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Analysis of the proposals and statements of countries from the Global South on the normative and operational framework in the area of Autonomous Weapons Systems

*“This is the voice from the Global South” – JJ Dominguez, Philippines,
Group of Government Experts on Lethal Autonomous Weapons Systems at the
Informal Exchange of Views, 29 June 2021*

This paper examines the written contributionsⁱ submitted by some of the countries from the Global South on recommendations in relation to the clarification, consideration and development of aspects of the normative and operational framework on emerging technologies in the area of lethal autonomous weapons systems (LAWS). It also examines statementsⁱⁱ from the Convention on Certain Conventional Weapons (CCW) Group of Government Experts (GGE) on LAWS ‘Informal Exchange of Views’ meeting which took place from 28 June to 2 July 2021.

The objective is to find common elements in the written submissions and statements of these countries, include those from the Latin America region, to make evident the common ground built over the years as States chart a way forward.

At the 2019 meeting of High Contracting Parties to the CCW, discussions largely focussed on challenges posed by LAWS, the importance of human element, aspects of human-machine interaction, military applications of related emerging technologies, challenges posed to the International Humanitarian Law (IHL), and possible options on how to address humanitarian and international security concerns such as: a legally binding instrument, a political declaration, guidelines, principles, a code of conduct, and the improvement of existing legal requirements.

The successful outcome of this meeting was the adoption by consensus of the eleven Guiding Principles which as expressed by the Chair *“the GGE on LAWS is to utilise (...) for its recommendations in terms of clarification, and development of the normative and operational framework”ⁱⁱⁱ*.

Despite the challenges posed by the pandemic, Ambassador Janis Karklins of Latvia, who chaired the 2020 GGE on LAWS until August, organised virtual informal consultations called *“fireside chats”* throughout the year in an effort to achieve progress. Ambassador Karklins also invited High Contracting Parties to submit commentaries on the operationalising of the Guiding Principles at the national level.

Current GGE Chair, Ambassador Marc Pecsteen de Buytsverve of Belgium, requested that States submit written contributions on recommendations in relation to the clarification, consideration and development of aspects of the normative and operational framework on emerging technologies in the area of LAWS. These written contributions were discussed at an ‘Informal Exchange of Views’ organised for 28 June – 5 July when the GGE session initially planned for May 2021 was cancelled.

The next formal GGE meeting is scheduled for August 2021 as an in-person event provided the pandemic restrictions are eased to allow for such a gathering.

Historically the Latin American region has played an essential role in humanitarian disarmament by supporting, in some cases, leading negotiation processes on legally binding instruments to ban or control weapons that cause unacceptable harm. As a matter of fact, the international community witnessed their most recent effort in the entry into force of the 2017 Nuclear Ban Treaty in January 2021 when Honduras became the 50th state to ratify it in October 2020. Likewise other countries from Africa, Asia and the Pacific have also been instrumental in strengthening International Humanitarian Law in the past decade.

This common humanitarian disarmament perspective among the Latin American countries and more broadly countries from the Global South, could potentially foster a stronger collaboration towards a legally binding instrument on autonomous weapons systems (AWS).

The 'Informal Exchange of Views' meeting triggered an enriched discussion allowing for States to come forward with a more 'open-minded' position in regards to the need for a prohibitions and regulations framework that could serve to adopt a mandate for the negotiation of a legally binding instrument sooner rather than later.

It was noted that a growing number of states share very similar positions and concerns, and while recognising there are different approaches to some of the elements being discussed on LAWS, the following commonalities in key areas have been identified:

1. **Description of the weapons of concern:** Weapons that cannot ensure meaningful human control in the critical functions of selecting and attacking targets/applying force
2. **Normative framework:** Legally binding instrument
3. **Elements of the structure of a normative framework:** Prohibitions and regulations (positive obligations) should be included to ensure meaningful human control over the use of force
4. **Prohibitions:** Prohibitions are necessary for AWS that cannot ensure human control over its critical functions of selection and engagement of targets in the application of force
5. **Regulations:** Regulations are necessary for other AWS and should include limits such as those related to types of targets, duration, geographical scope, scale of use, among others
6. **Accountability and responsibility:** International rules should apply to the use of AWS. Both States and individuals should be held responsible for violations of International Law
7. **Meaningful human control:** It should be ensured so that the use of AWS is compliant with International Law. Meaningful human control applies to the life cycle of weapons systems and all its critical functions
8. **Transparency and legal reviews:** These are fundamentals and should cover all aspects of the development of AWS.

Five key recommendations for all States on the way forward

- 1) States are encouraged to further analyse and address the need for a prohibition of **antipersonnel AWS** to ensure the protection of human dignity.
- 2) There should be no further delay in the process of agreeing on an **actual normative framework** of all AWS and divergencies in topics such as meanings and definitions should be addressed in the negotiation process instead, as has been the case in other humanitarian disarmament processes.

- 3) States with similar positions on the **key aspects of the debate** should make a targeted effort towards inviting other countries from Africa, Asia, Latin America and the Pacific to urgently join the ongoing process and encourage them to manifest their positions and commonalities as well.
- 4) States should aim at presenting a **joint statement to the GGE meeting in August 2021**, outlining the shared elements in an effort to consolidate a stronger position.
- 5) Joint statements presented by States from various regions in other multilateral foras such as the **United Nations General Assembly First Committee**, are a viable approach to achieve wider support towards the negotiation of a legally binding instrument.

Conclusions

It has been established that these States share important similarities in key aspects of the debate on LAWS, including on the need of prohibitions and regulations of weapons that cannot ensure meaningful human control in the critical functions of selecting and attacking targets/applying force. The Informal Exchange meeting carried out at the end of June included positive discussions whereby various States delivered a progressive message that could lead to an achievable and desired outcome: **a legally binding instrument**.

While the continued commitment from some of the countries of the Latin America region to present concrete proposals throughout the discussions is commendable, this is an ongoing process and more States from the Global South are expected to join the efforts that the countries from Latin America and other regions are carrying out at the CCW fora. This approach should continue to seek a stronger advancement in the process of negotiating a legally binding instrument that: a) prohibits AWS that select targets/apply force without meaningful human control, and those that target people; and b) includes positive regulations to ensure meaningful human control. States should move past definition boundaries, which could be part of the negotiation stage, as has been the case in other humanitarian disarmament processes. It is clear that the autonomy in taking lives poses legal, moral, ethical, human rights and humanitarian concerns, and must be prohibited under International Law.

Technological innovation and development are evolving faster than the current pace of diplomatic dialogue on LAWS. Regardless of the pandemic challenges, progress must be made during the GGE that is scheduled to meet from 27 September to 1 October 2021, and during the Preparatory Committee to the Sixth Review Conference which is scheduled from 6 to 8 of September, in hopes of the targeted outcome in December at the Sixth Review Conference: **a mandate for a legally binding instrument on autonomous weapons systems (AWS)**.

ⁱ Joint Working Papers:

- Costa Rica, Panama, Peru, Philippines, Sierra Leone and Uruguay
- Austria, Brazil, Chile, Ireland, Luxembourg, Mexico, and New Zealand
- Venezuela on behalf of the Non-Aligned Movement (NAM)

ⁱⁱ Brazil, Chile, Costa Rica, Ecuador, Mexico, Peru, Philippines, Uruguay, Venezuela (on behalf of the NAM)

ⁱⁱⁱ Chairperson's Summary, 19 April 2021. Group of Governmental Experts on Emerging Technologies in the Area of Lethal Autonomous Weapons System, 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/GGE.1/2020/WP.7

https://documents.unoda.org/wp-content/uploads/2020/07/CCW_GGE1_2020_WP_7-ADVANCE.pdf