

grantee of FTZ 227, requesting subzone status for the facility of Canoo Inc., located in Pryor, Oklahoma. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on October 1, 2024.

The proposed subzone (10 acres) is located at 4461 Zarrow Street, Building 625, Pryor, Oklahoma. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 227.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is November 13, 2024. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 29, 2024.

A copy of the application will be available for public inspection in the "Online FTZ Information Section" section of the FTZ Board's website, which is accessible via www.trade.gov/ftz.

For further information, contact Camille Evans at Camille.Evans@trade.gov.

Dated: October 1, 2024.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2024–22970 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–172–2024]

Foreign-Trade Zone 40; Application for Subzone; Permco, Inc.; Montville and Streetsboro, Ohio

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Cleveland Cuyahoga County Port Authority, grantee of FTZ 40, requesting subzone status for the facilities of Permco, Inc., located in Montville and Streetsboro, Ohio. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR

part 400). It was formally docketed on September 30, 2024.

The proposed subzone would consist of the following sites: *Site 1* (2.33 acres) 1500 Frost Road, Streetsboro; and *Site 2* (0.54 acres) 16445 Gar Highway, Montville. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 40.

In accordance with the FTZ Board's regulations, Juanita Chen of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is November 13, 2024. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 29, 2024.

A copy of the application will be available for public inspection in the "Online FTZ Information Section" section of the FTZ Board's website, which is accessible via www.trade.gov/ftz.

For further information, contact Juanita Chen at juanita.chen@trade.gov.

Dated: September 30, 2024.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2024–22941 Filed 10–3–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket Number: 24–TDO–0001]

Final Decision and Order

In the Matter of:
SkyTechnic, Kiyevskoye Shosse 22–Y,
Moskovsky Settlement, Moscow, Russia
108811;
Skywind International Limited, Room 2403A
24/F Lippo CTR Tower One, 89
Queensway, Admiralty, Hong Kong;
Hong Fan International, Shop 102, Level 1,
One Exchange Square, Hong Kong, and
Room A 11/F Henfa Commercial Building,
348–350 Lockhart Road, Hong Kong, and
Vistra Corporate Services Centre, Wickhams
Cay II, Road Town, Tortola, British Virgin
Islands;
Lufeng Limited, Room A 11/F Henfa
Commercial Building, 348–350 Lockhart
Road, Hong Kong, and
Vistra Corporate Services Centre, Wickhams
Cay II, Road Town, Tortola, British Virgin
Islands;
Unical dis Ticaret Ve Lojistik JSC, 34140
Zeytinlik Mh. Halcki Sk, Iten Han Gue

Carsi Blok No 28/58, Bakirkoy, Istanbul,
Turkey, and
Room A 11/F Henfa Commercial Building,
348–350 Lockhart Road, Hong Kong;
Izzi Cup DOO, Koste Cukia 14, Zemun
200915, Serbia, and
Jl.Danau Tondano No. 55, 80228 Sanur—Bali,
Indonesia;
Alexey Sumchenko, Hong Kong;
Anna Shumakova, Russia;
Branimir Salevic, Koste Cukia 14, Zemun
200915, Serbia, and
Jl.Danau Tondano No. 55, 80228 Sanur—Bali,
Indonesia;
Danijela Salevic, Koste Cukia 14, Zemun
200915, Serbia, and
Jl.Danau Tondano No. 55, 80228 Sanur—Bali,
Indonesia

AGENCY: Office of the Undersecretary for Industry and Security, Bureau of Industry and Security, Commerce.

Before me for my final decision is a Recommended Decision ("RD") issued on September 4, 2024, by Administrative Law Judge ("ALJ") Tommy Cantrell. The RD recommends that I dismiss the appeal filed by Alexey Sumchenko ("Sumchenko") of the Temporary Denial Order ("TDO") issued against him on June 12, 2024. As discussed further below, I accept the findings of fact and conclusions of law in the ALJ's RD. As a result, Sumchenko's appeal is dismissed and the TDO issued against him is affirmed.

I. Background

On June 12, 2024, the Assistant Secretary of Commerce for Export Enforcement ("Assistant Secretary") of the Bureau of Industry and Security ("BIS") issued a TDO against Sumchenko, Hong Fan International ("Hong Fan"), Lufeng Limited ("Lufeng"), and Skywind International Limited ("Skywind")—three companies with which Sumchenko was affiliated—and several other companies and individuals, including SkyTechnic, a Russian aircraft parts supplier. 89 FR 51302. The TDO states that SkyTechnic "developed and continues to utilize a network of Hong Kong-based shell companies, including Skywind, Hong Fan, and Lufeng, to obtain civil aircraft parts from the United States and obfuscate the ultimate end users of those parts in Russia, contrary to the requirements of the [Export Administration Regulations (the "EAR") or the "Regulations"]." *Id.*

On July 25, 2024, Sumchenko, through counsel, filed an appeal with the U.S. Coast Guard ALJ Docketing Center pursuant to 15 CFR 766.24(e)(3) of the EAR. On July 29, 2024, the Chief ALJ assigned the appeal to ALJ Cantrell. On August 20, 2024, BIS filed a response to the appeal. ALJ Cantrell issued the RD on September 4, 2024,

which my office received on September 5, 2024. On September 6, 2024, the BIS Appeals Coordinator requested views from the parties on extending the time to issue my Final Decision in this appeal. Both parties consented to an extension of time, and, on September 11, 2024, I issued an Order extending the period of time to issue this Final Decision to September 30, 2024.

II. Standard

Section 766.24 of the EAR authorizes the Assistant Secretary to issue a TDO for a period of up to 180 days to prevent an “imminent violation” of the Regulations. 15 CFR 766.24(b)(1), (b)(4). The Regulations require that the TDO define the imminent violation and state why the TDO was issued without a hearing. *Id.* at § 766.24(b)(2). Because all TDOs are public, “the description of the imminent violation and the reasons for proceeding on an *ex parte* basis . . . shall be stated in a manner that is consistent with national security, foreign policy, business confidentiality, and investigative concerns. *Id.*”

A violation may be imminent “either in time or in degree of likelihood.” *Id.* at 766.24(b)(3). Accordingly, “BIS may show a violation is about to occur, or that the general circumstances of the matter under investigation . . . demonstrate a likelihood of future violations.” *Id.* To establish the likelihood of a future violation, “BIS may show that the violation under investigation . . . is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent.” *Id.*

The Regulations provide that a “respondent may appeal [the issuance of a TDO] on the grounds that the finding that the order is necessary in the public interest to prevent an imminent violation is unsupported.” *Id.* at § 766.24(e)(2).

III. Discussion

In his appeal, Sumchenko argues that there is no support for the finding that the TDO against him is necessary to prevent an imminent violation of the EAR. Sumchenko Appeal at 5. Specifically, Sumchenko argues that the alleged misconduct outlined in the TDO occurred after he relinquished ownership of Hong Fan, Lufeng, and Skywind, and that there is no evidence that he was aware of or involved in the conduct that occurred when he did own the companies. Sumchenko Appeal at 5–7.

The ALJ makes fourteen recommended findings of fact in the RD. RD at 4–5. I accept these recommended findings of fact. Based on these findings

of fact, the ALJ concluded in the RD that BIS successfully demonstrated the TDO against Sumchenko was necessary to prevent an imminent violation of the EAR. RD at 8. For reasons discussed below, I agree with the ALJ’s conclusion.

First, the record shows that Sumchenko was the owner and director of Hong Fan, Lufeng, and Skywind during 2022 and 2023. RD at 6. Specifically, with respect to Hong Fan and Lufeng, Sumchenko was the owner of these entities until he transferred his ownership interest in June 2022. Sumchenko Appeal at 7 and Exs. E and F. He was a director of Hong Fan and Lufeng until he resigned those positions in November 2022. Sumchenko Appeal at 6. As noted in BIS’s response to Sumchenko’s appeal, even though Sumchenko had transferred his ownership rights in Hong Fan and Lufeng in June 2022, Sumchenko was identified as the beneficial owner of bank accounts for Hong Fan and Lufeng until at least September 2023. BIS Response at 5–6; RD at 4. For Skywind, Sumchenko was a director and owner until he resigned his position and transferred his ownership rights in Skywind in November 2023. Sumchenko Appeal at 6; RD at 4.

Second, the record reflects that between June 2022 and March 2023, Hong Fan, Lufeng, and Skywind were involved in transactions or attempted transactions to deliberately obtain U.S.-origin aircraft parts on behalf of Russian entities, and to conceal the true identities of the Russian purchasers in those transactions, in violation of the Regulations. RD at 8.

Third, as discussed above, during the time that Hong Fan, Lufeng and Skywind were involved in violations of the EAR, Sumchenko was an owner or director of these companies, or the beneficial owner of bank accounts connected to these entities. Sumchenko argues in his appeal that because he was no longer the owner of Hong Fan and Lufeng at the time of some of the conduct at issue in the TDO, the “sole connection” between the conduct outlined in the TDO as it relates to those entities and Sumchenko “has been broken.” Sumchenko Appeal at 7. I find that the other connections established in the record, such as Sumchenko’s position as director of Hong Fan and Lufeng until November 2022 and his role as beneficial owner of bank accounts for these companies until at least September 2023, are enough to connect Sumchenko to the conduct that involved Hong Fan and Lufeng through September 2023. As a result, I agree with the ALJ’s conclusion that

Sumchenko shares responsibility for the conduct of Hong Fan, Lufeng, and Skywind described in the TDO, which includes transactions deliberately designed to evade the prohibitions of the EAR. RD at 8.

As discussed above, the Regulations allow BIS to issue a denial order upon a showing that “the order is necessary in the public interest to prevent an imminent violation of [the EAR.]” 15 CFR 766.24(b)(1). A violation may be considered “imminent” either in time or “or in degree of likelihood.” *Id.* at § 766.24(b)(3). BIS may consider past participation in deliberate violations of the EAR as a factor when deciding whether a person is likely to participate in future violations of the EAR. *See* 15 CFR 766.24(b)(3). BIS has established that Hong Fan, Lufeng, and Skywind were involved in deliberate violations of the EAR, and that Sumchenko is responsible for that conduct based on his various roles with these companies at the time the conduct took place. As a result, I agree with the ALJ’s conclusion in the RD that, BIS has established additional violations are “imminent” within the meaning of 15 CFR 766.24(b)(3), and that the TDO against Sumchenko is necessary to prevent an imminent violation of the EAR.

Sumchenko argued in his appeal that even if he was the owner and director of companies that violated the EAR, BIS has not established that he “was involved in or even knew about those events.” Sumchenko Appeal at 6. The ALJ found this argument unpersuasive, and I find it unpersuasive as well. As the ALJ notes, Sumchenko made no effort to refute the allegations against Hong Fan, Lufeng, or Skywind. RD at 9. Just as important, Sumchenko makes no effort to explain his role in these companies or how each of these companies could have been involved in a scheme to violate the EAR without his knowledge given his various roles, including as owner or director. In addition, Sumchenko concedes that in February 2023, he directed a third party to pay Lufeng approximately \$450,000. Sumchenko Appeal at 4. Sumchenko argues, however, that “it is not clear how directing ‘a third party to pay Lufeng’ indicates ownership or control over Lufeng.” *Id.* Setting aside the fact that Sumchenko only offers vague assurances “based on information and belief” that the transaction was related to “the process of divestment that Mr. Sumchenko was undertaking at the time,” Sumchenko offers no specific explanation for why he would direct a third party to make payment to Lufeng if he no longer had an interest in the

company. See Sumchenko Appeal at 5. And since Sumchenko was the beneficial owner of a bank account for Lufeng at the time he instructed the third party to transfer payment, his potential access to the funds suggests his financial interest in Lufeng, including the receipt of any benefits of the scheme to provide U.S.-origin parts to entities in Russia without authorization, continued after he transferred his ownership and resigned as director. Indeed, Sumchenko's efforts to distance himself from Hong Fan and Lufeng via changes to corporate paperwork, while at the same time maintaining control of related bank accounts and directing payment to Lufeng, may have been part of an attempt to evade detection. For these reasons, I agree with the ALJ's conclusion that Sumchenko may be held responsible for the actions of Hong Fan, Lufeng, and Skywind described in the TDO. RD at 9. I further agree with the ALJ's conclusion that "in the absence of the TDO, nothing would prevent [Sumchenko] from creating new companies to engage in the same violative conduct." RD at 10.

IV. Conclusion and Order

Based on my review of the record, I accept the findings of fact and conclusions of law made by the ALJ in his RD, and it is therefore *ordered*:

First, that this appeal is *dismissed*.

Second, that this Final Decision and Order shall be served on Appellants and on BIS and shall be published in the **Federal Register**. In addition, the ALJ's Recommended Decision shall also be published in the **Federal Register**.

This Order, which constitutes the Department's final decision with regard to this appeal, is effective immediately.

Alan F. Estevez,

Under Secretary of Commerce for Industry and Security.

United States of America

Bureau of Industry and Security

Washington, D.C. 20230

In the Matter of:

SkyTechnic, Kiyevskoye Shosse 22–Y,
Moskovsky Settlement, Moscow, Russia
108811

Skywind International Limited, Room 2403A
24/F Lippo CTR Tower One, 89
Queensway, Admiralty, Hong Kong
Hong Fan International, Shop 102, Level 1,
One Exchange Square, Hong Kong, and
Room A 11/F Henfa Commercial Building,
348–350 Lockhart Road, Hong Kong, and
Vistra Corporate Services Centre, Wickhams
Cay II, Road Town, Tortola, British Virgin
Islands

Lufeng Limited, Room A 11/F Henfa
Commercial Building, 348–350 Lockhart
Road, Hong Kong, and

Vistra Corporate Services Centre, Wickhams
Cay II, Road Town, Tortola, British Virgin
Islands

Unical dis Ticaret Ve Lojistik JSC, 34140

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Carsi Blok No 28/58, Bakirkoy, Istanbul,
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Indonesia

Danijela Salevic, Koste Cukia 14, Zemun

200915, Serbia, and

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Respondents

Docket Number: 24–TDO–0001

The Hon. Tommy Cantrell Administrative
Law Judge

Recommended Decision and Order

This matter comes before me on Alexey Sumchenko's (Respondent) appeal of the Order Temporarily Denying Export Privileges (TDO) issued by the U.S. Department of Commerce Bureau of Industry and Security (BIS), through its Office of Export Enforcement (OEE) on June 12, 2024. OEE issued the TDO pursuant to the Export Administration Regulations (EAR), specifically 15 CFR 766.24.¹ After considering the evidence and arguments presented by the parties, and in accordance with the applicable law and regulations, I find BIS demonstrated the TDO is necessary in the public interest to prevent an imminent violation of the EAR, and I recommend the TDO be *affirmed*.

I. Procedural Background

On June 12, 2024, OEE issued a TDO against Respondent, preventing him from participating in transactions subject to the EAR for 180 days. On July

¹ Title 15 CFR parts 730–774 (EAR), were promulgated under the Export Administration Act of 1979 (EAA), formerly codified at 50 U.S.C. 4601–4623. Although the EAA expired on August 21, 2001, the President, through Executive Order 13222 of August 17, 2001, and through successive Presidential Notices, continued the EAR in full force and effect under the International Emergency Economic Powers Act (IEEPA), codified at 50 U.S.C. 1701, *et seq.* The EAA was repealed in 2018, with the enactment of the Export Control Reform Act (ECRA). See 50 U.S.C. § 4826. The ECRA provides BIS with permanent statutory authority to administer the EAR. The ECRA specifically states that all administrative or judicial proceedings commenced prior to its enactment are not disturbed by the new legislation. See *Id.*

25, 2024, Respondent filed an appeal of the TDO. Thereafter, the Chief Administrative Law Judge assigned this matter to me on July 29, 2024, for adjudication.² On August 5, 2024, the parties filed a stipulation extending BIS' deadline to submit a reply to the appeal. BIS filed a reply to the appeal on August 20, 2024.

Respondent's appeal included seven documentary exhibits (Exhibits A–G), and a copy of the June 12, 2024, TDO (Ex. A). OEE's reply included two exhibits (Exhibits 1–2).³ The record is now closed, and the appeal is ripe for a recommended decision.

II. Recommended Findings of Fact

1. Skywind International Limited (Skywind), Hong Fan Global Limited (Hong Fan), and Lufeng Limited (Lufeng), are companies registered to do business in Hong Kong. (Exs. B–D, respectively).

2. Respondent was an owner and director of Skywind, Hong Fan, and Lufeng during 2022–2023. (Exs. A–G; Exs. 1–2).

3. Respondent transferred his ownership interest in and resigned his position as director of Skywind on November 23, 2023. (Ex. G).

4. Respondent resigned his position as director of Hong Fan on November 14, 2022, but remained a beneficial owner of Hong Fan until at least September 6, 2023. (Exs. E, and 1).

5. Respondent resigned his position as director of Lufeng on November 14, 2022, but remained a beneficial owner of Lufeng until at least September 6, 2023. (Exs. F and 2).

6. SkyTechnic is an aircraft parts supplier based in Moscow, Russia. (Ex. A at 3, 7).

7. During May and June 2022, Anna Shumakova, on behalf of SkyTechnic, discussed with Izzi Cup (a company registered in Serbia) methods of purchasing aircraft parts from the United States (U.S.) in contravention of export controls, including by using Skywind as a straw purchaser of the items. (Ex. A at 7).

8. In May 2022, Shumakova, on behalf of Skywind, informed a freight forwarder Skywind would complete purchases of aircraft parts on behalf of Pobeda Airlines, a Russian airline company that itself became the subject of a TDO on June 24, 2022. (Ex. A at 7).

9. In June 2022, SkyTechnic began using Hong Fan to facilitate the purchase of aircraft parts from the U.S. (Ex. A at 7).

² Pursuant to an interagency agreement, United States Coast Guard (USCG) Administrative Law Judges are permitted to adjudicate BIS cases.

³ See Attachment A for a listing of exhibits.

10. Also in June 2022, Lufeng engaged in a transaction with Izzi Cup and served as the straw purchaser on an invoice for aircraft parts meant for SkyTechnic. (Ex. A at 8).

11. In October 2022, Hong Fan attempted to ship aircraft parts to the Maldives for Euro Asia. Euro Asia had a sales relationship with Aeroflot-Russian Airlines (Aeroflot), a company that itself became the subject of a TDO on April 7, 2022. (Ex. A at 7–8; *see* PJSC Aeroflot, 1 Arbat St., 119019, Moscow, Russia; Order Temporarily Denying Export Privileges, 87 FR 21611 (Apr. 12, 2022)).

12. In November 2022, Hong Fan worked with a freight forwarder to facilitate the purchase of aircraft parts for Pobeda Airlines, and the associated invoice was issued to SkyTechnic. (Ex. A at 8).

13. In February 2023, Respondent directed a third party to pay Lufeng approximately \$450,000.00 for services rendered to Skywind. (Ex. A at 5).

14. During February and March 2023, Hong Fan served as a straw purchaser for SkyTechnic, for the export of aircraft parts from the U.S., which were ultimately delivered to Aeroflot in Russia. (Ex. A at 8).

III. Opinion and Recommended Conclusions of Law

BIS issues and enforces the EAR “under laws relating to the control of certain exports, reexports, and activities.” 15 CFR 730.1. The EAR is “intended to serve the national security, foreign policy, nonproliferation of weapons of mass destruction, and other interests of the United States.” 15 CFR 730.6. To prevent an imminent violation of the EAR, BIS may request the EEO issue a TDO on an *ex parte* basis. 15 CFR 766.24(a). A TDO is valid for a maximum of 180 days and the Assistant Secretary may renew a TDO in additional 180-day increments as deemed necessary. 15 CFR 766.24(b)(4), (d)(4).

A violation may be imminent “either in time or in degree of likelihood.” 15 CFR 766.24(b)(3). Accordingly, BIS may attempt to show “a violation is about to occur, or that the general circumstances of the matter under investigation . . . demonstrate a likelihood of future violations.” *Id.* With respect to demonstrating the likelihood of future violations, BIS “may show that the violation under investigation . . . is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent . . .” *Id.* Ultimately, to obtain a TDO against a respondent, BIS must show “the order is necessary in the public interest to

prevent an imminent violation” of the EAR. 15 CFR 766.24(b)(1). Conversely, to prevail on appeal, a respondent must show “the finding that the order is necessary in the public interest to prevent an imminent violation is unsupported.” 15 CFR 766.24(e)(2).

A. BIS Demonstrated Likelihood of Imminent Violation

The June 12, 2024, TDO set forth facts showing a likelihood Respondent would imminently violate the EAR unless his export privileges were revoked. It established that BIS implemented a license requirement for the export to Russia of any aircraft or aircraft parts listed in Export Control Classification Number (ECCN) 9A991 on February 24, 2022. (Ex. A at 4). *See* Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR), 87 FR 12226 (Mar. 3, 2022) (to be codified at 15 CFR parts 734, 738, 740, 742, 744, 746, and 772). On 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). (Ex. A at 5). *See* Imposition of Sanctions Against Belarus Under the Export Administration Regulations (EAR), 87 FR 13048 (Mar. 8, 2022) (to be codified at 15 CFR parts 734, 738, 740, 742, 744, and 746). The TDO then established that after those dates, companies owned and controlled by Respondent acted to subvert these export controls to obtain prohibited aircraft parts for Russian companies.

Specifically, the record shows Respondent was an owner and director of Skywind International Limited (Skywind), Hong Fan Global Limited (Hong Fan), and Lufeng Limited (Lufeng), during 2022–2023. (Exs. A–G; Exs. 1–2). Skywind, Hong Fan, and Lufeng are, and at all times relevant were, companies registered to do business in Hong Kong. (Exs. A–D). During May and June 2022, Anna Shumakova, on behalf of a Russian aircraft parts company called SkyTechnic, discussed with Izzi Cup, a company registered in Serbia, methods of purchasing aircraft parts from the U.S. in contravention of export controls, including using Skywind as a straw purchaser of the items. (Ex. A at 7). In May 2022, Shumakova, on behalf of Skywind, informed a freight forwarder that Skywind would purchase aircraft parts on behalf of Pobeda Airlines, a Russian airline company that itself became the subject of a TDO on June 24, 2022. (Ex. A at 7). *See* Pobeda Airlines, 108811, Russian Federation, Moscow, p. Moskovskiy Kievskoe shosse 22nd km,

4/1. Moscow, Russia; Order Temporarily Denying Export Privileges, 87 FR 38707 (Jun. 29, 2022). Then in June 2022, SkyTechnic began using Hong Fan to facilitate the purchase of aircraft parts from the U.S. (Ex. A at 7). And in June 2022, Lufeng served as the straw purchaser on an invoice for aircraft parts meant for SkyTechnic. (Ex. A at 8).

In October 2022, Hong Fan attempted to facilitate the purchase of aircraft parts for Euro Asia, a company with a sales relationship with Aeroflot-Russian Airlines (Aeroflot), a company that itself became the subject of a TDO on April 7, 2022. (Ex. A at 7–8). *See* PJSC Aeroflot, 1 Arbat St., 119019, Moscow, Russia; Order Temporarily Denying Export Privileges, 87 FR 21611 (Apr. 12, 2022). In November 2022, Hong Fan worked with a freight forwarder to facilitate the purchase of aircraft parts for Pobeda Airlines, and the associated invoice was issued by SkyTechnic. (Ex. A at 8). During February and March 2023, Hong Fan served as a straw purchaser for SkyTechnic, for the export of aircraft parts from the U.S. which were ultimately delivered to Aeroflot in Russia. (Ex. A at 8).

Pursuant to the regulations governing these proceedings, a TDO is appropriate to prevent an imminent violation of the EAR. 15 CFR 766.24(b)(1). To show a violation is “imminent,” BIS may demonstrate a temporal proximity to a future violation or may show “that the general circumstances of the matter . . . demonstrate a likelihood of future violations.” 15 CFR 766.24(b)(3). In this regard, “BIS may show that the violation under investigation or charges is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent . . .” 15 CFR 766.24(b)(3). Here, the TDO clearly set out numerous instances of violations of the export controls imposed on February 24 and March 2, 2022, wherein the violations were not technical, but deliberate. For example, the TDO set forth in May and June of 2022, SkyTechnic discussed with Izzi Cup a strategy for obtaining U.S.-origin aircraft parts by placing Skywind on the invoice as the purchaser. (Ex. A at 7). The TDO then set forth numerous instances between June and November 2022 in which Skywind, Hong Fan, and Lufeng engaged in transactions to deliberately obtain U.S.-origin aircraft parts and conceal the actual purchasers (Russian companies). (Ex. A at 7–8).

Respondent led the companies that engaged in these violations, and thus Respondent shares responsibility for those violations. Having shown Respondent already violated the EAR in a deliberate manner, BIS successfully

demonstrated that further violations were “imminent” within the meaning of 15 CFR 766.24, and an order temporarily denying Respondent’s export privileges would be necessary to prevent them.

B. Respondent’s Argument and Evidence Did Not Diminish BIS’ Case

As stated above, Respondent must show there is no support for the finding the TDO is necessary to prevent an imminent violation of the EAR. 15 CFR 766.24(e)(2). In his appeal, Respondent presented seven exhibits, one of which was a copy of the June 12, 2024, TDO (Ex. A); the remaining six exhibits were business records showing Respondent’s transfer of ownership in and resignation as director of Skywind, Hong Fan, and Lufeng. (Exs. B–G). With these exhibits as support, Respondent makes two arguments. He first argues a TDO is not necessary to prevent him from imminently violating the EAR because he is no longer an owner or director of Skywind, Hong Fan, and Lufeng. Specifically, Respondent argues the TDO “addresses alleged violations that occurred after February 2022,” and that Respondent “was divesting his ownership and resigning” from the companies during 2022 and 2023. (Appeal at Para. 14). Respondent asserts his “ownership of the companies is the only allegation that purportedly ties him to the alleged violations described in the TDO.” (Appeal at Para. 14). I am not persuaded.

First, I note Respondent never challenged the truth of the allegations of the TDO, he merely distances himself from the conduct by stating he gave up ownership of two of the companies (Hong Fan and Lufeng) by June 2022. (Appeal at Paras. 15, 16). Respondent conveniently ignores his own exhibits, which show he was still director of the companies until November 14, 2022. (Exs. E, F).

Respondent’s exhibits also show he remained in control, as owner and director, of Skywind until November 23, 2023. (Ex. G). Despite Respondent’s claim that he relinquished control of Hong Fan and Lufeng by November 14, 2022, BIS presented exhibits in its reply showing Respondent was listed as a beneficial owner of Hong Fan and Lufeng until at least September 6, 2023. (Exs. E, F; Exs. 1, 2). The TDO set forth numerous violations of the EAR committed by Skywind, Hong Fan, and Lufeng that occurred from May through November 2022, while Respondent was, by both his and BIS’ claims, owner and director of the companies. (Ex. A at 7–8). As the director and owner of these companies, it is reasonable to conclude

an order proscribing Respondent’s export privileges is necessary to prevent future violations.

Respondent alternatively argues even if he was in control of the companies while they were engaged in the illicit conduct, the TDO does not prove he “was involved in or even knew about those events.” (Appeal at Para. 14). I find this argument unpersuasive. As owner and director of the companies, Respondent’s role imparts responsibility on him for the actions of the company. *See Faour v. U.S. Dept. of Agriculture*, 985 F.2d 217 (5th Cir. 1993) (petitioner was responsibly connected to actions of company because he was an officer, director, and owner of stock during time that company committed repeated violations of the law). Respondent did not refute any allegations of violative conduct in the TDO, but instead only demonstrated he has executed paperwork to divest from the companies. In the absence of the TDO, nothing would prevent Respondent from creating new companies to engage in the same violative conduct.

Wherefore,

ORDER

It is hereby recommended the Temporary Denial Order be affirmed.

Done and dated September 4, 2024, at Houston, Texas



The Hon. Tommy Cantrell,
Administrative Law Judge, United States Coast Guard.

Attachment A: Exhibit List

Attachment A

Respondent’s Exhibits

Exhibit A: Temporary Denial Order issued Jun. 12, 2024

Exhibit B: Company Particulars—Skywind International Limited

Exhibit C: Company Particulars—Hong Fan Global Limited

Exhibit D: Company Particulars—Lufeng Limited

Exhibit E: Resignation and transfer instruments—Hong Fan

Exhibit F: Resignation and transfer instruments—Lufeng

Exhibit G: Resignation and transfer instruments—Skywind

BIS Exhibits

Exhibit 1: Sep. 6, 2023, email re: Hong Fan

Exhibit 2: Sep. 6, 2023, email re: Lufeng

Certificate of Service

I hereby certify that I have transmitted the above document to the following persons, as indicated below:

ALJ Docketing Center, U.S. Custom House, Email: aljdocketcenter@uscg.mil, Phone: (410) 962–5100, Sent by email

Gregory Michelsen, Esq., Tristan de Vega, Esq., Office of Chief Counsel for BIS, U.S. Dept. of Commerce, Sent by email

George Benaur, Esq., Benaur Law LLC, Sent by email

Done and dated September 4, 2024, at Houston, Texas



Ericka J. Pollard,
Paralegal Specialist to The Hon. Tommy Cantrell Administrative Law Judge United States Coast Guard

[FR Doc. 2024–22549 Filed 10–3–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–557–831]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From Malaysia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from Malaysia. The period of investigation is January 1, 2023, through December 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable October 4, 2024.

FOR FURTHER INFORMATION CONTACT: Preston Cox or Scarlet Jaldin, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5041 or (202) 482–4275, respectively.

SUPPLEMENTARY INFORMATION: