

Article 36

CCW GGE LAWS 26 November 2024 draft of the 'rolling text'

Key comments from Article 36 ahead of the March GGE session

From 3-7 March, states will meet in Geneva for the Group of Governmental Experts (GGE) with a mandate to “formulate, by consensus, a set of elements of an instrument, without prejudging its nature” on autonomous weapons systems, preferably by the end of 2025.

Though states lack a mandate to negotiate a legal instrument, the Chair's structuring of discussion around a 'rolling text' of elements provides an opportunity to develop further policy convergence around the rules that are needed. This will be a crucial basis for effective negotiations on a treaty that includes a broad range of countries. This briefing note gives an overview of Article 36's views on the [current draft text](#).

The general direction of the 'rolling text':

- The 'rolling text' is currently **moving in a positive direction** towards expressing a set of **draft rules on which there is broad agreement** – and that could and **should be used as a basis for negotiating a legal instrument**. It reflects constructive work and broad agreement on many issues of content: it shows that states are ready to take negotiations forward
- It is an advantage that the text is **succinct**: regulating autonomous weapons systems will require a short and clear core text of the key rules, from which further operational content can be developed.
- States and observers at the GGE should **focus their efforts on refining the key elements of this text, in boxes III and IV, which contain specific rules** and approaches to regulating autonomy in weapons systems.

Main shortcomings:

The two major elements missing from the current text are:

1. A clear requirement for users to **adequately understand a system and its potential effects in the context of use**
2. A strong engagement with the specific challenges posed by **anti-personnel systems**. These need further consideration if states wish to effectively address: the danger of discrimination against individuals or groups arising from biases in system design; specific legal issues under international humanitarian law and international human rights law; and wider ethical considerations

Key comments on each box of the current ‘rolling text’:

Box I:

1. The characterisation of autonomous weapons systems as those that “identify and/or select, and engage a target, without intervention by a human user in the execution of these tasks” broadly captures the key features of the scope of systems that must be regulated
2. **“An integrated combination”** could imply that all functions must be contained in one physical unit. This should be avoided. In practice, the functions of autonomous weapons systems may be more dispersed

Box II:

1. The clear **linking of compliance with international law with human control and judgement** over the use and effects of autonomous weapons systems is central to the whole ‘rolling text’. This must be retained

Box III-IV:

1. The rules the text proposes in **box III, 5-7** to ensure “context-appropriate human control and judgement” over autonomous weapons systems reflect a two-tier structure of positive obligation and prohibition on control that has wide support
2. Though it **should be refined and clarified, the text reflects several of the core elements needed** towards effective rules on ensuring meaningful control:
 - a. informed and adequate moral and legal assessments and responsibility
 - b. predictability, reliability, traceability and explainability
 - c. limiting the “types of targets, duration, geographical scope, and scale of the operation” of autonomous weapons systems
 - d. preventing changes in systems without meaningful human control
3. A key element **missing from box III-IV** is the requirement for users to **adequately understand a system and its potential effects in the context of use**. **Box IV** should be reformulated to focus on ensuring that any process of development results in systems that can meet this essential requirement
4. Box III, 6, C, iv on **restricting use to objects that are military objectives by nature** intends to address the challenge to the rule of distinction posed by **anti-personnel systems**; box IV, 6-7, considers “**harmful bias**” in systems, which is primarily an issue for systems targeting people. Concerns with these systems must be considered in more depth, to formulate more effective rules in response
5. “Automation bias” is a completely different issue, which poses risks to meaningful control and judgment and of nominal human decision-making

Box V:

6. **Accountability is ensured through the meaningful human control** that the text focuses on. Some assertions and requirements in box V might therefore be **better integrated and mainstreamed into the text in boxes II-IV**