

DEPARTMENT OF STATE**[Public Notice 5273]****Bureau of Political-Military Affairs;
Statutory Debarment Under the
International Traffic in Arms
Regulations****ACTION:** Notice.

SUMMARY: Notice is hereby given that the Department of State has imposed statutory debarment pursuant to section 127.7(c) of the International Traffic in Arms Regulations ("ITAR") (22 CFR Parts 120 to 130) on persons convicted of violating or conspiring to violate section 38 of the Arms Export Control Act ("AECA") (22 U.S.C. 2778).

EFFECTIVE DATE: Date of conviction as specified for each person.

FOR FURTHER INFORMATION CONTACT: David Trimble, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State (202) 663-2700.

SUPPLEMENTARY INFORMATION: Section 38(g)(4) of the AECA, 22 U.S.C. 2778, prohibits licenses and other approvals for the export of defense articles or defense services to be issued to persons, or any party to the export, who have been convicted of violating certain statutes, including the AECA.

In implementing this section of the AECA, the Assistant Secretary for Political-Military Affairs is authorized by section 127.7 of the ITAR to prohibit any person who has been convicted of violating or conspiring to violate the AECA from participating directly or indirectly in the export of defense articles, including technical data or in the furnishing of defense services for which a license or other approval is required. This prohibition is referred to as "statutory debarment."

Statutory debarment is based solely upon conviction in a criminal proceeding, conducted by a United States Court, and as such the administrative debarment proceedings outlined in Part 128 of the ITAR are not applicable.

The period for debarment will be determined by the Assistant Secretary of State for Political-Military Affairs based on the underlying nature of the violations, but will generally be for three years from the date of conviction. At the end of the debarment period, licensing privileges may be reinstated only at the request of the debarred person following the necessary interagency consultations, after a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps have been

taken to mitigate any law enforcement concerns, as required by section 38(g)(4) of the AECA. Unless licensing privileges are reinstated, however, the person remains debarred.

Department of State policy permits debarred persons to apply to the Director, Office of Defense Trade Controls Compliance, for reinstatement beginning one year after the date of the debarment, in accordance with section 38(g)(4) of the AECA and section 127.11(b) of the ITAR. Any decision to grant reinstatement can be made only after the statutory requirements under section 38(g)(4) of the AECA have been satisfied.

Exceptions, also known as transaction exceptions, may be made to this debarment determination on a case-by-case basis at the discretion of the Assistant Secretary of State for Political-Military Affairs. However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: whether an exception is warranted by overriding U.S. foreign policy or national security interests; whether an exception would further law enforcement concerns that are consistent with the foreign policy or national security interests of the United States; or whether other compelling circumstances exist that are consistent with the foreign policy or national security interests of the United States, and that do not conflict with law enforcement concerns. Even if exceptions are granted, the debarment continues until subsequent reinstatement.

Pursuant to section 38 of the AECA and section 127.7 of the ITAR, the Assistant Secretary of State for Political-Military Affairs has statutorily debarred the following persons for a period of three years following the date of their AECA conviction:

(1) Jesus Arredondo-Sanchez (a.k.a. Jesus Arredondo), June 21, 2004, U.S. District Court, District of Arizona (Phoenix), Case #: CR 03-00524-001-PHX-FJM.

(2) Omar Carrillo, October 7, 1999, U.S. District Court, Southern District of Texas (Laredo), Case #: 5:99CR00241-001.

(3) Carlos Alberto Correa-Arango, August 31, 2005, U.S. District Court, Southern District of Florida (Miami), Case #: 05-60122-CR-HUCK.

(4) Kozo Wada, June 9, 2005, U.S. District Court, District of Oregon (Portland), Case #: Cr. 03-96-BR.

(5) Atallah Adwani, September 24, 2003, U.S. District Court, Southern District of Ohio (Cincinnati), Case #: CR-1-02-71-1.

(6) Summit Marketing, Inc., October 24, 1997, U.S. District Court, District of Massachusetts (Boston), Case #: 1:96CR10326-002-REK.

As noted above, at the end of the three-year period, the above named persons/entities remain debarred unless licensing privileges are reinstated.

Debarred persons are generally ineligible to participate in activity regulated under the ITAR (see *e.g.*, sections 120.1(c) and (d), and 127.11(a)). The Department of State will not consider applications for licenses or requests for approvals that involve any person who has been convicted of violating or of conspiring to violate the AECA during the period of statutory debarment. Persons who have been statutorily debarred may appeal to the Under Secretary for Arms Control and International Security for reconsideration of the ineligibility determination. A request for reconsideration must be submitted in writing within 30 days after a person has been informed of the adverse decision, in accordance with 22 CFR Sections 127.7(d) and 128.13(a).

This notice is provided for purposes of making the public aware that the persons listed above are prohibited from participating directly or indirectly in any brokering activities and in any export from or temporary import into the United States of defense articles, related technical data, or defense services in all situations covered by the ITAR. Specific case information may be obtained from the Office of the Clerk for the U.S. District Courts mentioned above and by citing the court case number where provided.

This notice involves a foreign affairs function of the United States encompassed within the meaning of the military and foreign affairs exclusion of the Administrative Procedure Act. Because the exercise of this foreign affairs function is discretionary, it is excluded from review under the Administrative Procedure Act.

Dated: January 9, 2006.

John Hillen,

Assistant Secretary for Political-Military Affairs, Department of State.

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