Thank you Mr. President.

As the ICRC has previously stated here and elsewhere, the development of weapons with increasingly autonomous functions – i.e. with autonomy in the "critical functions" of identifying and attacking (using force) against targets – has profound implications for the future of warfare and indeed of humanity. We are therefore very pleased that the delegations that have taken the floor in this session seem to agree that discussions on this issue in the CCW should continue through 2015.

We would like to highlight a few key issues that have emerged this week, which could help frame future discussions on autonomous weapon systems.

Regarding the overall scope of the discussions, we are convinced of the need to ground the discussions in how weapon technology is developing rather than attempting to predict the future. In particular, there is a need to look at increasing autonomy in weapon systems, and specifically at autonomy in the critical functions of acquiring, tracking, selecting and attacking targets. This is an incremental process and not a sudden development, which gives us an opportunity to look carefully at this trend and consider the implications before developments come to fruition.

At some point on an incremental process of increasing autonomy in the critical functions of weapon systems, human control may no longer be meaningful. As we mentioned in our opening statement, we believe the crucial aspect is human control over the use of force, and what constitutes meaningful, appropriate and responsible human control over the critical functions of weapon systems. Where humans are so far removed in time and space from control over the weapon system, the human decision-making process on the use of force may in effect be substituted with machine decision-making.

Regarding the "Martens Clause", which several delegations have raised in their interventions in relation to the acceptability of autonomous weapons, we believe it is useful to recall that the "Martens Clause" refers to a provision found in several international humanitarian law treaties, starting with the preambles of Hague Conventions II of 1899 and IV of 1907. It's modern incarnation is Article 2(1) of Additional Protocol I of the Geneva Conventions, which reads:

In cases not covered by [international humanitarian law], civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from dictates of public conscience.

(It is also found in the preamble of Additional Protocol II.)

The International Court of Justice, in its 1996 Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, affirmed that the applicability of the Martens Clause "is not to be doubted" and that it had "proved to be an effective means of addressing rapid evolution in military technology."
The Court also found that the Martens Clause represent customary international law – in other words, it is legally binding on all States, not just those that are party to the treaties I have just mentioned.

Therefore, a weapon that is not covered by existing rules of international humanitarian law would be considered contrary to the Martens Clause if it is determined *per se* to contravene the principles of humanity or the dictates of public conscience.

Admittedly, some dispute this interpretation. But it is useful to recall the interpretation of the ICRC Commentary to the Additional Protocols: "the Martens clause prevents the assumption that anything which is not explicitly prohibited by the relevant treaties is therefore permitted". Furthermore, "it should be seen as a dynamic factor proclaiming the applicability of the principles mentioned regardless of subsequent developments of types of situation or technology". In other words, at minimum the Martens Clause provides that the acceptability of new technologies of warfare can be judged against the principles of humanity and the dictates of public conscience.

Mr. President,

Many delegations this week stressed the importance of legal reviews of autonomous weapons. The ICRC welcomes the wide recognition of the need to carry out thorough legal reviews of the new technologies of warfare they are developing or acquiring, including weapons that have autonomy in their critical functions.

Such legal review must determine whether weapons with autonomy in their critical functions are capable of being used, in some or all circumstances (to use the terms of Article 36 of Additional Protocol I) in accordance with international humanitarian law. They must also take into account the compatibility of the weapon with the principles of humanity and the dictates of public conscience (the "Martens Clause").

In the context of discussions in the framework of the CCW, we encourage States to be as transparent as possible in sharing national experiences of legal reviews of weapons with autonomous features. Lessons from the review of autonomy in existing weapons could provide a guiding framework for legal reviews of weapons with increasing levels of autonomy in their critical functions.

At the same time, it is clear that the issues and questions raised by autonomous weapon systems cannot be addressed solely through national processes. Multilateral discussions, such as those that have taken place here, must continue in order to address the issues identified this week.

Thank you.