

# Negotiating a Treaty on Autonomous Weapons Systems

## The Way Forward.



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**An internationally agreed legal framework on autonomous weapons systems is inevitable. After 9 years of discussions at the United Nations (UN),<sup>1</sup> this outcome has immense global support including from the UN Secretary-General,<sup>2</sup> at least 70 states,<sup>3</sup> the International Committee of the Red Cross (ICRC),<sup>4</sup> experts in technology and artificial intelligence,<sup>5</sup> faith leaders,<sup>6</sup> military veterans,<sup>7</sup> and civil society organizations around the world.<sup>8</sup>**

The growing momentum towards achieving new international law is the result of widespread recognition of the ethical, legal and humanitarian dangers posed by autonomy in weapons systems and clarity over the solution we need. The opportunity has arrived for states to take leadership in initiating negotiations on a new treaty that would transform our relationship to technology, achieve new standards in the use of force and promote a more peaceful world for generations to come.

While certain states have so far shown reluctance to adopt new law, a new treaty would reshape international norms on the use of autonomy in weapons systems, including within states that may resist joining a treaty at the outset. With ongoing uncertainties around technological change and instabilities in international security, a principled international legal framework would provide the necessary durability and certainty around use of autonomy in weapons systems to overcome the risk of their widespread proliferation and use around the world.

For the process of establishing a new treaty to be a success, it should be receptive to lessons from previous treaties in disarmament and arms control, responsive to the particular complexities of autonomy in weapons systems, inclusive of diverse stakeholders with expertise on the issues and ambitious in safeguarding the rights and dignities of humanity. This briefing paper is intended to provide encouragement to government leaders and engaged partners on negotiating a successful treaty.





# Why a New Treaty?

**A legally binding international treaty on autonomous weapons systems is the optimal way forward for dealing with the problems posed by autonomous weapons systems. There are several reasons why this is the case, including that this outcome would be:**

## Inclusive

The process of negotiating new international law on autonomous weapons systems should involve a broad range of stakeholders. Apart from state representatives, the negotiation process should include leaders in technology and artificial intelligence, ethics, international law, and representatives of civil society from around the world, including representatives of marginalized groups. By ensuring inclusivity, the negotiation process would not only benefit from additional expertise in the consideration of relevant issues but would also help ensure that the framework is affirmed by a wide cross-section of society and reflects the concerns of those who would be most impacted by the development and use of these weapons.

By commencing treaty negotiations, initiating states would be able to ensure participation from a range of other states, organizations, and individuals motivated to achieve progress. This contrasts with discussions at the Convention on Conventional Weapons (CCW), which has procedural and logistical limitations around the involvement, accessibility, and influence of both state and non-state stakeholders, and where the rule of consensus enables a single state to block all work. Initiating a treaty process through an independent mechanism or through the United Nations General Assembly (UNGA) would avoid such obstacles and allow states to adopt a transparent, sustainable, and inclusive approach to negotiations.

## Comprehensive

The use of autonomy in weapons systems concerns our broader relationship with technology and impacts all areas of society. Discussions on this issue involve questions over whether people should be reduced to data points and processed and killed by machines, and to what extent we should have control over the weapons systems we develop. These questions have relevance beyond situations of armed conflict and include potential use of weapons systems in border control<sup>9</sup> and policing.<sup>10</sup> To address these issues, a holistic approach is needed that recognises the importance of ethical considerations as well as international humanitarian law, international human rights law, and international criminal law.

Through negotiating a new treaty, states would be empowered to address the range of concerns raised by autonomous weapons systems and provide comprehensive safeguards to the dangers they pose. Throughout discussions at the CCW, some states have insisted on focusing exclusively on international humanitarian law,<sup>11</sup> despite reports from UN Special Rapporteurs at the Human Rights Council raising broader issues relating to ethics and international human rights law.<sup>12</sup> A treaty process would enable states to negotiate a framework that engages with the full range of relevant legal and ethical considerations, to ensure it is ultimately fit for purpose.

## Progressive

The need for internationally agreed limits on autonomous weapons systems is urgent. Autonomy in weapons systems is no longer a new phenomenon, and the widespread development and use of weapons with autonomous capabilities is imminent, with evidence now emerging of use cases in areas of conflict in 2021 and 2022.<sup>13</sup> Without internationally agreed legal limits, highly militarized states continue to invest in autonomous weapons systems threatening international peace and security and fuelling the prospect of an arms race. It is imperative that genuine progress is made towards a new legal framework now.

After 9 years of international discussions, the CCW has failed to deliver any form of international limits to the use of autonomy in weapons systems. It has become clear that certain states are deliberately preventing advancements through abuse of procedural rules, using the consensus principle as a veto to progress. The resistance from these states is now deeply entrenched, and discussions at the CCW have become mired in procedural deadlock, preventing certain meetings from taking place at all.<sup>14</sup>



To make progress, a process is needed that is open to all states but blockable by none. A new international legal framework on autonomous weapons systems can only be achieved in an environment in which the intention of those involved is to make progress. Through commencing a treaty process independent of the CCW, states have the opportunity to utilize a forum in which the vision and ambition of participating states is effectively enabled.

## Robust

A legal framework on autonomous weapons systems should create robust and sustainable limits to autonomy in the use of force. To achieve this, it should not only include regulations and prohibitions at the point of use, but also reshape standards relating to the development, production, possession, acquisition, deployment, and transfer of autonomous weapons systems and become a guiding reference for academics, researchers, designers, engineers, manufacturers, and vendors in addition to system operators.

To achieve this, the framework will need to ensure transparency, explainability, predictability, and accountability throughout all stages from development to use of autonomous weapons systems. Through negotiating a treaty, specific and detailed provisions can be developed that are tailored to the nuances and complexities relating to autonomy in weapons systems, not only at the point of use but also throughout the system's life-cycle.

In addition, a treaty dealing specifically with autonomous weapons systems would have a significant impact transforming international norms and attitudes. The normative value of creating treaties dealing with a specific type of weapon has been proven by previous treaties such as the Chemical Weapons Convention, Biological Weapons Convention, Mine Ban Treaty, Convention on Cluster Munitions and Treaty on the Prohibition of Nuclear Weapons. These treaties gained many additional states parties in the years following their entry into force, reflecting the power of ambitious principles to attract states, including those that may not participate at the outset.



## Future Proof

Autonomous weapons systems rely on the processing of data received from sensor inputs to detect and apply force against targets. The range of sensors capable of collecting data and the processes by which that data is processed will continue to increase in sophistication in the future. Already, machines are capable of processing data by using algorithms and artificial intelligence far beyond the capacity of most people to understand. A legal framework that is capable of providing a basis upon which all emerging technologies applied to autonomous weapons systems are used with meaningful human control, must be forward looking and future proof.

A new treaty on autonomous weapons systems would empower states to implement ongoing ethical standards and legal frameworks of emerging technologies, with reporting requirements to ensure that systems are monitored and evaluated on a regular basis. Negotiating states will have flexibility to determine the standards and methods by which the framework can be amended to respond to potentially unforeseeable legal and ethical challenges relating to the use of autonomy in weapons systems in the future. Ensuring an inclusive process which includes experts from a variety of relevant fields will help create an instrument that can adapt to technological advancement.

## Legally Binding

A legally binding instrument is the optimal response to the serverity of challenges posed by autonomous weapons systems in comparison to alternative methods of addressing the issue, for example through a non-binding code of conduct, political declaration, or national review processes. With uncertainties around technological change and with ongoing instabilities in international security, a legal framework would provide necessary durability and certainty around the obligations and limitations for autonomy in weapons systems now and in the future.

In addition, legally binding rules would strengthen existing requirements for weapon reviews under Article 36 of Additional Protocol I of the Geneva Conventions. These reviews provide an obligation to review weapons, means and methods of warfare against states legal obligations. The establishment of international legal obligations relating to the development and use of autonomous weapons systems, would promote standardization of states' review processes around the world and help ensure that they are conducted transparently and consistently. Through negotiating a treaty on autonomous weapons systems, states can ensure that the form of commitments made are expressed in legally binding form.



# A New Treaty is Possible

**A new treaty on autonomous weapons systems would have an historic impact on the relationship between humans and technology for generations to come. The ability to achieve this milestone requires certain foundations to be established in order to initiate negotiations and ensure their successful progress to completion. After 9 years of international discussions at the CCW, the core ingredients for commencing this process are now in place to make a new treaty possible. These include:**

## International Support

The call for new international law on autonomous weapons systems has strong and diverse support from around the world. In addition to the coalition of the Stop Killer Robots campaign, which includes 190 member organizations in 68 countries, international surveys conducted in dozens of countries in 2018 and 2020 show that over three in five people support prohibitions on autonomous weapons systems around the world.<sup>15</sup>

UN Secretary-General António Guterres has stated that autonomous weapons systems are morally repugnant and politically unacceptable and has called for states to ban their use.<sup>16</sup> The International Committee of the Red Cross has stated that these weapons risk harm to both civilians and combatants, raise challenges for compliance with international law and fundamental ethical concerns for humanity, and recommend states agree to new international legally binding rules.<sup>17</sup>

In addition, support for new international law has been expressed by experts in artificial intelligence and technology. A letter signed by thousands of scientists from around the world recognises the risks to humanity and the destabilization of international peace and security and calls for new international limits to ensure meaningful human control over the use of force.<sup>18</sup> An interfaith declaration signed by faith community leaders from around the world recognises the fundamental ethical concerns and risks to human dignity and calls for new international law.<sup>19</sup> Also, a statement signed by military veterans

states that autonomous weapons would lack the human judgment necessary to distinguish civilians from combatants, and also calls for new international limits to their development and use.<sup>20</sup>

## Existing Policy Coherence

Throughout the 9 years of international discussions on autonomous weapons systems at the UN, states have refined a shared understanding of the key policy elements required for a new framework. This includes a broad agreement around characterisation of autonomy, recognition of the relevance of ethics, the need for human control, and the need for temporal, spatial and target profile limitations for exerting that control. There is widespread acknowledgement of the need for a combination of both prohibitions and regulations in order to safeguard against the challenges posed to ethics and international law by autonomous weapons systems. This policy coherence is evident in multiple written contributions and proposals for a new normative and operational framework made by states from around the world.<sup>21</sup>

The significant progress made on developing a shared understanding of relevant issues and appropriate responses provides a solid foundation for negotiations to commence for a new treaty on autonomous weapons systems. The resolution of remaining divergences can best be achieved through a process of negotiation towards establishing new international law.

## Political Commitment

Through a combination of individual and joint statements made by states during discussions at the UN, a total of 70 states have called for new international law on autonomous weapons systems that include both prohibitions and regulations. This includes countries in Europe, North and South America, Africa, Asia, the Middle East and the Pacific.

In addition, a growing number of established state policy positions, government declarations and Ministerial statements provide firm commitments on working with international partners towards new international law on autonomous weapons systems.<sup>22</sup> In March 2022, a joint statement from a group of 23 states including Argentina, Austria, Belgium, Chile, Costa Rica, Ecuador, Guatemala, Ireland, Kazakhstan, Liechtenstein, Luxembourg, Malta, Mexico, New Zealand, Nigeria, Panama, Peru, the Philippines, Sierra Leone, Sri Lanka, State of Palestine, Switzerland and Uruguay, expressed



deep disappointment at the lack of progress made within discussions at the UN and recognised the urgent need for new rules and limits to the development and use of autonomous weapons systems.<sup>23</sup>

The established support for new international law strongly indicates a willingness among a broad range of states to engage with a process of negotiating a new treaty on autonomous weapons systems. States that are ready to take initiative to commence such negotiations should feel assured that many other states will be prepared to participate in the process.

## Proven Precedent

There are numerous previous examples of successful international treaty processes in the field of disarmament and arms control that demonstrate the viability of a new treaty on autonomous weapons systems. These include processes that have origins in discussions at the CCW and led to the initiation of stand-alone treaty negotiations such as the Mine Ban Treaty and the Convention on Cluster Munitions. Examples also include the Treaty on the Prohibition of Nuclear Weapons and the Arms Trade Treaty, which were negotiated through the UN General Assembly. As is the case for autonomous weapons systems, these processes had developed sufficient international support, policy coherence and political commitment to enable states to initiate and lead a separate, inclusive process.

The precedent established by previous treaties provide ample evidence of the ability of states to take initiative leading to the transformation of the international legal and normative framework for particular issues. States have successfully governed unacceptable weapons in the past and will not be in uncharted territory when initiating negotiations for a treaty on autonomous weapons systems in the future.



# The Way Forward

**There is now strong international support and a compelling basis for negotiations to begin on a new treaty on autonomous weapons systems. There are two primary ways forward for states to work towards initiation of international negotiations.**

One option is for a state, or a group of states, to bring others together to commence negotiations independently of existing forums at the United Nations. This could begin with a state hosting an international conference with the aim of bringing together like-minded states to declare a common intention to begin negotiations, followed by additional meetings to negotiate and adopt a common framework. Examples of this process include the negotiations of the Mine Ban Treaty and Convention on Cluster Munitions.

A second option is to pursue a mandate for negotiation through the UN General Assembly. In this case, a state or group of states could initiate a resolution for such a mandate through the UNGA First Committee on Disarmament and International Security. Examples of this process include negotiations of the Arms Trade Treaty and Treaty on the Prohibition of Nuclear Weapons.



In either scenario, governments should commit to working towards a new treaty on autonomous weapons systems and engage in a process of multilateral collaboration to agree upon a common aspiration and mode of work to achieve solutions that the world urgently needs. Towards this goal, there are a range of immediate steps forward that can be taken, including:

- Arranging informal consultations with state representatives to discuss substantive policy issues and programmes of work on the way forward.
- Working with international partners towards a joint statement at the UNGA First Committee to declare a common intention to begin negotiations on a legally binding treaty on autonomous weapons systems.
- Organizing and hosting regional conferences to develop joint declarations in support of negotiations.
- Delivering Ministerial statements at national and international forums providing commitments to work towards a treaty on autonomous weapons systems.

Throughout this process, states should feel assured that they will be supported by the Stop Killer Robots campaign and a broad range of key partners and stakeholders in achieving a new international treaty. We have an historic opportunity to reshape humanity's relationship to technology, to achieve new standards in the use of force and to help promote a more peaceful world for our generations and those to come.



## References

- 1 Discussions at the UN began at the Human Rights Council with publication of a [report](#) by Prof. Christof Heyns, Special Rapporteur on extrajudicial, summary or arbitrary executions, in April 2013 and has since continued at the UN Convention on Conventional Weapons (CCW).
- 2 Antonio Guterres, UN Secretary General, has called for new international law on autonomous weapons systems, including in March 2019 when he [stated](#) that 'autonomous machines with the power and discretion to select targets and take lives without human involvement are politically unacceptable, morally repugnant and should be prohibited by international law'
- 3 The number of states that have called for negotiations of a legally binding instrument through either a national or group statement at the CCW. Additional states that are not party to the CCW have not been included in this figure.
- 4 The [ICRC Position on Autonomous Weapons](#), May 2021, recommends states adopt new legally binding rules on autonomous weapons systems
- 5 A [pledge](#) signed by thousands of organizations and individuals with expertise in artificial intelligence and technology calls for governments to establish new law on autonomous weapons systems
- 6 An interfaith [statement](#) signed by over 160 faith organizations and leaders from around the world calls for new international law on the development, production and use of autonomous weapons systems
- 7 An open [letter](#) signed by military veterans around the world calls for new international law on autonomous weapons systems
- 8 The [Stop Killer Robots](#) campaign is a coalition of 190+ NGOs in 65+ countries calling for new international law on autonomous weapons systems.
- 9 States are increasingly using surveillance systems with autonomous capabilities for border control purposes, see Statewatch Report, [A clear and present danger Missing safeguards on migration and asylum in the EU's AI Act](#), May 2022, Washington Post Report, [Powered by artificial intelligence, 'autonomous' border towers test support for surveillance technology](#), March 2022
- 10 Increasing use of facial recognition and other algorithm-driven technologies for law enforcement has heightened risks of racism and xenophobia leading to human rights violations, see UN Committee on the Elimination of Racial Discrimination, [Preventing and Combating Racial Profiling by Law Enforcement Officials](#), November 2020, ProPublica, [Machine Bias - Investigation on Predictive Policing](#), May 2016, Christof Heyns, [Human Rights and the use of Autonomous Weapons Systems \(AWS\) During Domestic Law Enforcement](#), Human Rights Quarterly, Johns Hopkins University Press, Volume 38, Number 2, May 2016
- 11 Among written contributions and interventions made by states for the normative and operational framework within the CCW GGE, many states have called for recognition of the international human rights law and international criminal as considerations in determining relevant prohibitions and regulations. These considerations are however omitted in the [proposal made on good practices and principles](#) by Australia, Canada, Japan, the Republic of Korea, the UK and USA.
- 12 Report of Christof Heyns, Special Rapporteur on extrajudicial, summary or arbitrary executions, April 2013, [A/HRC/23/47](#), Report of Gerrard Quinn, Special Rapporteur on the Rights of Persons with Disabilities, Artificial intelligence and the rights of persons with disabilities, [A/HRC/49/52](#).
- 13 See Report of Panel of Experts on Libya to UN Security Council, March 2021, [S/2021/229](#) concerning use of STM Kargu-2 in autonomous mode within conflict in Libya, Newsweek Report, [Russian Drone Attack on Ukraine's U.S.-Made Howitzers](#), May 2022, on Russian use of the KYB-UAV/KUB-BLA with autonomous capabilities, Forbes Report, [New Turkish Bayraktar Drones Still Seem To Be Reaching Ukraine](#), May 2022, on use of Bayraktar TB2 drones with autonomous capabilities
- 14 The formal CCW GGE meeting scheduled to be held from 7-11 March 2022 was prevented due to the Russian Federation refusing to allow the meeting to proceed, alleging discrimination in full access to the meeting, resulting in the meeting switching to an informal format.
- 15 A global survey conducted in [December 2018](#) across 26 countries found 61% of respondents opposed to the use of autonomous weapons systems, an additional global survey conducted in [December 2022](#) across 28 countries found 62% of respondents are opposed to the use of autonomous weapons systems
- 16 Op cit. 2
- 17 Op cit. 4
- 18 Op cit. 5
- 19 Op cit. 6
- 20 Op cit. 7
- 21 A compilation of all written proposals for the normative and operational framework made at CCW GGE can be found on UNODA website [here](#).
- 22 Recent examples include, Switzerland Federal Council, [Arms Control and Disarmament Strategy](#), February 2022, supporting international regulation on autonomous weapons systems to include both prohibitions and positive obligations, New Zealand Minister for Disarmament and Arms Control, Hon. Mr Phil Twyford, [announcement that New Zealand will push for new international law to ban and regulate autonomous weapons systems](#), November 2011, Norwegian Government Agenda, [Hurdalsplattformen 2021-25](#), October 2021, states that the government will take necessary initiatives to regulate the development of autonomous weapons systems
- 23 The joint statement was delivered by Switzerland on 11 March 2022 at the informal GGE and submitted as a joint working paper on 19th April 2022





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