

Mr. Chairman,

Let me join others in congratulating you on your assumption of the Chairmanship of this expert meeting for the second consecutive year. The annotated agenda and the 'food for thought paper' shared by you serves as a useful basis for our discussion this week. We also wish to thank the Implementation Support Unit for the arrangements made for this meeting.

Rapid advancement of Artificial Intelligence (AI) and the possibility of fully autonomous functioning in weapon systems devoid of human control have created unprecedented risks and challenges to humanity and human values, demanding undelayed global attention. The challenges to be addressed during such a dialogue ranges from the need for a definition for lethal autonomous weapon systems, to clarity on 'meaningful human control', the accepted degree of autonomy that enables compliance with international human rights and humanitarian law that can successfully address the current void in accountability issues, and moral and ethical concerns in usage, including selecting targets. Given the sophistication with which contemporary non-state actors are involved in armed conflicts, we also need to be alive to the possibilities of weapons with dangerous consequences such as LAWS falling into the hands of such groups.

Mr. Chairman,

When compared to the previous two Experts' Meetings held in 2014 and 2015, today we meet in a significantly changed context. The November 2015 Meeting of the High Contracting Parties to the Convention on Certain Conventional Weapons (CCW), which Sri Lanka had the honour to preside over, mandated that, in addition to the submission of a report of the proceedings of this meeting by the Chairperson in his personal capacity, "the meeting of experts may agree by consensus on recommendations for further work for consideration by the 2016 Fifth Review Conference."¹

This expansion of the mandate, constitutes an important step forward demonstrating the willingness of CCW States Parties to endeavor to work towards a tangible outcome. It is also noted that while 29 states expressed opinions during the April 2014 Experts Meeting, in April 2015 this figure rose to 46 (17 additional countries, including Sri Lanka). During the November 2015 Meeting of the High Contracting Parties of the CCW, when for the first time a dedicated session was devoted to LAWS, 23 States contributed to the debate and many of these countries also actively participated in the informal discussions that framed the mandate for the present discussion.

¹ The CCW Meeting decided to, "*convene an informal meeting of experts of up to five days during the week of 11 to 15 April 2016 to discuss further the questions related to emerging technologies in the area of lethal autonomous weapons systems (LAWS), in the context of the objectives and purposes of the Convention. The Chairperson of the meeting of experts will submit a report in his personal capacity to the 2016 Fifth Review Conference of High Contracting Parties to the Convention. The meeting of experts may agree by consensus on recommendations for further work for consideration by the 2016 Fifth Review Conference*".

With the increasing acknowledgement of the importance of this issue, Sri Lanka is confident that more States, regardless of their respective technological advancements and ensuing capabilities in developing such weapons, would engage in a constructive dialogue over the next 5 days, with the aim of providing meaningful recommendations as an outcome of the meeting. More robust engagement in the discussion from the global South is also vital, for it is these countries who are disadvantaged in the access to such technologies, and are likely to be more vulnerable during any potential warfare involving LAWS.

That the CCW acts on this issue is also important in order to maintain its own credibility, and strike a balance between the legitimate security aspirations of States and the inherent humanitarian concerns of the international community. Further, it provides an opportunity for both States, as well as Civil Society which continues to play an important role in furthering the debate on the LAWS, to engage and strengthen the CCW process. While acknowledging the important contribution by the experts in the field over the past two years, time is now opportune for this body to move further and to initiate a dialogue on this issue among States, who must eventually make the ultimate call. We hope that such an inter-governmental process will help in ensuring clarity on the concerns of States, as well as to create a matrix of common elements.

If we fail to live up to this expectation, it would result in denying the 2016 Review Conference which meets only once in five years, a historic opportunity to address this pressing issue decisively and frame the work that the CCW proposes to undertake in this connection. Our failure today, could result in the intensity of the development of LAWS in an unregulated environment, to the detriment of humanity.

Mr. Chairman,

While recalling Sri Lanka's statements made over the course of 2015 on LAWS, I wish to highlight several key points that would be of particular relevance to our discussions this week:

Dynamics of the issues related to LAWS

It is our understanding that the debate on LAWS is not merely a question to ban or not to ban autonomous technology in weapons systems, but rather a question of the acceptable threshold of the degree of autonomy in weapon systems that is in compliance with international law. In deciding so, it is necessary to be mindful of the fact that implications of the use of LAWS can vary substantially depending on the circumstances, the context that it is being used, the type and usage of the weapons, etc. Therefore, the debate should be an exercise to explore how we can take pre-emptive regulatory actions taking into account all above aspects, while preserving the space for the peaceful use of the autonomous technology including non-lethal military and defensive purposes. Protocol IV of the CCW, provides an example to this end, where the use of laser technology in a specific context was pre-emptively banned, but the same technology continues to be in use for various

other peaceful purposes. The concept of 'dual-use technology' in the nuclear field also has relevance to the issue of LAWS. Therefore, it is important to consider safeguards that can help avoid the abuse and unintended consequences of the AI technology while reaping its benefits for the betterment of humanity.

Definition:

One of the central issues of our debate has been to understand a definition for LAWS. While working definitions are being used in different discussions, it is important that we, as States agree on the basic elements of such a definition, in order to proceed towards a more structured discussion in the future. Careful study of different definitions put forward so far, and consideration of language used in different defence doctrines issued by States could serve as useful starting points, without prejudging what would be the appropriate degree of autonomy and the human-machine control to be acceptable in a regulatory framework. Another important concept emerging in relation to the issues of definition as well as on the accountability of the use of LAWS is 'Meaningful Human Control' (MHC). Given that issues such as the exact level of human control and the necessary parameters of 'meaningfulness' are yet to be defined, we encourage states to continue the dialogue on this concept, focusing on further defining its context and application with a view to contributing to a working definition on LAWS and to regulate the increasing autonomy of weapons.

Accountability and Compliance with International Humanitarian Law (IHL)

The issue of IHL compatibility has centrality in our deliberations towards developing an international legal instrument on regulating autonomous technology in weapons. The debate on how and what provisions of IHL should be applied in the case of LAWS and who should be held accountable in the event of unlawful use are some of the fundamental issues that need an answer. We need to take into consideration how the existing international legal regimes could effectively address the future forms of warfare and weapons, in particular the lethal autonomous weapons. The challenge of addressing the accountability gap in this context means to what extent an individual, organizations or a State could be held liable for a crime committed by a fully autonomous weapon. As the ICRC notes² under the law of State responsibility, in addition to accountability for violations of IHL committed by its armed forces, a State could also be held liable for violations of IHL caused by an autonomous weapon system that it has not, or has inadequately tested or reviewed prior to deployment. Further, under the laws of product liability, manufacturers and programmers could also be held accountable for errors in programming or for the malfunction of an autonomous weapon system. However, establishing evidence that the operator or the manufacturers knew or should have known the possibility of the crime committed by

² ICRC (2015), International humanitarian law and the challenges of contemporary armed conflicts, Report to the 32nd International Conference of the Red Cross and Red Crescent held 8 - 10 December 2015, pp 44-47
<https://www.icrc.org/en/document/international-humanitarian-law-and-challenges-contemporary-armed-conflicts>

a complicated artificial intelligence system fed into the weapon will be a difficult task. Therefore, we recommend this aspect also be given due attention when discussing Article 36 implementation, to ensure a clear accountability chain with regard to autonomous weapons.

Over and above these technological issues, there are underlying fundamental moral questions. Even if any of the IHL principles are found to be inapplicable, the test of public conscience and laws of humanity as referred to in the Martens Clause provide compelling reasons for basic guiding principles on the legality of the use of LAWS.

Human Rights concerns:

While the primary focus has been on autonomous weapons usage in armed conflicts, once developed, there would be no guarantee that the same would not be used in the domestic law enforcement activities, with lethal or less-lethal force. As pointed out by the Special Rapporteur on extrajudicial, summary or arbitrary executions, such use, both in a military context, and a law enforcement context could pose serious violation of human rights, in particular the right to life and dignity³. Given this non-derogable human rights dimension of the subject, we encourage that the matter continues to be pursued in the Human Rights Council as well, under relevant agenda items.

Security issues:

As noted at the previous experts meetings, the concern of LAWS posing potential threat to global peace and security remains valid. Potential military advantage of LAWS vis-à-vis combatant casualties would make it an attractive weapon system, risking proliferation, and thereby lowering the threshold of rules of warfare, which would undermine regional as well as global stability, peace and security. The increasing dominance by non - state actors and breach of cyber security should also be seriously noted, before considering applying this technology to weapons systems. The possibility of accidental catastrophic consequences resulting from LAWS could also be an inevitable consequence.

Transparency and Confidence Building Measures (TCBMs):

While acknowledging that States have limited understanding on this subject, views continue to evolve and States are paying special attention in developing its own policy in this area. In this context, the voluntary measures for self-regulation at national levels, if any, may provide a valuable insight into the larger issue of addressing the international framework. State Parties may therefore announce such measures, as means of Transparency and Confidence Building Measures (TCBMs), in fulfilment of their moral obligation as the global efforts intensify towards establishing legal norms through a consensual approach.

³ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions A/69/265 of 6 August 2014, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/497/36/PDF/N1449736.pdf?OpenElement>

Way Forward:

The general understanding emanating from the substantive engagements in the past several years is that the mandate given to us is to address the issue of future autonomous systems. Given the ambiguous nature of such systems, it is noted that there is a sense of discomfort among States to move forward, thus calling for a slower, more 'cautious' approach. However, it must be noted that the discussion on future technological advancement would not necessarily be limited to a mere scientific or academic discourse based on hypothetical questions, as yesterday's fiction is today's reality. Hence, the argument for dismissing action on an 'unknown system' is not the right approach for preventive disarmament. Therefore, we urge countries who are already in possession of such weapons or have the capability to do so, to engage in an open and constructive dialogue with the rest of the Member States to discuss genuine concerns and consider a way forward within the framework of the CCW.

We are aware that the options for a possible way forward range from pre-emptive ban of this dual-use technology in weapon systems as a whole, to ensuring that necessary regulations, both nationally and internationally, are in place to set limits on use of this technology in weapon systems, particularly maintaining an applicable degree of autonomy in a weapon system that falls within the parameters of IHL and IHRL.

While noting the positive commitments expressed by many States to not develop 'unpredictable autonomous weapons', within their respective national security doctrines, we believe that national regulations themselves would not be sufficient to guarantee that these weapons will not be developed or used, as national military doctrines tend to evolve with 'potential risks' from outside. Furthermore, given the repeated emphasis on the danger of a possible military AI arms race, it is of utmost importance that the international community understands the urgent and serious need for regulation of use of artificial intelligence in weapons systems, which if not acted upon swiftly, can be beyond any control. Therefore, while welcoming voluntary national measures, Sri Lanka wishes to stress the need for negotiating a legally binding international instrument that regulates the use of autonomous technology in weapon systems. We stand ready to support action towards this end.

It is our considered view that an important first step, would be to establish by consensus, a Governmental Group of Experts (GGE) at the Fifth Review Conference with an initial discussion mandate, to take forward future action on LAWS, with particular focus on an agreed definition of LAWS and the 'test of IHL compliance'.

To conclude, Mr. Chairman, let me express my delegation's expectation of a fruitful discussion over the next five days, so that we could agree on concrete recommendations acceptable to all States, for consideration at the Review Conference later this year.

I assure you my delegation's strong commitment and support towards this end.

Thank you.