

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

In the Matter of:)
)
Orion Air, S.L.)
Canada Real de Merinas)
7 Edificio 5, 3'A)
Eissenhower business center)
28042 Madrid, Spain)
)
Ad. de las Cortes Valencianas no 37)
Esc.A Puerta 45 46015 Valencia, Spain)
)
)
Syrian Pearl Airlines)
Damascus International Airport)
Damascus, Syria)
)
)
Respondents.)
)

ORDER TEMPORARILY DENYING EXPORT PRIVILEGES

Pursuant to Section 766.24 of the Export Administration Regulations (“EAR”),¹ the Bureau of Industry and Security (“BIS”), U.S. Department of Commerce, through its Office of Export Enforcement (“OEE”), has requested that I issue an Order temporarily denying, for a period of 180 days, the export privileges under the EAR of:

¹ The EAR is currently codified at 15 C.F.R. Parts 730-774 (2009). The EAR are issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“EAA”). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive presidential notices, the most recent being that of July 23, 2008 (73 Fed. Reg. 43603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”).

1. Orion Air, S.L., Canada Real de Merinas, 7 Edificio 5, 3'A, Eissenhower business center, 28042 Madrid, Spain and Ad. de las Cortes Valencianas no 37, Esc.A Puerta 45 46015 Valencia, Spain.
2. Syrian Pearl Airlines, Damascus International Airport, Damascus, Syria

BIS has presented evidence that on or about May 1, 2009, Orion Air re-exported a BAE 146-300 aircraft (tail number EC-JVO) to Syria and specifically to Syrian Pearl Airways without the U.S. Government authorization required by General Order No. 2 of Supplement 1 to Part 736 of the EAR. This re-export took place after Orion Air had been directly informed of the export licensing requirements by the U.S. Government, and thus had actual as well as constructive notice of those licensing requirements, and occurred despite assurances made by Orion Air that it would put the transaction on hold based on the U.S. Government's concerns.

The aircraft is powered with four U.S.-origin engines and also contains a U.S.-origin auxiliary power unit ("APU") and electronic flight instrumentation system ("EFIS"), all of which are items subject to the EAR. The engines and APU are classified as Export Control Classification Number ("ECCN") 9A991.d and the EFIS is classified as ECCN 7A994. Because the aircraft contains greater than a 10 percent *de minimis* of U.S.-origin items, a fact Orion Air acknowledged, the aircraft is also subject to the EAR if re-exported to Syria and is classified as ECCN 9A991.b. No license was obtained from BIS for export or re-export of the U.S.-origin parts contained in the aircraft, nor the aircraft itself. BIS has also produced evidence that the re-exported aircraft bears the livery, colors and logos of Syrian Pearl Airlines, a national of Syria, a country group E:1 destination.

Moreover, BIS argues that future violations of the EAR are imminent based on statements by Orion Air to the U.S. Government that Orion Air plans to re-export an additional BAE 146-300 aircraft, currently located in Spain, to Syria and specifically to Syrian Pearl

Airlines. This information is corroborated by publically available information in the Syrian press and contained in industry data bases. Based on this evidence, including Orion's recent re-export to Syria in violation of the EAR, it is highly likely that this additional aircraft will be re-exported to Syria contrary to U.S. export control laws.

I find that the evidence presented by BIS demonstrates that a violation of the Regulations is imminent in both time and degree of likelihood. The conduct in this case is deliberate, significant and likely to occur again absence the issuance of a TDO. As such, a TDO is needed to give notice to persons and companies in the United States and abroad that they should cease dealing with the Respondents in export transactions involving items subject to the EAR. Such a TDO is consistent with the public interest to preclude future violations of the EAR.

Accordingly, I find that a TDO naming Orion Air and Syrian Pearl Airlines is necessary, in the public interest, to prevent an imminent violation of the EAR.

This Order is being issued on an ex parte basis without a hearing based upon BIS's showing of an imminent violation.

IT IS THEREFORE ORDERED:

FIRST, that, Orion Air, S.L., Canada Real de Merinas, 7 Edificio 5, 3'A, Eissenhower business center, 28042 Madrid, Spain, and Ad. de las Cortes Valencianas no 37, Esc.A Puerta 4546015 Valencia, Spain; and Syrian Pearl Airlines, Damascus International Airport, Damascus, Syria. (each a "Denied Person" and collectively the "Denied 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 any Denied Person any item subject to the EAR;
- B. Take any action that facilitates the acquisition or attempted acquisition by any Denied Person 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 any Denied Person acquires or attempts to acquire such ownership, possession or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from any Denied Person of any item subject to the EAR that has been exported from the United States;
- D. Obtain from any Denied Person 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 any Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by any Denied Person 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 Respondents 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 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 shall be published in the *Federal Register*.

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



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

Entered this 7th day of May 2009.