Elements of an international legal instrument on Lethal Autonomous Weapons Systems (LAWS)

Submitted by Pakistan

I. Introduction

1. The ongoing efforts in the Convention on Certain Conventional Weapons (CCW) should continue with an aim to develop international legal rules through a new Protocol on Lethal Autonomous Weapons Systems (LAWS). Such a Protocol will need to clearly spell out prohibitions and restrictions governing LAWS to ensure compliance with the International Humanitarian Law (IHL) and consistency with the objectives and purposes of the CCW.

2. LAWS, which by way of its design, cannot be used in compliance with IHL at all times, should be prohibited. For the weapon systems which are not prohibited, adequate rules must be evolved to ensure that the development, deployment and potential use of these weapons strictly conform to International Law, IHL principles and rules as well as the imperatives of ethics and maintaining security and stability at all levels.

3. This two-tier approach containing prohibitions and restrictions is also consistent with the existing Protocols of the CCW. The existing Protocols demonstrate that the production and use of certain categories have been banned (Protocols I & IV) and the development, deployment and use of others have been regulated with restrictions (Amended Protocol II).

4. A decade long work carried out in the framework of CCW has laid down solid foundations to negotiate such a legal instrument on LAWS. The mandate of the current GGE, established by the CCW High Contracting Parties in November 2023, is outcome-driven and result-oriented, and tasks the States “to further consider and formulate, by consensus, a set of elements of an instrument”.

* The present document is being issued without formal editing.
II. Elements of the New Legal Instrument

5. In March 2023, Pakistan submitted a working paper to the CCW titled “Proposal for an international legal instrument on Lethal Autonomous Weapons Systems (LAWS)”. Building on that working paper, Pakistan would like to propose following core elements of an international legal instrument on LAWS, which can be negotiated and adopted as Protocol VI of the CCW.

A. Definitions

6. The new instrument should adopt a functional approach to cover the general category of LAWS in its scope rather than focusing on its physical characteristics. This is the approach taken in CCW in Amended Protocol II and Protocol III, which detail the functioning of weapon systems, and in Protocols I and IV, which describe the effects of these weapons systems. It should include:

• “Lethal Autonomous Weapons Systems (LAWS)” mean those weapons systems which are designed to select and apply force to target(s) without human intervention after activation.

• The use of word lethal means that an autonomous weapon system which, by its design, has the capability to apply lethal force is included in the category of LAWS. However, regardless of the actual consequences of its use, whether the applied force results in lethal effects or not, it will be regulated under the Protocol.

B. Prohibitions

7. The instrument should contain the following prohibitions:

• It is prohibited in all circumstances to develop, produce, acquire, stockpile, retain, transfer, deploy or use the following lethal autonomous weapons systems:

  (a) Which take decisions on the use of force without human control and does not enable a human user to understand, predict and explain the decisions on the use of force in all circumstances of use;

  (b) Which by its design cannot be used in compliance with the IHL in all circumstances; and

  (c) Which produces effects that cannot be limited in all circumstances as required by the IHL.

C. Restrictions

8. In the case of LAWS, which are not prohibited as outlined above, following measures should be taken:

  (a) Restricting the targets to only objects which are military objectives by nature;

  (b) Ensuring provisions for human user to intervene, interrupt and deactivate the system during all stages of use;

  (c) Limiting the duration, geographical scope, and scale of the operations to ensure compliance with IHL at all times and only to those areas without concentration of civilians or civilian objects;

  (d) Limiting the number of engagements in order to predict and retain control over the effects as required under the IHL;

  (e) Restricting the weapons systems from changing its targeting parameters autonomously without approval by a human user; and
(f) Ensuring effective supervision and oversight during operations at all times.

D. Other Provisions

9. Other provisions should include:

   • Humans responsible for and in control of LAWS should at all times remain accountable for the consequences of using such weapons, in line with international law and the applicable provisions on the Responsibility of States for Internationally Wrongful Acts.

   • States are required to develop and ensure effective oversight, investigative and redressal mechanism for any suspected, reported or documented violation(s) in relation to the development, deployment or use of LAWS.

10. The international legal instrument should also include a technical annex (such as in cases of Amended Protocol II and Protocol V of CCW) containing best practices, guidelines and other risk reduction measures to facilitate implementation of various articles of the instrument. Such an annex may include provisions on actions at national level including on policy, testing, training, reviews, including weapon’s reviews and reporting.

III. Conclusion

11. The GGE of the CCW, with all the tools at its disposal and the work done so far, remains the most appropriate venue to develop a meaningful legal normative framework that responds to the challenges and concerns associated with LAWS comprehensively.