

groundlessly hobble foreign companies. And we never bully, sanction or carry out long-arm jurisdiction.”<sup>41</sup>

Legislation pending in the United States and the European Union reflect the different approaches of each to economic coercion. The EU’s Anti-Coercion Instrument, slated for enactment this year following a compromise between the Council and Parliament over the allocation of decision making between the Commission and the Council, focuses on the improper goal of interference in member state or EU decision making.<sup>42</sup> The ACI is intended to deter coercion, but it allows for the adoption of retaliatory measures, including: the imposition of customs duties; restrictions on the import and export of goods and services, intellectual property rights, and foreign direct investment; and limits on participation in public procurement.<sup>43</sup> In Congress, matching bipartisan bills introduced in the House and the Senate—the Countering Economic Coercion Act of 2023—focus on both means and goals, defining economic coercion as “actions, practices, or threats undertaken by a foreign adversary to unreasonably restrain, obstruct, or manipulate trade, foreign aid, investment, or commerce in an arbitrary, capricious, or non-transparent manner with the intention to cause economic harm to achieve strategic political objectives or influence sovereign political actions.”<sup>44</sup> The bills would “provide the president with specific tools to offer rapid economic support to foreign partners targeted by economic coercion and to punish perpetrators of economic coercion.”<sup>45</sup> “Countries like China and Russia are increasingly abusing their economic power to bully smaller countries and punish sovereign political decisions,” said Senator Chris Coons.<sup>46</sup> “This economic coercion,” he continued, “hurts these nations, threatens U.S. economic security, and undermines the democratic, rules-based international system that has underpinned decades of global growth.”<sup>47</sup> Both bills are currently in committee.

#### USE OF FORCE, ARMS CONTROL, AND NON-PROLIFERATION

##### *The United States Unveils Political Declaration on Responsible Military Use of Artificial Intelligence and Autonomy*

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For more than a decade, as the technology has become increasingly real, the substantial advantages and real dangers of artificial intelligence (AI)—“the ability of machines to perform tasks that would otherwise require human intelligence,” such as “recognizing patterns,

<sup>41</sup> *Id.*

<sup>42</sup> See Andy Bounds, *EU Agrees Trade Defence Tool Against China*, FIN. TIMES (Mar. 28, 2023), at <https://www.ft.com/content/6f77236e-3cd7-4d95-a5fd-f86b7769ae6e>.

<sup>43</sup> See Anti-Coercion Instrument, *supra* note 7, Annex 1.

<sup>44</sup> H.R. 1135, Sec. 3, 118th Cong., 1st Sess. (2023); S. 295, Sec. 3(2), 118th Cong., 1st Sess. (2023).

<sup>45</sup> Young, Coons Introduce Bill to Counter Economic Coercion of Allies and Partners (Feb. 8, 2023), at <https://www.young.senate.gov/newsroom/press-releases/young-coons-introduce-bill-to-counter-economic-coercion-of-allies-and-partners> [<https://perma.cc/3985-MJSU>] [hereinafter Young, Coons Introduce Bill]; see also Cole, Meeks, Bera Introduce the Countering Economic Coercion Act of 2023 (Feb. 23, 2023), at <https://cole.house.gov/media-center/press-releases/cole-meeks-bera-introduce-countering-economic-coercion-act-2023> [<https://perma.cc/L3FP-U6EL>].

<sup>46</sup> Young, Coons Introduce Bill, *supra* note 45.

<sup>47</sup> *Id.*

learning from experience, drawing conclusions, making predictions, or taking action”—have preoccupied governments, industry, academics, and non-governmental organizations.<sup>1</sup> For militaries, the promise of AI is substantial.<sup>2</sup> As noted by Assistant Secretary of State for Arms Control, Verification, and Compliance Mallory Stewart, “AI-enhanced data analysis could optimize logistics processes, improve decision support, and provide commanders with enhanced situational awareness that enables them to avoid unintended engagements and minimize civilian casualties.”<sup>3</sup> AI “could increase accuracy and precision in the use of force which can also help strengthen implementation of international humanitarian law’s protections for civilians and civilian objects.”<sup>4</sup> It could also “advance arms control by helping . . . solve complex verification challenges and increasing confidence in states’ adherence to their commitments.”<sup>5</sup> With these advancements, though, come serious risks. AI generates information, but that information can be “inaccurate, lack[] context, or [be] completely made up.”<sup>6</sup> Systems can be “poorly designed, inadequately tested, or [have] users [who] do not possess an adequate understanding of the contexts and limitations of those systems.”<sup>7</sup> Military use of AI could therefore result in errors such as improperly identifying civilians as lawful targets and deploying disproportionate force. Concerns have thus arisen about AI reliability, autonomy, human control, biases, monitoring, and accountability. Accordingly, with the rapid pace of the technology’s advancement, the increasing commitment of significant resources to weapons development as militaries race to gain advantage, and the deployment in Ukraine and elsewhere of robotic combat vehicles, unmanned aerial vehicles, and unmanned surface vessels,<sup>8</sup> the regulation of the military use of AI has gained increased urgency.<sup>9</sup>

<sup>1</sup> The definition of AI here is from the U.S. Department of State’s Political Declaration on Responsible Military Use of Artificial Intelligence and Autonomy. See U.S. Dep’t of State Bureau of Arms Control, Verification and Compliance, Political Declaration on Responsible Military Use of Artificial Intelligence and Autonomy (Feb. 16, 2023), at <https://www.state.gov/political-declaration-on-responsible-military-use-of-artificial-intelligence-and-autonomy> [<https://perma.cc/SJW3-3HL2>] [hereinafter Political Declaration].

<sup>2</sup> See U.S. Dep’t of Defense, Summary of the 2018 Department of Defense Artificial Intelligence Strategy: Harnessing AI to Advance Our Security and Prosperity (Feb. 2019), at <https://media.defense.gov/2019/Feb/12/2002088963/-1/-1/1/SUMMARY-OF-%20DOD-AI-STRATEGY.PDF> [<https://perma.cc/WRX5-NZNH>] [hereinafter DoD AI Strategy]; Tate Nurkin & Julia Siegel, *Battlefield Applications for Human-Machine Teaming: Demonstrating Value, Experimenting with New Capabilities, and Accelerating Adoption*, ATLANTIC COUNCIL (Aug. 2023), at <https://www.atlanticcouncil.org/wp-content/uploads/2023/08/Battlefield-Applications-for-HMT.pdf> [<https://perma.cc/TR4D-ERDL>].

<sup>3</sup> U.S. Mission to International Organizations in Geneva Press Release, Assistant Secretary Stewart Remarks to the CD: New Types of WMD and New Systems of Such Weapons (May 25, 2023), at <https://geneva.usmission.gov/2023/05/25/remarks-to-the-cd-thematic-discussion-agenda-item-5> [<https://perma.cc/9FHT-YJKT>].

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> See, e.g., Eric Lipton, *A.I. Brings the Robot Wingman to Aerial Combat*, N.Y. TIMES (Aug. 27, 2023), at <https://www.nytimes.com/2023/08/27/us/politics/ai-air-force.html>; Lauren Kahn, *How Ukraine Is Remaking War*, FOR. AFF. (Aug. 29, 2022), at <https://www.foreignaffairs.com/ukraine/how-ukraine-remaking-war>; Michael T. Klare, *When AI and Robotics Combine*, NATION (Aug. 9, 2023), at <https://www.thenation.com/article/world/when-ai-and-robotics-combine>; Nancy A. Youssef & Michael R. Gordon, *Pentagon Plans Vast AI Fleet to Counter China Threat*, WALL ST. J. (Sept. 6, 2023), at <https://www.wsj.com/politics/national-security/pentagon-plans-vast-ai-fleet-to-counter-china-threat-4186a186>.

<sup>9</sup> See, e.g., Joint Statement on Lethal Autonomous Weapons Systems First Committee, 77th United Nations General Assembly Thematic Debate—Conventional Weapons (Oct. 21 2022), at [https://estatements.unmeetings.org/estatements/11.0010/20221021/A1j8bNfWGIL/KLw9WYcSnnAm\\_en.pdf](https://estatements.unmeetings.org/estatements/11.0010/20221021/A1j8bNfWGIL/KLw9WYcSnnAm_en.pdf) [<https://perma.cc/42UP-6FAU>].

The content and form of that regulation are contested, however. The United States has sought to establish agreed-upon non-binding international understandings of AI's proper military application through diplomacy and the articulation and publication of its own positions under the "responsible AI" (RAI) framework. In early 2023, building on prior policies, the U.S. Department of Defense issued an updated directive on Autonomy in Weapons Systems<sup>10</sup> and the U.S. Department of State proposed a Political Declaration on Responsible Military Use of Artificial Intelligence and Autonomy.<sup>11</sup> Many states and non-governmental organizations disagree with the RAI approach taken by the United States and other military powers and have instead called for the negotiation of a legally binding international agreement that would apply and develop the international law of autonomous weapons systems. These debates are part of broader efforts, national and international, to regulate AI.<sup>12</sup>

To date, multilateral consideration of military AI has focused on lethal autonomous weapons systems (LAWS) and has taken place in the meetings of the Group of Governmental Experts on Emerging Technologies in the Area of Lethal Autonomous Weapons Systems (GGE) established in 2016<sup>13</sup> by the Fifth Review Conference of the High Contracting Parties to the Convention on Certain Conventional Weapons (CCW).<sup>14</sup> In its early years, the GGE drafted the Guiding Principles on Emerging Technologies in the Area of Lethal Autonomous Weapons Systems,<sup>15</sup> which were endorsed by the 2019 CCW meeting of the parties.<sup>16</sup> Since then, the GGE's mandate has centered on "the consideration of proposals and [the] elaborat[ion], by consensus, [of] possible measures . . . and other options related to the normative and operational framework on emerging technologies in the area of lethal autonomous weapon systems."<sup>17</sup> Many working papers have been tabled, but no consensus has emerged on fundamental substantive issues, including definitions (even of the term "lethal autonomous weapons systems"). Nor has there been agreement on the form of the outcome—whether to work toward a non-binding text or a binding instrument. While a clear majority of states favor the latter, for years the GGE's consensus requirement has led to modest outcomes.

<sup>10</sup> See *Autonomy in Weapons Systems*, DoD Directive 3000.09 (2012; updated Jan. 25, 2023), at <https://www.esd.whs.mil/portals/54/documents/dd/issuances/dodd/300009p.pdf> [<https://perma.cc/4JXB-T7NN>] [hereinafter Directive 3000.09].

<sup>11</sup> See Political Declaration, *supra* note 1.

<sup>12</sup> In July, for example, at a Security Council held a meeting on "Artificial intelligence: Opportunities and Risks for International Peace and Security." See UN Doc. S/PV.9381 (July 18, 2023). The European Union is considering legislation and the Council of Europe is drafting a Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law. See Adam Satariano, *Europeans Take a Major Step Toward Regulating A.I.*, N.Y. TIMES (June 14, 2023), at <https://www.nytimes.com/2023/06/14/technology/europe-ai-regulation.html>; Delegation of the European Union to the Council of Europe Press Release, Council of Europe Committee on AI Completes a First Reading of the Draft AI Convention (June 29, 2023), at [https://www.eecas.europa.eu/delegations/council-europe/council-europe-committee-ai-completes-first-reading-draft-ai-convention\\_en](https://www.eecas.europa.eu/delegations/council-europe/council-europe-committee-ai-completes-first-reading-draft-ai-convention_en) [<https://perma.cc/T3S7-H6GN>].

<sup>13</sup> Informal meetings had taken place since 2014.

<sup>14</sup> See Final Document of the Fifth Review Conference, Decision 1, CCW/CONF.V/10 (Dec. 23, 2016).

<sup>15</sup> See Guiding Principles Affirmed by the Group of Governmental Experts on Emerging Technologies in the Area of Lethal Autonomous Weapons System (Nov. 2019), CCW/MSP/2019/9, Annex III (2019); UN Office for Disarmament Affairs, Background on LAWS in the CCW, at <https://perma.cc/VY3R-CN98>.

<sup>16</sup> See Final Report, CCW/MSP/2019/9, para. 31 (2019).

<sup>17</sup> Report of the 2023 Session of the Group of Governmental Experts on Emerging Technologies in the Area of Lethal Autonomous Weapons Systems, CCW/GGE.1/2023/2, para. 13 (May 24, 2023) (advance version) [hereinafter GGE 2023 Session Report].

The United States is among those that oppose a binding agreement,<sup>18</sup> preferring instead the issuance of statements that apply existing international law to LAWS.<sup>19</sup> It views the role of GGE as “developing guidance for States—measures that would strengthen the implementation of international humanitarian law (IHL) and promote responsible behavior by States.”<sup>20</sup> To this end, at the most recent GGE meeting, in May 2023, the United States, together with six other states, proposed “draft articles on the development, deployment, and use of autonomous weapon systems” (covering prohibited weapons, distinction, proportionality, precaution, and accountability).<sup>21</sup> The proposal was based on a compilation of consensus conclusions and recommendations previously endorsed by the GGE that “seek to clarify the requirements imposed by existing IHL and specify measures to effectively satisfy these requirements.”<sup>22</sup> The draft articles were not adopted, nor were proposals made by other states and the chair.<sup>23</sup> Instead, the session endorsed four sets of non-binding conclusions regarding compliance with existing international law, in particular IHL.<sup>24</sup>

Inside and outside the GGE, numerous states<sup>25</sup> and non-governmental organizations (many through the Campaign to Stop Killer Robots)<sup>26</sup> have called for a legally binding

<sup>18</sup> See Damien Gayle, *UK, US and Russia Among Those Opposing Killer Robot Ban*, *GUARDIAN* (Mar. 29, 2019), at <https://www.theguardian.com/science/2019/mar/29/uk-us-russia-opposing-killer-robot-ban-un-ai>.

<sup>19</sup> See, e.g., U.S. Mission to International Organizations in Geneva, Convention on CCW Group of Governmental Experts on Emerging Technologies in the Area of LAWS: Opening Statement (Dec. 2, 2021), at <https://geneva.usmission.gov/2021/12/03/convention-on-ccw-group-of-governmental-experts-on-emerging-technologies-in-the-area-of-laws> [<https://perma.cc/3YQ7-GHKQ>] [hereinafter USG 2021 Opening Statement].

<sup>20</sup> U.S. Mission to International Organizations in Geneva Press Release, Second Session in 2023 of the Group of Governmental Experts (GGE) on Emerging Technologies in the Area of Lethal Autonomous Weapons Systems (LAWS) – Opening Statement – U.S. Delegation – Delivered by Joshua Dorosin (May 15, 2023), at <https://geneva.usmission.gov/2023/05/15/second-session-in-2023-of-the-gge-on-emerging-technologies-in-the-area-of-laws> [<https://perma.cc/HX3B-P55G>].

<sup>21</sup> See Draft Articles on Autonomous Weapon Systems – Prohibitions and Other Regulatory Measures on the Basis of International Humanitarian Law (“IHL”) – Submitted by Australia, Canada, Japan, Poland, the Republic of Korea, the United Kingdom, and the United States, CCW/GGE.1/2023/WP.4/Rev.2 (May 15, 2023); see also Principles and Good Practices on Emerging Technologies in the Area of Lethal Autonomous Weapons Systems – Proposed by: Australia, Canada, Japan, the Republic of Korea, the United Kingdom, and the United States (Mar. 7, 2022). In 2021, the United States had recommended the development of a non-binding code of conduct. See USG 2021 Opening Statement, *supra* note 19.

<sup>22</sup> See Draft Articles, *supra* note 21, Draft Art. 7.

<sup>23</sup> See, e.g., Report of the 2023 Session of the Group of Governmental Experts on Emerging Technologies in the Area of Lethal Autonomous Weapons Systems, CCW/GGE.1/2023/CRP.2 (May 6, 2023) (chair’s draft report).

<sup>24</sup> See GGE 2023 Session Report, *supra* note 17, paras. 20–23.

<sup>25</sup> See, e.g., XXVIII Cumbre Iberoamericana de Jefes y Jefes de Estado y de Gobierno, Comunicado Especial Sobre el Impacto Social y Humanitario de las Armas Autónomas (Mar. 25, 2023), at [https://www.segib.org/wp-content/uploads/11.-Comunicado-especial-sobre-el-impacto-social-y-humanitario-de-las-armas-autonomas\\_Es.pdf](https://www.segib.org/wp-content/uploads/11.-Comunicado-especial-sobre-el-impacto-social-y-humanitario-de-las-armas-autonomas_Es.pdf) [<https://perma.cc/QR5K-J2N8>]; Proposal for an International Legal Instrument on Lethal Autonomous Weapons Systems (LAWS). Submitted by Pakistan, CCW/GGE.1/2023/WP.3/Rev.1 (Mar. 8, 2023); Communiqué of the Latin American and the Caribbean Conference of Social and Humanitarian Impact of Autonomous Weapons (Feb. 23–24, 2023), at <https://conferenciaawscostarica2023.com/wp-content/uploads/2023/02/EN-Communique-of-La-Ribera-de-Belen-Costa-Rica-February-23-24-2023..pdf> [<https://perma.cc/JU99-2F7E>]; Working Paper to Be Submitted by the Bolivarian Republic of Venezuela on Behalf of the Non-Aligned Movement (NAM) and Other States Parties to the Convention on Certain Conventional Weapons (CCW), para. 17 (June 2021), at <https://documents.unoda.org/wp-content/uploads/2021/06/NAM.pdf> [<https://perma.cc/P6M3-8TVR>]; Proposal for a Mandate to Negotiate a Legally Binding Instrument that Addresses the Legal, Humanitarian and Ethical Concerns Posed by Emerging Technologies in the Area of Lethal Autonomous Weapons Systems (LAWS) – Submitted by Austria, Brazil and Chile, CCW/GGE.2/2018/WP.7 (Aug. 29, 2018).

<sup>26</sup> Stop Killer Robots, at <https://www.stopkillerrobots.org>; International Committee of the Red Cross, *Autonomous Weapons: ICRC Urges States to Launch Negotiations for Legally Binding Rules* (June 5, 2023), at

instrument to prohibit fully autonomous weapons and to otherwise regulate LAWS. To this end, some are pushing to move negotiations out of the GGE, where that outcome is unlikely, to either a standalone diplomatic conference, as was done with the Anti-Personnel Mine Ban Convention and the Convention on Cluster Munitions, or the UN General Assembly, where the Treaty on the Prohibition of Nuclear Weapons was drafted.<sup>27</sup> UN human rights rapporteurs have also called for a global prohibition on LAWS.<sup>28</sup> And in July 2023, UN Secretary-General António Guterres, in his most forward-leaning statement to date, called on states to “conclude, by 2026, a legally binding instrument to prohibit lethal autonomous weapon systems that function without human control or oversight, and which cannot be used in compliance with international humanitarian law, and to regulate all other types of autonomous weapons systems.”<sup>29</sup>

The United States and other countries promoted the contrasting “responsible AI” approach to military AI at the February 2023 summit on Responsible AI in the Military Domain (REAIM) that was co-organized by The Netherlands and South Korea.<sup>30</sup> Military RAI’s origins stem from the U.S. Department of Defense’s (DoD) Artificial Intelligence Strategy in 2018.<sup>31</sup> In 2020, DoD adopted five Ethical Principles for Artificial Intelligence to “ensure the responsible use of AI by the department,” including: responsibility, equity, traceability, reliability, and governability.<sup>32</sup> Subsequently, DoD implemented the Ethical Principles in a memorandum articulating “foundational tenets”<sup>33</sup> and in a pathway setting

<https://www.icrc.org/en/document/statement-international-committee-red-cross-icrc-following-meeting-group-governmental> [<https://perma.cc/U79T-6L5D>].

<sup>27</sup> See, e.g., Human Rights Watch, *An Agenda for Action: Alternative Processes for Negotiating a Killer Robots Treaty* (2022), at [https://www.hrw.org/sites/default/files/media\\_2022/12/arms1122web.pdf](https://www.hrw.org/sites/default/files/media_2022/12/arms1122web.pdf).

<sup>28</sup> See, e.g., Human Rights Implications of the Development, Use and Transfer of New Technologies in the Context of Counter-terrorism and Countering and Preventing Violent Extremism – Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, Fionnuala Ní Aoláin, para. 29, UN Doc. A/HRC/52/39 (2023) (advanced edited version); see also Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (Apr. 9, 2013), para.78. The Human Rights Council has begun consideration of military AI not limited to LAWS. It recently requested the “Human Rights Council Advisory Committee to prepare a study examining the human rights implications of new and emerging technologies in the military domain, while taking into account ongoing discussions within the United Nations system.” Human Rights Council, Res. 51/22, UN Doc. A/HRC/RES/51/22 (Oct. 7, 2022).

<sup>29</sup> United Nations, Our Common Agenda Policy Brief 9: A New Agenda for Peace (July 2023), at <https://www.un.org/sites/un2.un.org/files/our-common-agenda-policy-brief-new-agenda-for-peace-en.pdf> [<https://perma.cc/HKF6-KBVL>]. The secretary-general had previously called for “internationally agreed limits on lethal autonomous weapons systems.” UN Press Release, Secretary-General’s Briefing to the General Assembly on Priorities for 2023 (Feb. 6, 2023), at <https://www.un.org/sg/en/content/sg/statement/2023-02-06/secretary-generals-briefing-the-general-assembly-priorities-for-2023-scroll-down-for-bilingual-delivered-all-english-and-all-french-versions> [<https://perma.cc/Z395-E9BD>]; see also UN Press Release, Address to the Paris Peace Forum (Nov. 11, 2018), at <https://www.un.org/sg/en/content/sg/speeches/2018-11-11/address-paris-peace-forum> [<https://perma.cc/TPX5-W9WC>].

<sup>30</sup> In addition to weapons systems, military AI also pertains to communications, decision making, intelligence, logistics, planning, risk assessment, situational awareness, surveillance, training, and other issues.

<sup>31</sup> See DoD AI Strategy, *supra* note 2, at 5.

<sup>32</sup> U.S. Dep’t of Defense Press Release, DoD Adopts Ethical Principles for Artificial Intelligence (Feb. 24, 2020), at <https://www.defense.gov/News/Releases/Release/Article/2091996/dod-adopts-ethical-principles-for-artificial-intelligence> [<https://perma.cc/D2YH-ECN6>].

<sup>33</sup> See U.S. Dep’t of Defense, Implementing Responsible Artificial Intelligence in the Department of Defense (May 26, 2021), at <https://media.defense.gov/2021/May/27/2002730593/-1/-1/0/IMPLEMENTING->

out RAI's operationalization within the department.<sup>34</sup> Updated DoD Directive 3000.09<sup>35</sup> established requirements "to minimize the probability and consequences of failures in autonomous and semi-autonomous weapon systems that could lead to unintended engagements."<sup>36</sup> Other countries have adopted similar documents.<sup>37</sup> The North Atlantic Treaty Organization too has promulgated its own Principles of Responsible Use of Artificial Intelligence in Defence, which are substantially similar to DoD's Ethical Principles.<sup>38</sup>

Military RAI has evolved into a set of best practices and techniques for AI's cautious and safe use. Consistent with the U.S. position in the GGE, it attempts to facilitate, not prohibit, military AI's development and use through the establishment of guardrails that minimize risk in accordance with law. RAI's non-binding character provides flexibility for militaries and implies that existing international law regulates AI adequately. As Under Secretary of State for Arms Control and International Security Bonnie Denise Jenkins explained at the REAIM summit, "[t]he United States approaches using artificial intelligence for military purposes from the perspective of responsible speed, meaning our attempts harness the benefits of AI have to be accompanied by a focus on safe and responsible behavior that is consistent with the law of war and international humanitarian law."<sup>39</sup>

Fifty-seven government representatives at the summit, including all permanent members of the Security Council except Russia (which was not invited to participate), agreed on a "joint call to action on the responsible development, deployment and use of artificial intelligence (AI) in the military domain."<sup>40</sup> Among other commitments, the signatories promised "to continu[e] the global dialogue on responsible AI in the military domain in a multi-stakeholder and inclusive manner and call[ed] on all stakeholders to take their responsibility in

RESPONSIBLE-ARTIFICIAL-INTELLIGENCE-IN-THE-DEPARTMENT-OF-DEFENSE.PDF [<https://perma.cc/T77K-RE9C>].

<sup>34</sup> See U.S. Dep't of Defense, Responsible Artificial Intelligence Strategy and Implementation Pathway (June 2022), at [https://www.ai.mil/docs/RAI\\_Strategy\\_and\\_Implementation\\_Pathway\\_6-21-22.pdf](https://www.ai.mil/docs/RAI_Strategy_and_Implementation_Pathway_6-21-22.pdf) [<https://perma.cc/GZ8G-R4PA>].

<sup>35</sup> Directive 3000.09, *supra* note 10.

<sup>36</sup> U.S. Dep't of Defense Press Release, DoD Announces Update to DoD Directive 3000.09, "Autonomy in Weapon Systems" (Jan. 25, 2023), at <https://www.defense.gov/News/Releases/Release/Article/3278076/dod-announces-update-to-dod-directive-300009-autonomy-in-weapon-systems> [<https://perma.cc/SMZ5-KW9F>].

<sup>37</sup> See Ministère des Armées, L'intelligence artificielle au service de la défense (2019), at [https://medias.vie-publique.fr/data\\_storage\\_s3/rapport/pdf/270333.pdf](https://medias.vie-publique.fr/data_storage_s3/rapport/pdf/270333.pdf) [<https://perma.cc/DP55-L3AL>]; Australian Dep't of Defence, A Method for Ethical AI in Defence (2020), at <https://www.dst.defence.gov.au/sites/default/files/publications/documents/A%20Method%20for%20Ethical%20AI%20in%20Defence.pdf> [<https://perma.cc/UFL5-AT7F>]; UK Ministry of Defence, Ambitious, Safe, Responsible: Our Approach to the Delivery of AI-Enabled Capability in Defence (2022), at <https://www.gov.uk/government/publications/ambitious-safe-responsible-our-approach-to-the-delivery-of-ai-enabled-capability-in-defence/ambitious-safe-responsible-our-approach-to-the-delivery-of-ai-enabled-capability-in-defence> [<https://perma.cc/CG7E-NGP7>].

<sup>38</sup> See Summary of the NATO Artificial Intelligence Strategy (Oct. 22, 2021), at [https://www.nato.int/cps/en/natohq/official\\_texts\\_187617.htm](https://www.nato.int/cps/en/natohq/official_texts_187617.htm) [<https://perma.cc/2HER-DQC8>].

<sup>39</sup> U.S. Dep't of State Press Release, Keynote Remarks by U/S Jenkins (T) to the Summit on Responsible Artificial Intelligence in the Military Domain (REAIM) Ministerial Segment (Feb. 16, 2023), at <https://www.state.gov/keynote-remarks-by-u-s-jenkins-t-to-the-summit-on-responsible-artificial-intelligence-in-the-military-domain-reaim-ministerial-segment> [<https://perma.cc/X7KD-VBNB>].

<sup>40</sup> See Government of The Netherlands Press Release, Call to Action on Responsible Use of AI in the Military Domain (Feb. 16, 2023), at <https://www.government.nl/latest/news/2023/02/16/reaim-2023-call-to-action> [<https://perma.cc/6X5F-3SS5>]; see also REAIM 2023 Endorsing Countries and Territories (Feb. 21, 2023), at <https://www.government.nl/binaries/government/documenten/publications/2023/02/16/reaim-2023-endorsing-countries/Endorsing+Countries+and+Territories+REAIM+Call+to+Action.pdf> [<https://perma.cc/V4PL-RE8N>].

contributing to international security and stability in accordance with international law.”<sup>41</sup> The call also “invite[d] states to develop national frameworks, strategies and principles on responsible AI in the military domain.”<sup>42</sup> There were some notable absences from the list of countries endorsing the call, including Brazil, India, Israel, and South Africa.

Also at the REAIM summit, the State Department unveiled a Political Declaration on Responsible Military Use of Artificial Intelligence and Autonomy.<sup>43</sup> Internationalizing the Defense Department’s and NATO’s RAI texts, the Declaration comprises twelve sets of “best practices that the endorsing States believe should be implemented in the development, deployment, and use of military AI capabilities, including those enabling autonomous systems.”<sup>44</sup> These include: “subjecting systems to rigorous testing and assurance, taking steps to avoid unintended consequences, minimizing unintended biases, and . . . ensuring AI is used in accordance with States’ obligations under international law.”<sup>45</sup> “The Political Declaration,” a State Department official said in August, “will serve as a launch pad for sustained dialogue among endorsing states.”<sup>46</sup> To date, however, no endorsing states have been announced. The Declaration did not satisfy those who advocate for an international agreement to govern AI in the military domain.<sup>47</sup> A Stop Killer Robots official described the Political Declaration as “the most backwards position seen from any state, in years” and “an attempt to radically undermine global effort towards establishing a new Treaty on Autonomous Weapons Systems.”<sup>48</sup>

<sup>41</sup> REAIM 2023 Call to Action, para. 17 (Feb. 16, 2023), at <https://www.government.nl/binaries/government/documenten/publications/2023/02/16/reaim-2023-call-to-action/REAIM+2023+Call+to+Action.pdf> [<https://perma.cc/XA89-W9T6>].

<sup>42</sup> *Id.*, para. 19.

<sup>43</sup> See Political Declaration, *supra* note 1. The one significant innovation was the inclusion of a statement that: “States should maintain human control and involvement for all actions critical to informing and executing sovereign decisions concerning nuclear weapons employment.” *Id.* The United States, United Kingdom, and France jointly made this commitment at the 2022 Non-Proliferation Treaty Review Conference. See Principles and Responsible Practices for Nuclear Weapon States – Working Paper Submitted by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America, para. 5(vii), NPT/CONF.2020/WP.70 (July 29, 2022).

<sup>44</sup> *Id.*

<sup>45</sup> U.S. Mission to International Organizations in Geneva Press Release, U.S. Deputy Permanent Representative Aud-Frances McKernan’s Remarks to the Conference on Disarmament on Artificial Intelligence in the Military Domain (Aug. 3, 2023), at <https://geneva.usmission.gov/2023/08/03/remarks-to-the-conference-on-disarmament-on-artificial-intelligence-in-the-military-domain> [<https://perma.cc/CV7C-69X5>].

<sup>46</sup> *Id.*

<sup>47</sup> See Mary Wareham (@marywareham), TWITTER (Feb. 16, 2023, 11:00 a.m.), at <https://twitter.com/marywareham/status/1626250076241956864>.

<sup>48</sup> Ousman Noor (@ousmannoor), TWITTER (Feb. 16, 2023, 10:07 a.m.), at <https://twitter.com/ousmannoor/status/1626236879535489024>; Ousman Noor (@ousmannoor), TWITTER (Feb. 16, 2023, 10:07 a.m.), at <https://twitter.com/ousmannoor/status/1626236901006114818>.