

**Paper submitted by France and Germany  
for consideration by the Group of Governmental Experts  
on Lethal Autonomous Weapons Systems (LAWS)  
Geneva, 13-17 November 2017**

Background

France launched the CCW expert meetings on Lethal Autonomous Weapons Systems (LAWS) in 2014 and Germany subsequently took over in chairing the discussion on this topic in 2015 and 2016. In 2016, the CCW Review Conference established a Group of Governmental Experts (GGE), chaired by India for the year 2017.

The GGE is mandated by the High Contracting Parties to the CCW to *“explore and agree on possible recommendations on options related to emerging technologies in the area of lethal autonomous weapon systems in the context of the objectives and purposes of the Convention”* (CCW/CONF.V/2).

Without prejudging the outcome of these discussions, and in the light of our present technological and scientific knowledge, a desirable outcome for the GGE may be to pave the way for or result in a draft political declaration, identification of recommendations for increased transparency, and the creation within the CCW of a consultative committee of technical experts. France and Germany are presenting the following proposals for consideration by the GGE, in order to help facilitate and structure the discussion and to build bridges between divergent positions within the CCW.

Summary

This paper puts forward several proposals for consideration by the GGE: one relating to the definitional framework, one dealing with possible solutions to respond to the challenges posed by the potential development of LAWS and one focusing on mechanisms that could be put in place to ensure compliance with the existing regulations (Article 36 of Additional Protocol I to the Geneva Conventions concerning weapons reviews) and also build confidence among States. Next steps could include a code of conduct and the creation within the CCW of a consultative committee of technical experts.

These proposals are formulated taking into account that LAWS are a prospective issue and that technologies in the areas of LAWS are intrinsically dual and have numerous civil applications, which are not covered by the following.

Defining LAWS: Discussing the possibility of an all-encompassing regulation is premature and could be reconsidered at a later stage, as the technology of LAWS does not exist to date. State Parties would first need to consider a set of acceptability criteria for the development and use of future LAWS in order to be able to describe the characteristics of the systems they would be ready to regulate. These criteria could be based on technological parameters and/or on the degree of human involvement.

Given the prospective nature of the topic, the GGE may try to agree on a preliminary working definition for the purpose of discussions at the GGE, focusing on fully autonomous

lethal weapon systems. Systems such as remotely piloted and automated systems (e.g. conventional charges exploding with a set timer), tele-operated (e.g. drones), automated missile defense systems, torpedoes, guidance and navigation systems, surveillance and detection systems are not within the scope of the GGE.

Political Declaration: This political declaration should affirm that State parties share the conviction that humans should continue to be able to make ultimate decisions with regard to the use of lethal force and should continue to exert sufficient control over lethal weapons systems they use. Moreover State parties should recall that rules of international law, in particular international humanitarian law, are fully applicable to the development and use of LAWS.

Options for transparency and confidence building: Voluntary measures that could enhance compliance with the existing regulations (Article 36 of Additional Protocol I on weapons reviews) and increase confidence between States include:

- 1) Establishing transparency and facilitating the identification of best-practices in conducting weapons reviews (Article 36) of future LAWS.
- 2) Allowing, on a voluntary basis, other States to participate, as observers, in demonstrations of future LAWS.
- 3) Exchange of information between States on future LAWS.
- 4) Agreeing on a code of conduct providing a politically binding set of rules for the development and use of LAWS as a following step to be developed once the political declaration has been agreed.

### Defining LAWS

Formulating a working definition would be useful to frame the discussions of the GGE and agree on possible measures to address the issue of LAWS. Recalling that LAWS do not exist yet and given the wide range of possible definitional approaches we propose agreeing on a preliminary working definition whereby LAWS are defined as fully autonomous lethal weapon systems. Systems such as remotely piloted and automated systems (e.g. conventional charges exploding with a set timer), tele-operated (e.g. drones), automated missile defence systems, torpedoes, guidance and navigation systems, surveillance and detection systems are not considered as LAWS.

The issue of definition will evolve over time along with technological advances. The exact definition adopted at a later stage will also depend on the question of what kind of regulatory measures is being sought and which political or legal status they should have. In the interest of facilitating an open discussion covering a wide range of LAWS related aspects we therefore propose using the suggested preliminary working definition for the purposes of the present GGE.

### Proposal for a Political Declaration

In the CCW, different responses have been proposed to address the challenges posed by the potential development of LAWS. At the current early stage of formal discussion between CCW members, this non-paper suggests that the GGE should consider drafting a political

declaration, within the framework of the CCW, and in line with the context and objectives of the convention:

- recalling that LAWS do not exist yet and are a prospective issue, however action needs to be taken now to guide their development;
- recalling that the rules of international law, in particular of international humanitarian law are fully applicable to the development and use of future LAWS;
- reaffirming that humans should continue to be able to make ultimate decisions with regard to the use of lethal force and continue to exert sufficient control over the lethal weapons systems they use;
- recalling the obligation for States to conduct, at a national level, a legal assessment of future LAWS in accordance with Article 36 of Additional Protocol I to the 1949 Geneva Conventions and that States will have to assess compliance of LAWS with Additional Protocol I and any other rule of International Law applicable before they develop or use them;
- calling upon all States not parties to the Additional Protocol to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of International Armed Conflicts (Protocol I) to recognize the obligation to conduct weapon reviews as described in article 36 AP I;
- encouraging the exchange of views on the implementation of Article 36 and the development of a Guide for the Art. 36 process, specifically tailored to the assessment of future LAWS;
- affirming the need to remain vigilant about this issue which should be subjected to periodical reviewing based on emerging technologies in the area of LAWS and adapt our responses to challenges posed by LAWS accordingly;
- affirming the need to appeal to CCW High Contracting Parties to remain seized of this issue and encouraging the creation of a "Group of Technical Experts" within the CCW mandated to monitor technological evolutions of the field.

#### Options for transparency and confidence building measures

This non-paper suggests the identification of voluntary transparency and confidence building measures in the area of LAWS.

Increasing transparency and identification of best practices in conducting weapon reviews of LAWS

Article 36 of Additional Protocol I of the 1949 Geneva Conventions provides that in the study, development, acquisition or adoption of a new weapon, means or method of warfare, a State party is under an obligation to determine whether its employment would, in some or all circumstances, be prohibited by this Protocol or by any other rule of international law applicable to the State Party. LAWS should go through such a process. Weapon reviews are a tool already available to ensure that LAWS are developed, produced and used in compliance with current international law as well as, in the future, in compliance with future applicable international law.

Bearing in mind that Article 36 leaves the details of the weapon reviews to each individual State there are a number of concrete measures that could improve the effectiveness of Article 36 weapons reviews and help States conduct a legal assessment of LAWS. These include:

- *Releasing information about the review mechanism.* A first step would be for States that do conduct weapons reviews to release public information about their weapon review mechanism. A number of the State parties to the CCW have already done so within the framework of the CCW discussions.
- *Discuss best practices.* States could subsequently share know-how and experience and exchange views on what could constitute elements of best practices in conducting weapon reviews, specifically tailored to the assessment of future LAWS.

Allow other States to participate as observers in LAWS demonstrations

States, after having introduced new LAWS, should invite, on a voluntary basis, other states to participate in demonstrations of these systems.

Each demonstration should be set up in a way that allows for the examination of the system in a realistic environment.

Exchange of information related to LAWS between States

States could share, on a voluntary basis, various types of relevant information related to LAWS, such as:

- Policy documents and regulations related to the development and use of autonomy in lethal weapon systems;
- General information on LAWS they study, develop, produce and possess;
- General information on ongoing research and development activities which are relevant to the development of autonomy in lethal weapon systems.

### Code of conduct

As a next step, once a political declaration has been endorsed, a code of conduct providing politically binding set of rules for the development and use of future LAWS could be developed. To ensure a rapid and wide adoption the language of the code of conduct should accommodate some room for national interpretations, so that states can tailor its implementation to their specific domestic conditions.

In addition to providing a set of politically binding rules the code of conduct could contain a list of voluntary transparency measures.

### Creation within the CCW of a committee of technical experts

A committee of technical experts could be put in place within the CCW. This committee would be tasked to periodically inform States on new developments in technologies relevant for LAWS.

Such a committee would help maintain a high level of vigilance on this issue, which is by nature prospective and evolving. It would also help States in developing their expertise and, over time, adopting appropriate measures to respond to specific challenges posed by LAWS.