

Bureau of Industry and Security

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POLICY AND REGULATORY UPDATES

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UAS Export Policy Update

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Background

- In April 2018, the President approved the new U.S. policy on the export of UAS that applies to all U.S.-origin UAS transfers, whether under the authority of the United States Munitions List (USML) or the Commerce Control List (CCL).
- Several key objectives of this policy include: increasing trade opportunities for U.S. companies, bolstering partner security and counterterrorism capabilities, increasing interoperability, and preventing the proliferation of weapons of mass destruction (WMD) delivery systems.
- With these goals in mind, the United States began work to amend the MTCR Annex to allow for more export flexibility.

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MTCR

- The MTCR was formed in 1987 by like-minded countries, including the United States, to prevent the proliferation of delivery systems for WMD and related equipment and technology.
- Any changes to the Annex require consensus among members.
- Category I includes complete rocket systems (including ballistic missiles, space launch vehicles, and sounding rockets) and UASs (including cruise missiles, target, and reconnaissance drones) with the capability to carry at least a 500 kilogram payload to a range of at least 300 kilometers.
- The Guidelines call for a “strong presumption of denial” for the export of Category I items. In contrast, Category II items are reviewed on a case-by-case basis.

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What has changed

- On July 24 the Administration announced a revision to that policy to allow greater flexibility in the transfer of certain MTCR Category I UAS.
- Per this revision to the U.S. UAS Export Policy, the U.S. Government will invoke its national discretion on the implementation of the MTCR's strong presumption of denial for transfers of Category I systems to treat a carefully selected subset of MTCR Category I UAS with a maximum airspeed less than 800 km/hr as Category II.
 - Meaning for this subset of UAS, the USG will NOT apply the MTCR "strong presumption of denial"

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Why speed?

- Several parameters were considered but speed was decided on for several reasons
 - It is a well-understood and reported parameter
 - Can be used as a reasonable divider between types of UAVs
 - All other things being equal, slower UAVs are less of a threat for WMD delivery

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Why 800 km/hr?

- Generally allows Category II treatment of piston- and turboprop fixed wing UAVs, some single engine turboprop powered UAVs, vertical take-off and landing (VTOL) UAVs, and lighter than air UAVs (e.g. airships)
- Does not affect controls on cruise missiles, unmanned combat aerial vehicles (UCAVs), other turbojet/turboprop powered UAVs, and hypersonic vehicles



What is this subset of UAVs used for?

ISR (intelligence, surveillance, reconnaissance)



Cargo delivery



Other commercial end uses – e.g. firefighting, disaster relief, pipeline inspection



What changes will be made to the EAR?

- We are in the process of updating section 742.5 of the EAR
 - Explicitly state that UAVs with a range of 300km and payload capability of 500kg and a maximum airspeed of less than 800 km/hr will be reviewed on a case-by-case basis to determine if they will be used for WMD delivery or military activities contrary to U.S. national security or if there is a risk of diversion to such end uses
 - Will also apply this standard to the export of MT items to these UAVs in other countries

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What does this mean for co-development and co-production?

- The technology for the development and production of these UAVs remains controlled as Category I – HOWEVER, this is applicable only to the complete systems and not to subsystems or components of the UAVs
 - There are co-production and co-development opportunities for items such as structural components, engines, and avionics, etc.
- An important part of updating the policy was to make clear that the Category II treatment applies to foreign UAVs as well, so that the barriers in supporting foreign Category I UAVs would not apply to this subset of UAVs

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For questions, contact

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