

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

**Group of Governmental Experts on Emerging Technologies
in the Area of Lethal Autonomous Weapons Systems**
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REFLECTIONS BY THE BOLIVARIAN REPUBLIC OF VENEZUELA ON EMERGING TECHNOLOGIES IN THE AREA OF LETHAL AUTONOMOUS WEAPONS SYSTEMS (LAWS) AND THE MANDATE OF THE GROUP OF GOVERNMENTAL EXPERTS (GGE)

Introduction

The Final Report of the 2019 Meeting of the High Contracting Parties to the 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 (CCW) states that the Group of Governmental Experts (GGE) on emerging technologies in the area of Lethal Autonomous Weapons Systems (LAWS) will conduct its work and adopt its reports by consensus, one of which is to be submitted to the meeting of High Contracting Parties in 2020, and the other submitted to the 2021 Sixth Review Conference.

It further states that the GGE is to explore and agree on possible recommendations on options related to emerging technologies in the area of lethal autonomous weapons systems, in the context of the objectives and purposes of the Convention, taking into account all proposals (past, present and future) and the agenda items as reflected in paragraph 11 and annex I of the Report. Under each agenda item, the Group shall consider the legal, technological, and military aspects and the interaction between them, and bearing in mind ethical considerations.

The Final Report of the High Contracting Parties also states the GGE is to consider:

- the guiding principles, which it may further develop and elaborate,
- the work on the legal, technological and military aspects
- and the conclusions of the Group, as reflected in its reports of 2017, 2018 and 2019.

According to the report, the GGE must use these elements as a basis for its consensus recommendations concerning the clarification, consideration, and development of aspects of the normative and operational framework on emerging technologies in the area of lethal autonomous weapons systems.

Considering that the Final Report was a negotiated document, which represents the consensus of those of the High Contracting Parties, the elements contained in the

mandate that will serve to present consensual recommendations to the Sixth Review Conference, must be treated equally.

Similarly, the guiding principles contained in the Report have also been adopted by consensus by the High Contracting Parties. Therefore, a subsequent addition or supplementation should not be allowed outside of the work of the CCW.

In the same way, and according to the established mandate, the guiding principles, the work on the legal, military, and technological aspects, and the previous conclusions of the Group, should be oriented to the clarification, consideration, and development of a framework that contains two functions: normative and operational.

On the operationalization of the guiding principles

The Bolivarian Republic of Venezuela welcomes the debate regarding the operationalization of the guiding principles as part of the mandate of the GGE and duly recalls that there is work to be done on the legal, technological and military aspects and the conclusions of the Group aimed at the clarification, consideration, and development of a normative framework.

The agreement on the guiding principles, as a result of the work during the CCW meetings, is important and useful as a basis for legal regulations, both international and national on those weapons systems. It is of utmost importance that international humanitarian law continues to fully apply to all weapons systems, particularly to the development and use of emerging technologies in the area of lethal autonomous weapons systems. Venezuela deplores the existence of such weapons.

In this sense, the Bolivarian Republic of Venezuela believes that the guiding principles and their potential operationalization are not sufficient to satisfy the need for a legally binding instrument that includes prohibitions and regulations regarding emerging technologies in the area of LAWS.

The guiding principles are only a good basis for the progress of laws and treaties on the matter, therefore they should not be taken as regulations for their national implementation. The eleven guiding principles are a referential framework to advance in the negotiation of an eventual treaty and could be considered by each State in its national capacity, to develop, complement or create laws that determine its own regulations on the matter.

The Bolivarian Republic of Venezuela recalls the Final Document of the Summit of Heads of State and Government of the Non-Aligned Movement (NAM), held in 2019 in Baku, which welcomed the efforts of the Non-Aligned States Parties to the CCW to advance their positions during the meetings of the GGE on LAWS, in particular, to the need for new legally-binding provisions for addressing the humanitarian and international security challenges posed by emerging technologies in the area of LAWS. They agreed that there is an urgent need to pursue a legally-binding instrument on LAWS.

Likewise, the Bolivarian Republic of Venezuela recalls the Statements of the Group of NAM on Agenda Items: 7 and 8 for the 2018 and 2019 Meeting of the High Contracting Parties to the CCW, according to which in 2020, NAM looks forward to making progress towards the development of concrete policy recommendations

including elements of a legally binding instrument stipulating prohibitions and regulations on LAWS.

In light of this background, the Bolivarian Republic of Venezuela would like to present the following comments related to the current mandate of the GGE on LAWS:

Potential challenges posed by emerging technologies in the area of Lethal Autonomous Weapons

- a) All weapons, including fully autonomous weapons or those with autonomous functions, must remain under the direct control and supervision of humans at all times and must comply with international law, including international humanitarian law and international human rights law.
- b) Lethal autonomous weapons systems pose fundamental challenges to the principles of international humanitarian law, including the principles of distinction and proportionality. If the design of lethal autonomous weapons systems cannot ensure that the parties to a conflict can distinguish at all times between the population and the combatants, and disabled or surrendered combatants, as required by international humanitarian law, then neither can it ensure that these weapons can fully comply with international humanitarian law.
- c) Similarly, in terms of proportionality, the arms race associated with the development of this type of technology indicates that the States possessing this type of technology could have a strategic advantage, particularly against non-possessing States, and could cause excessive damage. In principle, only a human is capable of "human judgment" and of making the contextual and subjective assessments necessary to minimize "human suffering." At the same time, it is clear that a programming error derived from biased programming during the design could cause disproportionate harm.
- d) International law establishes that States are responsible for the actions of their military personnel in the conflict, including for the deployment of weapons that have led to violations of international humanitarian law. It should be prevented that States can argue the nature and possible levels of autonomy of lethal autonomous weapons systems to escape responsibility for decision-making that have resulted in violations of international law, in particular international humanitarian law.
- e) It must be guaranteed that international responsibility for acts that violate international humanitarian law can be ensured for those who design, produce, and/or deploy them, regardless of the forensic difficulties arising from their use.
- f) The provisions on the prevalence of international humanitarian law in the development of LAWS must constitute an ethical framework applicable, without distinction, to all technical aspects of its eventual development, since the responsibility of any intervening actor cannot be attenuated, by State or private actor.

- g) A legally binding instrument that establishes prohibitions and regulations for the design, development, and deployment of lethal autonomous weapons systems is essential to ensure compliance with international humanitarian law in the event of the deployment of these weapons.

Characterization of lethal autonomous weapon systems and the consideration of the human element in the use of lethal force

- a) Much has been discussed in the framework of the GGE's work regarding the nature of lethal autonomous weapons systems. In the opinion of the Bolivarian Republic of Venezuela, a legally binding instrument that establishes prohibitions or regulations to ensure compliance with international humanitarian law could help distinguish between the use of emerging technologies in the area of artificial intelligence for peaceful use and lethal autonomous weapon systems, including those completely autonomous from those semi-autonomous or with critical autonomous functions.
- b) The potential difficulties of attribution of responsibility in the case of malicious design, development, and deployment of these weapons, make a complete prohibition on their use desirable.
- c) Different regulations may be established for the design and development of certain types of semi-autonomous weapons, weapons with some autonomous functions or critical functions, and weapons that rely on artificial intelligence, to ensure the preservation of complete human control over the use of force, such as drones and other types of unmanned weapons, in all phases of design, development, and deployment.
- d) Likewise, negative obligations could be clearly and concretely established to prevent the imposition of unjust restrictions and obstacles to intergovernmental cooperation for development in the field of artificial intelligence. A legally binding instrument can recognize that broad sectors of innovation in artificial intelligence can positively impact public policies in health and education matters.

Possible military applications of related technologies in the context of the GGE

- a) Technological improvements in the field of weaponry, in general, have only served to increase the destructive potential and threat of these weapons. In this context, countries possessing technology in the matter of emerging technologies in the area of lethal autonomous weapons systems must offer models of negative security assurances in favor of countries that do not possess these weapons.
- b) The development of advanced weapons technology currently deployed has not reduced the suffering of civilians or military personnel in conflict. Therefore, there are no statistical indications that allow us to assume that the development of technology-based on artificial intelligence aimed at the development of lethal autonomous systems will reduce the suffering of armed conflict.

- c) In fact, certain types of drones, assisted by artificial intelligence technology functions, have been used and armed in recent years by State or non-State actors, and can nowadays strike deep into national territory, targeting individuals and public infrastructure, including civilian infrastructure, as reported in 2020, by of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions (A/HRC/44/38).

Possible options for addressing the humanitarian and international security challenges

The Bolivarian Republic of Venezuela considers that the guiding principles, which can be further developed, the work on the legal, technological, and military aspects and the conclusions of the Group, as reflected in its reports of 2017, 2018, and 2019, can serve as the basis for recommendations for the development of aspects of the normative framework, as stated by the mandate of the GGE.

The Bolivarian Republic of Venezuela considers that to answer to the challenges mentioned above, the development of aspects for the normative framework can be recommended as the negotiation of a legally binding instrument aimed of prohibitions and regulations on emerging technologies in the area of lethal autonomous weapons systems to ensure compliance with international humanitarian law.