

DEPARTMENT OF STATE**[Public Notice 11119]****Bureau of Political-Military Affairs;
Rescission of Policy of Denial
Concerning BAE Systems Saudi
Arabia Limited (BAES SAL) a
Subsidiary of BAE Systems plc Under
the International Traffic in Arms
Regulations****ACTION:** Notice.

SUMMARY: Notice is hereby given that the Department of State has rescinded the policy of denial concerning BAES SAL, a subsidiary of BAE Systems plc, included in **Federal Register** notice of May 23, 2011 (76 FR 29814).

DATES: This notice is effective on May 20, 2020.

FOR FURTHER INFORMATION CONTACT: Jae Shin, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State (202) 632-2107.

SUPPLEMENTARY INFORMATION: On March 2, 2010, a judgment was filed against BAE Systems plc (BAES) for conspiring to commit offenses against the United States in violation of 18 U.S.C. 371, including conspiring to violate the Arms Export Control Act (AECA) and the International Traffic in Arms Regulations (ITAR). Subsequent to this conviction, the Department and BAES agreed to enter into a Consent Agreement in order to settle and dispose of all potential civil charges and penalties.

Upon signature of the agreement in 2011, BAES was statutorily debarred, and a rescission of debarment was concurrently issued. However, the Department chose to impose a policy of denial on the business units responsible for the majority of the violations: BAE Systems CS&S International, Red Diamond Trading Ltd., and Poseidon Trading Investments Ltd., including their divisions and business units, and successor entities. The Department announced the policy of denial by **Federal Register** notice in May 2011 (76 FR 29814, May 23, 2011).

According to BAES, sometime after the announcement of the policy of denial, BAE Systems CS&S International, Red Diamond Trading Ltd., and Poseidon Trading Investments Ltd. have ceased to exist. However, BAE SAL is a successor entity to BAE Systems CS&S International and remains subject to the policy of denial.

In response to a request from BAES for rescission of this policy of denial, the Department has conducted a thorough review of the circumstances

surrounding the conviction and the imposition of the policy of denial. The Department has determined that it is in the national security and foreign policy interests of the United States to rescind the policy of denial concerning BAE SAL, including its divisions and business units, and successor entities.

R. Clarke Cooper,

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

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DEPARTMENT OF STATE**[Public Notice 11118]****Statutory Debarment Under the Arms
Export Control Act and the
International Traffic in Arms
Regulations****ACTION:** Notice.

SUMMARY: Notice is hereby given that the Department of State has imposed statutory debarment under the International Traffic in Arms Regulations ("ITAR") on persons convicted of violating, or conspiracy to violate, Section 38 of the Arms Export Control Act (AECA).

DATES: Debarment imposed as of May 20, 2020.

FOR FURTHER INFORMATION CONTACT: Jae Shin, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State (202) 632-2107.

SUPPLEMENTARY INFORMATION: Section 38(g)(4) of the AECA, 22 U.S.C. 2778(g)(4), restricts the Department of State from issuing licenses for the export of defense articles or defense services where the applicant, or any party to the export, has been convicted of violating certain statutes, including section 38 of the AECA. The statute permits the President to make certain exceptions on a case-by-case basis. Section 127.7(b) of the ITAR also provides for "statutory debarment" of any person who has been convicted of violating or conspiring to violate the AECA. Under this policy, persons subject to statutory debarment are prohibited from participating directly or indirectly in any activities that are regulated by the ITAR.

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

It is the policy of the Department of State that statutory debarment lasts for a three year period following conviction. Unless export privileges are reinstated, however, the person remains debarred. Reinstatement is not automatic, and in all cases the debarred person must submit a request for reinstatement to the Department of State and be approved for reinstatement before engaging in any activities subject to this subchapter.

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. Any decision to grant reinstatement can be made only after the statutory requirements of Section 38(g)(4) of the AECA have been satisfied. Certain exceptions, known as transaction exceptions, may be made to this debarment determination on a case-by-case basis. 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(g)(4) of the AECA and Section 127.7(c) of the ITAR, the following persons, having been convicted in a U.S. District Court, are statutorily debarred as of the date of this notice (Name; Date of Judgment; Judicial District; Case No.; Month/Year of Birth):

(1) Asad-Ghanem, Rami Najm (aka Ghanem, Rami Najm); August 19, 2019; Central District of California; 2:15-cr-00704; June 1966.

(2) Boyko, Gennadiy; December 7, 2018; Northern District of Georgia; 1:16-cr-00338; February 1970.

(3) Browning, Scott Douglas; August 9, 2019; Eastern District of North Carolina; 5:18-cr-00036; April 1977.

(4) Brunt, Paul Stuart; March 1, 2019; Western District of Washington; 2:18-cr-00025; February 1966.

(5) Chehade, Walid; May 8, 2019; Western District of Michigan; 1:17-cr-00263; July 1981.

(6) Dequarto, Dominick; December 5, 2018; Middle District of Florida; 8:18-cr-00320; December 1965.

(7) Diab, Hicham, June 11, 2019; Western District of Washington; 2:18-cr-00282; July 1976.

(8) El Mir, Nafez; June 11, 2019; Western District of Washington; 2:18-cr-00282; November 1967.

(9) Heubschmann, Andy Lloyd; December 17, 2019; Eastern District of Wisconsin; 1:19-cr-00119; November 1959.

(10) Joseph, Junior Joel; April 12, 2019; Southern District of Florida; 9:18-cr-80139; February 1978.

(11) Peterson, John James; November 18, 2019; Southern District of Florida; 1:19-cr-20442; February 1959.

(12) Prezas, Julian; November 3, 2017; Western District of Texas; 5:16-cr-00040; January 1980.

(13) Rodriguez, Chris; October 18, 2019; Eastern District of Virginia; 1:19-cr-00153; April 1962.

(14) Ruchtein, Sergio; October 29, 2019; Eastern District of Pennsylvania; 2:19-cr-00309; October 1967.

(15) Saiag, Allexander (aka Saiag, Alexandre); November 22, 2019; Eastern District of New York; 1:19-cr-00129; September 1986.

(16) Saidi, Abdul Majid; March 15, 2019; Western District of Michigan; 1:17-cr-00263; March 1976.

(17) Shapovalov, Michael (aka Mikhail Shapovalov); May 29, 2018; District of Connecticut; 3:17-cr-00272; November 1986.

(18) Sheng, Zimo; December 14, 2018; Eastern District of Wisconsin; 2:18-cr-00108; August 1989.

(19) Srivaranon, Apichart, April 15, 2019; District of Maryland; 8:16-cr-00542; February 24, 1985.

(20) Taylor, Maurice; July 22, 2019; Southern District of Mississippi; 3:18-cr-00260; October 1985.

(21) Tishchenko, Oleg Mikhaylovich; June 21, 2019; District of Utah; 1:16-cr-00034; April 1977.

(22) Zamarron-Luna, Carlos Antonio; October 19, 2019; Southern District of Texas; 7:18-cr-01043; March 1967.

(23) Zuppone, Brunella; November 18, 2019; Southern District of Florida; 1:19-cr-20442; May 1952.

As noted above, at the end of the three-year period following the date of this notice, the above named persons/entities remain debarred unless export 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)). Also, under Section 127.1(d) of the ITAR, any person who has knowledge that another person is subject to debarment or is otherwise ineligible may not, without disclosure to and written approval from the Directorate of Defense Trade Controls, participate, directly or indirectly, in any ITAR-controlled transaction where such ineligible person may obtain benefit therefrom or have a direct or indirect interest therein.

This notice is provided for purposes of making the public aware that the

persons listed above are prohibited from participating directly or indirectly in activities regulated by the ITAR, including any brokering activities and any export from or temporary import into the United States of defense articles, 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.

R. Clarke Cooper,

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

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SURFACE TRANSPORTATION BOARD

[Docket No. AB 882 (Sub-No. 4X)]

Minnesota Commercial Railway Company—Discontinuance of Trackage Rights Exemption—in Anoka, Hennepin, Ramsey, and Washington Counties, Minn.

Minnesota Commercial Railway Company (MNNR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue trackage rights over approximately 36.1 miles of contiguous railroad lines, extending generally from BNSF Railway Company's (BNSF) Northtown Yard in Minneapolis, Minn., to Bayport, Minn. (the Line).¹ The Line consists of: (1) A line segment approximately 11.1 miles in length owned by BNSF extending from milepost 12.5 at Northtown Yard (on BNSF's Staples Subdivision) to milepost 1.4 at Westminster Junction, Minn. (on BNSF's Midway Subdivision); (2) a line segment approximately 3.5 miles in length owned by BNSF extending from milepost 11.4 at University (on BNSF's Staples Subdivision) to milepost 7.9 at Park Junction, Minn. (on BNSF's St. Paul Subdivision);² and (3) a line

¹ These trackage rights were acquired by MNNR as part of a larger bundle of trackage rights from Burlington Northern Railroad Company, for which MNNR obtained authority in 1990. *Minn. Commercial Ry.—Trackage Rights Exemption—Burlington N. R.R.*, FD 31603 (ICC served Feb. 26, 1990). In 2005, MNNR obtained authority to discontinue trackage rights over one of the line segments for which it had acquired trackage rights. *Minn. Commercial Ry.—Discontinuance of Trackage Rights Exemption—in Wash. Cty., Minn.*, AB 882 (Sub-No. 2X) (STB served Dec. 13, 2005).

² MNNR states that a discrepancy in the milepost description for this segment appears to have existed since its original filings in Docket No. FD 31603. See also *Minnesota Commercial Railway*, FD 31603, slip op. at 1 (describing trackage rights between

segment approximately 21.5 miles in length owned by Union Pacific Railroad Company (UP) extending from BNSF milepost 1.4 (Midway Subdivision)/UP milepost 1.0 (on UP's Altoona Subdivision) at Westminster Junction to milepost 2.5 at Bayport (on UP's Stillwater Industrial Lead). The Line traverses U.S. Postal Service Zip Codes 55003, 55042, 55082, 55101, 55103, 55104, 55106, 55108, 55114, 55117, 55119, 55128, 55130, 55413, 55414, 55418, 55421, and 55455.

MNNR has certified that: (1) It has handled no local traffic over the Line for at least two years; (2) it has handled no overhead traffic over the Line for at least two years (and thus there is none to be rerouted over other lines); (3) no formal complaint by a user of MNNR rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service on the Line is pending either with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of such complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA)³ to subsidize continued rail service has been received, this exemption will be effective on June 19, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by May 29, 2020, and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)⁴ must be filed by June 1, 2020.⁵ Petitions

³ "Northtown Yard (milepost 12.5) and Park Junction (milepost 7.9), approximately 4.6 miles".

⁴ Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(2)(i).

⁵ The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

⁶ Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate.