Ref. 2020/90

The Permanent Mission of the Republic of South Africa to the United Nations Office and other International Organizations in Geneva, Switzerland presents its compliments to the 2020 Chair of the Group of Governmental Experts related to the emerging technologies in the area of lethal autonomous weapon systems (GGE on LAWS) of the Certain Conventional Weapons Convention (CCW), and avails itself of this opportunity to refer to the communications sent by UNODA on behalf of the Chair of GEE on LAWS, dated 03 March, 2020.

In this regard, the Permanent Mission of the Republic of South Africa has the honour to submit the attached comments, for your kind consideration.

The Permanent Mission of the Republic of South Africa avails itself of this opportunity to renew to the 2020 Chair of the GGE on LAWS of the CCW, the assurances of its highest consideration.

Geneva, 11 June 2020

Convention on Certain Conventional Weapons
Office for Disarmament Affairs (Geneva Branch)
E-mail: ccw@un.org
COMMENTS BY SOUTH AFRICA ON GGE ON LAWS AND COMMETARIES ON THE OPERATIONALIZATION OF THE GUIDING PRINCIPLES

General Remarks

The final report of the meeting of the High Contracting Parties (HCP) to the 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), states that the Group of Government Experts (GGE) on emerging technologies in the area of Lethal Autonomous Weapons Systems (LAWS) will conduct its work and adopt its reports by consensus, one of which is to be submitted to the meeting of the High Contracting Parties in 2020 and the other submitted to the 2021 Sixth Review Conference.

It further states that the GGE should explore and agree on possible recommendations on options related to emerging technologies in the area of lethal autonomous weapons systems, in the context of the objectives and purposes of the Convention, taking into account all proposals (past, present and future) and in these discussions shall consider the legal, technological and military aspects. In order to contribute constructively to the discussions over the period, it is important for HCP to the CCW, to prepare sufficiently, which in the case of South Africa, could not be done, due to the disruptive impact of COVID-19.

South Africa also would like to make further comments on the following:

Humanitarian Objectives:

It is noted that the mandate of the GGE is to consider emerging technologies in the area of lethal autonomous weapons (LAWS). Within the context of the Certain Conventional Weapons Convention (CCW) the aim is to prohibit or restrict the use of certain types of weapons that could cause unnecessary suffering to combatants or have indiscriminate effects on civilians. From this point of view, South Africa continues to support the humanitarian objectives aimed at the regulation of lethal autonomous weapons in order to minimise the occurrence, effects and the potential risks posed by these weapons.

Possible Indiscriminate Effects

It is necessary to bear in mind the possible indiscriminate effects, especially on civilian populations, that LAWS may have, or their use in an armed conflict. When considering a
ban or restriction on the production and use LAWS, it is therefore imperative to consider both their design and use.

A key question also relates to the purpose(s) of the design of these weapons. If they are not designed to be capable of identifying and engaging a specific single target object, they can be deemed to have the inherent risk of having indiscriminate effects.

**Human Control**

Another crucial question in the consideration in the operation of LAWS remains the point at which human activity, in the programming, activation or deactivation intervention, occurs.

**Defining Emerging Technologies**

A critical question that remains, is related to that of the so-called “emerging technologies”. In South Africa’s view, there can be no legally binding definition of this term at this stage, as it remains an open-ended concept.

**Reconfirmation of the current mandate**

Given the disruptive impact of COVID-19 and areas where further clarification would be required as stipulated above, South Africa is of the view that the current mandate of the GGE should be reconfirmed in 2020. South Africa considers the CCW as the most appropriate forum for further clarification, consideration and development of aspects of the normative framework. South Africa further would like to advance that the issue of “emerging technologies”, should be resolved and defined, failing to do that would pose serious challenges to obtaining agreement on any negotiating mandate.

**Commentaries by the High Contracting Parties on operationalizing all eleven guiding principles at a national level**

South Africa is of the view that the guiding principles were developed solely to guide the work of the GGE and not for operationalizing at the national level. The guiding principles and the debate around the guiding principles is still evolving and South Africa, like many other countries, is also still in the process of internal consultations. This entails the processing of the outcomes of the GGE through South Africa’s internal structures, responding and providing feedback to the GGE process, all with the objective to clarify and to aid the process of developing its negotiating position. National positions are then fed into regional positions, and ultimately into the multilateral level. Unfortunately, this process could not take place due to COVID-19.
The GGE agreed that the guiding principles are also not exhaustive; it may be further developed, elaborated and refined. It would be therefore more prudent to agree on the operational and normative framework, before any discussion of implementation at national level could take place, otherwise it would lead to a "cart before the horse" situation. In the case of South Africa, such a discussion would in any case be superfluous, as implementation of any international agreement, is guided by South Africa’s constitutional processes.