Italy’s contribution pursuant to UNGA Resolution 78/241 “Lethal Autonomous Weapons Systems” adopted on 22 December 2023

Italy co-sponsored UNGA Resolution 78/241 and welcomes the opportunity to present its views for the report to be submitted by the UN Secretary General to the 79th session of the General Assembly, in accordance with OP 2 of the abovementioned resolution.

Since 2013, Italy has actively participated in the international debate on lethal autonomous weapons systems (LAWS) launched under the auspices of the Convention on Certain Conventional Weapons (CCW), first within the framework of informal meetings of experts and later as a participant in the Group of Governmental Experts (GGE) itself.

LAWS pertain to a vast category encompassing new developments in warfighting, armed conflicts, and weapons technologies, as well as associated concepts such as artificial intelligence (AI) and machine learning (ML). Concrete and structured discussions on the advance of autonomy in weapons systems and related implications have achieved substantial progress over time.

In Italy’s view, the CCW is by far the most suitable forum to address current and emerging issues relating to weapons systems development and use. The CCW has a large membership and includes the States that are the major developers and producers of artificial intelligence (AI) military applications. Moreover, the CCW allows for the combination of diplomatic, legal and military expertise, including through representatives not only of States parties but also of international organisations, specialized institutions and civil society organizations. The CCW is also the best forum to review the compatibility of a weapon system with International Humanitarian Law (IHL).

We welcomed the renewal of the mandate of the GGE until 2026 and we are committed to advance discussions on the development of elements of a future instrument. This
instrument should set clear prohibitions and regulations, to be eventually adopted as an Additional Protocol to the CCW. Italy is in fact fully committed to the very spirit and objectives of the Convention, in which the High Contracting Parties recognise, as stressed in its preamble, « the importance of pursuing every effort which may contribute to progress towards general and complete disarmament under strict and effective international control ». This is indeed a major challenge for all of us and has to be a source of inspiration for our work.

International law, including international humanitarian law, is fully applicable to LAWS, as recalled in the 2019 Guiding Principles, which state that “international humanitarian law continues to apply fully to all weapons systems, including the potential development and use of lethal autonomous weapons systems.” IHL imposes requirements on parties to a conflict before and during an attack. These requirements include the attack being discriminate, permitting distinction between lawful targets (combatants and military objectives) from unlawful targets (civilians, hors de combat, civilian objects); proportionate, prohibiting attacks that are expected to cause inter alia incidental loss of civilian life, injury to civilians, damage to civilians that would be excessive to the anticipated military advantage; and compliance with requirements for precautions in the attack, which demands constant care to be taken to spare civilian population, civilians and civilian objects.

In addition to these principles, Art. 35 of Additional Protocol I to the Geneva Conventions reaffirms that methods and means or warfare are not unlimited, a concept that is operationalised by art. 36, which imposes an obligation on States parties to ensure unlawful weapons are not used. Weapons review processes are the mechanism to ensure the fulfilment of this obligation during the development and acquisition of new weapons. In the case of LAWS, this implies the challenge intrinsic in the complexity of the underlying technology and the possible unpredictability of the autonomous system under changing physical and operational environments.

Although not facing a legal vacuum, in Italy’s view a normative and operational framework governing autonomous weapons systems needs to be further developed. This could be done according to a “two-tier” approach setting prohibitions and regulations. According to this approach, LAWS that cannot be developed and used in accordance with IHL would be ipso facto prohibited. On the other hand, systems featuring decision-making autonomy in critical functions, that can be developed and used in full compliance with IHL, would be regulated. More specifically, in line with existing IHL provisions, LAWS that are inherently indiscriminate or whose effects cannot be limited, anticipated or controlled, or are such as to cause superfluous injury or unnecessary suffering, would fall under the
category of prohibitions. This would also encompass weapons systems operating completely outside of human control and a responsible chain of command.

Other LAWS would fall under the category of regulations. These would be systems whose compliance with IHL could be assessed by taking into account their existing capacities, by applying appropriate testing and training of human operators (to evaluate the systems’ reliability, understandability and predictability) or by limiting the types of targets as well as the duration, geographical scope and scale of operations. Besides, intervention by an operator should be possible during crucial, “high-level” functions. For a system to be considered not fully autonomous, and therefore not to be banned but to be regulated, it would be sufficient for a human operator to retain at least the final crucial function, which is the decision whether or not to apply force to a target previously identified and selected.

The human element is in our view crucial for the entire life cycle of LAWS, namely design, development, production, deployment and use. If the goal is to ensure compliance with IHL, then an appropriate level of human judgement and control should be retained so as to ensure accountability under IHL. Only a human being can be held accountable under IHL, never a machine. Throughout the chain of command and control, in line with different levels of responsibility, humans must have an adequate understanding of the characteristics and functioning of the weapons systems. Exerted control should apply parameters that allow to limit the type of tasks and targets assigned to LAWS, along with the presence of deactivation and fail-safe mechanisms, as well as place temporal and space limits on its operation according to the assessment of the situation and military context.

On definition and characterisation of LAWS, it is Italy’s view that the lethality of a system should not be determined solely by its intrinsic characteristics but also by the context of its use and its unintended or ancillary effects. Within the CCW itself, Protocol I does not specify the functions of the weapons, but refers to permanent blindness as intended or produced effect of the weapon. Protocol III refers to incendiary weapons as weapons that cause burn injuries.

Finally, we support the future establishment of a cooperative and consultative mechanism that could facilitate exchanges among the High Contracting Parties on the operation of an instrument as well as sharing of information and best practices on measures for risk mitigation and legal reviews.