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**Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects**

29 March 2019

English only

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**Group of Governmental Experts on Emerging Technologies in the Area of Lethal Autonomous Weapons Systems**

Geneva, 25–29 March 2019 and 20–21 August 2019

Agenda item 5

Focus of work of the Group of Governmental Experts in 2019

**Questionnaire on the Legal Review Mechanisms of New Weapons, Means and Methods of Warfare**

**Submitted by Argentina**

1. At the 2018 session of the CCW Group of Governmental Experts (GGE) on emerging technologies in the area of lethal autonomous weapons systems (LAWS), Argentina presented working paper CCW/GGE.1/2018/WP.2 on strengthening the legal weapons review mechanisms established in accordance with Article 36 of Additional Protocol I to the 1949 Geneva Conventions relative to the protection of victims of international armed conflicts (Additional Protocol I). The working paper focussed on the substantive differences which exist between the four types of mechanisms established to review the study, development, acquisition or adoption of a new weapon, means or method of warfare. In particular, mechanisms destined primarily for the "acquisition" of a new weapon, which are mostly used by those States that import weapons, would lack certain elements (i.e. technological, scientific) that allow for a robust review, compared with those processes in which a new weapon is studied, developed or adopted.
2. Argentina considers that the existing differences could be reduced and some standardization of a more universal nature of the weapons review mechanisms should be achieved. A first step in this direction would be the elaboration of a compendium of good national practices on the legal weapons review in the process of acquiring a new weapon, means or method of warfare. Likewise, a comparative analysis could be made between the mechanisms that deal with the study, development and adoption of a new weapon, means or method of war.
3. Against this background, Argentina invites all States to share information on their national review mechanisms (as well as current legislation), established pursuant to Article 36 of Additional Protocol I, by answering the attached questionnaire.
4. Argentina believes that the exchange of information between States is highly necessary. In this regard, it should be noted that under Article 84 of Additional Protocol I, the High Contracting Parties agreed to communicate the laws and regulations that they had adopted to guarantee the implementation of the protocol.
5. This initiative should be regarded as complimentary (and not contradictory) to any other option to address the humanitarian and international security challenges posed by the emerging technologies, as identified in the 2018 report of the GGE on LAWS (CCW/GGE.1/2018/3): political declaration, legally binding instrument or application of



international humanitarian law. Strengthening national review mechanisms would allow a better application of any additional measures adopted in the future to address LAWS.

6. High Contracting Parties are encouraged to send the completed questionnaire and related legislation by e-mail to [nnt@mrecic.gov.ar](mailto:nnt@mrecic.gov.ar), with copy to [argentina@missionarg.ch](mailto:argentina@missionarg.ch).

## Questions:

Has a mechanism for the examination of legality been established at national level when studying, developing, acquiring or adopting a new weapon or new means or methods of war?

- If yes, we would appreciate answering Part A of this questionnaire.
- If no, we would appreciate answering Part B of this questionnaire.

## Part A

### Procedural matters

1. How was the legal review mechanism established? (It would be appreciated to attach a copy of the instrument)

	<i>Year</i>
Legislation	<input type="checkbox"/>
Regulation	<input type="checkbox"/>
Administrative order	<input type="checkbox"/>
Instruction	<input type="checkbox"/>
Guidelines	<input type="checkbox"/>
Directive	<input type="checkbox"/>
Others	<input type="checkbox"/>

2. Is there any substantive difference in the legal review mechanism taking into account the phase in which the examination is delivered (study, develop, acquisition or adoption of a new weapon)?

2.a. If yes, the legal review mechanism was conducted to:

	<i>Yes</i>	<i>No</i>
Study of a new weapon	<input type="checkbox"/>	<input type="checkbox"/>
Develop of a new weapon	<input type="checkbox"/>	<input type="checkbox"/>
Acquisition of a new weapon	<input type="checkbox"/>	<input type="checkbox"/>
Adoption of a new weapon	<input type="checkbox"/>	<input type="checkbox"/>

3. Has the legal review mechanism been done just only for the acquisition of a new weapon?

4. The legal review mechanism was established:

	<i>Yes</i>	<i>No</i>
	<input type="checkbox"/>	<input type="checkbox"/>

	<i>Yes</i>	<i>No</i>
Permanently	<input type="checkbox"/>	<input type="checkbox"/>
Single (just one time for each analysis of legality)	<input type="checkbox"/>	<input type="checkbox"/>

5. How is the legal review mechanism structured? (For instance: By a collegial body/Interdisciplinary Committee/Advisory group/A person). If it is possible, please explain briefly its composition.

6. Does the legal review mechanism provide/enables the involvement of experts from different fields?

If yes:

6.a. Which are the elements/requirements involved:

	<i>Yes</i>	<i>No</i>
Technical	<input type="checkbox"/>	<input type="checkbox"/>
Military	<input type="checkbox"/>	<input type="checkbox"/>
Legal	<input type="checkbox"/>	<input type="checkbox"/>
Environmental	<input type="checkbox"/>	<input type="checkbox"/>
Health	<input type="checkbox"/>	<input type="checkbox"/>
Economic	<input type="checkbox"/>	<input type="checkbox"/>
Gender	<input type="checkbox"/>	<input type="checkbox"/>
Others (enumerate)	<input type="checkbox"/>	<input type="checkbox"/>

6.b. Is there a certain degree of hierarchy among the elements/requirements?

6.c. Which is the scope of expert's involvement?

7. Is it possible to identify at what stage of the study, development, acquisition or adoption of the new weapon the legality examination mechanism begins? If yes, please explain briefly.

8. How the final decision is made in the legal review mechanism?

9. The decision adopted is:

	<i>Yes</i>	<i>No</i>
Binding	<input type="checkbox"/>	<input type="checkbox"/>
Recommendation	<input type="checkbox"/>	<input type="checkbox"/>
Definitive	<input type="checkbox"/>	<input type="checkbox"/>
Appealable	<input type="checkbox"/>	<input type="checkbox"/>

10. Is there a record on any sort on completed examination processes?

### **Substantive matters**

11. What are the rules of international humanitarian law (conventional and customary international law) that are applied when conducting a weapon review? If it is possible, please enumerate them.
12. Is the "Martens clause" taken into consideration within the legal review mechanism of a new weapon? How?
13. Is the International Human Rights Law taken into consideration within the legal review mechanism of a new weapon?
14. In the case of acquisition of a new weapon:
  - 14.a. Do you take into account an examination already done by other country of a weapon to be acquired?
  - 14.b. An own test of this weapon is conducted?
  - 14.c. Has on any occasion the acquisition of a new weapon been rejected?

### **Part B**

1. Is there any kind of review mechanism which allows evaluating if a new weapon complies with the obligations under international law?
  2. Is your State in the process of implementing a formal mechanism to examine the legality of a new weapon? If yes, in what stage is it?
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