

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

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**PJSC Aeroflot**  
1 Arbat St., 119019,  
Moscow, Russia

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**ORDER RENEWING TEMPORARY DENIAL OF EXPORT PRIVILEGES**

Pursuant to Section 766.24 of the Export Administration Regulations, 15 C.F.R. 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 October 3, 2022. I find that renewal of this order is necessary in the public interest to prevent an imminent violation of the Regulations.

**I. Procedural History**

On April 7, 2022, I signed an order denying PJSC Aeroflot’s (“Aeroflot”) 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*

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<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as of ECRA’s date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.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).

pursuant to Section 766.24(a) of the Regulations and was effective upon issuance.<sup>2</sup> This temporary denial order was 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>

On March 7, 2023, BIS, through OEE, submitted a written request for renewal of the TDO that issued on October 3, 2022. The written request was made more than 20 days before the TDO's scheduled expiration. A copy of the renewal request was sent to Aeroflot 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 C.F.R. §§ 766.24(b)(1) and 766.24(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[.]"

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

<sup>3</sup> Section 766.24(d) provides 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. Renewal requests are to be made in writing no later than 20 days before the scheduled expiration date of a temporary denial order.

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

*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**

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>5</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 or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft (“AVS”) (Section 740.15 of the EAR).<sup>6</sup> Accordingly, any U.S.-origin aircraft or foreign aircraft

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<sup>5</sup> 87 Fed. Reg. 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 Fed. Reg. 22130 (Apr. 14, 2022).

<sup>6</sup> 87 Fed. Reg. 13048 (Mar. 8, 2022).

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.

This OEE request for renewal is based upon the facts underlying the issuance of the initial TDO and the renewal order subsequently issued in this matter on October 3, 2022, as well as other evidence developed during this investigation. These facts and evidence demonstrate that Aeroflot continues to act in blatant disregard for U.S. export controls and the applicable TDO. 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>7</sup> Further evidence submitted by BIS indicated that Aeroflot was 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 renewal order, evidence presented by BIS indicated that, after the initial order 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>8</sup> Specifically, the October 3, 2022 renewal order detailed Aeroflot's continued operation of aircraft subject to the EAR, including, but not limited to, on

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<sup>7</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>8</sup> Engaging in conduct prohibited by a denial order violates the Regulations. 15 C.F.R. §§ 764.2(a) and (k).

flights into and out of Russia from/to Minsk, Belarus, Delhi, India, and Istanbul, Turkey, as well as within Russia.<sup>9</sup>

Since that time, Aeroflot has continued to engage in conduct prohibited by the applicable TDO and Regulations. In its March 7, 2023 request for renewal of the TDO, BIS submitted evidence that Aeroflot is operating aircraft subject to the EAR and classified under ECCN 9A991.b, both on flights into and within Russia, in violation of the October 3, 2022 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, Shanghai, China, Bangkok, Thailand, and Urgench, 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	February 16, 2023
RA-73126	41214	737-8LJ (B738)	Urgench, UZ / Moscow, RU	March 1, 2023
RA-73126	41214	737-8LJ (B738)	Yerevan, AM / Moscow, RU	March 2, 2023
RA-73126	41214	737-8LJ (B738)	Moscow, RU / Sochi, RU	March 2, 2023
RA-73126	41214	737-8LJ (B738)	Fergana, UZ / Moscow, RU	March 5, 2023
RA-73126	41214	737-8LJ (B738)	Moscow, RU / Sochi, RU	March 6, 2023
RA-73126	41214	737-8LJ (B738)	Yerevan, AM / Moscow, RU	March 21, 2023
RA-73144	41690	777-3M0 (ER) (B77W)	Bangkok, TH / Moscow, RU	February 4, 2023
RA-73144	41690	777-3M0 (ER) (B77W)	Moscow, RU / Vladivostok, RU	February 17, 2023
RA-73144	41690	777-3M0 (ER) (B77W)	Male, MV / Moscow, RU	February 25, 2023

<sup>9</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.

RA-73144	41690	777-3M0 (ER) (B77W)	Moscow, RU / Sochi, RU	February 26, 2023
RA-73144	41690	777-3M0 (ER) (B77W)	Delhi, IN / Moscow, RU	March 15, 2023
RA-73144	41690	777-3M0 (ER) (B77W)	Shanghai, CN / Moscow, RU	March 19, 2023
RA-73146	65309	777-300 (ER) (B77W)	Male, MV / Moscow, RU	February 12, 2023
RA-73146	65309	777-300 (ER) (B77W)	Moscow, RU / Vladivostok, RU	February 19, 2023
RA-73146	65309	777-300 (ER) (B77W)	Vladivostok, RU / Moscow, RU	February 20, 2023
RA-73146	65309	777-300 (ER) (B77W)	Male, MV / Moscow, RU	February 24, 2023
RA-73146	65309	777-300 (ER) (B77W)	Shanghai, CN / Moscow, RU	March 5, 2023
RA-73146	65309	777-300 (ER) (B77W)	Moscow, RU / Vladivostok, RU	March 8, 2023
RA-73146	65309	777-300 (ER) (B77W)	Vladivostok, RU / Moscow, RU	March 9, 2023
RA-73146	65309	777-300 (ER) (B77W)	Bangkok, TH / Moscow, RU	March 16, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Bangkok, TH / Moscow, RU	February 9, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Sharm el-Sheikh, EG / Moscow, RU	February 10, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Bangkok, TH / Moscow, RU	February 12, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Sharm el-Sheikh, EG / Moscow, RU	February 15, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Hurghada, EG / Moscow, RU	February 22, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Sharm el-Sheikh, EG / Moscow, RU	March 1, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Bangkok, TH / Moscow, RU	February 9, 2023
RA-73150	65307	777-3M0 (ER) (B77W)	Sharm el-Sheikh, EG / Moscow, RU	March 11, 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 and deliberate; and that given the foregoing and the nature of the matters under investigation, there is a likelihood of imminent violations. Therefore, renewal of the TDO 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.

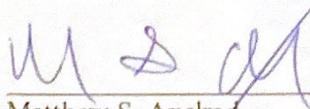
THIRD, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to Aeroflot by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may 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 180 days.



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Matthew S. Axelrod  
Assistant Secretary of Commerce  
for Export Enforcement

Dated: March 29, 2023.