

Armed Drone Export Policy Steals Thunder, *but* Commercial Use Changes May Be **Bigger** Show

By Eric R. McClafferty & Robert Slack / Kelley Drye & Warren LLP

Last month, the State Department announced a long-awaited update to the country's policy on exports of military unmanned aerial systems (UAS). The announcement made headlines because the new policy will allow the U.S. government to more favorably consider requests to export military UAS, including armed drones, to U.S. allies. Exports of armed systems will continue to be constrained by U.S. commitments under

human operator without authorization from the Commerce Department. This control (ECCN 9A012) captures nearly all commercial UAS, including some small systems that resemble toys, and is based on a standard set by the Wassenaar Arrangement, an international agreement that establishes export controls on certain dual-use items. In December, the Wassenaar Arrangement participating states agreed to liberalize restrictions on commercial

UAS in recognition of the proliferation of drone technology and the over-control of small drones.

Under the new standard, commercial UAS with a flight endurance of less than 30 minutes will no longer be subject to burdensome licensing requirements. Commercial UAS with a flight endurance between 30 minutes and an hour will only be subject to a license requirement if the units can fly in wind gusts

of 25 knots or greater. Controls on autopilots and related technology will also be loosened. Commercial UAS that can stay in the air for an hour or more will remain subject to licensing requirements for most countries. The change, which was publicly announced by the Department of Commerce during an export control conference held by the Association of Unmanned Vehicle Systems International (AU-VSI) and Kelley Drye, will not become law until the Export Administration Regulations are formally amended in the coming months.

The new export control standards reflect the spread of unmanned technologies, the importance of supporting domestic manufacturers, and increasing demand in the defense and commercial sectors for unmanned technologies.

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the multilateral Missile Technology Control Regime (MTCR), which requires the U.S. to apply a "strong presumption of denial" to exports of most armed UAS (these systems usually qualify as Category I systems under the MTCR and face the presumption of denial). Industry is waiting to see what impact the new policy, which remains classified, will have on developing overseas business for military systems.

While the State Department's announcement captured the headlines, an important change is coming for manufacturers of small, commercial unmanned systems as well. Currently, U.S. export control laws prohibit the export of commercial unmanned systems that have autonomous flight control capability or the ability to fly outside the line of sight of a



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