

**DEPARTMENT OF STATE**

[Public Notice 5197]

**Culturally Significant Objects Imported for Exhibition Determinations: "Darwin"****AGENCY:** Department of State.**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985; 22 U.S.C. 2459], Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition, "Darwin," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the American Museum of Natural History, New York, New York, from on or about November 15, 2005, to on or about May 29, 2006, and at possible additional venues yet to be determined, is in the national interest. Public notice of these determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, such as a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, (202) 453-8052, and the address is United States Department of State, SA-44, Room 700, 301 4th Street, SW., Washington, DC 20547-0001.

Dated: September 26, 2005.

**C. Miller Crouch,***Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.*

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**DEPARTMENT OF STATE**

[Public Notice 5196]

**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 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. It should be noted, however, that unless licensing privileges are reinstated, the person remains debarred.

Department of State policy permits debarred persons to apply to the Director 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 Directorate of Defense Trade Controls. 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) Equipment & Supply, Inc., August 6, 2004, U.S. District Court, Eastern District of Wisconsin (Milwaukee), Case #02-Cr-262.

(2) Klaus Ernst Buhler, June 21, 2003, U.S. District Court, Middle District of Florida (Jacksonville), Case #: 3:02-Cr-13-J-12TEM.

(3) Rotair Industries, Inc., July 29, 2004, U.S. District Court, District of Connecticut (New Haven), Case #: 3:04Cr 149 JBA.

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