



Kingdom of the Netherlands

**Statement of the Netherlands**

**delivered by**

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**First Secretary, Permanent Representation of the Kingdom of the Netherlands to the  
Conference on Disarmament**

**at**

**Group of Governmental Experts on LAWS**

**Agenda item 5(a): An exploration of the potential challenges posed by emerging  
technologies in the area of lethal autonomous weapons systems to  
international humanitarian law**

**Geneva, 26 April 2019**

Mr. Chair,

In addition to the statement delivered by the EU, to which the Netherlands fully subscribes, please allow me to make the follow remarks in our national capacity.

International law, in particular international humanitarian law, fully applies to autonomous weapons systems. The responsibility to ensure that the deployment of any weapon system complies with the requirements of international law and the accountability for their use, remains with commanders, subordinates, or those in positions of political or administrative responsibility.

As long as autonomous weapon systems remain under meaningful human control, there is no reason to assume that by definition these weapons fall into one of the categories of weapons that are banned under international law.

In the Netherlands' view, the targeting process enables humans to perform the necessary assessments regarding IHL, in particular the principles of distinction, proportionality and precautions. Deployed under such conditions and with due regard to existing processes, the existing legal regime is adequate to ensure IHL compliance and assign accountability. Therefore, in our view, the existing legal framework suffices.

Mr. Chair,

On weapon reviews procedures. To further IHL compliance, the Netherlands is of the opinion that (1) the implementation of Article 36 procedures should

be promoted (2) the concept of meaningful human control should play an important role within the Article 36 review and that (3) greater transparency concerning the outcomes of these procedures and more sharing information and best practices internationally, is required.

In that regard, we commend Australia for their very transparent working paper on the Australian Article 36 Review Process. In this context, I also wish to highlight the Working Paper on Weapons Review Mechanisms submitted by the Netherlands and Switzerland in 2017, which details the Article 36 Review Process in depth and highlights potential challenges in conducting such reviews.

Welcoming Argentina's 2018 working paper on this issue, allow me to share some details on the art. 36 review process from a national perspective. For the Netherlands, the review mechanism is a multi-stage and multidisciplinary process, involving legal review, medical analysis and technological input, taking into account primarily the legal aspects, but also including political and environmental concerns, as well as issues of possible impact on public opinion.

The review is carried out in a multidisciplinary team (legal, operational, technical, medical, political) and subsequently subject to review at higher levels, of equally multidisciplinary composition. The outcome of the review requires final approval by the minister. The expertise required to carry out the evaluation extends not only to the functioning of the weapon or means of warfare, but also to the possible effects thereof on persons, objects, and the environment, as part of its normal functioning.

These effects are relevant for evaluating the device in connection with certain specific provisions of international law, but also for the evaluation of whether the device causes superfluous injury or unnecessary suffering and can be limited as required by the principle of distinction.

Mr. Chair,

To end with a note on transparency.

In the interest of encouraging or assisting weapons reviews, States might consider making the outcomes of their reviews available where possible, whether to the general public or to other States on a confidential basis.

To further transparency on a national level, the Netherlands Ministry of Defense explicitly mentions the outcome of a weapon review regarding the aspect of meaningful human control when it informs parliament on the procurement of new weapons systems with autonomous functions. These communications to parliament are publicly available.

Thank you,

Mr. Chair.