GUATEMALA’S COMMENTS ON THE OPERATIONALIZATION OF THE GUIDING PRINCIPLES ON LAWS

Guatemala appreciates the efforts of the chairman of the Group of Governmental Experts (GGE) on “Emerging Technologies in the Area of Lethal Autonomous Weapons Systems (LAWS)” and the call to present comments on the operationalization of the guiding principles on LAWS. In that sense, Guatemala, as a country compromised with international peace and security, takes this opportunity to present some initial comments on the issue.

Regarding the eleven principles of the GGE, which were adopted by consensus, it is important to highlight the common agreement that International Humanitarian Law continues to apply fully to all weapons systems, including the potential development and use of lethal autonomous weapons systems.

Therefore, the provisions of article 91 of Additional Protocol (I) to the Geneva Conventions must be taken into account, specifically in regards to responsibility. The aforementioned article establishes that responsibility falls on the party in conflict who violates the provisions of the Conventions and of Additional Protocol (I). However, it indicates that it will be the persons forming part of its armed forces whom will be responsible. Hence, the current international law evidently provides the means to prosecute persons but not machines.

The current international legislation is not yet adapted to the challenges posed by a possible use of LAWS and for that reason Guatemala favors the adoption of an international legally binding instrument that provides for the prohibition of lethal autonomous weapons systems to fulfill the existing accountability gaps.

Furthermore, the potential security risks or unforeseen malfunctions of these types of weapons might leave a significant gap in a scenario where there will be no person to hold accountable. If an autonomous weapon violates or excludes the human factor from decision making, the potential risks would be disastrous, especially because of the disproportionality of force of these weapons in their ability to kill, with an extreme advantage for the weapon, and the complexities of operationalizing the principle of distinction. Not to mention the risks of these weapons falling into the wrong hands of non-state actors.

Discussions should continue on the topic of LAWS and they have to be examined, as stipulated in Article 36 of Additional Protocol (I) of 1977, in order to review whether they comply with two basic principles of IHL: that said weapons do not act by themselves indiscriminately and that it does not cause superfluous damages and unnecessary suffering.

With the technological advancements for the use and deployment of lethal autonomous weapon systems, there is a risk of perverting international humanitarian law. The ethical and moral obligations revolving around the subject have to be taken into account. Derived from the aforementioned, Guatemala considers important the negotiation of an international
multilateral agreement, which would complement the efforts of individual national legislations on the regulation on LAWS.

Guatemala reserves its right to further comment as the discussions on LAWS continue.