

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;)
)
)
Gatewick LLC)
a/k/a Gatewick Freight & Cargo Services)
a/k/a/ Gatewick Aviation Services)
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;)
)
)
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;)
_____)

**ORDER RENEWING ORDER TEMPORARILY DENYING EXPORT
PRIVILEGES AND ALSO MAKING THAT TEMPORARY DENIAL OF
EXPORT PRIVILEGES APPLICABLE TO RELATED PERSONS**

Pursuant to Section 766.24 of the Export Administration Regulations, 15 C.F.R. Parts 730-774 (2010) (“EAR” or the “Regulations”), I hereby grant the request of the Bureau of Industry and Security (“BIS”) to renew for 180 days the September 3, 2010 Order Temporarily Denying the Export Privileges of Mahan Airways and Gatewick LLC (“TDO”), as I find that renewal of the TDO is necessary in the public interest to prevent an imminent violation of the EAR.¹ Additionally, pursuant to Section 766.23 of the Regulations, including the provision of notice and an opportunity to respond, I find it necessary to add the following persons as related persons in order to prevent evasion of the TDO:

Pejman Mahmood Kosarayanifard
a/k/a Kosarian Fard
P.O. Box 52404
Dubai, United Arab Emirates;

and

¹ The September 3, 2010 Order was published in the Federal Register on September 15, 2010.

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.

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.

On July 18, 2008, in accordance with Section 766.23 of the Regulations, Assistant Secretary Jackson issued an Order adding to the TDO both Blue Airways FZE, of Dubai, United

Arab Emirates (“the UAE”), and Blue Airways, also of Dubai, United Arab Emirates (“Blue Airways UAE”), as persons related to Blue Airways of Armenia. (Blue Airways of Armenia, Blue Airways FZE, and Blue Airways UAE are hereinafter collectively referred to as the “Blue Airways Respondents”).²

On September 17, 2008, Assistant Secretary Jackson renewed the TDO for an additional 180 days in accordance with Section 766.24 of the Regulations, via an order effective upon issuance, and on March 16, 2009, the TDO was similarly renewed by then-Acting Assistant Secretary Kevin Delli-Colli.³ On September 11, 2009, Acting Assistant Secretary Delli-Colli renewed the TDO for an additional 180 days against Mahan Airways.⁴ BIS did not seek renewal of the TDO against the Blue Airways Respondents, which BIS believed at that time had ceased operating, or against the Balli Group Respondents.

On March 9, 2010,⁵ and September 3, 2010, I renewed the TDO against Mahan Airways for an additional 180 days. The September 3, 2010 Renewal Order added Gatewick LLC (“Gatewick”) to the TDO as a related person in accordance with Section 766.23, after written notice to Gatewick and consideration of its August 26, 2010 response, which was signed and submitted by Mahmoud Amini as Gatewick’s General Manager. As discussed in the September 3, 2010 Renewal Order, that response confirmed Gatewick’s role as Mahan Airway’s sole booking agent for cargo and freight forwarding services in the UAE.

² The Related Persons Order was published in the Federal Register on July 24, 2008.

³ The September 17, 2008 Renewal Order was published in the Federal Register on October 1, 2008. The March 16, 2009 Renewal Order was published in the Federal Register on March 25, 2009.

⁴ The September 11, 2009 Renewal Order was published in the Federal Register on September 18, 2009.

⁵ The March 9, 2010 Renewal Order was published in the Federal Register on March 18, 2010.

On February 7, 2011, BIS, through its Office of Export Enforcement (“OEE”), filed a written request for renewal of the TDO against Mahan Airways and Gatewick. Notice of the renewal request was provided to Mahan Airways and Gatewick by delivery of a copy of the request in accordance with Sections 766.5 and 766.24(d) of the Regulations. No opposition to any aspect of renewal of the TDO has been received from Mahan Airways, while Gatewick has not at any time appealed the related person determination I made as part of the September 3, 2010 Renewal Order.⁶

Additionally, BIS has requested that I add both Pejman Mahmood Kosarayanifard a/k/a Kosarian Fard (“Kosarian Fard”) and Mahmoud Amini as related persons in accordance with Section 766.23. Both Kosarian Fard and Mahmoud Amini were provided notice of BIS’s intent to add them to the TDO pursuant to Section 766.23(b) of the Regulations. No opposition was received from Kosarian Fard, while Mahmoud Amini submitted a short email response received on October 17, 2010, opposing his addition to the TDO.⁷

II. Renewal of the TDO

A. Legal Standard

Pursuant to Section 766.24(d)(3) of the EAR, the sole issue to be considered in determining whether to continue a TDO is whether the TDO should be renewed to prevent an “imminent” violation of the EAR as defined in Section 766.24. “A violation may be ‘imminent’ either in time or in 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

⁶ A party named or added as a related person may not oppose the issuance or renewal of the underlying temporary denial order, but may file an appeal of the related person determination in accordance with Section 766.23(c).

⁷ The email response from Amini is dated October 13, 2010 but was received by BIS on October 17, 2010.

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 charges is significant, deliberate, covert and/or likely to occur again, rather than technical and 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. The TDO and BIS’s Request for Renewal

OEE’s request for renewal is based upon the facts underlying the issuance of the initial TDO and the TDO renewals in this matter and the evidence developed over the course of this investigation indicating Mahan Airways’ clear willingness to continue to disregard U.S. export controls and the TDO. The initial TDO was issued as a result of evidence that showed that Mahan Airways and other parties engaged in conduct prohibited by the EAR by knowingly re-exporting to Iran three U.S.-origin aircraft, specifically Boeing 747s (“Aircraft 1-3”), items subject to the EAR and classified under Export Control Classification Number (“ECCN”) 9A991.b, without the required U.S. Government authorization. Further evidence submitted by BIS indicated that Mahan Airways was involved in the attempted re-export of three additional U.S.-origin Boeing 747s (“Aircraft 4-6”) to Iran.

As discussed in the September 17, 2008 TDO Renewal Order, evidence presented by BIS indicated that Aircraft 1-3 continued to be flown on Mahan Airways’ routes after issuance of the TDO, in violation of the Regulations and the TDO itself.⁸ It also showed that Aircraft 1-3 had been flown in further violation of the Regulations and the TDO on the routes of Iran Air, an

⁸ Engaging in conduct prohibited by a denial order violates the Regulations. 15 C.F.R. §§ 764.2(a) and (k).

Iranian Government airline. In addition, as more fully discussed in the March 16, 2009 Renewal Order, in October 2008, Mahan Airways caused Aircraft 1-3 to be deregistered from the Armenian civil aircraft registry and subsequently registered the aircraft in Iran. The aircraft were relocated to Iran and were issued Iranian tail numbers, including EP-MNA and EP-MNB, and continued to be operated on Mahan Airways' routes in violation of the Regulations and the TDO.

Moreover, as discussed in the September 11, 2009 and March 9, 2010 Renewal Orders, Mahan Airways continued to operate at least two of Aircraft 1-3 in violation of the Regulations and the TDO,⁹ and also committed an additional knowing and willful violation of the Regulations and the TDO when it negotiated for and acquired an additional U.S.-origin aircraft. The additional aircraft was an MD-82 aircraft, which was subsequently painted in Mahan Airways livery and flown on multiple Mahan Airways' routes under tail number TC-TUA.

The March 9, 2010 Renewal Order also noted that a court in the United Kingdom ("U.K.") had found Mahan Airways in contempt of court on February 1, 2010, for failing to comply with that court's December 21, 2009 and January 12, 2010 orders compelling Mahan Airways to remove the Boeing 747s from Iran and ground them in the Netherlands. Mahan Airways and the Balli Group Respondents have been litigating before the U.K. court concerning ownership and control of Aircraft 1-3. Blue Airways LLC also has been a party to that litigation. In a letter to the U.K. court dated January 12, 2010, Mahan Airways' Chairman indicated, inter alia, that Mahan Airways opposes U.S. Government actions against Iran, that it continued to operate the aircraft on its routes in and out of Tehran (and had 158,000 "forward bookings" for

⁹ The third Boeing 747 appeared to have undergone significant service maintenance and may not have been operational at the time of the March 9, 2010 Renewal Order.

these aircraft), and that it wished to continue to do so and would pay damages if required by that court, rather than ground the aircraft.

The September 3, 2010 Renewal Order pointed out that Mahan Airways' violations of the TDO extended beyond operating U.S.-origin aircraft in violation of the TDO and attempting to acquire additional U.S.-origin aircraft. In February 2009, while subject to the TDO, Mahan Airways participated in the export of computer motherboards, items subject to the Regulations and designated as EAR99, from the United States to Iran, via the UAE, in violation of both the TDO and the Regulations, by transporting and/or forwarding the computer motherboards from the UAE to Iran. Mahan Airways' violations were facilitated by Gatewick, which not only participated in the transaction, but also has stated to BIS that it is Mahan Airways' sole booking agent for cargo and freight forwarding services in the UAE.

Additional evidence obtained by OEE indicates that Aircraft 1-3 remain in Mahan Airways' possession, control, and livery in Tehran, Iran. In a recent January 24, 2011 filing in the U.K. Court, Mahan Airways asserted that Aircraft 1-3 are not being used, but stated in pertinent part that the aircraft are being maintained especially "in an airworthy condition" and that, depending on the outcome of its U.K. Court appeal, the aircraft "could immediately go back into service..... on international routes into and out of Iran." Mahan Airways' January 24, 2011 submission to U.K. Court of Appeal, at p. 25, paragraphs 108,110. This clearly stated intent, both on its own and in conjunction with Mahan Airways' prior misconduct and statements, demonstrates the need to renew the TDO in order to prevent imminent future violations.

C. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the record here, I find that the evidence presented by BIS convincingly demonstrates that Mahan Airways has repeatedly violated the EAR and the TDO, that such knowing violations have been significant, deliberate and covert, and that there is a likelihood of future violations. I find that, as alleged by OEE, the violations have involved both U.S.-origin aircraft and computer motherboards that are subject to the Regulations. A renewal of the TDO is needed to give notice to persons and companies in the United States and abroad that they should continue to cease dealing with Mahan Airways in export transactions involving items subject to the EAR. Such a TDO is consistent with the public interest to prevent imminent violation of the EAR.¹⁰

Accordingly, I find pursuant to Section 766.24 that renewal of the TDO for 180 days against Mahan Airways is necessary in the public interest to prevent an imminent violation of the EAR.

III. Addition of Related Persons

A. Legal Standard

Section 766.23 of the Regulations provides that “[i]n order to prevent evasion, certain types of orders under this part may be made applicable not only to the respondent, but also to other persons then or thereafter related to the respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business. Orders that

¹⁰ My findings are made pursuant to Section 766.24 and the Regulations, and are not based on the contempt finding against Mahan Airways in the U.K. litigation. I note, however, that Mahan Airways’ statements and actions in that litigation are consistent with my findings here.

may be made applicable to related persons include those that deny or affect export privileges, including temporary denial orders” 15 C.F.R. § 766.23(a).

B. Analysis and Findings

OEE has requested that Kosarian Fard and Mahmoud Amini be added as related persons in order to prevent evasion of the TDO. As noted above, both individuals were provided written notice of OEE’s intent to add them as a related person to the TDO. Kosarian Fard did not respond, while Mahmoud Amini sent only a short email to OEE received on October 17, 2010. As discussed in the September 3, 2010 Order, a significant business relationship or connection exists between Gatewick and Mahan Airways. Gatewick had previously told BIS during a 2009 post shipment verification that Gatewick acts as Mahan Airways’ sole booking agent for cargo and freight forwarding services in the UAE, a major transshipment hub. In its August 26, 2010 response, Gatewick confirmed this relationship and provided a copy of the General Cargo Sales Agreement (“GSA”) between Gatewick and Mahan Airways, signed on Gatewick’s behalf by Kosarian Fard, its owner and managing director. No challenge or assertion has been made by Gatewick, or by Kosarian Fard or Mahmoud Amini, that this relationship has ceased. Gatewick continues, in short, to have the ability, with Mahan Airways’ authorization and agreement, to use Mahan’s import code to clear UAE customs and then re-book cargo on outbound Mahan flights, including to Iran.

Gatewick’s corporate registration documents revealed other connections or relationships between Gatewick, Kosarian Fard, and Mahan Airways, as well as the Blue Airways Respondents. Moreover, as discussed *infra*, Kosarian Fard’s extensive connections to Mahan extend well beyond his ownership interests and active participation at Gatewick.

As previously discussed in the September 3, 2010 Renewal Order, Kosarian Fard played a prominent role in Mahan Airways' acquisition of Aircraft 1-3 discussed above, as indicated by evidence obtained by BIS during its investigation and as acknowledged by Kosarian Fard in his testimony in the U.K. litigation referenced above. Kosarian Fard was a founder, the majority shareholder, and the Commercial Director of Blue Airways of Armenia. In that capacity, he signed the Boeing 747 lease agreements with the Balli Group that ultimately led to Mahan Airways' acquisition of Aircraft 1-3 in violation of the Regulations. As previously cited in the September 3, 2010 Renewal Order, Kosarian Fard's written testimony in the U.K. litigation included the following concerning his "close relationship" with Mahan Airways and some of the acts he took at its direction:

As I have said, I was majority shareholder of Blue [Airways] but in the summer of 2007, I agreed to sell a 51% stake in Blue to Skyco (UK) Ltd. I did this at the request of Mahan. Given my close relationship with Mahan, I did not ask questions but, again, acted on the basis of the trust I had in Mr. Arabnejad and Mr. Mahmoudi [two Mahan Airways' directors].

Kosarian Fard Written Statement to U.K. Commercial Court (signed and dated May 27, 2009 by hand), at page 7, paragraph 12.

Kosarian Fard's ties to Mahan not only established the connection between Mahan and Gatewick, but clearly demonstrate his own long standing and wide reaching business relationship with Mahan. In addition, Kosarian Fard has not contested BIS's related person's notice. In accordance with all of the foregoing, I find that Kosarian Fard is a related person under Section 766.23 and should be added to the TDO to prevent evasion of the Order.

As indicated above, Mahmoud Amini did make a short response to the related person's notice via an email received on October 17, 2010. In that email, Amini asserted that his

“position in Gatewick aviation services is only domestic, General Manager,” and that he is “not “official manager of the company[.]” This effort by Amini to limit or discount his role at Gatewick is undermined, however, by the fact that less than two months earlier, he signed Gatewick’s August 26, 2010 submission to BIS as its “General Manager” and in doing so made no assertion that his duties were “only domestic.” In addition, given the nature and significance of a General Manager, Amini is positioned to significantly determine Gatewick’s conduct and activities, as also evidenced by the central role he played in Gatewick’s August 26, 2010 submission to BIS, hardly what one would expect of an employee with duties that are “only domestic” and unrelated to the significant Gatewick-Mahan Airways relationship.

Amini also asserted in his email that the “only division of Gatewick” in “contact with Mahan” is “Gatewick freight and cargo[.]” Amini provides no supporting evidence for this assertion. In addition, he never made such a distinction in his submission on Gatewick’s behalf on August 26, 2010, and no such distinction is made in the GSA between Mahan Airways and Gatewick.

Accordingly, I find that based on his position of authority and responsibility at Gatewick and Gatewick’s significant business or trade ties with Mahan Airways, Mahmoud Amini is related not only to Gatewick, but also in the conduct of trade or business to Mahan Airways. Like Kosarian Fard, Mahmoud Amini should be added to the TDO as a related person under Section 766.23 in order to prevent evasion of that order.

IV. ORDER

IT IS THEREFORE ORDERED:

FIRST, that MAHAN AIRWAYS, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran; GATEWICK LLC, A/K/A GATEWICK FREIGHT & CARGO SERVICES, A/K/A GATEWICK AVIATION SERVICE, 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; PEJMAN MAHMOOD KOSARAYANIFARD A/K/A KOSARIAN FARD, P.O. Box 52404, Dubai, United Arab Emirates; and 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; 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. Benefiting 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.

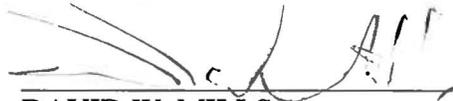
FOURTH, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Sections 766.24(e) and 766.23(c)(2) of the EAR, Mahan Airways, Gatewick LLC, Mahmoud Amini and/or Kosarian Fard 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 21202-4022.¹¹

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 Mahan Airways 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.

¹¹ A party named or added to temporary denial order as a related person may appeal its inclusion as a related person, but not the underlying basis for the issuance of the TDO. See Section 766.23(c).

A copy of this Order shall be provided to Mahan Airways and each related person and shall be published in the Federal Register. This Order is effective immediately and shall remain in effect for 180 days.



DAVID W. MILLS
Assistant Secretary of Commerce
for Export Enforcement

Dated: February 25, 2011.