



Group of Governmental Experts on Lethal Autonomous Weapons Systems

First meeting: 25–29 March 2019

STATEMENT BY ESTONIA

Agenda item 5(c). Further consideration of the human element in the use of lethal force

Thank you, Mr Chair!

Estonia aligns itself with the statement delivered by the European Union, and would like to make a few observations in a national capacity.

Estonia shares the view that humans must retain ultimate control and responsibility in relation to the use of force in armed conflict. In our view, the need to exercise human control over the use of force does not arise from any discrete rule of international law. Rather, human control constitutes a practical means for ensuring that the use of force complies with international law. Therefore, we put the required human element in the following general terms: **humans must exercise such control over a weapon system as may be necessary to ensure that the weapon system operates consistently with international law**. The precise nature of control to be exercised will necessarily depend on the characteristics of the weapon system, and the operational environment.

Mr Chair,

It has been suggested that weapon systems with autonomous functionality are inherently indiscriminate, because they are unable to distinguish between lawful and unlawful targets, or to assess the proportionality of collateral damage. We are puzzled by this approach because weapon systems themselves have no obligation to comply with the law. International law speaks to States and humans, not to instruments of warfare. Thus, to our mind, the critical question is whether a weapon system is capable of being used by an operator consistently with international humanitarian law. This is a question that a State must answer in the affirmative prior to deploying a weapon.

Commanders and operators, for their part, must use weapons consistently with the law in the actual conduct of hostilities. They can rely on a weapon system with autonomous functions only if they are confident that the system, given its fixed and programmable features, and the operational situation prevailing at the time, would not lead to breaches of the law or other unintended consequences. This assessment forms a part of the commander's and operator's duty to take precautionary measures under international humanitarian law.

Mr Chair,

Ensuring compliance with international humanitarian law will require a series of human interactions with a weapon system. The 'system of control' detailed in Australia's working paper provides a helpful example of how this might work in practice. We believe that it is the combination of human interventions undertaken in such a system, rather than any of them considered in isolation, that must amount to human control necessary for ensuring compliance with the law.

I thank you, Mr Chair!