

VOL.7 NO.6

21 August 2019



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the road any further

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THIS CANNOT BE KICKED DOWN THE ROAD ANY FURTHER

Ray Acheson | Women's International League for Peace and Freedom

On Tuesday morning, governments and activists gathered again in Geneva to resume formal discussions on autonomous weapon systems (AWS). The focus of discussions this week is to finalise a report of the group of governmental experts (GGE) to the Convention on Certain Conventional Weapons (CCW), which gives the group its mandate each year. An informal consultation was held the day before, and the week before that, and in May and June, in the Chair's attempt to make up for the lack of days the GGE was able to formally operate this year after Russia single-handedly stripped the mandate to seven days from ten. The crux of the draft report, its conclusions and recommendations, will set up future work of the GGE and thus, for the moment at least, the future direction of international action on autonomous weapons. In this respect, things look bleak.

The Chair tabled the latest version of the draft conclusions and recommendations on Monday night, upon which delegates commented on Tuesday. The draft recommendations currently suggest that thirty days of meetings will be held over the next two years—fifteen in 2020 and fifteen in 2021. During these meetings, the group is to deal with reaching common understandings of human control and examine legal, technological, and military aspects of autonomous weapons. At the end of 2021, they are to use these deliberations “to continue the clarification and development of normative and operational frameworks on emerging technologies in the area of lethal autonomous weapon systems.”

If this sounds a bit vague to you, it's because it purposefully is. The notion of “normative and operational frameworks” is intended to capture whatever delegates want it to. For some, such as the 28 states that have so far called for a ban on autonomous weapons, this could mean the negotiation of a new legally binding instrument. The US delegation is convinced that this is all that it means, and thus objects to this already intensely

ambiguous formulation. But others who do not support a legal agreement have argued that a framework could just be the agreement of political guidelines or commitments on how autonomous weapon systems can and cannot be used, or something even weaker than that. The point is, the Chair has gone for “constructive ambiguity”—which as the Campaign to Stop Killer Robots points out, may aid diplomacy at the CCW “but will do little to quell growing public concerns over removing human control from the use of force or meet rising expectations that nations will take strong action on this serious challenge.”

Public concern and expectations are indeed rising. Tech workers in particular have been organising against the weaponisation and militarisation of their computer programmes and other technologies. Employees of big companies like Google, Amazon, and Microsoft have protested specific contracts with militaries and weapon companies; others have started their own tech firms and pledged never to contribute to the development of autonomous weapons. Public opinion polls show again and again that the majority of the world's citizens are appalled by the idea of machines making life and death decisions.

Yet public concerns and expectations are in direct contrast to the positions of many governments at the CCW. First, there is the general lack of concern about setting up another discussion mandate for the next two years. This locks the GGE into continuing discussions it began six years ago, albeit over more days each year. But to what end? Without a guarantee of concrete action at the end of all these years of expert-level conversation, the CCW process is looking more and more like a master class in kicking the can down the road.

And then there is the attempt by a handful of states, including Australia, China, Israel, Republic of Korea, Russia, United States, and United Kingdom to water down what little progress might be possible if it were up to the majority of countries

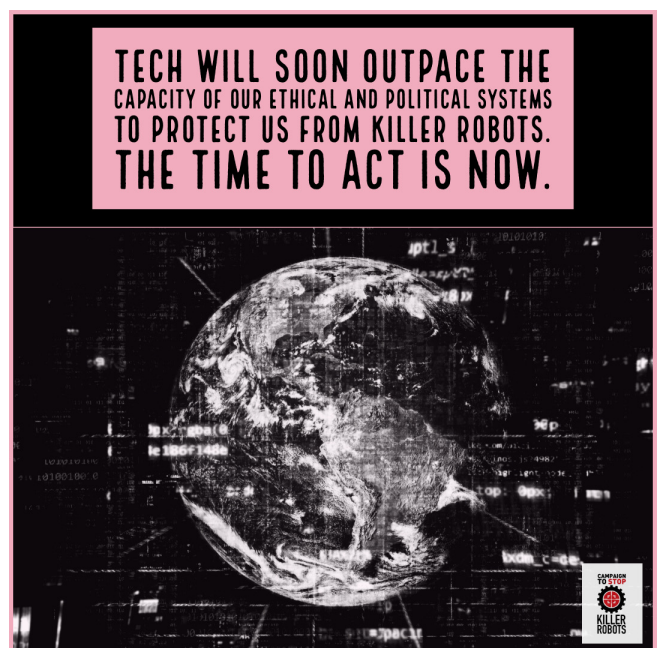
participating in these discussions. Russia in particular spent Tuesday aggressively undermining the Chair's attempts to reach consensus on the draft report. The Russian delegation refused to participate in any of the informal consultations and then showed up with a litany of requested changes to the conclusions and recommendations that sought to walk back agreed language from previous outcomes. Russia objected to references to any international law other than international humanitarian law. Despite extensive debate and agreed language from previous GGE sessions it tried to remove all the references to human control, ethics, and morality and it attempted to redirect the object of discussion to specific weapon systems rather than emerging technologies—even though the latter has been the framework of CCW discussions on autonomous weapons for years. But the other countries in this group of spoilers are not blameless in these efforts to prevent progress in the CCW. It seems very clear that they prioritise leaving options open for the development of weapons that can kill without human control over the ethical, moral, legal, political, technological, and operational dangers that these weapons pose to humanity, peace, and security.

Their collective nonchalance when it comes to the vast majority's desire to ensure meaningful human control over weapon systems and the use of force is an affront to the diplomatic process. As activists following international disarmament discussions have warned for years, consensus in many of these forums has come to mean unanimity, giving every single government a veto over every single decision or document. This has paralysed action in the CCW and in the Conference on Disarmament, leaving the UN General Assembly or alternative ad hoc forums as the only legitimate spaces where progress is possible, and rendering many UN bodies increasingly irrelevant or obsolete.

Furthermore, the refusal of a handful of governments to permit international negotiations on limits to autonomy in weapon systems means that they put their quest for dominance through violence over the human lives and security interests of the rest of the world. As six years of CCW discussions and previous work in the Human Rights Council have shown time and again, machines cannot and must not be able

to select and engage targets on their own. Chile and Austria doubled down on this message on Tuesday, emphasising that human judgements cannot be replaced by machines. As Peter Asaro of the International Committee of Robot Arms Control reiterated at a side event, machines cannot understand humans as humans, no matter how complex the target profile they may be programmed with. Furthermore, as activist organisations such as the Women's International League for Peace and Freedom and Mines Action Canada have repeatedly argued, bias in the programming of such profiles will inevitably lead to human rights violations, setting human beings up for death on the basis of sex, race, ethnicity, or other discriminatory criteria.

The time for the CCW to prevent a future where machines determine who lives or who dies on the basis of software and sensors, is now. Punting off concrete work for another two years, only to then be faced with the same prospects of a handful of states refusing to allow the development of laws and regulations, is not responsible behaviour. It is not ethically, politically, or legally sound to allow a few countries to drag us into the dark abyss of autonomous violence. Governments need to step up to match the courage and organisation of tech workers and start taking concrete action against killer robots before it's too late.



NEWS IN BRIEF

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This is a summary of discussions and does not necessarily capture every statement or position.

Conclusions

- States discussed the guiding principles and how they are presented in this section of the Chair's non-paper. Chile likes the way the draft is constructed. Germany, Switzerland, Iraq, and Costa Rica urged that the work on principles not be an end or final result of the GGE. The European Union (EU) stressed the importance of operationalising the principles. The Netherlands acknowledged them as a basis of work that should not prejudice other outcomes. Russia and Costa Rica agreed to not describe the work of the GGE as having been "focused on" various potential principles but rather that the principles were considered. Algeria would like to leave the door open to additional guiding principles. Iraq stated that the reference to the guiding principles not be a replacement of specific political points such as a legally-binding instrument or prohibition. Cuba would like reference to further developing a normative framework put into the chapeau of para 15.
- Costa Rica suggested replacing "reaffirmed" with "took into consideration" in the chapeau of para 15, in reference to the status of the principles as having already been agreed on.
- Russia suggested replacing the word "framework" with "basis" in the chapeau of paragraph 15, as well as replacing "focused on" with "conceded".
- Ecuador and Costa Rica encouraged keeping the word "potential" ahead of any reference to use of autonomous weapon systems (AWS) throughout the text.
- Ireland proposed replacing "considered" with "agreed" in reference to the GGE's conclusion to elevate the status of additional guiding principle on the ensuring that international humanitarian law (IHL) compliance in human-machine interaction in para 15(a). Belgium, Austria, Luxembourg, Switzerland, and Estonia supported this suggestion.
- Switzerland, with Austrian support, suggested inserting a reference to the use of AWS in para 16(c) to ensure broader accountability employing the "means or method of warfare". Russia suggested removing the new reference to "means or method" in this sub-para.
- Chile urged using "responsibility" over "accountability" in paragraph 16c, for reasons of legal accuracy. It further noted that legal responsibility is first incumbent on a state, and then on an individual, which was supported by Cuba and Estonia. India questioned if the phrasing of the second sentence in this paragraph goes beyond the GGE's mandate by requiring states to ensure individual accountability by its reference to means and methods.
- Chile, supported by Mexico, said that the word "concluded" in the chapeau of paragraph 16 is too categorical and would prefer to replace it with something like "considers" "advances" or "confirms". This is in reference to the subsequent list of draft conclusions.
- Chile and Costa Rica welcomed the insertion of "and control" in para 16(d), following "command".
- The United States (US) noted that IHL principles and rules are being presented interchangeably, which creates inconsistency and could have implications for how different states understand these in national law and practice. It suggested that inserting the word "requirements" following each reference to IHL principles as a solution. Austria and Japan supported this suggestion. The Netherlands expressed that humanity and military necessity form the basis of IHL and welcome streamlining this language. The International Committee of the Red Cross (ICRC) stated that the new reference to "humanity and necessity" as in para 16(g) is confusing and superfluous because all rules of IHL already embody a balance between the underlying principles

of humanity and military utility. It felt the US suggestion on being consistent and adding “requirements” would be useful.

- Brazil, Mexico, and Austria expressed concern that ethical and moral considerations are less prominent or have been “short-changed” in this version of the draft non-paper than military, legal, and technical considerations. Brazil, Belgium, and Costa Rica urged retaining the reference to “moral and ethical perspectives” in paragraph 17a. Algeria suggested the chapeau of paragraph 15 could be a space to underscore the importance of moral and ethical considerations. Ecuador and Mexico stressed that the reference to the Marten’s Clause in para 17a not become the only way in which states approach this dimension of the issue.
- Chile stressed the importance of the maintaining the phrase “human judgement” in paragraph 16(f) to reflect earlier discussion in the Group on this concept because it is “essential to interpret, implement, and comply with the rules of international law.” This was supported by Austria, noting it as a fundamental tenant of the GGE’s discussions, and Venezuela and Cuba. Mexico agreed but noted that the term requires more context. China expressed that the term “human judgement” is not clear enough.
- France proposed the inclusion of “incorporating” ahead of references to “emerging technologies in the area of LAWS” in paragraph 16(i) be made in sub-para e and g. Japan said it’s important to be consistent with language agreed to in earlier documents.
- The US, China, India, and Russia expressed concern that partial language and/or elements of Additional Protocol (AP) I of the Geneva Conventions is being used in paras 16(i) (j)(k) even though not all states are party to it. The US suggested using “inherently indiscriminate” as a replacement for the description of weapons that are “by nature indiscriminate” in para 16(i), which was supported by Israel.
- The new insertion at the end of para 16(g) about sensors or “other technologies” was rejected by Costa Rica. Russia suggested an alternative formulation for this sub-para that would remove the new language. Israel suggested amending the paragraph to make the new addition its own sentence.
- The EU, Argentina, and the ICRC underscored that these legal reviews must be conducted and are legal obligations. Argentina proposed deleting the reference to the word “voluntary” in reference to information exchange in this context, noting that such exchange is included in Article 84 of API as a measure that states must undertake to facilitate IHL compliance. Sweden reinforced the importance of this and of keeping sub-paragraphs (j) and (k).
- Russia proposed removing the words “applicable international law” throughout the document, arguing it is excessive given the CCW’s focus IHL. Brazil, Germany, the Netherlands, Belgium, Australia, Austria, Mexico, Luxembourg, Republic of Korea, and Venezuela, among others, argued in favour of retaining the reference to international law. Many of these states underscored that this would be consistent with agreed language and/or stressed that other types of law, such as international human rights law, are applicable and relevant. India stated that if there is divergence on this point, it would be difficult to agree it in a consensus document and best to include it in the Chair’s factual summary.
- China proposed changing “must ensure” to “should ensure” in multiple places. Australia would prefer to avoid removing “must” but said “should” is preferable to “shall” because this is not a legally-binding instrument.
- Russia would like to see the removal of the phrase “emerging technologies in the area of lethal autonomous weapons” because it believes that referring to “technologies” is too broad and the discussion needs to be focused around AWS. Germany and many others argued retaining it for consistency with the GGE’s mandate.
- Russia proposed deleting paragraphs 17, 19, and 21, which outline further areas of work for the GGE and suggested moving these suggestions into the Chair’s summary. The US said it is “relaxed” on how to use

these paras and said it is a good place to capture divergences. It suggested adding the phrase “to build common understandings” in the chapeau of paragraph 17, which was supported by Costa Rica and Japan, although Japan cautioned that this could be seen as an end of this discussion in the GGE. Netherlands, Estonia, Ecuador and ROK, among others, supported retaining these paragraphs largely on the basis of a being a guide for future work. Japan suggested exploring how to re-formulate the chapeau in a way that could make it acceptable to keep these paras.

- Switzerland, with Austria, suggested adding a reference to damage to civilian objects in paragraph 17(d) to capture the full range of possible targets.

Recommendations

- France, Switzerland, Japan, Australia, Sweden, ROK, and New Zealand expressed general support for the draft recommendations.
- The EU, China, Belgium, and New Zealand said that the GGE should aim to arrive at a common understanding of the type of human control over AWS.
- The Campaign to Stop Killer Robots expressed concern at the downplaying of the discussions around “human control over critical functions,” which has dominated states’ talks since 2014.

Paragraph 24a

- Chile supported the inclusion of “as a first step” in paragraph 24a, as it refers to GGE discussions as “something moving forward.” Russia and Venezuela would like to see this new addition deleted. Russia noted that this wasn’t a first step, but yet another step by the CCW. Costa Rica could support this.
- The majority of states supported recommending the endorsement of the ten guiding principles at the CCW meeting of high contracting parties (HCP), which would show that “substantive progress” has been made.
- The EU said it looks forward to developing the guiding principles further, including one on the human-machine interaction.

- Russia proposed to replace “agreed” with “affirmed” in the second line of the same paragraph. The US supported this. Costa Rica affirmed to retain “agreed”.
- Chile, Ecuador, Costa Rica, South Africa, Belgium, and Mexico would prefer to end the sentence after “Annex IV of this report” in paragraph 24a. Chile said that the elaboration of new guiding principles does not form part of the GGE’s mandate. Russia also opposed the inclusion of the new addition, and said that the same idea is contained in para 24e).

Paragraph 24b

- Belgium, France, Peru, Chile, the US, and the EU argued that the seven days of discussions in 2019 have been insufficient.
- Chile noted that it wasn’t easy to participate in the informal consultations held by the Chair this year. Finland said it was ready to support formal meetings with informal meetings. Japan underscored the value of informal consultations.
- The Netherlands, Peru, Switzerland, the UK, Estonia, Cuba, and Mexico, among others, supported the proposal of 30 days for 2020 and 2021 meetings. France, Belgium, and Finland said that 30 days is the absolute minimum.
- The EU, New Zealand, and Chile supported the Chair’s suggestion to have three sessions of five days each in 2020 and 2021. Russia and Mexico were flexible on the number of sessions per year. Russia suggested to devote one such session to the adoption of the report, as was done this year. Cuba noted that it was difficult for developing countries to attend three sessions a year. South Africa and Venezuela raised similar concerns.
- ROK didn’t oppose the proposed 30 days but noted that the recommendation is tied to financial obligations. China suggested to add to paragraph 24b “subject to the financial condition of the Convention”. Costa Rica supported this.
- Russia said 20 days would be enough in 2020 and 2021. Israel said it was difficult to expand the work of the GGE to 30 days.

- Austria suggested including the submission of an interim report to the meeting of HCPs in 2020, as well as for the 2021 Sixth Review Conference. Chile, Belgium, Pakistan, Ecuador, Costa Rica, Brazil, South Africa, the UK, and Mexico supported this.
- Estonia was supportive of the two-year work plan.

Paragraph 24c

- Russia suggested deletion of the last sentence of this paragraph that encourages HCP to provide funding to assist other HCPs to bring relevant technical experts to participate. Russia said that this could lead to politicisation in discussions and may discredit the existing sponsorship programme.

Paragraph 24d

- Chile, Netherlands, Ireland, Venezuela, Peru, and New Zealand welcomed the inclusion of language to reach common understandings on elements of human control.
- Netherlands suggested replacing “critical functions” with “across the entire life cycle,” saying the latter is too limiting. The UK supported this.
- The US expressed concern at the phrase “human control over critical functions,” arguing it articulates a premature standard.
- India and Netherlands did not support the inclusion of “ethical acceptability”. India wondered if this would mean that states will develop AWS that are “ethically acceptable,” while Netherlands argued that ethical considerations are inherent in international law. The Campaign to Stop Killer Robots and many other governments noted that more attention should be drawn to ethical considerations.
- Many states, including Belgium, Switzerland, France, Chile, Estonia, the Netherlands, Ecuador, Ireland, and the EU, supported the Chair’s suggestion to establish three work streams.
- Austria wasn’t sure how the three work streams would support a common

understanding on elements of human control over critical functions. It recommended to have an additional work stream on the topic of human control or machine-human interaction, looking at the issue from a legal, ethical, military and technological perspective. Switzerland and Costa Rica, among others, said they could support this proposal.

- Russia did not support the “bureaucratisation of the work in trying to sub-divide” it into work streams, and expressed support for the continuation of the current format. It thus suggested merging paragraphs 24d and e.
- India wondered how the guiding principles would be operationalised and didn’t think that by getting into the military, legal, and technological discussions, the general principles would be operationalised.
- The EU suggested to identify key teams for each working stream in advance, to be agreed by consensus. New Zealand noted that the priorities for the three working streams should be clearly stated.
- In terms of the legal work stream, the Holy See suggested to include “ethical” before “legal” as part of this work stream as this would be in line with previous discussions on AWS. Austria, Costa Rica, Brazil, Ecuador, Ireland, Cuba, Belgium, South Africa, Finland, Peru, and Mexico supported this. The US did not support this. It said that the programme of work of the proposed work streams is broad enough to capture the idea of ethical considerations.
- Australia argued that including ethical considerations in this work stream would risk to “water down and conflate” legal and ethical dimensions.
- The EU suggested for states to exchange information how they implement international law with respect to emerging technologies in weapon systems.
- Belgium, Estonia, and New Zealand supported the proposed way ahead in the legal work stream, which would gather existing international law and norms applicable to emerging technologies in the area of AWS. The EU also expressed support to this. Portugal

argued that the reference to compilation should be approached in the “broadest sense,” it should also encompass best practices and shed light on gaps in current regulations of AWS.

- Chile, Brazil, Cuba, and Ecuador noted that there is a need to carry out comparative analyses to find existing legal gaps.
- Chile wasn’t convinced of a compilation of existing international law, and hoped that this work could be instead carried out by specialised agencies such as the ICRC. Austria also observed that this was usually done by non-state actors.
- In terms of the technological stream, the EU, Belgium, and New Zealand suggested that it should continue to strive for common understandings of concepts and characteristics of AWS. The EU suggested further to aim for a preliminary working definition.
- In terms of the military stream, the EU noted that it would provide the GGE a good venue to share good practices of legal weapons reviews in the area of AWS.
- The EU asserted that information between the three streams should be freely and regularly exchanged as they have cross-cutting considerations. Chile also said that the Group’s work requires a multidisciplinary analysis and the work streams shouldn’t work in silos. ROK agreed.
- ROK further noted that experts with technological expertise should participate in each work stream.
- Mexico, Portugal, Brazil, and Estonia affirmed the three work streams should feed into the same discussion.
- Cuba and Venezuela suggested to have explicit mention of the need for equitable geographical representation in the friends of the Chair, as referred to in paragraph d.

Paragraph 24e

- Brazil noted that instead of instead of “outputs” of the three work streams, as

suggested in para e(ii), “reports” could be developed which would be more workable and useful. Germany supported this.

- Brazil welcomed the broad language that has been proposed which it described as “new portfolio of possible outcomes.”
- Brazil suggested to include at the very end of paragraph 24e “as well as for international cooperation on that matter”.
- Chile and Peru preferred the language of the previous version as the new additions will require further explanations and clarifications. Ecuador said it cannot support the most recent proposal, as it “goes even further away from already low ambitions”.
- Chile, Pakistan, Peru and Costa Rica asserted that it is important to work towards a legal tool that is legally binding and that takes the form of a protocol that ensures human control over the critical functions of a weapon system. Finland supported moving the process into “negotiation gear”.
- Austria and ROK were not sure what “operational framework” means and sought further clarification on this term.
- Switzerland said that the suggested language by NZ would make it clearer that the group should use paragraphs 24e (i), (ii), and (iii) as basis to clarify the “operational framework”.
- Germany noted that the term “normative and operational framework” captures the variety of how the substantive debate should be channelled into a procedural outcome.
- The US, the UK, and Sweden supported the new language of the last sentence in paragraph e. The US said that it was supportive as a reference to normative framework only would have a “singular outcome,” which it worries is a prohibition treaty.

Gender

- The EU noted that it is important to take into account gender perspectives since gender has potential impacts on emerging technologies in the area of AWS.

CCW REPORT

Reaching Critical Will is the disarmament programme of the Women's International League for Peace and Freedom (WILPF), the oldest women's peace organisation in the world. Reaching Critical Will works for disarmament and the prohibition of many different weapon systems; confronting militarism and military spending; and exposing gendered aspects of the impact of weapons and disarmament processes with a feminist lens. Reaching Critical Will also monitors and analyses international disarmament processes, providing primary resources, reporting, and civil society coordination at various UN-related forums.



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The *CCW Report* is produced by the Reaching Critical Will programme of the Women's International League for Peace and Freedom (WILPF). WILPF is a steering group member of the Campaign to Stop Killer Robots.

CCW REPORT

Vol. 7, No. 6

21 August 2019

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