

AG/RES. 3005 (LIII-O/23)

INTERNATIONAL LAW

(Adopted at the first plenary session, held on June 22, 2023)  
(Provisional version subject to review by the Style Committee)

THE GENERAL ASSEMBLY,

RECALLING resolution AG/RES. 2990 (LII-O/22) adopted on October 7, 2022 and all previous resolutions adopted on this subject; and

HAVING SEEN the “Annual Report of the Permanent Council to the General Assembly,” in particular the section on the activities of the Committee on Juridical and Political Affairs (CAJP);

CONSIDERING the decision of the member states to hold the fifty-third regular session of the General Assembly of the Organization of American States in Washington, D.C., from June 21 to 23, 2023, with the object of restoring the cycle of holding the General Assembly in the second quarter each year;

RESOLVES:

1. To urge member states and the Permanent Council, through the Committee on Juridical and Political Affairs, to continue contributing to the achievement of the objectives established in the area of international law.

2. To reaffirm as current and consider automatically renewed the General Assembly mandates in the area of international law that could not be implemented prior to the fifty-third regular session of the General Assembly, and to instruct the General Secretariat and the other organs covered by Article 53 of the Charter of the Organization of American States to continue working on their implementation, unless determined otherwise by a specific resolution.

3. To request the Committee on Juridical and Political Affairs to report, through the Permanent Council, to the General Assembly at its fifty-fourth regular session on the implementation of this resolution.

I. ACTIVITIES OF THE COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

i. Inter-American Program for the Development of International Law

TAKING INTO ACCOUNT that artificial intelligence has been thrust headlong into people’s daily lives, generating the concern, as expressed by different social actors, to have in place regulations enabling the benefits and development possibilities of this technology to be leveraged, while mitigating the risks and biases inherent to machine-learning algorithms; and highlighting the importance of international law in developing principles and standards that strengthen the efforts of States to implement regulations of this kind at the domestic level;

RESOLVES:

1. To express its appreciation to the Department of International Law for its efforts in the promotion and dissemination of international and inter-American law and to request that it continue to implement the actions contained in the Inter-American Program for the Development of International Law and present a report on its activities to the Committee on Juridical and Political Affairs (CAJP); and to request the Permanent Council to organize a meeting similar to the one it held in 2022 to mark the twenty-fifth anniversary of the Program, so that member states can continue to have a space to discuss activities that they consider priorities within the Program's framework.

2. To request the Department of International Law to continue organizing analytical activities on topics that require examination from an international law standpoint, including legal implications of the use of artificial intelligence, so that the staff of permanent missions, public officials in member states, and the staff of the General Secretariat have the appropriate tools to address those topics in a timely fashion, in an informed manner, and from a comprehensive perspective, as well as seeking the collaboration from professionals and entities with expertise in that regard.

ii. Inter-American Juridical Committee

CONSIDERING the observations and recommendations of the member states on the Annual Report of the Inter-American Juridical Committee, contained in document [CP/CAJP-3733/23 corr. 1](#) of July 20, 2023;

RESOLVES:

1. To recognize the latest contributions of the Inter-American Juridical Committee (CJI) to international law, namely, the Report on Compulsory Primary Education [document CJI/doc.690/23 rev. 1]; the Declaration of Inter-American Principles on the Legal Framework for the Creation, Operation, Financing, and Dissolution of Non-profit Civil Entities [document CJI/RES. 282 (CII-O/23 corr. 2)]; the Declaration of Inter-American Principles on Neuroscience, Neurotechnologies, and Human Rights [document CJI/RES. 281 (CII-O/23 corr. 1)]; the Second Report on International Law Applicable to Cyberspace [document CJI/doc.671/22 rev. 2 corr. 1]; and the Declaration on the inviolability of diplomatic premises as a principle of international relations and its relationship to the concept of diplomatic asylum [document CJI/DEC.03 (CI-O/22)]; to instruct the Committee on Juridical and Political Affairs of the Permanent Council to give them due consideration; and to request that the Department of International Law, as its technical secretariat, continue to disseminate these documents and those pertaining to other topics on its work agenda as widely as possible, including through virtual media.

2. To request the Inter-American Juridical Committee to expand the content of the 2020 Inter-American Model Law 2.0 on Access to Public Information to include issues that could not be considered at the time, such as access to public information held by the judiciary, considering the provisions of the internal legislation of each State, as well as those it deems most appropriate, in order to continue strengthening access to public information in the region.

iii. International legal framework for arms and ammunition manufacturing, distribution and marketing companies<sup>1/</sup>

TAKING NOTE of the results of the meeting held by the Permanent Council to reflect on the promotion and protection of human rights and the role of arms companies;

RECOGNIZING that arms and ammunition manufacturers, distributors, and marketers, by defining the capabilities of weapons, their modifiability, portability, assembly, and commercial practices for their sale play an important role in the prevention of armed violence and human rights violations and abuses and should act with due diligence;

UNDERSCORING the role of civil society, and especially of human rights defenders, and other social actors in defending people adversely affected by human rights violations and abuses, particularly of the right to life;

TAKING NOTE OF the attention given by the Inter-American Juridical Committee to the topic “*responsibility of arms production and trading companies in the area of human rights*” by the Inter-American Juridical Committee;

RECALLING the UN Guiding Principles on Business and Human Rights and its “Protect, Respect, and Remedy” framework,

RESOLVES:

1. To recall the importance of further discussions on the responsibility of companies that manufacture, distribute and market arms to respect human rights and, therefore, to invite member states to discuss the issue within the relevant bodies.

2. To request the rapporteur of the Inter-American Juridical Committee on the topic “*responsibility of arms production and trading companies in the area of human rights*,” to enrich his work with an analysis of the due diligence that production, distribution and trading companies should exercise, as well as actions and steps that States should take to promote access to justice in the event of non-performance of due diligence measures.

3. To request the Department of International Law, in order to strengthen the study on the responsibility of arms and ammunitions production, distribution and marketing companies, to promote the widest dissemination and reflection on the subject, including the Advisory Opinion requested from the Inter-American Court of Human Rights on the activities of private companies and their effects on human rights, when issued by the Court.

iv. Use of international law for strengthening the OAS

TAKING NOTE of the meeting held by the Permanent Council to reflect collectively on the principles of international law on which the inter-American system is founded, as the normative framework that governs the work of the Organization of American States;

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1. Promoting and advancing respect for human rights and fundamental freedoms is a top priority for the United States. Combatting insecurity and protecting human rights for all are challenges...

RECOGNIZING the work of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights for the observance, promotion, and protection of human rights in the region;

AWARE of the importance of the inter-American human rights system for strengthening the capacity of member states to meet their human rights obligations;

EMPHASIZING that the Inter-American Court of Human Rights is one of three regional human rights tribunals exercising contentious and advisory functions for the States that accept its jurisdiction;

UNDERLINING that, as a court of law, the case law of the Inter-American Court of Human Rights is binding upon States that have accepted its jurisdiction as stipulated in article 68.1 of the American Convention on Human Rights and stands as an ancillary source of international law;

RESOLVES:

1. To acknowledge the contributions of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights to the strengthening of the rule of law in the region.

2. To request the Committee on Juridical and Political Affairs to hold a meeting to discuss, from an international-law perspective, the practices and experiences of Member States in proceedings before the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

3. To request that the Joint Meeting with Legal Advisors to Ministries of Foreign Affairs, organized every two years by the Inter-American Juridical Committee, include this topic in its discussions.

v. Promotion of and respect for international humanitarian law <sup>2/</sup>

RECOGNIZING that new applications of emerging technologies, such as those in autonomous weapons, may pose concrete challenges to international peace and security, and raise new questions about the role of human beings in armed conflicts;

EXPRESSING CONCERN about the risk that autonomous weapons systems will not be used in compliance with international law, particularly with the regulations and principles of international humanitarian law, such as distinction, proportionality, and precautions in attack, in armed conflict, and the risk that new technologies could be used to exacerbate discrimination against certain already vulnerable groups, including biases with regard to disability, race, gender, age, and other similar factors;

EMPHASIZING the need to maintain meaningful human control in the use of autonomous weapons systems to uphold compliance with international law, in particular international humanitarian law, including the principles and requirements of distinction, proportionality and precautions in attack,

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2. The United States does not support section v. for the reasons stated in this footnote. The United States believes that the Convention on Certain Conventional Weapons (CCW) Group of...

as well as the importance of avoiding further dehumanization of armed conflicts, and ensuring individual accountability and state responsibility;

RECALLING the obligation to determine whether the study, development, acquisition, or adoption of a new weapon, means, or method of warfare, as well as its use, in certain or in all circumstances, are prohibited by any norm of international law applicable to States Party, based on article 36 of Additional Protocol I (1977) of the Geneva Conventions of 1949;

HIGHLIGHTING the work of the Group of Governmental Experts on Emerging Technologies in the Area of Lethal Autonomous Weapons Systems (GGE LAWS) of the Convention on Certain Conventional Weapons (CCCW), an appropriate forum for in-depth debate on the subject, and where the first draft of Protocol VI to the CCCW on Lethal Autonomous Weapons Systems was presented in 2022;

TAKING NOTE of the work carried out in the framework of the Regional Conference on the Social and Humanitarian Impact of Autonomous Weapons, held in San José, Costa Rica on February 23 and 24, 2022, and the Belen Communiqué adopted;

RESOLVES:

1. To encourage Member States to contribute to discussions on emerging technologies and on autonomous weapons systems.

2. To request the Committee on Juridical and Political Affairs and the Committee on Hemispheric Security to, before the fifty-fourth regular session of the General Assembly, hold a joint meeting to consider the challenges posed by emerging technologies and autonomous weapons systems in terms of compliance with international law, including international humanitarian law, and to request the Department of International Law to prepare a report on the outcomes of that meeting.

vi. Promotion of the International Criminal Court <sup>3/</sup>

RECOGNIZING the work of the International Criminal Court in the investigation and prosecution of those responsible for the most serious crimes of concern to the international community, such as genocide, crimes against humanity, war crimes, and the crime of aggression;

MINDFUL of the importance of cooperation from states and international and regional organizations for the effective functioning of the International Criminal Court;

REITERATING its commitment to uphold and defend the principles and values enshrined in the Rome Statute, and to preserve its integrity in the face of threats against the Court, its officials, and those who work with it, and the importance that the Court have the full support of the OAS Member States in order to fulfill its mandate;

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3. Although the United States is not a party to the Rome Statute, we underscore our firm and deep commitment to justice and accountability, particularly for the worst crimes known ...

TAKING NOTE of the outcomes of the technical working meeting to strengthen cooperation with the International Criminal Court held on June 16, 2022,

RESOLVES:

1. To reiterate its support for the International Criminal Court (ICC), which acts in favor of the common commitment to combat impunity for the most serious crimes of concern to the international community, in accordance with the Rome Statute, in a complementary manner to domestic criminal jurisdictions.

2. To encourage member states that are neither party to the Rome Statute of the International Criminal Court nor to its agreement on privileges and immunities to consider ratifying or acceding to it.

3. Call upon member states that are party to the Rome Statute to strengthen cooperation and assistance with the International Criminal Court in accordance with their international obligations.

vii. The Law of the Sea

A. Sea-level rise in relation to international law

TAKING NOTE of the results of the special meeting of the Committee on Juridical and Political Affairs on the consequences and legal implications of sea-level rise on May 4, 2023, which considered the particular challenges facing the region in relation to the potential consequences of sea-level rise and its legal implications, and examined the response and adaptation measures that member states of the Organization have implemented;

RESOLVES:

1. To request the Permanent Council to hold a special meeting to foster an exchange on possible challenges that the region may face with respect to the consequences of sea-level rise and its legal ramifications, including the legal implications for maritime borders, food security, and human displacement as a result of sea level rise, in order to identify the main challenges for the member states of the Organization.

viii. Centenary of the Treaty to Avoid or Prevent Conflicts between the American States (“Gondra Treaty”)

CONSIDERING that May 3, 2023, marked the one hundredth anniversary of the adoption of the Treaty to Avoid or Prevent Conflicts between the American States, also known as the “Gondra Treaty” in recognition of one of its proponents, Mr. Manuel Gondra, a Paraguayan national;

RESOLVES:

1. To celebrate with satisfaction the centenary of the adoption of the Treaty to Avoid or Prevent Conflicts between the American States (“Gondra Treaty”) signed at the Fifth International Conference of American States, held in Santiago, Chile, from March 25 to May 3, 1923.

2. To recognize the historical importance for international law of the Gondra Treaty, considered the first regional instrument on peaceful settlement of international disputes, in the construction of the inter-American legal framework in that regard.

## FOOTNOTES

1. ... every nation faces and a challenge we can all work together to overcome. It is important to note that obligations arising under international law generally apply to States and not to non-state actors such as individuals or business enterprises. The actions by private actors as a general matter in and of themselves do not constitute violations of international human rights law. In addition, the United States is unaware of any existing advisory opinion that meets the description in the text, nor is it clear that any such opinion would be within the advisory jurisdiction of the Inter-American Court of Human Rights. Moreover, to the extent that the text refers to a request currently pending before the Inter-American Court of Human Rights, the United States would note that the Inter-American Court has not yet ruled on the jurisdiction and admissibility of that request. The United States considers it inappropriate and inconsistent with the roles of the political and judicial organs of the inter-American system for the General Assembly to presuppose the outcome of the Inter-American Court of Human Rights' analysis of both the technical criteria for jurisdiction and admissibility as well as Court's own discretionary powers to decide whether to render an advisory opinion concerning any given request. Therefore, the United States interprets the resolution as requesting the Department of International Law to reflect on any future action by the Inter-American Court of Human Rights and to defer decision on any dissemination of any document it might produce to a further resolution of the appropriate OAS political organ. We encourage all states to cooperate closely to stem illicit trafficking of firearms in the region.

2. ... Governmental Experts (GGE) on Emerging Technologies in the Area of Lethal Autonomous Weapons Systems (LAWS) is the appropriate multilateral forum for discussions on autonomous weapons, as demonstrated by the GGE's extensive work and the robust, cross-regional participation of States and civil society in the LAWS GGE. The United States appreciates the focus of this resolution on international humanitarian law (IHL)—in particular the principles and requirements of distinction, proportionality, and precautions in attack. This focus reflects the work of the LAWS GGE, which affirmed by consensus, *inter alia*, in its 2023 report, “[c]ontrol with regard to weapon systems based on emerging technologies in the area of LAWS is needed to uphold compliance with international law, in particular IHL, including the principles and requirements of distinction, proportionality and precautions in attack.” Although the LAWS GGE has extensively discussed the term “meaningful human control”, the GGE has not found consensus on it. This term is not a requirement or standard under existing IHL. For reasons that the United States has explained in the LAWS GGE, which other States have supported, we oppose the reference to this term in this resolution. In addition, although the United States appreciates the preambular paragraph highlighting the work of the LAWS GGE, the United States does not support the reference in that paragraph to a proposal submitted to the GGE regarding a draft CCW Protocol VI. This proposal did not gain the consensus of the GGE and other proposals that have been submitted to the GGE, such as the proposal submitted by Australia, Canada, Japan, the Republic of Korea, Poland, the United Kingdom, and the United States, are not reflected in this paragraph, which does not accurately portray the GGE's work. The United States also opposes the preambular paragraph related to Article 36 of the 1977 Additional Protocol I to the 1949 Geneva Conventions because this paragraph does not accurately reflect the requirements of Article 36 for States Parties to Additional Protocol I. Finally, with respect to the second operative paragraph, the United States reiterates that IHL should be the focus of this meeting.

3. ... to humanity. The United States recognizes that the International Criminal Court can play a meaningful role in bringing those responsible for the worst atrocities to justice. To that end, we have provided - and continue to provide - specific support to the ICC in connection with certain investigations and prosecutions, consistent with U.S. law and policy. The United States understands that any OAS support rendered to the ICC would be drawn from specific-fund contributions rather than the OAS regular budget.