

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

In the Matter of:

Air Bashkortostan, LTD.
with a last known address of:

15-BIS-001

142001, Moscow Region
City of Domodedovo
Centralny District
Promyshlennaya Street, 11B
Russian Federation

Respondent

**ORDER RELATING TO
AIR BASHKORTOSTAN, LTD.**

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Air Bashkortostan, LTD., of Bashkortostan, Russia (“Air Bashkortostan”), that it has initiated an administrative proceeding against Air Bashkortostan pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Charging Letter to Air Bashkortostan that alleges that Air Bashkortostan committed four violations of the Regulations. Specifically, the charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2015). The charged violations occurred in 2009. The Regulations governing the violations at issue are found in the 2009 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2009)). The 2015 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 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, 2015 (80 Fed. Reg. 48,233 (Aug. 11, 2015)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2006 & Supp. IV 2010)).

Charges 1-4: 15 C.F.R. §764.2(a) – Engaging in Prohibited Conduct

On four occasions between on or about January 7, 2009, and on or about March 19, 2009, Air Bashkortostan engaged in conduct prohibited by the Regulations when on each occasion it reexported a Boeing 757 aircraft from Russia to Iran without the required U.S. Government authorization. These four U.S.-origin aircraft were subject to the Regulations, classified under Export Control Classification Number (“ECCN”) 9A991.b, and controlled for anti-terrorism reasons pursuant to Sections 742.8 and 746.7 of the Regulations. The transactions were valued at a total of \$4.5 million.

The aircraft were reexported pursuant to lease agreements between Air Bashkortostan and Eram Air, an airline based in Iran, and were operated on flights into and out of Iran, a Country Group E:1 destination under the Regulations.³ During the period of the leases, the maintenance of the aircraft was performed in Iran.

At all times pertinent hereto, Sections 742.8 and 746.7 of the Regulations imposed a BIS license requirement for the reexport of these aircraft from any foreign country, including Russia, to Iran. In order to avoid duplication, reexporters were not required under the Regulations to seek authorization from both BIS and the Treasury Department’s Office of Foreign Assets Control (“OFAC”) for exports and reexports subject to both the Regulations and the Iranian Transactions Regulations (“ITR”) administered by OFAC.⁴ Accordingly, an authorization granted by OFAC would have been considered authorization for purposes of the EAR as well. However, Air Bashkortostan did not seek or obtain authorization from BIS, or from OFAC, in connection with any of the transactions at issue.

In engaging in the activity alleged above, Air Bashkortostan committed four violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and Air Bashkortostan have entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

³ See Supplement No. 1 to 15 C.F.R. Part 740 (2009).

⁴ 31 C.F.R. Part 560 (2009). By Federal Register notice dated October 22, 2012, the Department of the Treasury’s Office of Foreign Assets Control renamed the ITR as the Iranian Transactions and Sanctions Regulations and reissued the set of regulations in its entirety. 77 Fed. Reg. 64,664 (Oct. 22, 2012).

FIRST, Air Bashkortostan shall be assessed a civil penalty in the amount of \$350,000, all of which shall be suspended for a period of one year from the date of this Order, and thereafter shall be waived, provided that during this one-year probationary period, Air Bashkortostan has committed no violation of the Act, or any regulation, order, license, or authorization issued thereunder. If Air Bashkortostan commits a violation of the Act or any regulation, order, license, or authorization issued thereunder, during the probationary period under this Order, the suspension of the civil penalty may be modified or revoked by BIS and the \$350,000 made due and owing immediately.

SECOND, that for a period of one (1) year from the date of this Order, Air Bashkortostan LTD., with a last known address of 142001, Moscow Region, City of Domodedovo, Centralny District, Promyshlennaya Street, 11B, Russian Federation, and when acting for or on its behalf, its successors, assigns, directors, officers, employees, representatives, or agents, (hereinafter collectively referred to as "Denied Person"), 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 Regulations, or in any other activity subject to the Regulations, 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 Regulations, or in any other activity subject to 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 Regulations, or in any other activity subject to the Regulations.

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

- A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the 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 the Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the Denied Person in the United States any item subject to the Regulations 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 Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied

Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

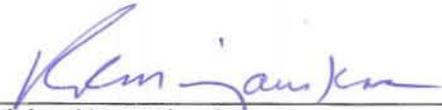
FOURTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may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

FIFTH, Air Bashkortostan shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Charging Letter or the Order. The foregoing does not affect Air Bashkortostan's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

SIXTH, that the Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

SEVENTH, that this Order shall be served on Air Bashkortostan, and shall be published in the *Federal Register*.

This Order, which constitutes the final agency action in this matter, is effective immediately.⁵


Richard R. Majauskas
Deputy Assistant Secretary of Commerce
for Export Enforcement

Issued this 28th day of August, 2015.

⁵ Review and consideration of this matter have been delegated to the Deputy Assistant Secretary of Commerce for Export Enforcement.

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

In the Matter of:

Air Bashkortostan, LTD.
with a last known address of:

15-BIS-001

142001, Moscow Region
City of Domodedovo
Centralny District
Promyshlennaya Street, 11B
Russian Federation

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Air Bashkortostan, LTD., of Bashkortostan, Russia ("Air Bashkortostan"), and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively, the "Parties"), pursuant to Section 766.18(b) of the Export Administration Regulations (the "Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (the "Act").²

WHEREAS, BIS has initiated an administrative proceeding against Air Bashkortostan pursuant to the Act and the Regulations;

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2015). The charged violations occurred in 2009. The Regulations governing the violation at issue are found in the 2009 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774) (2009)). The 2015 Regulations set forth the procedures that apply to this matter.

² 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, 2015 (80 Fed. Reg. 48,233 (Aug. 11, 2015)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2006 & Supp. IV 2010)).

WHEREAS, BIS has issued a Charging Letter to Air Bashkortostan that alleges that Air Bashkortostan committed four violations of the Regulations, specifically:

Charges 1-4: 15 C.F.R. §764.2(a) –Engaging in Prohibited Conduct

On four occasions between on or about January 7, 2009, and on or about March 19, 2009, Air Bashkortostan engaged in conduct prohibited by the Regulations when on each occasion it reexported a Boeing 757 aircraft from Russia to Iran without the required U.S. Government authorization. These four U.S.-origin aircraft were subject to the Regulations, classified under Export Control Classification Number (“ECCN”) 9A991.b, and controlled for anti-terrorism reasons pursuant to Sections 742.8 and 746.7 of the Regulations. The transactions were valued at a total of \$4.5 million.

The aircraft were reexported pursuant to lease agreements between Air Bashkortostan and Fram Air, an airline based in Iran, and were operated on flights into and out of Iran, a Country Group E:1 destination under the Regulations.³ During the period of the leases, the maintenance of the aircraft was performed in Iran.

At all times pertinent hereto, Sections 742.8 and 746.7 of the Regulations imposed a BIS license requirement for the reexport of these aircraft from any foreign country, including Russia, to Iran. In order to avoid duplication, reexporters were not required under the Regulations to seek authorization from both BIS and the Treasury Department’s Office of Foreign Assets Control (“OFAC”) for exports and reexports subject to both the Regulations and the Iranian Transactions Regulations (“ITR”) administered by OFAC.⁴ Accordingly, an authorization granted by OFAC would have been considered authorization for purposes of the EAR as well. However, Air Bashkortostan did not seek or obtain authorization from BIS, or from OFAC, in connection with any of the transactions at issue.

In engaging in the activity alleged above, Air Bashkortostan committed four violations of Section 764.2(a) of the Regulations.

WHEREAS, Air Bashkortostan has reviewed the Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

³ See Supplement No. 1 to 15 C.F.R. Part 740 (2009).

⁴ 31 C.F.R. Part 560 (2009). By Federal Register notice dated October 22, 2012, the Department of the Treasury’s Office of Foreign Assets Control renamed the ITR as the Iranian Transactions and Sanctions Regulations and reissued the set of regulations in its entirety. 77 Fed. Reg. 64,664 (Oct. 22, 2012).

WHEREAS, Air Bashkortostan fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, Air Bashkortostan enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

WHEREAS, Air Bashkortostan states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Air Bashkortostan neither admits nor denies the allegations contained in the Charging Letter; and

WHEREAS, Air Bashkortostan agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Air Bashkortostan, under the Regulations, in connection with the matters alleged in the Charging Letter.
2. The following sanctions shall be imposed against Air Bashkortostan in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Charging Letter:
 - a. Air Bashkortostan shall be assessed a civil penalty in the amount of \$350,000, all of which shall be suspended for a period of one year from the date of the Order, and thereafter shall be waived, provided that during this one-year probationary period under the Order, Air Bashkortostan has committed no violation of the Act, or any regulation, order, license, or authorization issued thereunder. If Air Bashkortostan commits a violation of the Act or any regulation,

order, license, or authorization issued thereunder, during the probationary period under the Order, the suspension of the civil penalty may be modified or revoked by BIS and the \$350,000 made due and owing immediately.

b. For a period of one year from the date of the Order, Air Bashkortostan, LTD., with a last known address of 142001, Moscow Region, City of Domodedovo, Centralny District, Promyshlennaya Street, 11B, Russian Federation, and when acting for or on its behalf, its successors, assigns, directors, officers, employees, representatives, or agents (hereinafter collectively referred to as "Denied Person"), 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 Regulations, or in any other activity subject to the Regulations, including, but not limited to:

i. Applying for, obtaining, or using any license,

License Exception, or export control document;

ii. 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 Regulations, or in any other activity subject to the Regulations; or

iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that

is subject to the Regulations, or in any other activity subject to the Regulations.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Air Bashkortostan hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if issued), including, without limitation, any right to: (a) receive an administrative hearing regarding the allegations in the Charging Letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued.

4. Air Bashkortostan shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Charging Letter or the Order. The foregoing does not affect Air Bashkortostan's testimonial obligations in any proceeding, nor does it affect his right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

5. Upon issuance of the Order, BIS will not initiate any further administrative proceeding against Air Bashkortostan in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Charging Letter.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(b) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties

shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record. If the Assistant Secretary issues the Order, BIS will withdraw case 15-BIS-001 from adjudication.

9. BIS will make the Charging Letter, this Agreement, and the Order, if issued, available to the public.

10. Each signatory affirms that he/she has authority to enter into this Settlement Agreement and to bind his/her respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND
SECURITY
U.S. DEPARTMENT OF COMMERCE



John F. Masterson, Jr.
Chief Counsel
Office of Chief Counsel
for Industry and Security

Date: August 26, 2015



Recd
Air Bashkortostan, LTD.

Date: August 20, 2015 *ND*

Reviewed and approved by:


FOR Edward L. Rubinoff

Edward L. Rubinoff, Esq.
Akin Gump Strauss Hauer & Feld LLP
Counsel for Air Bashkortostan

Date: August 21, 2015



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

APR 3 2015

CHARGING LETTER

VIA FEDERAL EXPRESS

Air Bashkortostan LTD
with last known addresses of:

450501 RF
Republic of Bashkortostan
Ufimsky District, Bulgakove Airport
Russian Federation

and

Mikroaion Aeroport
450501 S Bulgakovo
Republic of Bashkortostan
Volga District
Russian Federation

Attention: Mr. E.P. Syukrev, General Director

Dear Mr. Syukrev:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Air Bashkortostan LTD, of the Russian Federation ("Air Bashkortostan"), committed four violations of the Export Administration Regulations (the "Regulations"),¹ which issued under the authority of the Export Administration Act of 1979, as amended (the "Act").² Specifically, BIS alleges that Air Bashkortostan committed the following violations:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2014). The violations alleged occurred in 2009. The Regulations governing the violations at issue are found in the 2009 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2009)). The 2014 Regulations govern the procedural aspects of this case.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 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).



Charges 1-4 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct

As described in greater detail in the attached Schedule of Violations, which is incorporated herein by reference, on four occasions between on or about January 7, 2009, and on or about March 17, 2009, Air Bashkortostan engaged in conduct prohibited by the regulations when on each occasion it reexported a Boeing 757 aircraft from Russia to Iran without the required U.S. Government authorization. These four U.S.-origin aircraft were subject to the Regulations, classified under Export Control Number (“ECCN”) 9A991.b, and controlled for anti-terrorism reasons pursuant to Sections 742.8 and 746.7 of the Regulations. The transactions were valued at a total of \$ 4.5 million.

The aircraft were reexported pursuant to lease agreements between Air Bashkortostan and Eram Air, an airline based in Iran, and were operated on flights into and out of Iran, a Country Group E:1 destination under the Regulations.³ During the period of the leases, the maintenance of the aircraft was performed in Iran.

At all times pertinent hereto Sections 742.8 and 746.7 of the Regulations imposed a BIS license requirement for the reexport of these aircraft from any foreign country, including Russia, to Iran. In order to avoid duplication, reexporters were not required under the Regulations to seek authorization from both BIS and the Treasury Department’s Office of Foreign Assets Control (“OFAC”) for reexports subject to both the Regulations and the Iranian Transaction Regulations (“ITR”) administered by OFAC.⁴ Accordingly, an authorization granted by OFAC would have been considered authorization for purposes of the EAR as well. However, Air Bashkortostan did not seek or obtain authorization from BIS, or from OFAC, in connection with any of the transactions at issue.

In engaging in the activity alleged above, Air Bashkortostan committed four violations of Section 764.2(a) of the Regulations.

* * * * *

Accordingly, Air Bashkortostan is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations

³ See Supplement No. 1 to 15 C.F.R. Part 740 (2009).

⁴ 31 C.F.R. Part 560 (2009). By Federal Register notice dated October 22, 2012, the Department of the Treasury’s Office of Foreign Assets Control, renamed the ITR as the Iranian Transactions and Sanctions Regulations and reissued the set of regulations in its entirety. 77 Fed. Reg. 64,664 (Oct. 22, 2012).

for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;⁵
- Denial of export privileges;
- Exclusion from practice before BIS; and/or.
- Any other liability, sanction, or penalty available under law.

If Air Bashkortostan fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7. If Air Bashkortostan defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Air Bashkortostan. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Air Bashkortostan is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. Air Bashkortostan is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Air Bashkortostan have a proposal to settle this case, Air Bashkortostan should transmit it to the attorney representing BIS named below.

Air Bashkortostan is further notified that under the Small Business Regulatory Enforcement Flexibility Act, it may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Air Bashkortostan's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

⁵ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

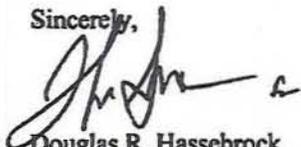
Air Bashkortostan LTD
Charging Letter
Page 4 of 5

In addition, a copy of Air Bashkortostan's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Gregory Michelsen, Esq.
Room H-3839
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Gregory Michelsen is the attorney representing BIS in this case; any communications that Air Bashkortostan may wish to have concerning this matter should occur through him. Mr. Michelsen may be contacted by telephone at (202) 482-5301.

Sincerely,



Douglas R. Hassebrock
Director
Office of Export Enforcement

SCHEDULE OF VIOLATIONS

Charge	Date of Reexport	Destination	Item	Manufacturer's Serial Number	Violation
1	1/7/2009	Iran	Boeing 757	25440	15 C.F.R. § 764.2(a)
2	1/28/2009	Iran	Boeing 757	25901	15 C.F.R. § 764.2(a)
3	3/13/2009	Iran	Boeing 757	25439	15 C.F.R. § 764.2(a)
4	3/17/2009	Iran	Boeing 757	25436	15 C.F.R. § 764.2(a)

