

Client Alert

International Trade & Litigation Practice Group

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Armed Drone Export Control Update

45 Nations Issue Joint Declaration on Export and Use

On October 5, 2016, the U.S. Department of State (State Department) announced the final version of a Joint Declaration for the Export and Subsequent Use of Armed or Strike-Enabled Unmanned Aerial Vehicles (UAVs) (the Joint Declaration). 44 other countries also signed the Joint Declaration, including the governments of Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Chile, Colombia, Czech Republic, Estonia, Finland, Georgia, Germany, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malawi, Malta, Montenegro, Netherlands, New Zealand, Nigeria, Paraguay, Philippines, Poland, Portugal, Republic of Korea, Romania, Serbia, Seychelles, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Ukraine, United Kingdom, and Uruguay. The Joint Declaration is similar to prior confidential drafts that we reported on last month. The State Department characterizes the release of a final version as a “political commitment by its signatories that underscores growing international consensus that UAVs are subject to international law, and stresses the need for transparency about exports” and constitutes “an important first step towards comprehensive international standards for the transfer, and subsequent use of UAVs.”

To that end, the Joint Declaration recognizes the following five principles:

1. “The applicability of international law, including both the law of armed conflict and international human rights law, as applicable, to the use of armed or strike-enabled UAVs, as with other weapon systems”;
2. “The importance of engaging in the responsible export of armed or strike-enabled UAVs in line with existing relevant international arms control and disarmament norms that help build confidence as to the peaceful intention of States”;
3. “That the export of armed or strike-enabled UAVs should be done consistent with the principles of existing multilateral export control and nonproliferation regimes, taking into account the potential recipient country’s history regarding adherence to its relevant international obligations and commitments”;
4. “The importance of appropriate voluntary transparency measures on the export of armed or strike-enabled UAVs including reporting of military

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exports through existing mechanisms, where appropriate, and with due regard to national security considerations”; and

5. “That in light of the rapid development of UAV technology and the benefit of setting international standards for the export and subsequent use of such systems, we are resolved to continue discussions on how these capabilities are transferred and used responsibly by all States.”

The Joint Declaration explains that none of the principles “should be construed to undermine the legitimate interest of any State to indigenously produce, export, or acquire such systems for legitimate purposes.” Thus, while it is clear that the principles constitute an expression of the signatories’ foreign policy goals, whether they will be manifested in any future binding agreements remains unclear at this time. The principles will inform further discussions on more detailed international standards which are planned for Spring 2017. We will continue to monitor developments as the process moves forward.

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