



## **Group of Governmental Experts on Lethal Autonomous Weapons Systems**

First meeting: 25–29 March 2019

### **STATEMENT BY ESTONIA**

#### **Agenda item 5(e). Possible options for addressing the humanitarian and security challenges**

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.

We would like to begin by expressing our gratitude to the representatives of States, the ICRC and civil society organisations for their interventions under previous agenda items. We think the discussion over the past two days has been constructive, and has added important details, particularly technical and organisational details, to our knowledge base.

Mr Chair,

At this time, Estonia is not convinced of the need for a new legally binding instrument on weapon systems with autonomous functions.

We reiterate, however, that any weapon system, irrespective of its autonomous functionality, must only be used in strict compliance with international law, in particular international humanitarian law and human rights law. International humanitarian law remains a robust and dynamic regulatory regime. It can deal with a range of emerging technologies, including weapon systems with autonomous functionality. Much of the law has been drafted in a technology-neutral manner. The principle of distinction, the principle of proportionality, and the obligation to take precautionary measures, provide examples of that. These rules and principles have been repeatedly mentioned in our discussions as being fully applicable and relevant to the use of weapon systems with autonomous functions.

We would like to draw attention to a few more specific rules that we see as particularly pertinent to these weapons. First, Article 51(4) of Additional Protocol I to the Geneva Conventions prohibits the use of weapons which cannot be directed at a specific military objective. Second, the same provision prohibits the use weapons the effects of which cannot be limited as required by international humanitarian law. Third, Article 57(2) of Additional Protocol I requires military commanders and operators to take feasible

precautions in the choice of weapons with a view to avoiding, and in any event to minimising, collateral damage.

Strict compliance with these rules international humanitarian law would go a long way in addressing the humanitarian concerns that have been raised in relation to weapon systems with autonomous functions.

We acknowledge, however, that such weapon systems can create uncertainties when it comes to the interpretation and application of the law. For example, the interventions made by the ICRC yesterday helpfully highlighted some of the complexities involved when commanders make contextual assessments required by the law. Such matters merit further discussion.

Mr Chair,

Estonia has previously indicated its willingness to work towards a practical outcome that would address the challenges posed by weapon systems with autonomous functions.

In particular, we are supportive of an outcome document containing the relevant principles, potentially along the lines of a political declaration proposed by Germany and France. We think that some commonalities have emerged in our discussions, many of which were reflected in the consensus report adopted last year. Some of these commonalities seem ripe for consolidation and elaboration in an outcome document. Obviously, the exact nature and content of such a document would be subject to negotiations. However, we think that consensus could be reached on at least three points:

- First, that international law, in particular international humanitarian law, is fully applicable to all weapon systems, including those with autonomous functions;
- Second, that states ought to put in place practical measures to verify that the weapons they develop and acquire, including those with autonomous functions, are capable of being used in accordance with their obligations under international law;
- Third, that states must implement mechanisms of command and control, and individual accountability, to ensure that all weapon systems, including those with autonomous functions, are use consistently with the law.

We also see merit in the development of a compilation of best practices or guidelines on the use of autonomous functionality in military systems. We take this view because the appropriate human interaction with a weapon system depends significantly on the nature of the system and its intended operating environment. Therefore, any principle regarding human control in a political declaration or similar document would likely be of a fairly abstract character. How to operationalise that principle could be the subject of a more detailed compilation of best practices or guidelines. More specifically, the best practices might cover mechanisms by which the reliability and predictability of weapon systems can be ensured and assessed. In practice, such guidelines could assist states in conducting legal reviews of weapon systems that have autonomous functions.

Finally, we believe that these options are not mutually exclusive. We note with interest the proposal made by Portugal to consider the Montreux Document as a template for an

outcome. Indeed, this document was successful both in restating the international humanitarian law applicable to private military contractors and consolidating related best practices. The Document has enjoyed considerable support among States and within the private security industry. It has led to self-regulation within the sector and domestic legislation in some States. This seems like a model worth considering in our future deliberations.

We are convinced that the CCW is the most appropriate forum for discussing issues related to weapon systems with autonomous functions. We would like to assure you, Mr Chair, of our commitment to continuing the debate with a view to reaching a practical outcome.

I thank you, Mr Chair!