



**DEPARTMENT OF COMMERCE**  
**Bureau of Industry and Security**

**Order Renewing Temporary Denial of Export Privileges;**

\_\_\_\_\_)  
**PJSC Aeroflot** )  
1 Arbat St., 119019, )  
Moscow, Russia )  
\_\_\_\_\_)

Pursuant to section 766.24 of the Export Administration Regulations, 15 CFR parts 730-774 (“EAR” or “the Regulations”),<sup>1</sup> I hereby grant the request of the Office of Export Enforcement (“OEE”) to renew the temporary denial order (“TDO”) issued in this matter on March 29, 2023. I find that renewal of this order is necessary in the public interest to prevent an imminent violation of the Regulations and that renewal for an extended period is appropriate because PJSC Aeroflot (“Aeroflot”) has engaged in a pattern of repeated, ongoing and/or continuous apparent violations of the EAR.

**I. Procedural History**

On April 7, 2022, I signed an order denying Aeroflot’s export privileges for a period of 180 days on the ground that issuance of the order was necessary in the public interest to prevent an imminent violation of the Regulations. The order was issued *ex parte* pursuant to section 766.24(a) of the Regulations and was effective upon issuance.<sup>2</sup> This temporary denial order was

<sup>1</sup> On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801-4852 (“ECRA”). While section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. App. 2401 *et seq.* (“EAA”), (except for three sections which are inapplicable here), section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (“IEEPA”), and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

<sup>2</sup> The TDO was published in the *Federal Register* on April 12, 2022 (87 FR 21611).

subsequently renewed in accordance with section 766.24(d) of the Regulations.<sup>3</sup> The renewal order issued on October 3, 2022 and was effective upon issuance.<sup>4</sup> A second renewal order issued on March 29, 2023 and was also effective upon issuance.<sup>5</sup>

On September 5, 2023, BIS, through OEE, submitted a written request for renewal of the TDO that issued on March 29, 2023. The written request was made more than 20 days before the TDO's scheduled expiration and, given the temporary suspension of international mail service to Russia, OEE has attempted to deliver a copy of the renewal request to Aeroflot by alternative means in accordance with sections 766.5 and 766.24(d) of the Regulations. No opposition to the renewal of the TDO has been received.

## **II. Renewal of the TDO**

### **A. Legal Standard**

Pursuant to section 766.24, BIS may issue 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, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). "A violation may be 'imminent' either in time or degree of likelihood." 15 CFR 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

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<sup>3</sup> At the time of the renewal, section 766.24(d) provided that BIS may seek renewal of a temporary denial order for additional 180-day renewal periods, if it believes that renewal is necessary in the public interest to prevent an imminent violation.

<sup>4</sup> The October 3, 2022 renewal order was published in the *Federal Register* on October 7, 2022 (87 FR 60985).

<sup>5</sup> The March 29, 2023 renewal order was published in the *Federal Register* on April 3, 2023 (88 FR 19609).

that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.” *Id.*

If BIS believes that renewal of a denial order is necessary in the public interest to prevent an imminent violation, it may file a written request for renewal, with any modifications if appropriate. 15 CFR 766.24(d)(1). The written request, which must be filed no later than 20 days prior to the TDO’s expiration, should set forth the basis for BIS’s belief that renewal is necessary, including any additional or changed circumstances. *Id.* “In cases demonstrating a pattern of repeated, ongoing and/or continuous apparent violations, BIS may request the renewal of a temporary denial order for an additional period not exceeding one year.”<sup>6</sup> *Id.*

### **B. The TDO and BIS’s Request for Renewal**

The U.S. Commerce Department, through BIS, responded to the Russian Federation’s (“Russia’s”) further invasion of Ukraine by implementing a sweeping series of stringent export controls that severely restrict Russia’s access to technologies and other items that it needs to sustain its aggressive military capabilities. These controls primarily target Russia’s defense, aerospace, and maritime sectors and are intended to cut off Russia’s access to vital technological inputs, atrophy key sectors of its industrial base, and undercut Russia’s strategic ambitions to exert influence on the world stage. Effective February 24, 2022, BIS imposed expansive controls on aviation-related (e.g., Commerce Control List Categories 7 and 9) items to Russia, including a license requirement for the export, reexport or transfer (in-country) to Russia of any aircraft or aircraft parts specified in Export Control Classification Number (“ECCN”) 9A991 (section 746.8(a)(1) of the EAR).<sup>7</sup> BIS will review any export or reexport license applications for such items under a policy of denial. *See* section 746.8(b). Effective March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia

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<sup>6</sup> 88 FR 59791 (Aug. 30, 2023).

<sup>7</sup> 87 FR 12226 (Mar. 3, 2022). Additionally, BIS published a final rule effective April 8, 2022, which imposed licensing requirements on items controlled on the Commerce Control List (“CCL”) under Categories 0-2 that are destined for Russia or Belarus. Accordingly, now all CCL items require export, reexport, and transfer (in-country) licenses if destined for or within Russia or Belarus. 87 FR 22130 (Apr. 14, 2022).

or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft (“AVS”) (section 740.15 of the EAR).<sup>8</sup> Accordingly, any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia, is subject to a license requirement before it can travel to Russia.

OEE’s request for renewal for a period of one year is based upon the facts underlying the issuance of the initial TDO, the renewal orders subsequently issued in this matter, and evidence that continues to develop during this investigation. These facts and evidence demonstrate that Aeroflot has continued, and continues, to act in blatant disregard for U.S. export controls and the terms of previously issued TDOs. Specifically, the initial TDO, issued on April 7, 2022, was based on evidence that Aeroflot engaged in conduct prohibited by the Regulations by operating multiple aircraft subject to the EAR and classified under ECCN 9A991.b on flights into Russia after March 2, 2022, from destinations including, but not limited to, Beijing, China, Delhi, India, and Dubai, United Arab Emirates, without the required BIS authorization.<sup>9</sup> Further evidence submitted by BIS indicated that Aeroflot was also continuing to operate aircraft subject to the EAR domestically on flights within Russia, potentially in violation of section 736.2(b)(10) of the Regulations.

As discussed in the October 3, 2022 and March 29, 2023 renewal orders, evidence presented by BIS indicated that, after the renewal orders issued, Aeroflot continued to operate aircraft subject to the EAR and classified under ECCN 9A991.b on flights both into and within Russia, in violation of the Regulations and the TDO itself.<sup>10</sup> Specifically, the October 3, 2022

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<sup>8</sup> 87 FR 13048 (Mar. 8, 2022).

<sup>9</sup> Publicly available flight tracking information shows that on March 6, 2022, serial number (SN) 65309 flew from Beijing, China to Moscow, Russia, and SN 41690 flew from Dubai, UAE to Moscow, Russia. In addition, on March 7, 2022, SN 63511 flew from Delhi, India to Moscow, Russia.

<sup>10</sup> Engaging in conduct prohibited by a denial order violates the Regulations. 15 CFR 764.2(a) and (k).

renewal order detailed Aeroflot’s continued operation of aircraft subject to the EAR, including, but not limited to, on flights into and out of Russia from/to Minsk, Belarus, Delhi, India, and Istanbul, Turkey, as well as within Russia.<sup>11</sup> Similarly, the March 29, 2023 renewal order detailed Aeroflot’s continued operation of aircraft subject to the EAR, including, but not limited to, on flights into and out of Russia from/to Yerevan, Armenia, Shanghai, China, Bangkok, Thailand, and Urgench, Uzbekistan, as well as domestically within Russia.<sup>12</sup>

Since that time, Aeroflot has continued to engage in conduct prohibited by the TDO and Regulations. In its September 5, 2023, request for renewal of the TDO, BIS submitted evidence that Aeroflot continues to operate aircraft subject to the EAR and classified under ECCN 9A991.b, both on flights into and within Russia, in violation of the March 29, 2023 TDO and/or the Regulations. Specifically, BIS’s evidence and related investigation demonstrates that Aeroflot has continued to operate aircraft subject to the EAR, including, but not limited to, on flights into and out of Russia from/to Yerevan, Armenia, Beijing, China, Delhi, India, Male, Maldives, Istanbul, Turkey, Phuket, Thailand, Dubai, Sharm el-Sheikh, Egypt, United Arab Emirates, and Tashkent, Uzbekistan, as well as domestically within Russia. Information about those flights includes, but is not limited to, the following:

Tail Number	Serial Number	Aircraft Type	Departure/Arrival Cities	Dates
RA-73126	41214	737-8LJ (B738)	Yerevan, AM / Moscow, RU	September 12, 2023
RA-73126	41214	737-8LJ (B738)	Moscow, RU / St. Petersburg, RU	September 13, 2023
RA-73126	41214	737-8LJ (B738)	Istanbul, TR / St. Petersburg, RU	September 13, 2023
RA-73126	41214	737-8LJ (B738)	Dubai, AE / Moscow, RU	September 15, 2023

<sup>11</sup> Publicly available flight tracking information shows that SN 41690 flew from Istanbul, Turkey to Moscow, Russia on September 20, 2022 and from Delhi, India to Moscow, Russia on September 23, 2022. In addition, on September 1, 2022, SN 41214 flew from Minsk, Belarus to Moscow, Russia. On September 13, 2022, SN 41214 flew from Moscow, Russia to Sochi, Russia.

<sup>12</sup> Publicly available flight tracking information shows that SN 41214 flew from Yerevan, Armenia to Moscow, Russia on February 16, 2023 and from Urgench, Uzbekistan to Moscow, Russia on March 1, 2023. In addition, on March 2, 2023, SN 41214 flew from Moscow, Russia to Sochi, Russia. On February 4, 2023, SN 41690 flew from Bangkok, Thailand to Moscow, Russia. On March 5, 2023 and March 19, 2023, respectively, SNs 65309 and 41690 flew from Shanghai, China to Moscow, Russia.

RA-73126	41214	737-8LJ (B738)	Yerevan, AM / Moscow, RU	September 18, 2023
RA-73126	41214	737-8LJ (B738)	Istanbul, TR / Moscow, RU	September 19, 2023
RA-73144	41690	777-3M0 (ER) (B77W)	Beijing, CN / Moscow, RU	August 7, 2023
RA-73144	41690	777-3M0 (ER) (B77W)	Moscow, RU / Vladivostok	August 7, 2023
RA-73144	41690	777-3M0 (ER) (B77W)	Phuket, TH / Moscow, RU	August 12, 2023
RA-73144	41690	777-3M0 (ER) (B77W)	Moscow, RU / Vladivostok, RU	August 13, 2023
RA-73144	41690	777-3M0 (ER) (B77W)	Phuket, TH / Khabarovsk, RU	August 14, 2023
RA-73144	41690	777-3M0 (ER) (B77W)	Antalya, TR / Moscow, RU	August 24, 2023
RA-73144	41690	777-3M0 (ER) (B77W)	Beijing, CN / Moscow, RU	August 31, 2023
RA-73144	41690	777-3M0 (ER) (B77W)	Delhi, IN / Moscow, RU	September 2, 2023
RA-73146	65309	777-300 (ER) (B77W)	Bangkok, TH / Moscow, RU	September 3, 2023
RA-73146	65309	777-300 (ER) (B77W)	Moscow, RU / Vladivostok, RU	September 6, 2023
RA-73146	65309	777-300 (ER) (B77W)	Shanghai, CN / Moscow, RU	September 11, 2023
RA-73146	65309	777-300 (ER) (B77W)	Male, MV / Moscow, RU	September 13, 2023
RA-73146	65309	777-300 (ER) (B77W)	Moscow, RU / Vladivostok, RU	September 16, 2023
RA-73146	65309	777-300 (ER) (B77W)	Vladivostok, RU / Moscow, RU	September 17, 2023
RA-73146	65309	777-300 (ER) (B77W)	Shanghai, CN / Moscow, RU	September 18, 2023
RA-73146	65309	777-300 (ER) (B77W)	Delhi, IN / Moscow, RU	September 19, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Hurghada, EG / Moscow, RU	August 12, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Sharm el-Sheikh, EG / Moscow, RU	August 14, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Hurghada, EG / Moscow, RU	September 5, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Moscow, RU / Vladivostok, RU	September 6, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Tashkent, UZ / Moscow, RU	September 8, 2023

RA-73150	65307	777-3M0 (ER) (B77W)	Sharm el-Sheikh, EG / Moscow, RU	September 13, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Hurghada, EQ / Moscow, RU	September 14, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Antalya, TR / Moscow, RU	September 17, 2023

**III. Findings**

Under the applicable standard set forth in section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that Aeroflot has acted in violation of the Regulations and the TDO; that such violations have been significant, deliberate and covert; and that given the foregoing and the nature of the matters under investigation, there is a likelihood of imminent violations. Moreover, I find that renewal for an extended period is appropriate because Aeroflot has engaged in a pattern of repeated, ongoing and/or continuous apparent violations of the EAR. Therefore, renewal of the TDO for one year is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with Aeroflot, in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

**IV. Order**

IT IS THEREFORE ORDERED:

FIRST, **PJSC Aeroflot**, 1 Arbat St., 119019, Moscow, Russia, when acting for or on their behalf, any successors or assigns, agents, or employees 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 EAR, or in any other activity subject to the EAR including, but not limited to:

- A. Applying for, obtaining, or using any license (except directly related to safety of flight), 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 except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations; 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 from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations.

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

A. Export, reexport, or transfer (in-country) to or on behalf of Aeroflot any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by Aeroflot 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 Aeroflot acquires or attempts to acquire such ownership, possession or control except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from Aeroflot of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

D. Obtain from Aeroflot 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 except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations; 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 Aeroflot, or service any item, of whatever origin, that is owned, possessed or controlled by Aeroflot if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations. 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 Aeroflot by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of sections 766.24(e) of the EAR, Aeroflot 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 Aeroflot 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 Aeroflot, and shall be published in the *Federal Register*.

This Order is effective immediately and shall remain in effect for one year.

**Matthew S. Axelrod,**

*Assistant Secretary of Commerce for Export Enforcement.*

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