Swedish input to the Report of the Secretary General of the United Nations in accordance with resolution 78/241 “Lethal autonomous weapons systems” adopted by the General Assembly on 22 December 2023

Sweden welcomes the opportunity to submit its views to the United Nations Secretary General, in accordance with resolution 78/241 “Lethal autonomous weapon systems”, adopted by the General Assembly on 22 December 2023.

The application of autonomous weapons systems has the potential to fundamentally change armed conflicts and offers both challenges that need to be addressed such as accountability and compliance, as well as advantages that can beneficial such as precision and protection of civilians. Thus, the discussions around lethal autonomous weapon systems (LAWS) should take into account operational, legal, technological aspects and bearing in mind ethical perspectives.

Sweden supports the so-called two-tier approach – indicating that a distinction should be made between those weapon systems that cannot be used in accordance with international law, in particular IHL, and systems that include autonomous features, which should be regulated in order to ensure compliance with IHL and other applicable international law. While the former ones should be expressly prohibited the latter ones would benefit from regulation, the form of which needs further thought and elaboration in order for the definitions and possible regulations to enjoy a broad support by the international community. Sweden believes that the two-tier approach constitutes a middle ground where a consensus could be reached.
Convention of Certain Weapons (CCW) and the Governmental Group of Experts (GGE)

The CCW offers an appropriate framework for the issues of emerging technologies in the area of lethal autonomous weapons systems for several reasons. The participation of experts from several relevant disciplines, as well as representatives from states, civil society, and industry, provides a richness of perspectives. Looking forward, the work needed to increase the common understanding of the concept of human control in relation to legal, military, and technological aspects is a challenge. Experts from all High Contracting Parties (HCPs) need to be part of the effort, including from the HCPs who possess the most advanced capabilities in this area.

While the negotiations on LAWS within the framework CCW have been slow, some encouraging progress within the GGE could be noticed in the recent sessions. There were promising signs of convergence on several topics despite only meeting twice a year. The GGE is now discussing concrete language for elements to include in a future instrument, and this could be a clear path to a substantial breakthrough. The problem lies not in the format of the discussions but in the lack of political will on the part of some Member States. This problem will not be resolved by creating parallel processes and instruments which are not supported by key stakeholders as this would not promote effective regulation and would risk further dividing the Member States, as well as undermining IHL. In moving forward, we should continue to be guided by the substantive achievements already made, such as the 11 Guiding Principles and the consensus conclusions adopted by the GGE.

Sweden underlines the importance of GGE delivering in line with its mandate. What type of regulation HCP can agree upon remains to be seen but even an agreement that might fall short of expectations of some delegations, would still amount to a step forward.

International Humanitarian Law and meaningful human control

Sweden supports the view that IHL apply fully to all weapons systems, including the potential development and use of lethal autonomous weapons systems. This is a fundamental principle. In order for it always to be upheld, it is of utmost importance to train and exercise personnel in national armed forces in international law applicable during armed conflict. Legal advisors specialized in international law play a valuable and important advisory role in military decision-making relating to the interpretation and application of IHL.
Sweden welcomes the continued discussions on the application of existing IHL on account of possible future autonomous weapons systems.

Human responsibility for decisions on the use of weapons systems must be retained since accountability cannot be transferred to machines. This should be considered across the entire life cycle of the weapons system. The choice of military means and methods for a military operation must be compliant with the relevant rules and regulations. In planning a military operation, a military commander and his/her staff must consider and assess the presence of civilians in order to comply with the principles of distinction, proportionality, and precautions in attack. The use of a weapon that cannot, or will fail to, fulfil these provisions of IHL may not be deployed or used.

Preserving meaningful human control over the use of force is a key objective. Human-machine interaction can be seen as an important aspect that is needed to ensure such control. Military decision-makers and operators need to be in control – both in terms of their understanding of the weapons systems and their ability and skill to control the systems. All weapons systems must be predictable and reliable so that their human operators always can be certain that the systems will function in accordance with the intentions of the operator. The more precise requirements of human control in various contexts still need to be analysed, understood in practical terms, and agreed.

In a military context, rules, regulations, and procedures form a hierarchy of instructions for all operations involving weapons. They should cover, inter alia, the organization, procedures, safety, basic command concepts, control of risk and necessary training requirements. Manuals and training programs for all systems should accompany the regulations. Any complex system must have rigorous handling regulations, including methods for training and procedures for use.

Measures to ensure human control should be considered in the entire life cycle of a weapons system. The specific measures will be context dependent. A system’s type of target as well as spatial and temporal limits are likely to be important factors.

**Review process**

States are obligated to determine whether the employment of a new weapon would be prohibited under international law. In Sweden, this is carried out by the Delegation for International Humanitarian Law Monitoring of Arms.
Projects. All defence-related authorities must, without delay, report to this delegation any proposed project that involves the study, development acquisition, or adoption of weapons or methods of warfare.

In the development of regulations, procedures, manuals and training programs, the human-machine interaction and its limitations need to be considered. In the legal review of new weapons, as envisaged by Article 36 of AP I, an analysis must be performed to determine whether the employment of a new weapon would be prohibited by IHL. This analysis should include aspects of human-machine interaction and the ways in which they are addressed in manuals and training programs.

In a review by the Delegation for International Humanitarian Law Monitoring of Arms Projects in accordance with article 36, the characteristics of the weapons system are examined, as well as its planned use and other relevant aspects, such as training programs and handling regulations. In case of doubt or scientific uncertainty, the Delegation could request further information and/or apply further test methods. The Delegation is then to issue a decision that approves or rejects the weapons system or method under review. It could also issue strict requirements for modifications or limitations that would bring the system in line with the requirements of international law.

Information is available on several national legal review systems that could assist HCPs wishing to examining existing systems.

Risk assessment and corresponding mitigation measures are part of the development of all advanced weapons systems. The processes of procurement, maintenance and use of such systems should be controlled by elaborate safety procedures. The procedures should be documented in handbooks on safety from different perspectives, ranging from questions about explosives and ammunition to software quality including consequences of unintended bias.

Describing technical systems in a non-technical context is a challenging task. Using adjectives normally used to describe human behaviour easily causes confusion and a risk of drawing inaccurate conclusions about technical systems, that do not possess human qualities. To avoid this, only strictly technical terms should be used.

Although peaceful uses of technology are not within the scope of the CCW, the following may be noted: The overlap between the civilian and military spheres regarding technology development is significant and appears to be increasing. This creates a mutual dependency. If a new technology is
adapted for military use, the requirements for robustness and reliability of the system need to be set very high.

Technological progress in e.g. automation, autonomy, artificial intelligence and digitalisation/computerisation, is normally common to the military and the civilian spheres, although often driven by civilian (commercial) interests. The challenges of ensuring meaningful control are almost the same for technical systems that may be dangerous (civilian applications) and systems designed to be dangerous (weapons).