



Ministry of Defence

# Article 36 Reviews

## Netherlands Policy and Practice

Ministry of Defence

Directorate of Legal Affairs

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## Overview

1. Structure of the NLD review system
2. Procedure and substance of the NLD review system
3. Challenges and experiences
4. Q&A



## Structure of the Netherlands review system

- Two-tiered approach in multidisciplinary review: working group and Advisory Commission

<b>Working Group</b>	<b>Advisory Commission</b>
Directorate Legal Affairs (Chair)	Chief of Defense (Chair)
Armed Forces services	Director Legal Affairs (Dep. Chair)
Defense Health Care Org.	Director-General Policy
Directorate-General of Policy	Defense Medical Adviser
Defense Ammunition service	Chair Working Group (secretary)
DS (Op. Readiness Div.)	



## Procedure and substance of the NLD review system

- Request for review or *proprio motu* decision to review
  - Submitted to/decided by the chair of the working group
- Collecting data and relevant information
  - Manufacturers, other States, academic publications, test data
- Initial draft review
  - Input from subject matter experts
- Consideration in working group
  - Decision making by consensus



## Procedure and substance of the NLD review system

- Draft review submitted to Advisory Commission
  - Primarily electronic system (work flow management system)
- Approval of review by CHOD after agreement by the members
  - Decision making by consensus
- Advice to the Minister of Defense
- Implementation by secretary to the Commission on behalf of CHOD



## Procedure and substance of the NLD review system

- What is reviewed?
  - “New”
    - All methods and means post 2000
    - All modifications that alter the effect on the target
  - Methods
    - Differentiation from doctrine
    - Differentiation from ad-hoc advice
    - Cyber only method so far
  - Means: all weapons and ammunition
    - All devices that are intended to inflict harm or damage or to exercise force or restraint on the target/subject
    - All devices that are intended to be launched, fired, ejected or otherwise discharged towards the target/subject



## Procedure and substance of the NLD review system

- Platforms are not reviewed in isolation
- Domestic law enforcement methods and means reviewed by the Ministry of Justice
  - Close coordination with the Advisory Commission working group
- Environmental impact included in review; health and safety for the operators reviewed by different organization within the MoD
- Political and public relations aspects included in review
- Law: IHL / LOAC; IHRL; Specific treaties (e.g. arms control)



## Challenges and experiences

- When to review
- Making yourself known and building a network of contacts
- Data and input for review
- Closing the loop: implementation
- Multidisciplinary approach is essential
- Independence and integrity



# Q&A / Discussion