

New Zealand comments on LAWS Chair's paper: August 2021 **Geneva**

Section 1 (10/08/2021):

Thank you very much Chair. NZ commends your very impressive efforts to provide us with two papers in recent days. We really welcome this move to a focussed discussion on text that could form part of an outcome from the GGE and the basis of a normative and operational framework. For the record, Chair, NZ would have been happy to work on the basis of the previous draft, but are also happy to provide comments on this revised one.

We wish to make two general comments on section 1:

- First, NZ likes the idea of working definitions as they help give some direction, even as we all recognise that there is further work to be done on these as the implications of the definitions become clear.
- Second, we find it helpful that the characterisations make clear that we aren't focused on weapons systems that have autonomy in other functions – this can helpfully keep the discussion focused on key issues.

We look forward to providing comments on other sections of this paper in due course. Thank you again for all of your delegation's hard work.

Section 2 (10/08/2021):

Thank you Chair. With respect to section 2, this framing of the possible considerations resonates with New Zealand as we support an approach to regulation which recognises there should be a gradation of controls depending on the capability of the autonomous weapons systems – that is, some should be expressly ruled out and others should have limits imposed on them.

That said, we are struck by the fact that in the current draft only “fully autonomous weapons systems” have any prohibitions that go beyond “use” – in other words, it is only for this category of weapon system that we are talking about the fact there should be no development, production, acquisition or deployment. It seems early in the process to be drawing

that distinction and perhaps puts more pressure on agreeing a definition of “fully autonomous weapons systems” than there needs to be at this stage.

For example, why would we fall short of preventing the development, production, acquisition or deployment of an AWS that is of a nature to cause superfluous injury or unnecessary suffering, or if it is inherently indiscriminate? Similarly, we imagine that no one would set out to *develop* an autonomous weapon system that falls short of the required standards of reliability or predictability, but we would certainly suggest that such weapons should also *not* go into production or be acquired, and should certainly not be deployed, *even if* they are never used.

We strongly support the effort to categorise the sorts of limits that might need to be applied to partially autonomous weapons systems to maintain sufficient human control.

We are, however, unclear on the implications of paragraph (2)(d)(i) – which refers to regulations on the limit on the types of target, and wonder if this sets the bar too low – particularly with respect to the specific example provided, given that lawful targets can only ever be military objectives.

Section 3 (11/08/2021):

Thank you Chair. New Zealand welcomes the effort in section 3 to set out how existing legal obligations apply to autonomous weapons systems.

We do have a question about the consistency of language in paragraphs 1 and 2 on international law. Paragraph 1 may benefit from some additional reference to other areas of international law, including state responsibility. Similarly, we are unsure what the reference to the “requirements and principles” in paragraph 2 is intended to capture. Perhaps the singular reference to IHL alone would be clearer here.

Turning to the second part of this section on state responsibility and accountability, in our view this draft still leaves open the fundamental question of what type of human judgment (referred to in paragraph 7) is necessary to comply with international law. Given the paper leaves open the use of partially autonomous weapons in section 2, but notes that

human judgment is essential here in section 3, that seems to us to leave open what type or nature of judgment we mean. For example, does this mean the judgment to use force, or simply the judgment to turn on a weapons system? This seems to be an area that would benefit from more in-depth discussion.

With respect to paragraph 8, we would request removing the reference to “lethal”, given that an action does not necessarily need to involve lethal force to constitute a breach of existing law.

Section 5 (12/08/2021):

Thank you chair. We welcome the inclusion of this section on weapons reviews.

New Zealand believes weapons reviews, including article 36 reviews, will continue to play an important role in weapons development. Our overarching comment is that we think consideration should be given to making these reviews more robust, as part of strengthening the framework around AWS. We are open to what exactly this might look like, but a key objective would be to ensure veracity and *international* confidence in reviews. We support the concrete proposals in the current paper as moving in this direction and appreciate the work that has been undertaken by the ICRC and others to move this work forward already. Importantly, as many others have also stressed, New Zealand sees the strengthening of weapons reviews as *complementary* to parallel efforts to agree regulations and controls on AWS.

In terms of more specific comments on some of the draft paras, Chair, we would be interested to better understand the rationale behind paragraph 5 on the integration of inter-disciplinary perspectives in the research and development phase, and how this interacts with weapons reviews. We'd also suggest that this section may flow better if paragraphs 6 and 7 were merged since paragraph 7 on identifying guidelines and good practices seems to flow naturally from the encouragement in paragraph 6 to share information and good practices in the conduct of legal reviews. In this regard, we wonder if there might be appetite for the idea of publishing these reviews, and whether states might be open to establishing a central depository to collect and publish them.

Section 7 (13/08/2021):

New Zealand simply wishes to register at this stage that we attach particular importance to this section on operational aspects for laying out the path forward.

We note that the focus of the section is almost entirely on domestic implementation of the agreed framework. New Zealand's view is that the value of the national implementation depends on the ambition and clarity of the normative and operational framework (as articulated in the other sections on the paper). In this respect, like many delegations, New Zealand remains committed to agreeing effective regulations and controls on AWS.

GGE members may be interested to hear that, this week, the results of a national survey of 2000 New Zealanders has been released. This survey was undertaken as part of our policy development process on AWS. This found that, although relatively few were aware of autonomous weapons systems, many were able to identify them as weapons systems that do not need humans to control them. With that understanding, 72% of those surveyed oppose the use of autonomous weapons in war.

Thank you chair to you and your team, as well as to the broader UN team, for your leadership during this GGE, for the papers and for all of your efforts to move the GGE forward.