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Agenda

- I. Welcome & Roll Call
- II. Approval of Minutes
- III. Committee Discussion
- IV. Public Comment
- V. Adjournment

Dated: April 10, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

URAL Airlines JSC, Utrenniy Lane 1-g, Yekaterinburg, Russia 620025; Order Renewing Temporary Denial of Export Privileges

Pursuant to section 766.24 of the Export Administration Regulations, 15 CFR parts 730-774 (2021) ("EAR" or "the Regulations"),¹ 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 13, 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 October 13, 2022, I signed an order denying URAL Airlines JSC ("URAL") export privileges for a period of 180 days on the ground that issuance

¹ 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as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.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).

of the order was necessary in the public interest to prevent an imminent violation of the Regulations. The order was issued *ex parte* pursuant to section 766.24(a) of the Regulations and was effective upon issuance.²

On March 7, 2023, BIS, through OEE, submitted a written request for renewal of the TDO that issued on October 13, 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 URAL in accordance with sections 766.5 and 766.24(d) of the Regulations. No opposition to the renewal of the TDO has been received.

II. Renewal of the TDO

A. Legal Standard

Pursuant to section 766.24, BIS may issue an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an "imminent violation" of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). "A violation may be 'imminent' either in time or degree of likelihood." 15 CFR 766.24(b)(3). BIS may show "either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations." *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge "is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]" *Id.* A "lack of information establishing the precise time a violation may occur does not preclude a finding 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

² The TDO was published in the **Federal Register** on October 19, 2022 (87 FR 63477).

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).³ 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).⁴ Accordingly, any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia, is subject to a license requirement before it can travel to Russia.

OEE's request for renewal is based upon the facts underlying the issuance of the initial TDO and the evidence developed over the course of this investigation, which indicate a blatant disregard for U.S. export controls, as well as the TDO. Specifically, the initial TDO, issued on October 13, 2022, was based on evidence that URAL engaged in conduct prohibited by the Regulations by operating aircraft subject to the EAR and classified under ECCN 9A991 on flights into Russia after March 2, 2022 from destinations, including Bishkek, Kyrgyzstan; Dushanbe, Tajikistan; Khudzhand, Tajikistan; and Tamchy, Kyrgyzstan, without the required BIS authorization.⁵ Further evidence submitted by BIS indicated that URAL was continuing to operate aircraft subject to the EAR domestically

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

⁴ 87 FR 13048 (Mar. 8, 2022).

⁵ Publicly available flight tracking information shows multiple flights into Russia, including the following: on September 10, 2022, SN 5055 flew from Dushanbe, Tajikistan to Irkutsk, Russia, and on September 6, 2022, SN 5055 flew from Khudzhand, Tajikistan to Sochi, Russia. In addition, on October 6, 2022, serial number (SN) 5055 flew from Bishkek, Kyrgyzstan to Samara, Russia.

on flights within Russia, potentially in violation of section 736.2(b)(10) of the Regulations.

In its March 7, 2023 request for renewal of the TDO, BIS has submitted evidence that URAL continues to operate in violation of the October 13,

2022 TDO and/or the Regulations by operating aircraft subject to the EAR and classified under ECCN 9A991 on flights into and out of Russia, as well as domestically within Russia. Specifically, BIS's evidence and related investigation indicated that URAL has

continued to operate aircraft subject to the EAR, including, but not limited to, on flights into and out of Russia from/to Bishkek, Kyrgyzstan, Dushanbe, Tajikistan, and Khujand, Tajikistan. Information about those flights includes, but is not limited to, the following:

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
RA-73817	5055	A320-232	Dushanbe, TJ/Ufa, RU	March 20, 2023.
RA-73817	5055	A320-232	Osh, KG/Ufa, RU	March 19, 2023.
RA-73817	5055	A320-232	Osh, KG/Krasnoyarsk, RU	March 19, 2023.
RA-73817	5055	A320-232	Yekaterinburg, RU/Moscow, RU	March 16, 2023.
RA-73817	5055	A320-232	Irkutsk, RU/Moscow, RU	March 11, 2023.
RA-73817	5055	A320-232	Yekaterinburg, RU/Moscow, RU	March 7, 2023.
RA-73817	5055	A320-232	Moscow, RU/Yekaterinburg, RU	March 5, 2023.
RA-73817	5055	A320-232	Dushanbe, TJ/Chelyabinsk, RU	February 27, 2023.
RA-73817	5055	A320-232	Dushanbe, TJ/Novosibirsk, RU	February 25, 2023.
RA-73818	2376	A320-232	Bishkek, KG/Yekaterinburg, RU	March 19, 2023.
RA-73818	2376	A320-232	Moscow, RU/Yekaterinburg, RU	March 14, 2023.
RA-73818	2376	A320-232	Yekaterinburg, RU/Sochi, RU	March 11, 2023.
RA-73818	2376	A320-232	Kaliningrad, RU/Moscow, RU	March 7, 2023.
RA-73818	2376	A320-232	Moscow, RU/Kaliningrad, RU	March 7, 2023.
RA-73818	2376	A320-232	Dushanbe, TJ/Sochi, RU	March 2, 2023.
RA-73818	2376	A320-232	Dushanbe, TJ/Kazan, RU	February 24, 2023.
RA-73844	1941	A321-231	Dushanbe, TJ/Yekaterinburg, RU	March 21, 2023.
RA-73844	1941	A321-231	Osh, KG/Yekaterinburg, RU	March 20, 2023.
RA-73844	1941	A321-231	Dushanbe, TJ/Yekaterinburg, RU	March 19, 2023.
RA-73844	1941	A321-231	Sochi, RU/Yekaterinburg, RU	March 19, 2023.
RA-73844	1941	A321-231	Dushanbe, TJ/Yekaterinburg, RU	March 19, 2023.
RA-73844	1941	A321-231	Sochi, RU/Moscow, RU	March 16, 2023.
RA-73844	1941	A321-231	Kulob, TJ/Moscow, RU	March 15, 2023.
RA-73844	1941	A321-231	Sochi, RU/Yekaterinburg, RU	March 12, 2023.
RA-73844	1941	A321-231	Khujand, TJ/Yekaterinburg, RU	March 11, 2023.
RA-73844	1941	A321-231	Khujand, TJ/Yekaterinburg, RU	March 6, 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 URAL has acted in violation of the Regulations and the TDO; that such violations have been significant, deliberate and covert; and that given the foregoing and the nature of the matters under investigation, there is a likelihood of imminent violations. 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 URAL 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, URAL Airlines JSC, Utrenniy Lane 1-g, Yekaterinburg, Russia, 620025, 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 URAL 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 URAL 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 URAL 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 URAL 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 URAL 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 URAL, or service any item, of whatever origin, that is owned, possessed or controlled by URAL 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 URAL 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, URAL 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 URAL 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 URAL and shall be published in the **Federal Register**.

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

Matthew S. Axelrod,

Assistant Secretary of Commerce for Export Enforcement.

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BILLING CODE 3510-DT-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Hydrometer Calibrations

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of workshop; request for comments.

SUMMARY: The National Institute of Standards and Technology (NIST), an agency of the United States Department of Commerce, is examining the economic impact and continued need for Hydrometer calibration services as provided to U.S. industry by the Fluid Metrology Group on NIST's campus in Gaithersburg, Maryland. NIST is also interested in whether there is a need for liquid density calibration services not presently offered by NIST. NIST publishes this notice to announce a workshop that will guide NIST planning for the future of its hydrometer calibration capabilities, and to request comments on government and industry interest in and needs for hydrometer calibrations. This is part of the effort to systematically review NIST's Measurement Services to assess gaps and ensure alignment with stakeholders' needs as discussed in the Government Accounting Office report GAO-18-445.

DATES:

For Comments: NIST will accept written responses to this request for information until 11:59 p.m. Eastern Time on May 2, 2023. Submissions received after that date may not be considered. Written comments in response to this notice should be submitted according to the instructions in the **ADDRESSES** section below.

For Workshop: A public workshop will be held on Tuesday May 2, 2023, from 1:00 p.m. to 3:00 p.m. Eastern Time, virtually by web conferencing. Interested parties must register to participate in the public workshop no later than 5:00 p.m. Eastern Time on Monday May 1, 2023, by sending an email to sherry.sheckels@nist.gov.

ADDRESSES:

For Comments: Comments should be submitted to Sherry Sheckels, Sensor Science Division, Physical Measurement Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8361, Gaithersburg, Maryland 20899, or by electronic mail to sherry.sheckels@nist.gov. Comments referencing studies, research, and other empirical data should include copies of the referenced materials. All comments, including attachments and other

supporting materials, submitted in response to this document will become part of the public record and may be subject to public disclosure. Therefore, do not submit confidential business information or otherwise sensitive, protected, or personal information, such as account numbers, Social Security numbers, or names of other individuals.

For tours: Individuals or groups interested in touring the liquid density standard laboratories in person are welcome and can schedule tours by writing to the email address, sherry.sheckels@nist.gov, before or after the workshop.

FOR FURTHER INFORMATION CONTACT:

Mail: Fluid Metrology Group, Attn: Sherry Sheckels, Hydrometer Calibrations, 100 Bureau Drive, Mail Stop 8361, Gaithersburg, Maryland 20899. Email: Sherry Sheckels at sherry.sheckels@nist.gov. Phone number: 301 975-5940.

SUPPLEMENTARY INFORMATION: NIST provides calibration services for reference hydrometers to measure liquid density. These reference standard hydrometers are generally used as laboratory standards to calibrate other hydrometers.

Reference hydrometers accepted for calibration include specific gravity, proof spirit for alcohol solutions, API degrees for petroleum measurements, degrees Baume heavy and degrees Baume light, and other arbitrary scales, all subject to discussion with the technical contacts. Specific gravity hydrometers cover the specific gravity range of 0.65 to 2.

NIST is seeking comments on the following topics; however, NIST does not intend to limit the responses to the topics listed below, provided that the responses address topics that would be useful in planning NIST offerings for liquid density calibrations service. When addressing the topics below, respondents may describe the practices of their organization or organizations with which they are familiar. Providing such information is optional and will not affect NIST's full consideration of the comment.

Topics of Interest:

1. Have you purchased hydrometer calibrations, if any, including:
 - a. If you have purchased calibrations from NIST, whether you purchased from NIST due to convenience, accuracy, cost, customer service, regulatory requirement, or some other reason;
 - b. If NIST was to terminate the hydrometer calibration service(s) you presently use, whether you have another source lined up that would meet your requirements; and