

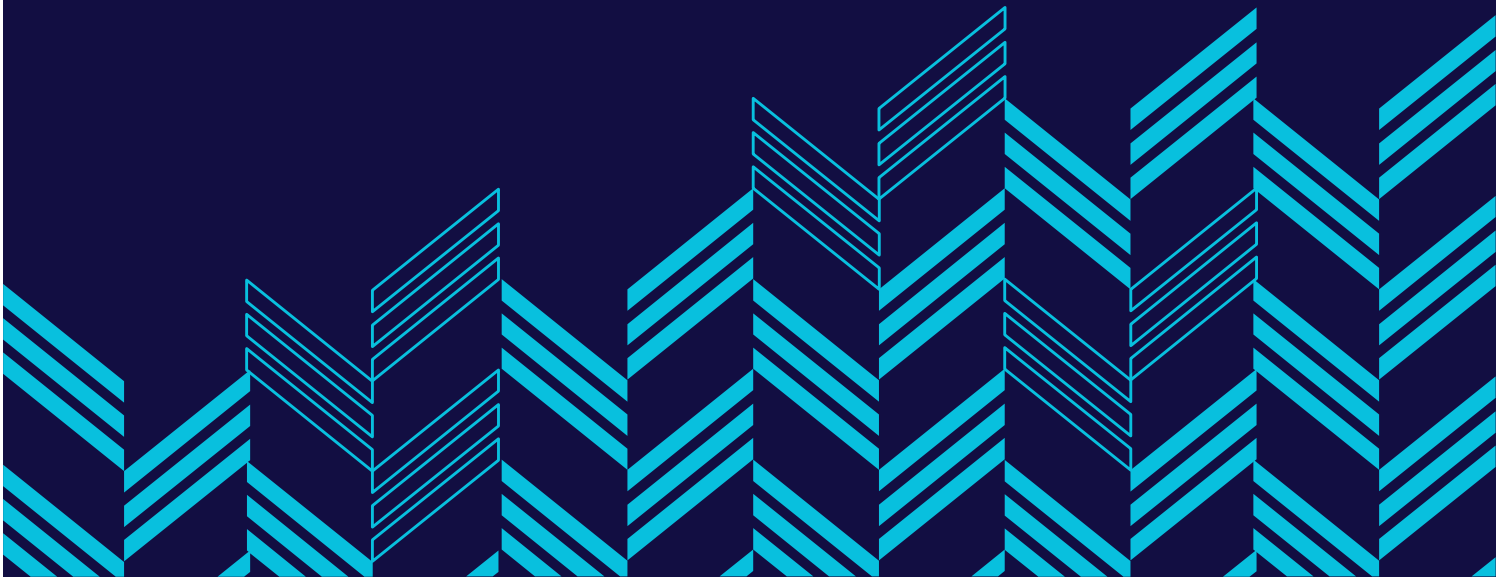


NEW ZEALAND  
FOREIGN AFFAIRS & TRADE  
Manatū Aorere

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# Autonomous Weapon Systems

**New Zealand submission  
to the Secretary-General  
of the United Nations**



1. This national submission from New Zealand responds to Note Verbale ODA-2024-00019/LAWS.
2. In 2023, UNGA Resolution 78/241, co-sponsored by New Zealand, stressed the urgent need for the international community to address the challenges and concerns raised by autonomous weapon systems. New Zealand welcomes the opportunity through this submission to contribute to the international community's progress toward addressing these related challenges and concerns, and looks forward to engaging with the Secretary-General's outcome report.
3. In this submission, New Zealand's considerations and concerns regarding autonomous weapon systems are outlined, and support underlined for specific, binding, international rules and limits on them. In this respect, New Zealand takes note of the joint call in October 2023 of the UN Secretary-General and International Committee of the Red Cross President for the launch of negotiations on a new legally binding instrument to set clear prohibitions and restrictions on autonomous weapon systems. New Zealand also notes the calls made in the Secretary-General's report on Our Common Agenda to reduce strategic risks, including those presented by autonomous weapons.

### **Autonomous weapon systems – time to act**

4. New Zealand has a strong national and collective interest in ensuring the safe, sustainable, and responsible use of technology. These interests are especially sharp when the technologies concern weapon systems and the application of force. Moreover, there is a collective interest in ensuring that international rules, including the laws which govern armed conflict, remain fit-for-purpose and keep pace with new technologies.
5. Although international humanitarian law (IHL) applies to all current and future weapon systems, characteristics of autonomous weapon systems (AWS)<sup>1</sup> raise issues with implementation and accountability under IHL. This lack of clarity, in addition to the rapid pace of technological developments, heightens the risk that AWS will be used in ways that do not comply with IHL. New Zealand is also concerned about implementation and accountability under other international norms and rules, including international human rights law (IHRL). This context motivates New Zealand's national position.

### **An overview of the New Zealand position**

6. New Zealand is a firm supporter of international law, including IHL and IHRL. Consistent with this, New Zealand is committed to working towards effective, multilaterally agreed rules and limits on AWS, which will provide the most robust way to address

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<sup>1</sup> New Zealand uses the term 'autonomous weapon systems', rather than 'lethal autonomous weapons systems'. Lethality is not a term formally used in international humanitarian law, and our concerns centre on the use of force, rather than whether a particular system is lethal or not.

concerns. In 2021, the New Zealand Government established a national policy position<sup>2</sup> on AWS, and an approach to multilateral engagement. This position was reconfirmed in January 2024. It is further informed by **New Zealand's consistent approach to disarmament and arms control issues**, reaffirmed in the [New Zealand Disarmament and Arms Control Strategy 2024-2026](#).

7. **New Zealand continues to seek binding international prohibitions and regulation of AWS.** Specifically, New Zealand seeks a comprehensive and specific prohibition on AWS that cannot comply with IHL (for example, if they operate in a manner that users cannot predict or control) and fail to meet relevant ethical requirements. Alongside this, New Zealand seeks appropriate regulation of other AWS to ensure sufficient human control or oversight throughout the lifecycle of the weapon system and ensure full compliance with IHL.

8. New Zealand recognises that autonomy exists along a spectrum, and thus **a range of controls** may have to be articulated for AWS at different points along this spectrum. AWS that meet ethical and legal requirements may offer legitimate military benefits, so New Zealand does not consider that a blanket ban on AWS will be constructive or gain broad support at this time.

9. New Zealand is also supportive of interim measures such as non-legally binding guidelines, declarations, or norms, as steps towards a legally binding instrument and/or as practical implementation tools of that instrument.

10. There is currently **no internationally agreed definition of AWS**. While the Convention on Certain Conventional Weapons Group of Governmental Experts (CCW GGE) has aimed for a consensus definition, New Zealand acknowledges the challenge involved, including to **avoid inadvertently excluding relevant future technological developments**. In New Zealand's view, any broadly adhered to definition of AWS should be flexible and technology-neutral to ensure it remains fit-for-purpose.

## Considerations

11. The prospect of **unregulated autonomous weapon systems presents various risks**. These were categorised as humanitarian, legal, security, technological, and ethical in UNGA Resolution 78/241, which New Zealand co-sponsored. New Zealand's perspectives on these categories, in addition to our views on the international way forward, are presented here.

### *Humanitarian*

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<sup>2</sup> The 2021 New Zealand Cabinet paper recommending this position and the related endorsement were proactively released, and can be accessed [here](#) and [here](#) respectively.

12. Humanitarian considerations including the protection of civilians are core to New Zealand's longstanding approach to disarmament, non-proliferation and arms control, as well as the development and implementation of IHL.

13. Armed conflict continues to have extensive and intergenerational humanitarian impacts. New Zealand is concerned that unconstrained development and use of AWS could **lower the threshold for the use of force** and thus worsen the frequency and intensity of conflicts, and attendant humanitarian crises.

#### *Legal*

14. The United Nations Charter and customary international law articulate the fundamental obligations incumbent on all states in relation to the use of force. Relevant obligations include:

- a. the requirement to settle disputes by peaceful means;
- b. the prohibition on the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations; and
- c. the right of self-defence against an imminent or ongoing armed attack.

15. These obligations apply to all state activity, including in relation to the use of autonomous weapons systems and other emerging technologies.

16. There appears to be international agreement that IHL must apply fully to all weapons systems, including AWS<sup>3</sup>. One concern, however, is about **whether it will be possible for all types of AWS to be operated in compliance with IHL**. For example:

- It remains to be seen how AWS will comply with the requirement to **distinguish** between protected persons and objects on the one hand, and combatants and military objectives on the other, not least due to the contextual human judgement required to do so. A combatant can become *hors de combat* very quickly, requiring detailed qualitative and contextual judgement abilities.
- Parties to conflict must ensure that all attacks in pursuit of a military objective are proportional to any incidental civilian casualties or damage and take feasible precautions to avoid and minimise civilian losses. **Proportionality** is in essence a human decision-making process that depends on the ability to assess both current and likely future events when contemplating the anticipated military advantage of an attack. It requires the technical collection and fusion of various forms of data but also demands a complex process of judgement drawing on operational experiences, legal frameworks, ethics, and other considerations that require contextual judgement, including of the operation as a whole. Due to the dynamic nature of conflict, it is difficult to break proportionality judgements down to easily replicable or codable instructions.

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<sup>3</sup> As affirmed in CCW/MSP/2019/9.

- Linked to this, if an appropriate proportionality judgement cannot be made in assessing whether and how to launch an attack, this complicates the process of identifying the **feasible precautions** to take.
- It is also not currently clear **how legal accountability for IHL violations involving AWS can be ensured**. The implementation of law depends on holding those involved in conflict accountable for their actions. If this chain of human accountability is weakened or broken, then IHL will be undermined.

17. **Weapons reviews**<sup>4</sup> are an important part of national obligations to respect and ensure respect for IHL, and New Zealand supports their strengthening. While weapons reviews are necessary for AWS, New Zealand sees these as **insufficient on their own to address concerns about AWS** and should be supplemented with specific rules and limits. While there is a general obligation to conduct weapons reviews, there are no common standards which must be met, and no requirement to share results. There are also technical questions about how reliably reviews can assess how an AWS might operate on any given occasion given the nature of some autonomous functions.

18. New Zealand also has concerns about how AWS could comply with **international human rights law** (IHRL), which guarantees all persons basic standards of rights and freedoms. Autonomous targeting decisions risk being arbitrary, which could violate human rights law. New Zealand is also concerned that **biases in datasets underpinning algorithms** used in selecting targets and/or decisions to use force could lead to violations of international human rights and international humanitarian law depending on the context.

19. Whilst the above discussion focuses on the role of IHL and IHRL in regulating the conduct of AWS, this is not at the exclusion of other bodies of law, including **International Criminal Law**. Under International Criminal Law, a form of criminal law in which individuals are subjected to criminal responsibility, it would be possible for the use of AWS to constitute an international crime, including a war crime or the crime of aggression.

### *Security*

20. AWS have the potential to be a **destabilising factor in conflicts and in the maintenance of peace**. For example, depending on the type of AWS used, the political threshold to deploy force may be lower, meaning the likelihood of conflict is increased.

21. Based on broader experience of the diffusion of technology, it is almost certain that AWS will proliferate, and sooner or later be obtained by **non-state armed groups** for use in armed conflict, terrorism, or crime. It is also foreseeable that in some countries, AWS find their way into domestic law enforcement use, which could raise additional IHRL-related questions. AWS could present another tool for authoritarian governments to deploy against their citizens, including minorities and vulnerable groups.

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<sup>4</sup> Art 36, Protocol I additional to the 1949 Geneva Conventions.

*Technological*

22. In discussions on AWS, such as in the CCW GGE, New Zealand has advocated for a **'technology neutral'** approach. To ensure future developments are not inadvertently excluded in such work, negotiations could centre on the effects and characteristics of AWS that require new rules and limits. If suitable limits are not placed on AWS and they are proven to have devastating effects on the battlefield – or elsewhere – that cannot be controlled, there may be irreparable damage to the social licence for AI applications more generally. This could impede prospects more widely for extracting positive benefits from emerging technologies with increasingly autonomous capabilities.

*Ethical*

23. **Ethical considerations are linked to legal acceptability.** It is often ethical concerns about a particular method of warfare that serve as the impetus for adopting legal constraints. Currently, views differ on **the ethics of substituting human decision-making with algorithmic processes**, including machine learning, and there are related, outstanding questions about human moral responsibility, humanity, and human dignity, including of the combatant. Such concerns were front of mind for New Zealanders in a [public survey in 2021](#) on the use of AWS in war<sup>5</sup>.

24. New Zealand also recognises outstanding issues in ensuring the continued role of **contextual judgement** in the use of weapon systems with significant levels of autonomy. Human contextual judgement is critical to the implementation of IHL, for instance in assessing proportionality in any attack. It is unclear how machines could apply IHL in selecting targets or launching attacks. Even if AWS could apply this type of judgement, there remains the issue of ensuring human legal accountability for IHL violations is preserved. A variety of overlapping and sometimes competing concepts, including "sufficient" and "meaningful" human control, and "appropriate human judgement" or "involvement" have been debated in fora such as the CCW. At present, while general awareness of the issues has increased, New Zealand would observe that the international community appears some way from a definitive answer, despite the stakes. This work needs to accelerate, with weighting given to both legal and ethical considerations.

*Multilateral efforts*

25. New Zealand has engaged actively in the CCW GGE on LAWS and will continue to do so. The GGE is a useful forum for bringing CCW states and civil society together, and for sharing expertise. However, New Zealand also sees value in a **broader and more inclusive discussion through the United Nations General Assembly**, and therefore welcomes this opportunity to provide inputs. The UN General Assembly has universal

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<sup>5</sup> Of the 2,000 New Zealanders surveyed, 72% said they opposed the use of AWS in war, with the crossing of a moral line cited as one of the main concerns. Targeted public consultation across civil society, academia, technical experts, and the business community also saw ethical concerns emerge as a driver of opposition to AWS.

membership, whereas the CCW has 126 High Contracting Parties (with most High Contracting Parties concentrated in the 'Global North'). Given the potential societal impacts of AWS, and that upholding and strengthening international rules and norms in an inclusive way protects smaller states and contributes to a safer world, New Zealand welcomes other international and regional events/initiatives that have emerged. New Zealand was pleased to participate in several of these events and applauds their contributions to the discussion on AWS and building momentum toward binding international action.

26. New Zealand recently endorsed the US Political Declaration on Responsible Military AI and Autonomy. **Voluntary initiatives like this are useful to share best practices and build norms. New Zealand views them as interim measures** on the path towards specific legally binding rules and limits on AWS.

27. No matter how discussions on AWS progress, it is critical that **the involvement of non-state stakeholders is preserved**. We are concerned that recently there was a deterioration in the practical access of international organisations and civil society to discussions in the CCW, a tendency that needs to be halted and reversed. Steps forward in conventional weapons prohibition and regulation in the past were often achieved only once international organisations, subject matter experts and civil society provided new evidence and forms of critical argument. Marginalising these voices risks undermining the greater effort of implementing and enhancing IHL principles and rules.

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