

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

Teoman Tosun
Yakui Zaferiye Mah, EFE SK
12 Kesan/Edirne
Turkey

ORDER RELATING TO
TEOMAN TOSUN

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Teoman Tosun, of Erdine, Turkey (“Tosun”), of its intention to initiate an administrative proceeding against Tosun pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to Tosun that alleges that Tosun committed two violations of the Regulations. Specifically, the charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2015). The charged violations occurred in 2009. The Regulations governing the violations at issue are found in the 2009 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2015 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). 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 August 7, 2014 (79 Fed. Reg. 46,959 (Aug. 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

**Charge 1 15 C.F.R. § 764.2(k) – Acting Contrary to the Terms of a
Temporary Denial Order**

On or about January 21, 2009, Tosun took action that, contrary to the terms of a BIS temporary denial order (“TDO”), facilitated the acquisition by Mahan Airways, an Iranian airline and a denied person since March 21, 2008, of the possession or control of an MD-82 aircraft bearing manufacturer’s serial number 49138 and tail number TC-TUA, a U.S.-origin item subject to the Regulations, classified under export control classification number (“ECCN”) 9A991.b, and controlled for anti-terrorism reasons. Tosun signed an aircraft wet lease agreement dated January 21, 2009, under which Mahan Airways acquired possession or control of the aircraft. At all times relevant hereto, Tosun was the Chief Executive Officer of Tunca Havacilik A.S. (“Tunca”). Pursuant to the wet lease agreement the aircraft was delivered to Mahan Airways in Iran on or about February 6, 2009, painted with its livery and logo and remained under Mahan Airways’ possession or control for approximately six months.

Mahan Airways was named as a Denied Person in a TDO issued by BIS pursuant to Section 766.24 of the Regulations effective on March 21, 2008. The TDO was subsequently renewed by BIS and in force and effect at all pertinent times hereto.³ Under the TDO, all persons, including Tosun, were prohibited from exporting or reexporting to or on behalf of Mahan Airways any item subject to the EAR, and were further prohibited from taking any action “that facilitates the acquisition or attempted acquisition by the Denied Person [Mahan Airways] of the ownership, possession, or control of any item subject to the EAR that has been . . . exported from the United States [.]”

In acting contrary to the terms of a BIS temporary denial order, as alleged above, Tosun violated Section 764.2(k) of the Regulations.

**Charge 2 15 C.F.R. § 764.2(b) – Causing, Aiding, or Abetting an
Unlicensed Reexport to Iran**

On or about January 21, 2009, Tosun caused, aided, or abetted an act prohibited by the Regulations. Specifically, Tosun caused, aided or abetted the reexport of a MD-82 aircraft bearing manufacturer’s serial number 49138 and tail number TC-TUA from Turkey to Iran, and in particular to or for the use of Mahan Airways, an Iranian airline, without the required U.S. Government authorization. The aircraft is an item subject to

³ The initial TDO was issued by BIS on March 17, 2008, and was effective upon publication in the *Federal Register* on March 21, 2008. 73 Fed. Reg.15,130. The TDO was renewed for 180 days on September 17, 2008, by order effective upon issuance on that date. 73 Fed. Reg. 57051 (Oct. 1, 2008). The TDO remains in effect today against Mahan Airways, having been renewed most recently on January 16, 2015.

the Regulations and the Iranian Transactions Regulations,⁴ classified under Export Control Classification Number 9A991.b, and controlled for anti-terrorism reasons.

Tosun signed an aircraft wet lease agreement dated January 21, 2009, under which Mahan Airways would acquire possession or control of the aircraft. At all times relevant hereto, Tosun was the Chief Executive Officer of Tunca Havacilik A.S. ("Tunca"). The terms of the wet lease agreement specifically called for the aircraft to be delivered by Tunca to Mahan Airways in Tehran, Iran. Pursuant to Section 746.7 of the Regulations, no person may engage in the export or reexport of an item subject to the Regulations and the Iranian Transactions Regulations without authorization from OFAC. In addition, on February 4, 2009, Tunca's owner was specifically warned by the U.S. Government regarding the prohibitions on conducting business with Iran. Nonetheless the aircraft was reexported by Tunca from Turkey to Iran on or about February 6, 2009. No U.S. Government authorization was sought or obtained for this reexport.

In so doing, Tosun committed one violation of Section 764.2(b) of the Regulations.

WHEREAS, BIS and Tosun have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, Tosun shall be assessed a civil penalty in the amount of \$75,000. The payment of \$25,000 shall be made to the U.S. Department of Commerce in two installments of \$12,500 not later than July 15, 2015 and \$12,500 not later than January 15, 2016. Payment of the remaining \$50,000 shall be suspended for a period of two years from the date of the Order, and thereafter shall be waived, provided that during this two-year probationary period under this Order, Tosun has committed no violation of the Act,

⁴ 31 C.F.R. Part 560 (2009). Administered by the Treasury Department's Office of Foreign Assets Control ("OFAC"), the ITR were renamed the Iranian Transactions and Sanctions Regulations ("ITSR") and reissued in their entirety by OFAC on October 22, 2012. See 77 Fed Reg. 64,664 (Oct. 22, 2012). Section 560.205 remains unchanged in pertinent part. See 31 C.F.R. §560.205 (2009 and 2012).

or any regulation, order, license or authorization issued thereunder and has made full and timely payment of \$25,000 as set forth above.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if payment is not made by the due date specified herein, Tosun will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that the full and timely payment of the civil penalty in accordance with the payment schedule set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Tosun.

FOURTH, that for a period of two (2) years from the date of this Order, Teoman Tosun, with a last known address of Yakuri Zaferiye Mah, EFE SK, 12 Kesan/Edirne, Turkey, and when acting for or on his behalf, his successors, assigns, representatives, agents, or employees (hereinafter collectively referred to as "Denied Person"), 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 Regulations, or in any other activity subject to the Regulations, 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 Regulations, or in any other activity subject to 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 Regulations, or in any other activity subject to the Regulations.

FIFTH, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the 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 the Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the Denied Person in the United States any item subject to the Regulations 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 Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

SIXTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person 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.

SEVENTH, that, as authorized by Section 766.18(c) of the Regulations, the two-year denial period set forth above shall be suspended during a probationary period of two years under the Order, and shall thereafter be waived, provided that Tosun has made full and timely payment as set forth above and has committed no other violation of the Act or the Regulations or any order, license or authorization issued thereunder. If Tosun does not make full and timely payment as set forth above or commits another violation of the Act or the Regulations or any order, license or authorization issued thereunder, during the two-year probationary period under the Order, the suspension may be modified or revoked by BIS and a denial order including a two-year denial period activated against Tosun.

EIGHTH, Tosun shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging

Letter or this Order. The foregoing does not affect Tosun's testimonial obligations in any proceeding, nor does it affect Tosun's right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

NINTH, that the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 30th day of June, 2015.

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

In the Matter of:

Teoman Tosun
Yakui Zaferiye Mah, EFE SK
12 Kesan/Edirne
Turkey

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Teoman Tosun of Edirne, Turkey (“Tosun”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

WHEREAS, BIS has notified Tosun of its intentions to initiate an administrative proceeding against Tosun, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a Proposed Charging Letter to Tosun that alleges that Tosun committed two violations of the Regulations, specifically:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2015). The charged violations occurred in 2009. The Regulations governing the violations at issue are found in the 2009 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2015 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). 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 August 7, 2014 (79 Fed. Reg. 46,959 (Aug. 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

**Charge 1 15 C.F.R. § 764.2(k) – Acting Contrary to the Terms of a
Temporary Denial Order**

On or about January 21, 2009, Tosun took action that, contrary to the terms of a BIS temporary denial order (“TDO”), facilitated the acquisition by Mahan Airways, an Iranian airline and a denied person since March 21, 2008, of the possession or control of an MD-82 aircraft bearing manufacturer’s serial number 49138 and tail number TC-TUA, a U.S.-origin item subject to the Regulations, classified under export control classification number (“ECCN”) 9A991.b, and controlled for anti-terrorism reasons. Tosun signed an aircraft wet lease agreement dated January 21, 2009, under which Mahan Airways acquired possession or control of the aircraft. At all times relevant hereto, Tosun was the Chief Executive Officer of Tunca Havacilik A.S. (“Tunca”). Pursuant to the wet lease agreement the aircraft was delivered to Mahan Airways in Iran on or about February 6, 2009, painted with its livery and logo and remained under Mahan Airways’ possession or control for approximately six months.

Mahan Airways was named as a Denied Person in a TDO issued by BIS pursuant to Section 766.24 of the Regulations effective on March 21, 2008. The TDO was subsequently renewed by BIS and in force and effect at all pertinent times hereto.³ Under the TDO, all persons, including Tosun, were prohibited from exporting or reexporting to or on behalf of Mahan Airways any item subject to the EAR, and were further prohibited from taking any action “that facilitates the acquisition or attempted acquisition by the Denied Person [Mahan Airways] of the ownership, possession, or control of any item subject to the EAR that has been . . . exported from the United States [.]”

In acting contrary to the terms of a BIS temporary denial order, as alleged above, Tosun violated Section 764.2(k) of the Regulations.

**Charge 2 15 C.F.R. § 764.2(b) – Causing, Aiding, or Abetting an
Unlicensed Reexport to Iran**

On or about January 21, 2009, Tosun caused, aided, or abetted an act prohibited by the Regulations. Specifically, Tosun caused, aided or abetted the reexport of a MD-82 aircraft bearing manufacturer’s serial number 49138 and tail number TC-TUA from Turkey to Iran, and in particular to or for the use of Mahan Airways, an Iranian airline, without the required U.S. Government authorization. The aircraft is an item subject to

³ The initial TDO was issued by BIS on March 17, 2008, and was effective upon publication in the Federal Register on March 21, 2008. 73 Fed. Reg.15,130. The TDO was renewed for 180 days on September 17, 2008, by order effective upon issuance on that date. 73 Fed. Reg. 57051 (Oct. 1, 2008). The TDO remains in effect today against Mahan Airways, having been renewed most recently on January 16, 2015.

the Regulations and the Iranian Transactions Regulations,⁴ classified under Export Control Classification Number 9A991.b, and controlled for anti-terrorism reasons.

Tosun signed an aircraft wet lease agreement dated January 21, 2009, under which Mahan Airways would acquire possession or control of the aircraft. At all times relevant hereto, Tosun was the Chief Executive Officer of Tunca Havacilik A.S. ("Tunca"). The terms of the wet lease agreement specifically called for the aircraft to be delivered by Tunca to Mahan Airways in Tehran, Iran. Pursuant to Section 746.7 of the Regulations, no person may engage in the export or reexport of an item subject to the Regulations and the Iranian Transactions Regulations without authorization from OFAC. In addition, on February 4, 2009, Tunca's owner was specifically warned by the U.S. Government regarding the prohibitions on conducting business with Iran. Nonetheless the aircraft was reexported by Tunca from Turkey to Iran on or about February 6, 2009. No U.S. Government authorization was sought or obtained for this reexport.

In so doing, Tosun committed one violation of Section 764.2(b) of the Regulations.

WHEREAS, Tosun has reviewed the Proposed Charging Letter and is aware of the allegations made against him and the administrative sanctions that could be imposed against him if the allegations are found to be true;

WHEREAS, Tosun fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, Tosun enters into this Agreement voluntarily and with full knowledge of his rights, after having consulted with counsel;

WHEREAS, Tosun states that no promises or representations have been made to him other than the agreements and considerations herein expressed;

⁴ 31 C.F.R. Part 560 (2009). Administered by the Treasury Department's Office of Foreign Assets Control ("OFAC"), the ITR were renamed the Iranian Transactions and Sanctions Regulations ("ITSR") and reissued in their entirety by OFAC on October 22, 2012. See 77 Fed Reg. 64,664 (Oct. 22, 2012). Section 560.205 remains unchanged in pertinent part. See 31 C.F.R. §560.205 (2009 and 2012).

WHEREAS, Tosun neither admits nor denies the allegations contained in the Proposed Charging Letter; and

WHEREAS, Tosun agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Tosun, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanctions shall be imposed against Tosun in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:

a. Tosun shall be assessed a civil penalty in the amount of \$75,000. The payment of \$25,000 shall be made to the U.S. Department of Commerce in two installments of \$12,500 not later than July 15, 2015 and \$12,500 not later than January 15, 2016. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$50,000 shall be suspended for a period of two years from the date of the Order, and thereafter shall be waived, provided that during this two-year payment probationary period under the Order, Tosun has committed no violation of the Act, or any regulation, order, license or authorization issued thereunder and has made full and timely payment of \$25,000 as set forth above.

b. The full and timely payment of the civil penalty agreed to in Paragraph 2.a, is hereby made a condition to the granting, restoration, or

continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Tosun.

c. For a period of two (2) years from the date of the Order, Teoman Tosun, with a last known address of Yakuri Zaferiye Mah, EFE SK, 12 Kesan/Edirne, Turkey, and when acting for or on his behalf, his successors, assigns, representatives, agents, or employees (hereinafter collectively referred to as "Denied Person"), 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 Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- i. Applying for, obtaining, or using any license, License Exception, or export control document;
- ii. 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 Regulations, or in any other activity subject to the Regulations; or
- iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

d. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the two-year denial period set forth in Paragraph 2.c shall be suspended during a probationary period of two years under the Order, and shall thereafter be waived, provided that Tosun has made full and timely payment in accordance with Paragraph 2.a above and has committed no other violation of the Act or the Regulations or any order, license or authorization issued thereunder. If Tosun does not make full and timely payment in accordance with Paragraph 2.a above or commits another violation of the Act or the Regulations or any order, license or authorization issued thereunder during the two-year probationary period under the Order, the suspension may be modified or revoked by BIS and a denial order including a two-year denial period activated against Tosun.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Tosun hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if issued), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. Tosun also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the

Order until the date Tosun pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement.

4. Tosun shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Tosun's testimonial obligations in any proceeding, nor does it affect his right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

5. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a above, BIS will not initiate any further administrative proceeding against Tosun in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

10. Each signatory affirms that he/she has authority to enter into this Settlement Agreement and to bind his/her respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND
SECURITY
U.S. DEPARTMENT OF COMMERCE



Douglas R. Hassebrook
Director of Export Enforcement

TEOMAN TOSUN

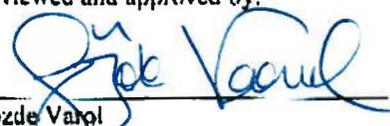


Teoman Tosun

Date: June 30, 2015

Date: June 29, 2015

Reviewed and approved by:



Gozde Varol
Counsel for Teoman Tosun

Date: June 29, 2015

PROPOSED CHARGING LETTER

BY U.S. REGISTERED MAIL - RETURN RECEIPT REQUESTED

Teoman Tosun
Yakui Zaferiye Mah, EFE SK
12 Kesan/Edirne
Turkey

Dear Mr. Tosun,

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Teoman Tosun (“Tosun”), of Edirne, Turkey, have committed two violations of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS alleges that Tosun committed the following violations:

**Charge 1 15 C.F.R. § 764.2(k) – Acting Contrary to the Terms of a
Temporary Denial Order**

On or about January 21, 2009, Tosun took action that, contrary to the terms of a BIS temporary denial order (“TDO”), facilitated the acquisition by Mahan Airways, an Iranian airline and a denied person since March 21, 2008, of the possession or control of an MD-82 aircraft bearing manufacturer’s serial number 49138 and tail number TC-TUA, a U.S.-origin item subject to the Regulations, classified under export control classification number (“ECCN”) 9A991.b, and controlled for anti-terrorism reasons. Tosun signed an aircraft wet lease agreement dated January 21, 2009, under which Mahan Airways acquired possession or control of the aircraft. At all times relevant hereto, Tosun was the Chief Executive Officer of Tunca Havacilik A.S. (“Tunca”). Pursuant to the wet lease agreement the aircraft was delivered to Mahan Airways in Iran on or about February 6, 2009, painted with its livery and logo and remained under Mahan Airways’ possession or control for approximately six months.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2015). The violations alleged occurred in 2009. The Regulations governing the violations at issue are found in the 2009 version of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2010). The 2015 Regulations govern the procedural aspects of this case.

² 50 U.S.C. app. §§ 2401-2420 (2000). 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 August 7, 2014 (79 Fed. Reg. 46,959 (Aug. 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

Mahan Airways was named as a Denied Person in a TDO issued by BIS pursuant to Section 766.24 of the Regulations effective on March 21, 2008. The TDO was subsequently renewed by BIS and in force and effect at all pertinent times hereto.³ Under the TDO, all persons, including Tosun, were prohibited from exporting or reexporting to or on behalf of Mahan Airways any item subject to the EAR, and were further prohibited from taking any action “that facilitates the acquisition or attempted acquisition by the Denied Person [Mahan Airways] of the ownership, possession, or control of any item subject to the EAR that has been . . . exported from the United States [.]”

In acting contrary to the terms of a BIS temporary denial order, as alleged above, Tosun violated Section 764.2(k) of the Regulations.

**Charge 2 15 C.F.R. § 764.2(b) – Causing, Aiding, or Abetting an
Unlicensed Reexport to Iran**

On or about January 21, 2009, Tosun caused, aided, or abetted an act prohibited by the Regulations. Specifically, Tosun caused, aided or abetted the reexport of a MD-82 aircraft bearing manufacturer’s serial number 49138 and tail number TC-TUA from Turkey to Iran, and in particular to or for the use of Mahan Airways, an Iranian airline, without the required U.S. Government authorization. The aircraft is an item subject to the Regulations and the Iranian Transactions Regulations,⁴ classified under Export Control Classification Number 9A991.b, and controlled for anti-terrorism reasons.

Tosun signed an aircraft wet lease agreement dated January 21, 2009, under which Mahan Airways would acquire possession or control of the aircraft. At all times relevant hereto, Tosun was the Chief Executive Officer of Tunca Havacilik A.S. (“Tunca”). The terms of the wet lease agreement specifically called for the aircraft to be delivered by Tunca to Mahan Airways in Tehran, Iran. Pursuant to Section 746.7 of the Regulations, no person may engage in the export or reexport of an item subject to the Regulations and the Iranian Transactions Regulations without authorization from OFAC. In addition, on February 4, 2009, Tunca’s owner was specifically warned by the U.S. Government regarding the prohibitions on conducting business with Iran. Nonetheless the aircraft was

³ The initial TDO was issued by BIS on March 17, 2008, and was effective upon publication in the *Federal Register* on March 21, 2008. 73 Fed. Reg.15,130. The TDO was renewed for 180 days on September 17, 2008, by order effective upon issuance on that date. 73 Fed. Reg. 57051 (Oct. 1, 2008). The TDO remains in effect today against Mahan Airways, having been renewed most recently on January 16, 2015.

⁴ 31 C.F.R. Part 560 (2009). Administered by the Treasury Department’s Office of Foreign Assets Control (“OFAC”), the ITR were renamed the Iranian Transactions and Sanctions Regulations (“ITSR”) and reissued in their entirety by OFAC on October 22, 2012. See 77 Fed Reg. 64,664 (Oct. 22, 2012). Section 560.205 remains unchanged in pertinent part. See 31 C.F.R. §560.205 (2009 and 2012).

reexported by Tunca from Turkey to Iran on or about February 6, 2009. No U.S. Government authorization was sought or obtained for this reexport.

In so doing, Tosun committed one violation of Section 764.2(b) of the Regulations.

* * * * *

Accordingly, Tosun is hereby notified that an administrative proceeding is instituted against him pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including, but not limited to any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;⁵
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

If Tosun fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7. If Tosun default, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Tosun. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Tosun is further notified that he is entitled to an agency hearing on the record if he files a written demand for one with his answer. *See* 15 C.F.R. § 766.6. Tosun is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Tosun have a proposal to settle this case, Tosun or his representative should transmit it to the attorney representing BIS named below.

Tosun is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Tosun may be eligible for assistance from the Office of the National

⁵ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Teoman Tosun
Proposed Charging Letter
Page 4 of 4

Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Tosun's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

In addition, a copy of Tosun's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Gregory Michelsen
Room H-3839
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Gregory Michelsen is the attorney representing BIS in this case; any communications that Tosun may wish to have concerning this matter should occur through him. Mr. Michelsen may be contacted by telephone at (202) 482-5301.

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement