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

Balli Group PLC
5 Stanhope Gate
London, UK
W1K 1AH

Balli Aviation
5 Stanhope Gate
London, UK
W1K 1AH

Balli Holdings
5 Stanhope Gate
London, UK
W1K 1AH

Vahid Alaghband
5 Stanhope Gate
London, UK
W1K 1AH

Hassan Alaghband
5 Stanhope Gate
London, UK
W1K 1AH

Blue Sky One Ltd.
5 Stanhope Gate
London, UK
W1K 1AH

Blue Sky Two Ltd.
5 Stanhope Gate
London, UK
W1K 1AH

Blue Sky Three Ltd
5 Stanhope Gate
London, UK
W1K 1AH

Blue Airways
8/3 D Angaght Street
376009 Yerevan
Armenia

Mahan Airways
Mahan Tower
No. 21, Azadegan St.
M.A. Jenah Exp. Way
Tehran, Iran

Respondents.

and

Blue Airways FZE
a/k/a Blue Airways
#G22 Dubai Airport Free Zone
P.O. Box 393754 DAFZA
Dubai, UAE

Blue Airways
Riqa Road
Dubai 52404
UAE

Related Persons.

ORDER RENEWING ORDER TEMPORARILY DENYING EXPORT PRIVILEGES

Pursuant to Section 766.24 of the Export Administration Regulations, 15 C.F.R. Parts 730-774 (2008) ("EAR" or the "Regulations"), I hereby grant the request of the Bureau of Industry and Security ("BIS") to renew for 180 days the Order Temporarily Denying the Export Privileges of Respondents Balli Group PLC, Balli Aviation, Balli Holdings, Vahid Alaghband, Hassan Alaghband, Blue Sky One Ltd., Blue Sky Two Ltd., Blue Sky Three Ltd., Blue Airways and Mahan Airways (collectively, "Respondents") and Blue Airways FZE and Blue Airways (collectively the

"Related Persons"), as I find that renewal of the TDO is necessary in the public interest to prevent an imminent violation of the EAR. However, I do not renew the TDO against Blue Sky Four Ltd., Blue Sky Five Ltd., and Blue Sky Six Ltd., who were each Respondents in the initial TDO and the September 17, 2008 Renewal Order.

I. Procedural History

On March 17, 2008, the Assistant Secretary of Commerce for Export Enforcement ("Assistant Secretary") signed an Order Temporarily Denying the Export Privileges of 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., Blue Sky Six Ltd, Blue Airways and Mahan Airways for 180 days on the grounds that its issuance was necessary in the public interest to prevent an imminent violation of the Regulations ("TDO"). 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, the Assistant Secretary issued an Order adding Blue Airways FZE and Blue Airways, both of Dubai, United Arab Emirates, as Related Persons to the TDO in accordance with Section 766.23 of the Regulations.[1] On September 17, 2008, the TDO was renewed for an additional 180 days in accordance with Section 766.24 of the Regulations, and was effective upon issuance.[2] The TDO would expire on March 16, 2009, unless renewed in accordance with Section 766.24 of the Regulations.

On February 24, 2009, BIS, through its Office of Export Enforcement ("OEE"), filed a written request for renewal of the TDO against each of the Respondents and Related Persons for an additional 180 days, and served a copy of its request on the Respondents and Related Persons in

[1] The Related Persons Order was issued in accordance with Section 766.23 of the Regulations, 15 C.F.R. § 766.23, and was published in the Federal Register on July 24, 2008.
[2] The September 17, 2008 Renewal Order was published in the Federal Register on October 1, 2008.

accordance with Section 766.5 of the Regulations. On the evening of March 9, 2009, 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. (collectively, "Balli" or the "Balli Respondents") submitted an opposition to the renewal request. As part of its opposition, the Balli Respondents submitted a request for a copy of the TDO renewal request exhibits. On March 12, 2009, I issued an Order granting discovery to the Balli Respondents of a copy of all of the exhibits referenced in OEE's renewal request, and a copy of the exhibits was provided to Balli that same day. No opposition to renewal of the TDO was received from Respondents Blue Airways or Mahan Airways.

II. Discussion

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 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 of the TDO was based upon the facts underlying the issuance of the initial TDO, as well as evidence developed over the course of this investigation indicating a clear willingness on the part of the Balli Respondents to disregard U.S. export controls and engage in a pattern of false and deceptive statements. The initial TDO was issued as a result of evidence that showed that the Respondents 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 Respondents were attempting to re-export three additional U.S.-origin Boeing 747s to Iran ("Aircraft 4-6"), and had ignored a re-delivery order for these additional three aircraft issued by BIS in accordance with Section 758.8(b) of the Regulations.

As more fully discussed in the September 17, 2008 TDO Renewal Order, evidence presented with BIS's August 28, 2008 renewal request and Balli's September 10, 2008 opposition and "supplemental disclosure" 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.[3] It also showed that Aircraft 1-3 had been and continued to be flown in further violation of the Regulations and the TDO on the routes of Iran Air, an Iranian Government airline. The Balli Respondents also made unsubstantiated and unpersuasive assertions concerning their level of knowledge of the potential unlawfulness of their actions, including long denying any involvement by Mahan Airways with Aircraft 1-3 and ignoring warnings from both BIS and Boeing concerning their lease and operation, and concerning their level of cooperation with BIS and efforts to recover the aircraft.

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

At the time of the TDO, the Balli Respondents had failed to produce any documents concerning payments for the leases of Aircraft 1-3, which Balli maintained only involved Blue Airways. As part of its renewal request, OEE has presented evidence that the Aircraft 1-3 were financed by Mahan Air and evidence of contracts between Balli and Mahan Airways regarding the acquisition and operation of the aircraft that were signed by Balli's Chief Executive Officer ("CEO") Hassan Alaghband. OEE has also produced documents showing that more than one Iranian bank was used by the Respondents to facilitate the transaction. OEE argues that the contracts and agreements between Balli and Mahan Airways provide further evidence of Mahan's involvement with the lease and operation of Aircraft 1-3, as well as the false and misleading nature of multiple statements by Balli during this investigation that it had no knowledge its actions were in violation or potential violation of the Regulations and that it was unaware of Mahan's role in the acquisition and use of the aircraft.

As noted above, OEE also is requesting the TDO be renewed against Blue Airways and Mahan Airways based on their participation in the violations discussed in the initial and renewed TDOs, as well as additional unlawful actions since the TDO was renewed on September 17, 2008. Specifically, in October 2008, Mahan Airways and Blue Airways deregistered Aircraft 1-3 from the Armenian civil aircraft registry and subsequently registered the aircraft in Iran. The aircraft have been relocated to Iran and have been issued Iranian tail numbers, including EP-MNA and EP-MNB, and continue to be operated on Mahan Airway flights in violation of the Regulations and the TDO.

On February 10, 2009, almost one year after the initial TDO was issued, the Balli Respondents for the first time acknowledged the existence of a side letter agreement between Balli, Mahan Airways and other parties which included certain drafted and undated bills of sales allowing ownership of Aircraft 1-3 to be transferred to Mahan Airways. However, this partial

acknowledgment, contained in one of Balli's court filings in the United Kingdom, fails to explain the full scope and involvement of Mahan Airways in this transaction.

C. The Respondents' Opposition to the Renewal Request

The Balli Respondents, through counsel, oppose renewal of the TDO on three grounds: (1) none of the six aircraft[4] in the initial TDO are currently subject to the control of the Balli Respondents, and specifically that Aircraft 1-3 "were subject to unauthorized release by Blue Airways and conversion in October 2008, as set forth in documents submitted to OEE investigators on February 10, 2009[,]" Balli Opposition, at 3; (2) Balli is engaged in on-going efforts to produce documents and information requested by OEE; and (3) Balli is engaged in on-going litigation in the United Kingdom against Blue Airways and Mahan Airways regarding ownership and possession of the aircraft.

D. Findings

In determining whether to renew the TDO in order to prevent imminent violation of the Regulations, I have reviewed the entire record, including OEE's and Balli's current and prior submissions and related evidence. I find that violations of the Regulations have occurred and continue to occur involving the unlicensed re-export of Aircraft 1-3 to Iran. Moreover, Aircraft 1-3 are currently located in Iran and are registered and/or operated by the Respondents in violation of the Regulations and the TDO. In addition, the Balli Respondents have engaged in a repeated pattern of making false and deceptive statements to BIS in order to both conceal the true nature of their activities and to seek termination of the TDO against them. Contrary to Balli's previous submissions and efforts to mislead BIS, OEE's investigation has obtained evidence that Balli was dealing directly with Mahan Airways officials to obtain financing and to negotiate and enter agreements pertaining to

[4] The record indicates that Aircraft 4-6 have been repossessed by the lender. This information is only relevant to Respondents Blue Sky Four Ltd., Blue Sky Five Ltd. and Blue Sky Six Ltd.

the purchase and lease of three Boeing 747 aircraft (Aircraft 1-3). Moreover, the record shows that more than one Iranian bank was used by Balli and Mahan Airways to transfer funds for the acquisition of the aircraft.

This evidence directly calls into doubt the veracity of prior submissions by the Balli Respondents to the Assistant Secretary and BIS. For example, by letter dated October 10, 2007, BIS warned Balli, via its English counsel, that "[i]t has come to BIS's attention there is evidence that during this lease agreement Blue Airways operated the three 747s aircraft by or for the benefit of an Iranian entity, specifically Mahan Air." Despite the fact that Balli Respondent and CEO Hassan Alaghband signed contracts with Mahan Airways in May of 2007, Balli stated in its September 10, 2008 submission that the Balli Respondents had "failed to focus on the underlying substantive legal concerns associated with Boeing and BIS communications," because they believed they were targets of a "disinformation campaign" orchestrated by "Iranian expatriate groups that have a long history of hostility to Balli interests and the Alaghband family[,]" including "militant opposition groups hostile to Iran, including the Mujahedin-e-Khalq." BIS and Boeing's communications involved warnings to Balli that the aircraft were being operated in violation of the Regulations and were being flown by or for the benefit of Mahan Aiwaysr. Balli's production of requested documents and information has been delayed, limited and halting at best, and its repeated pattern of false and misleading statements further undermines its assertions concerning complete, good faith cooperation with BIS.

Balli's opposition asserts that Aircraft 1-3 "were subject to unauthorized release by Blue Airways and conversion in October 2008, as set forth in documents submitted to OEE investigators on February 10, 2009." Balli Opposition, at 3. Balli also has asserted that Blue

Airways and Mahan Airways "have previously fabricated documents – in the offices of Mahan Airlines in Teheran, Iran – which were used to unlawfully effect transfer of control of the subject aircraft for use in Iran." *Id.*, at 2. These assertions feed into the Balli Respondents' remaining arguments that the TDO should be terminated against them on the grounds that they no longer control Aircraft 1-3 and are litigating with those entities in England, with an expected July 2009 trial date.

I find Balli's argument that it is currently in litigation against Mahan Airways and Blue Airways in England to be an unpersuasive and insufficient basis to terminate the TDO against Balli, particularly in light of recent evidence that, contrary to prior statements and submissions to BIS and the Assistant Secretary, Balli negotiated directly with Mahan Air regarding the financing and operation of the aircraft. However, I find based upon the entire record before me, including submissions from OEE and Balli, that Aircraft 4-6 have been physically and legally repossessed by the lender, which is not a respondent in this action. Therefore, the TDO shall not be renewed as to Respondents Blue Sky Four Ltd., Blue Sky Five Ltd., and Blue Sky Six Ltd.

Unlike the facts involving Aircraft 4-6, Balli's argument based on the asserted ground that Aircraft 1-3 are not currently under its control due to the alleged conversion -- which Balli asserts resulted (as referenced above) in the transfer of control of the subject aircraft "for use in Iran" – is unpersuasive and insufficient. Although the Balli Respondents refused until September 10, 2008, to admit or acknowledge Mahan Airway's involvement, the record indicates that Aircraft 1-3 were already in use in Iran under the leases between Balli and, at least nominally, Blue Airways. Moreover, the record before me contains evidence indicating that the Balli Respondents knowingly arranged for the financing of the aircraft with

Mahan Airways. This evidence may well explain why the Balli Respondents were unable to produce evidence demonstrating any lease payments by Blue Airways. In any event, the fact that Balli is now involved in an apparent contractual dispute with its co-conspirators involving items re-exported in violation of the Regulations is simply not a proper basis to let the TDO expire, especially in light of Balli's pattern of false and misleading statements to BIS.

I have considered all of Balli's arguments and with the exception of the argument involving Aircraft 4-6 find them without merit. I find that the evidence presented by BIS convincingly demonstrates that the Respondents have violated the EAR and the TDO involving re-exports of aircraft to Iran, that such violations have been significant, deliberate and covert, and that there is a likelihood of future violations. As such, a TDO is needed to give notice to persons and companies in the United States and abroad that they should continue to cease dealing with the Respondents in export transactions involving items subject to the EAR. Such a TDO is consistent with the public interest to prevent or preclude violations of the EAR.

Accordingly, I find pursuant to Section 766.24, that renewal of the TDO for 180 days against Balli Group PLC, Balli Aviation, Balli Holdings, Vahid Alaghband, Hassan Alaghband, Blue Sky One Ltd., Blue Sky Two Ltd., Blue Sky Three Ltd., Blue Airways and Mahan Airways and both Related Persons is necessary in the public interest to prevent an imminent violation of the EAR.

III. ORDER

IT IS THEREFORE ORDERED:

FIRST, that the Respondents, BALLI GROUP PLC, 5 Stanhope Gate, London, UK, W1K 1AH; BALLI AVIATION, 5 Stanhope Gate, London, UK, W1K 1AH; BALLI HOLDINGS, 5 Stanhope Gate, London, UK, W1K 1AH; VAHID ALAGHBAND, 5 Stanhope Gate, London, UK, W1K 1AH; HASSAN ALAGHBAND, 5 Stanhope Gate, London, UK, W1K 1AH; BLUE SKY ONE LTD., 5

Stanhope Gate, London, UK, W1K 1AH; BLUE SKY TWO LTD., 5 Stanhope Gate, London, UK, W1K 1AH; BLUE SKY THREE LTD., BLUE AIRWAYS, 8/3 D Angaght Street, 376009 Yerevan, Armenia; and MAHAN AIRWAYS, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp.Way, Tehran, Iran (each a "Denied Person" and collectively the "Denied Persons"), and BLUE AIRWAYS FZE, a/k/a Blue Airways, #G22 Dubai Airport Free Zone, P.O. Box 393754 DAFZA, Dubai, United Arab Emirates and BLUE AIRWAYS, Riqa Road, Dubai 52404, United Arab Emirates (each a "Related Person" and collectively the "Related 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 the Denied Persons or Related Persons any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Persons or Related Persons 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 the Denied Persons or Related Persons 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 Persons or Related Persons of any item subject to the EAR that has been exported from the United States;

D. Obtain from the Denied Persons or Related Persons 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 the Denied Persons or Related Persons, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Persons or Related Persons 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 any of the Denied Persons 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 Section 766.24(e) of the EAR, the Respondents 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. The Respondents may oppose a request to renew this Order 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 served on the Respondents and the Related Persons and shall be published in the Federal Register.

This Order is effective immediately and shall remain in effect for 180 days.

KEVIN DELLI-COLLI
Acting Assistant Secretary of Commerce
for Export Enforcement

Entered this 16th day of March, 2009.

CERTIFICATE OF SERVICE

I hereby certify that, on March 17th 2009, I caused the foregoing TDO renewal Order to be sent by Federal Express to:

ON BEHALF OF NUREDDIN SEHWEIL
Wynn Segall, Esq.
Akin Gump Strauss Hauer & Feld LLP
Robert S. Strauss Building
1333 New Hampshire Avenue, N.W.
Washington, DC 20036-1564
Facsimile: (202) 887-4288

ON BEHALF OF BLUE AIRWAYS (ARMENIA)
Michael X. Marinelli, Esq.
Cooley Goward Kronish LLP
777 6th Street, NW
Suite 1100
Washington, DC 20001
Facsimile: 202-842-7800

ON BEHALF OF MAHAN AIR
Ian Isley, Esq.
Piper: Smith Watton LLP
29 Great Peter Street
London
SW1P 3LW
Fax: 44-0-20-7222-9901

Blue Airways FZE
a/k/a Blue Airways
#G22 Dubai Airport Free Zone
P.O. Box 393754 DAFZA
Dubai, UAE

Blue Airways
Riqa Road
Dubai 52404
UAE

Sandra Lambright
Senior Paralegal Specialist