

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

Mahan Airways

Mahan Tower

No. 21, Azadegan St.

M.A. Jenah Exp. Way

Tehran, Iran

Pejman Mahmood Kosarayanifard

a/k/a Kosarian Fard

P.O. Box 52404

Dubai, United Arab Emirates;

Mahmoud Amini

G#22 Dubai Airport Free Zone

P.O. Box 393754

Dubai, United Arab Emirates

and

P.O. Box 52404

Dubai, United Arab Emirates

and

Mohamed Abdulla Alqaz Building

Al Maktoum Street

Al Rigga

Dubai, United Arab Emirates;

Kerman Aviation

a/k/a GIE Kerman Aviation

42 Avenue Montaigne 75008

Paris, France

Sirjanco Trading LLC

P.O. Box 8709

Dubai, United Arab Emirates

Ali Eslamian)
4th Floor)
33 Cavendish Square)
London, W1G0PW)
United Kingdom)
)
and)
)
2 Bentinck Close)
Prince Albert Road St. Johns Wood)
London NW87RY)
United Kingdom)
)
Mahan Air General Trading LLC)
19th Floor Al Moosa Tower One)
Sheik Zayed Road)
Dubai 40594)
United Arab Emirates)
)
Skyco (UK) Ltd.)
4th Floor, 33 Cavendish Square)
London, W1G 0PV)
United Kingdom)
)
Equipco (UK) Ltd.)
2 Bentinck Close)
Prince Albert Road)
London, NW8 7RY)
United Kingdom)
)
Mehdi Bahrami)
Mahan Airways- Istanbul Office)
Cumhuriye Cad. Sibil Apt No: 101 D:6)
34374 Emadad, Sisli Istanbul)
Turkey)
)

Al Naser Airlines)
a/k/a al-Naser Airlines)
a/k/a Alnaser Airlines and)
Air Freight Ltd.)
Home 46)
Al-Karrada, Babil Region,)
District 929, St 21)
Beside Al Jadiry Private Hospital)
Baghdad, Iraq)
)
and)
)
Al Amirat Street,)
Section 309, St. 3/H.20)
Al Mansour)
Baghdad, Iraq)
)
and)
)
P.O. Box 28360)
Dubai, United Arab Emirates)
)
and)
)
P.O. Box 911399)
Amman 11191, Jordan)
)
)
Ali Abdullah Alhay)
a/k/a Ali Alhay,)
a/k/a Ali Abdullah Ahmed Alhay)
Home 46)
Al-Karrada, Babil Region,)
District 929, St 21)
Beside Al Jadiry Private Hospital)
Baghdad, Iraq)
)
and)
)
)
Anak Street)
Qatif, Saudi Arabia 61177)
)

Bahar Safwa General Trading)
PO Box 113212)
Citadel Tower, Floor-5)
Office #504)
Business Bay)
Dubai, United Arab Emirates)
)
and)
)
PO Box 8709)
Citadel Tower)
Business Bay)
Dubai, United Arab Emirates)
)
)
_____)

**MODIFICATION OF TEMPORARY DENIAL ORDER
TO ADD ADDITIONAL RESPONDENTS**

Pursuant to Section 766.24 of the Export Administration Regulations, 15 C.F.R. Parts 730-774 (2015) (“EAR” or the “Regulations”),¹ I hereby grant the request of the Office of Export Enforcement (“OEE”) to modify the January 16, 2015 Order Temporarily Denying the Export Privileges of Mahan Airways, Pejman Mahmood Kosarayanifard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Ali Eslamian, Mahan Air General Trading LLC, Skyco (UK) Ltd., Equipco (UK) Ltd., and Mehdi Bahrami.² I find that modification of the Temporary Denial

¹ The Regulations, currently codified at 15 C.F.R. Parts 730-774 (2015), originally issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 Fed. Reg. 46,959 (Aug. 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2006 & Supp. IV 2010)).

² The January 16, 2015 Renewal Order was published in the *Federal Register* on January 23, 2015 (80 Fed Reg. 3552, Jan. 23, 2015).

Order (“TDO”) is necessary in the public interest to prevent an imminent violation of the EAR.

Specifically, I find it necessary to add the following persons as additional Respondents:

Al Naser Airlines
a/k/a al-Naser Airlines
a/k/a Alnaser Airlines and Air Freight Ltd.
Home 46
Al-Karrada, Babil Region, District 929, St 21
Beside Al Jadirya Private Hospital
Baghdad, Iraq

and

Al Amirat Street,
Section 309, St. 3/H.20
Al Mansour
Baghdad, Iraq

and

P.O. Box 28360
Dubai, United Arab Emirates

and

P.O. Box 911399
Amman 11191, Jordan

Ali Abdullah Alhay
a/k/a Ali Alhay
a/k/a Ali Abdullah Ahmed Alhay
Home 46
Al-Karrada, Babil Region, District 929, St 21
Beside Al Jadirya Private Hospital
Baghdad, Iraq

and

Anak Street
Qatif, Saudia Arabia 61177

Bahar Safwa General Trading

PO Box 113212
Citadel Tower, Floor-5
Office #504
Business Bay
Dubai, United Arab Emirates

and

P.O. Box 8709
Citadel Tower
Business Bay
Dubai, United Arab Emirates

I. Procedural History

On March 17, 2008, Darryl W. Jackson, the then-Assistant Secretary of Commerce for Export Enforcement (“Assistant Secretary”), signed a TDO denying Mahan Airways’ export privileges for a period of 180 days on the grounds that its issuance was necessary in the public interest to prevent an imminent violation of the Regulations. The TDO also named as denied persons Blue Airways, of Yerevan, Armenia (“Blue Airways of Armenia”), as well as the “Balli Group Respondents,” namely, Balli Group PLC, Balli Aviation, Balli Holdings, Vahid Alaghband, Hassan Alaghband, Blue Sky One Ltd., Blue Sky Two Ltd., Blue Sky Three Ltd., Blue Sky Four Ltd., Blue Sky Five Ltd., and Blue Sky Six Ltd., all of the United Kingdom. The TDO was issued *ex parte* pursuant to Section 766.24(a), and went into effect on March 21, 2008, the date it was published in the *Federal Register*.

The TDO subsequently has been renewed in accordance with Section 766.24(d), including most recently on January 16, 2015.³ As of March 9, 2010, the Balli Group

³ The TDO was renewed or modified in accordance with Section 766.24 of the Regulations on September 17, 2008, March 16, 2009, September 11, 2009, March 9, 2010, September 3, 2010, February 25, 2011, July 1, 2014, August 24, 2011, February 15, 2012, August 9, 2012, February 4, 2013, July 31, 2013, January 24, 2014,

Respondents and Blue Airways were no longer subject to the TDO. As part of the February 25, 2011 TDO renewal, Gatewick LLC (a/k/a Gatewick Freight and Cargo Services, a/k/a Gatewick Aviation Services), Mahmoud Amini, and Pejman Mahmood Kosarayanifard (“Kosarian Fard”) were added as related persons in accordance with Section 766.23 of the Regulations.⁴ On July 1, 2011, the TDO was modified by adding Zarand Aviation as a respondent in order to prevent an imminent violation.⁵ As part of the August 24, 2011 renewal, Kerman Aviation, Sirjanco Trading LLC, and Ali Eslamian were added to the TDO as related persons. Mahan Air General Trading LLC, Skyco (UK) Ltd., and Equipco (UK) Ltd. were added as related persons on April 9, 2012. Mehdi Bahrami was added to the TDO as a related person as part of the February 4, 2013 renewal order.

On May 13, 2015, OEE submitted a written request seeking to modify the January 16, 2015 Renewal Order. OEE is specifically requesting that Al Naser Airlines (a/k/a al-Naser Airlines a/k/a Alnaser Airlines and Air Freight Ltd.), Ali Abdullah Alhay (a/k/a Ali Alhay a/k/a Ali Abdullah Ahmed Alhay), and Bahar Safwa General Trading be added to the TDO.

July 22, 2014, and most recently on January 16, 2015. Each renewal or modification order was published in the *Federal Register*.

⁴ As of January 16, 2015, Gatewick LLC was no longer subject to the TDO. On August 13, 2014, BIS and Gatewick LLC resolved administrative charges against Gatewick, including a charge for acting contrary to the terms of a BIS denial order (15 C.F.R. §764.2(k)). In addition to the payment of a civil penalty, the settlement includes a seven-year denial order. The first two years of the denial period are active, with the remaining five years suspended on condition that Gatewick LLC pays the civil penalty in full and timely fashion and commits no further violation of the Regulations during the seven-year denial period. The Gatewick LLC Final Order was published in the *Federal Register* on August 20, 2014. See 79 Fed. Reg. 49283 (Aug. 20, 2014).

⁵ As of July 22, 2014, Zarand Aviation was no longer subject to the TDO.

II. MODIFICATION OF THE JANUARY 16, 2015 RENEWAL ORDER

A. Legal Standard

Pursuant to Section 766.24, BIS may issue or renew an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an "imminent violation" of the Regulations. 15 C.F.R. §§ 766.24(b)(1) and 776.24(d). "A violation may be 'imminent' either in time or degree of likelihood." 15 C.F.R. § 766.24(b)(3). BIS may show "either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations." Id. As to the likelihood of future violations, BIS may show that the violation under investigation or charge "is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent [.]". Id. A "lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation." Id.

B. OEE's Request to Add Additional Respondents to TDO

In support of its request to modify the January 16, 2015 Renewal Order, OEE has presented evidence detailing apparent efforts by Al Naser Airlines and one of its principals, Ali Abdullah Alhay, acting together with Bahar Safwa General Trading, to obtain aircraft subject to the Regulations for export or reexport directly or indirectly to Mahan Airways or to facilitate or support such activities in violation of the TDO and the Regulations. The January 16, 2015 Renewal Order, like the July 22, 2014 Renewal Order (and the prior renewal order and original TDO), provides *inter alia*, that no person may, directly or indirectly, export or reexport to or on behalf of Mahan Airways any item subject to the EAR, or take any action that facilitates the acquisition or attempted acquisition by Mahan of the ownership, possession, or control of any

item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby Mahan acquires or attempts to acquire such ownership, possession or control. In addition, the export or reexport of the aircraft at issue and discussed further below requires U.S. Government authorization, including pursuant to Sections 742.8 and 746.7 of the Regulations.

OEE's investigation indicates that at least two aircraft, specifically an Airbus A321 bearing manufacturer's serial number ("MSN") 550 and an Airbus A340 bearing MSN 164, were purchased by Al Naser Airlines in late 2014/early 2015 and are currently located in Iran under the possession, control, and/or ownership of Mahan Airways.⁶

OEE has presented evidence that Ali Abdullah Alhay is a twenty-five percent owner of Al Naser Airlines, and has presented copies of sales agreements for the aircraft that have been obtained from the seller and show that Ali Abdullah Alhay signed both agreements for Al Naser Airlines.

The sales agreement for Airbus A321 (MSN 550) is dated November 24, 2014, and lists a "Final Sale Date" of January 30, 2015. Payment information for the aircraft reveals that between November 2014 and January 2015, Ali Abdullah Alhay made two electronic funds transfers ("EFT") in the amounts of \$815,000 and \$600,000 respectively. The majority of the purchase price for this aircraft was then paid via a January 20, 2015 EFT made by Bahar Safwa General Trading in the amount of \$2.5 million.

⁶ Both of these aircraft are powered by U.S.-origin engines that are subject to the Regulations and classified under Export Control Classification Number ("ECCN") 9A991.d. Both aircraft contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

The sales agreement for the Airbus A340 (MSN 164) is dated December 17, 2014, and lists a “Final Sale Date” of December 23, 2014. Payment information also reveals a November 28, 2014 EFT from Bahar Safwa General Trading in the amount of \$650,000.

Aviation industry databases indicate that in or about May 2015, Mahan Airways acquired at least possession and/or control of MSNs 550 and 164, and that both aircraft are now physically located in Tehran, Iran.

The proposed respondents also have been attempting to obtain other controlled aircraft, including aircraft physically located in the United States in similarly-patterned transactions during the same recent time period involving two Airbus A320s bearing MSNs 82 and 99, respectively.⁷ Transactional documents OEE has obtained from the seller again show Ali Abdullah Alhay signing all documents for Al Naser Airlines. Ali Abdullah Alhay signed an October 19, 2014 Letter of Intent for MSNs 82 and 99, as well as subsequent sales agreements each dated February 19, 2015.⁸ Both sales agreements list a “Final Sale Date” of March 6, 2015. A review of the payment information for these aircraft reveal three EFTs that follow the pattern described for MSNs 550 and 164 as discussed *supra*. The first EFT was a \$450,000 commitment fee payment made by Ali Abdullah Alhay pursuant to the October 19, 2014 Letter of Intent.

⁷ Both aircraft were physically located in the United States and therefore are subject to the Regulations pursuant to Section 734.3(a)(1). Moreover, these Airbus A320s are powered by U.S.-origin engines that are subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 9A991.d. The Airbus A320s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

⁸ The October 19, 2014 Letter of Intent signed by Ali Abdullah Alhay also indicated that Al Naser Airlines intended to purchase a third Airbus A320 (MSN 317). This aircraft is not part of the sales agreements that have been obtained.

Subsequent EFTs in the amounts of \$2 million and \$986,000, respectively, were wired by Bahar Safwa General Trading in late February 2015, and specifically referenced MSNs 82 and 99.

Based on the risk of diversion to Iran, including specifically to Mahan Airways, both Airbus A320s were detained by OEE Special Agents prior to their planned export from the United States. This risk of diversion presented by these intended exports has been corroborated by the evidence presented in connection with the Airbus aircraft bearing MSNs 164 and 550 discussed, *supra*. In addition, recent reputable press reports have indicated that as many as seven other Airbus aircraft also were recently exported or reexported to Iran on behalf of or for the benefit of Mahan.

C. Findings

I find that the evidence presented by OEE demonstrates continued efforts to evade the TDO and that additional violations are imminent. Adding Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading to the TDO is necessary to give notice to persons and companies in the United States and abroad that they should cease dealing with these parties in export and re-export transactions involving items subject to the EAR or other activities prohibited by the TDO. Doing so is consistent with the public interest to preclude future violations of the EAR and prevent Mahan Airways' active efforts to evade the TDO.

The export privileges of Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading are being temporarily denied on an ex parte basis without a hearing based upon BIS's showing of an imminent violation in accordance with Section 766.24 of the Regulations.

IV. ORDER

IT IS THEREFORE ORDERED:

FIRST, that MAHAN AIRWAYS, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran; PEJMAN MAHMOOD KOSARAYANIFARD A/K/A KOSARIAN FARD, P.O. Box 52404, Dubai, United Arab Emirates; MAHMOUD AMINI, G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates, and P.O. Box 52404, Dubai, United Arab Emirates, and Mohamed Abdulla Alqaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates; KERMAN AVIATION A/K/A GIE KERMAN AVIATION, 42 Avenue Montaigne 75008, Paris, France; SIRJANCO TRADING LLC, P.O. Box 8709, Dubai, United Arab Emirates; ALI ESLAMIAN, 4th Floor, 33 Cavendish Square, London W1G0PW, United Kingdom, and 2 Bentinck Close, Prince Albert Road St. Johns Wood, London NW87RY, United Kingdom; MAHAN AIR GENERAL TRADING LLC, 19th Floor Al Moosa Tower One, Sheik Zayed Road, Dubai 40594, United Arab Emirates; SKYCO (UK) LTD., 4th Floor, 33 Cavendish Square, London, W1G 0PV, United Kingdom; EQUIPCO (UK) LTD., 2 Bentinck Close, Prince Albert Road, London, NW8 7RY, United Kingdom; MEHDI BAHRAMI, Mahan Airways-Istanbul Office, Cumhuriye Cad. Sibil Apt No: 101 D:6, 34374 Emadad, Sisli Istanbul, Turkey; AL NASER AIRLINES A/K/A AL-NASER AIRLINES A/K/A ALNASER AIRLINES AND AIR FREIGHT LTD., Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadiry Private Hospital, Baghdad, Iraq, and Al Amirat Street, Section 309, St. 3/H.20, Al Mansour, Baghdad, Iraq, and P.O. Box 28360, Dubai, United Arab Emirates; and P.O. Box 911399, Amman 11191, Jordan; ALI ABDULLAH ALHAY A/K/A ALI ALHAY A/K/A ALI ABDULLAH AHMED ALHAY, Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadiry Private Hospital, Baghdad, Iraq, and Anak Street, Qatif, Saudi Arabia 61177;

and BAHAR SAFWA GENERAL TRADING, P.O. Box 113212, Citadel Tower, Floor-5, Office #504, Business Bay, Dubai, United Arab Emirates, and P.O. Box 8709, Citadel Tower, Business Bay, Dubai, United Arab Emirates, and when acting for or on their behalf, any successors or assigns, agents, or employees (each a "Denied Person" and collectively the "Denied Persons") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Export Administration Regulations ("EAR"), or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

SECOND, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to

a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

THIRD, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to a Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

FOURTH, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Sections 766.24(e) of the EAR, Al Naser Airlines, Bahar Safwa General Trading, and/or Ali Abdullah Alhay may, at any time, appeal this Order by

filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Al Nasser Airlines, Ali Abdullah Alhay, or Bahar Safwa General Trading as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading and shall be published in the *Federal Register*. This Order is effective immediately and shall remain in effect until July 14, 2015, unless renewed in accordance with Section 766.24(d) of the Regulations.



DAVID W. MILLS
Assistant Secretary of Commerce
for Export Enforcement

Dated: May 21, 2015.