separately, we should now consider them as a whole and create connections between all of them.

I will rely on your valuable contributions throughout the week and also your takeaways today to build the outcome in May. As I said very early on, March builds May.

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So colleagues, the intersessional period will also play an important role in assisting me to build my understanding of where we might be able to find convergence, but also where divergences persist and how the work should be structured to seek further convergence in the future. I acknowledge the concern some of you expressed this morning not to set a precedent that this could replace the formal work of the Group. I also understand that adding new meetings to the already packed disarmament calendar can be challenging, in particular for smaller delegations. But, given the time constraints we are under, and the wealth of substantive information at our disposal, I believe it will be important for me to further discuss some of the concepts with you, and to give you a space to inform my thinking and ask questions that will in turn help you prepare for the important work that lies ahead of us in May. Moreover, I could not fail to note the interest with which you await the draft report of the Group.

It is my intention to hold two virtual informal meetings during the intersessional period on the basis of some preliminary substantive sections of the draft report, which I will share with you in due course and ahead of the first informal meeting. I plan to hold these informal consultations

at the end of April, I am targeting 20 April 2023, and the beginning of May, 2 May 2023, and will more information will be shared with you shortly through the secretariat shortly.

It is said that one should learn from the mistakes of the past. I certainly have, and if I am to make mistakes, let us hope that they are new mistakes. Thanks to all the work accomplished this week, and to our upcoming exchanges during the intersessional period, I hope we will reach a consensual outcome tackling the risks associated to LAWS.

As we conclude our deliberations, I am heartened by the spirit of cooperation and shared purpose that has animated our discussions. We have made significant progress in advancing our understanding of the issues at stake, and our deliberations will contribute to the ongoing efforts of the Group.

I want to express my sincere gratitude to all of you for your participation and engagement. I would like also to thank the CCW ISU for its support. I thank you Melanie, Tania, Juliana and Sophie, and of course my right hand, Secretary Leonardo Cardote from the permanent mission of Brazil.

I look forward to continuing our dialogue in the weeks ahead. I thank you, safe travels to those that will be returning to their capitals, and we will continue to be engaged, and May is just around the corner.

Thank you.