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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

PT MS Aero Support

Mth Square Building
No. B9B, Jl. Mt. Haryono Kav 10
East Jakarta 13330, Indonesia

and

Halim Perdana Kusuma Airport Building
2nd Fl. #261-262
Jakarta 13610, Indonesia

and

Sinar Kasih Building 4th Floor
JL. Dewi Sartika No. 136 D
Jakarta 13630 Indonesia

PT Antasena Kreasi

Mth Square Building
No. B9B, Jl. Mt. Haryono Kav 10
East Jakarta 13330, Indonesia

and

Palma One Building, Lt 5, Suite 500
JIHR Rasuna Said Blok X-2 Kav 4
Setiabudi Jakarta Selatan, Indonesia

PT Kandyasa Energi Utama

Jalan Wijaya No 75
Jakarta Selatan 12170 Indonesia

and

Palma One Building, Lt 5, Suite 500
JIHR Rasuna Said Blok X-2 Kav 4
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Sunarko Kuntjoro

Mth Square Building

No. B9B, Jl. Mt. Haryono Kav 10

East Jakarta 13330, Indonesia

Triadi Senna Kuntjoro

Mth Square Building

No. B9B, Jl. Mt. Haryono Kav 10

East Jakarta 13330, Indonesia

and

Jalan Wijaya No 75

Jakarta Selatan 12170 Indonesia

Satrio Wiharjo Sasmito

Mth Square Building

No. B9B, Jl. Mt. Haryono Kav 10

East Jakarta 13330, Indonesia

and

Halim Perdana Kusuma Airport Building

2nd Fl. #261-262

Jakarta 13610, Indonesia

Order Temporarily Denying Export Privileges

Pursuant to Section 766.24 of the Export Administration Regulations (the “Regulations” or “EAR”),¹ the Bureau of Industry and Security (“BIS”), U.S. Department of Commerce,

¹ The Regulations, currently codified at 15 C.F.R. Parts 730-774 (2020), originally issued pursuant to the Export Administration Act (50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by successive Presidential Notices, continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2012)) (“IEEPA”). 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 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,

through its Office of Export Enforcement (“OEE”), has requested the issuance of an Order temporarily denying, for a period of 180 days, the export privileges under the Regulations of: PT MS Aero Support (“PTMS Aero”), PT Antasena Kreasi (“PTAK”), PT Kandiyasa Energi Utama (“PTKEU”), Sunarko Kuntjoro, Triadi Senna Kuntjoro, and Satrio Wiharjo Sasmito. OEE’s request and related information indicates that these parties are located in Indonesia, at the respective addresses listed on the caption page of this order and on page 11, *infra*, and that Sunarko Kuntjoro owns or controls or is otherwise affiliated with PTMS Aero and the other companies at issue. Moreover, Sunarko Kuntjoro’s son Triadi Senna Kuntjoro and brother Satrio Wiharjo Sasmito are not only close relatives but also were involved in the operation of these companies and the unlicensed exports as discussed further below.

I. 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. 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 “[l]ack of information establishing the precise time a violation

including as continued in effect pursuant to 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.

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.*

Pursuant to Sections 766.23 and 766.24, a temporary denial order (“TDO”) may also be made applicable to other persons if BIS has reason to believe that they are related to a respondent and that applying the order to them is necessary to prevent its evasion. 15 CFR 766.23(a)-(b) and 766.24(c). A “related person” is a person, either at the time the TDO’s issuance or thereafter, who is related to a respondent “by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business.” 15 CFR 766.23(a). Related persons may be added to a TDO on an *ex-parte* basis in accordance with Section 766.23(b) of the Regulations. 15 CFR 766.23(b).

II. OEE’S REQUEST FOR A TEMPORARY DENIAL ORDER

As referenced in OEE’s request, PTMS Aero, PTAK, PTKEU, and Sunarko Kuntjoro were each indicted in December 2019 on multiple counts in the United States District Court for the District of Columbia. The charges include, but are not limited to, conspiring to violate U.S. export control and sanctions laws in connection with the unlicensed export of aircraft parts to Mahan Air, an Iranian airline and prohibited end-user, often in coordination with Mustafa Ovieci, a Mahan executive. These parties also facilitated the shipment of damaged Mahan Air parts to the United States for repair and subsequent export back to Iran in further violation of U.S. laws. In both instances, the fact that the items were destined to Iran/Mahan Air was concealed from U.S. companies, shippers, and freight forwarders.

Mahan Air has been on BIS's Denied Persons List since March 2008, due to numerous significant, continuing, deliberate, and covert violations of the Regulations.² In addition, since October 2011, it has been designated as a Specially Designated Global Terrorist (“SDGT”) by the Treasury Department’s Office of Foreign Assets Control (“OFAC”) pursuant to Executive Order 13224 for providing financial, material and technological support to Iran's Islamic Revolutionary Guard Corps-Qods Force (IRGC-QF). *See* 77 Fed. Reg. 64,427 (October 18, 2011).

Further, Mustafa Oveici, an Iranian national and Mahan Air executive was placed on BIS’s Entity List, Supplement No. 4 to Part 744 of the Regulations, on December 12, 2013 (*see* 78 Fed. Reg. 75,463), for engaging in activities contrary to the national security or foreign policy interests of the United States. *See* 15 CFR 744.11. Mr. Oveici was one of 19 persons engaged in the operation of a procurement scheme that directly supported the operation of Mahan Air. *See* 78 Fed. Reg. 75,463 (Dec. 12, 2013). As a result of that listing, no item subject to the Regulations may be exported, reexported, or transferred (in-country) to him without prior license authorization from BIS. *See* 15 CFR 744.11; Supp No. 4 to 15 CFR Part 744. Moreover, BIS’s review policy regarding such applications involving Mr. Oveici is a presumption of denial. *Id.*

In its request, OEE has presented evidence indicating that Sunarko Kuntjoro and the other above-captioned parties are engaged in procurement and servicing activities relating to U.S.-origin aircraft parts for or on behalf of Mahan Air, operating as parties to the transactions and/or facilitating transactions that are structured to evade the Regulations as well as the Iranian

² Mahan Airways’ status as a denied person was most recently renewed by BIS through a temporary denial order issued on May 29, 2020. *See* 85 Fed. Reg. 34405 (Jun. 4, 2020). The May 29, 2020 renewal order summarizes the initial TDO issued against Mahan in March 2008, and the other renewal orders prior to May 29, 2020. *See id.*

Transactions and Sanctions Regulations (“ITSR”), 31 CFR Part 560, administered by OFAC³ by routing unlicensed exports or reexports through Indonesia and other third countries, including but not limited to Singapore, Hong Kong, and Thailand to Iran.

A. Misconduct Charged in December 2019 Indictment

The December 10, 2019 indictment charged Sunarko Kuntjoro, PTMS Aero, PTAK, and PTKEU with conspiracy to unlawfully export U.S.-origin goods and technology to Iran and to defraud the United States. Sunarko Kuntjoro and PTMS Aero were also charged with unlawful exports and attempted exports to an embargoed country, conspiracy to launder monetary instruments, and false statements. The evidence presented and charged in the indictment covers misconduct occurring between at least March 2011 through at least July 2018 and shows that Sunarko Kuntjoro was not only aware of U.S. export control laws but also took active steps to conceal his unlawful export-related activities in order to evade detection by law enforcement. As stated in the indictment for instance, in May 2013, OEE contacted Sunarko Kuntjoro regarding an attempted export involving PTMS Aero that was suspected of being diverted to Iran. In addition to asking about the specific transaction, OEE provided educational material on U.S. export controls, including restrictions on exports to Iran. Sunarko Kuntjoro acknowledged receipt responding, in part, “[t]hank you for the valuable information you gave me on the attachment. I do understand the US government policy.”

Later that same month, Sunarko Kuntjoro contacted Mahan Air, copying Triadi Senna Kuntjoro on the correspondence, about the need to conceal their activities by using a company

³ Pursuant to Section 746.7(e) of the EAR, 15 C.F.R. § 746.7(e), no person may export or reexport any item that is subject to the EAR if such transaction is prohibited by the ITSR and has not been authorized by OFAC. The prohibition found in Section 746.7(e) applies whether or not the EAR requires a license for the export or reexport in question. *Id.*

other than PTMS Aero for procuring aircraft parts. Specifically, Sunarko Kuntjoro states, in part, that “[a]s proposed during the meeting with mr O[veici], he recommended to use other company name besides of MS aero... I have established the company name Kandiyasa Energi Utama [PTKEU]... The person incharge is Triadi Sena Sunarko...also in this company...so everytime you send the rfq [request for quote] for tools and equipment ONLY, you will get quotation from KANDIYASA” (typographical errors in original communication). When subsequently questioned by OEE via email in June 2013 regarding the export of aircraft engines subject to the Regulations, Sunarko Kuntjoro and Mostafa Oveici expressed concerns with each other that their activities had been discovered and discussed the need to avoid email correspondence and discuss the matter in person because “there may be a leak in the system that jeopardize all transaction[s].”

As further alleged in the indictment, in February 2017, Sunarko Kuntjoro and PTAK negotiated with Mahan Air to have PTAK purchase, repair, and refurbish aircraft parts for the benefit of Mahan. Mahan Air would send the parts to PTAK via a freight forwarder in Singapore. PTAK would then remove any references to Mahan Air or Iran and then have the parts forwarded to the United States for repair via a different freight forwarder located in Hong Kong.

Additional steps taken by Sunarko Kuntjoro and PTMS Aero to evade the regulations include, but are not limited to, making false statements in January 2018 on a BIS Form 711 [Statement by Ultimate Consignee] submitted to a U.S. exporter regarding a shipment of aircraft parts detained by OEE. Sunarko Kuntjoro signed the form as Chairman of PTMS Aero falsely stating the parts would be used by Indonesian airlines and omitting any reference to Mahan Air – the true intended end-user. Moreover, when questioned about the form by OEE Special Agents

in February 2018, Sunarko Kuntjoro reiterated the false statements claiming the information on the BIS Form 711 was correct.

B. Additional Unlawful Exports of Aircraft Parts from the United States

In addition to the wide-ranging conduct addressed in the indictment which spanned more than six years, OEE has detected that these parties continue to seek aircraft parts from the United States until as recently as December 2019, raising further concerns of continuing additional violations of both the Regulations and the Mahan Air TDO. OEE has identified an additional six exports of aircraft parts involving PTAK during 2018 valued at approximately \$43,184, plus five 2019 shipments involving both PTMS AERO and PTAK worth approximately \$79,548. As an example, on December 20, 2019, OEE Special Agents detained an export of aircraft parts identified as Viledon P15 Pre-filter Mats intended for PTAK. This transaction appeared to be structured in a similar manner to those charged in the indictment, including that the items were to be shipped from the United States to a freight forwarder in Singapore, rather than PTAK in Indonesia. Correspondence related to this shipment identified the email address aryo.antassenakreasi@gmail.com which closely matches PTAK's full name and the associated IP address relates back to Iran. Notably, Triadi Senna Kuntjoro is also copied on the correspondence for this transaction.

In sum, the facts and circumstances here and related evidence indicate a high likelihood of future violations of the Regulations and U.S. export control laws, given the repeated attempts over an extended period of time to evade the long-standing and well-known U.S. embargo against Iran by obtaining and facilitating the acquisition of U.S.-origin aircraft parts from the United States for transshipment to Iran and specifically to Mahan Air, a denied person (and SDGT).

C. Triadi Senna Kuntjoro and Satrio Wiharjo Sasmito as Related Persons

OEE's investigation has established that Triadi Senna Kuntjoro, Sunarko Kuntjoro's son, is also connected to PTAK and involved in business activities on behalf of Mahan Air. In addition to his awareness of the December 2019 export detained by OEE as referenced above, Triadi Senna Kuntjoro was also involved in the February 2017 negotiations between PTAK and Mahan Air as referenced above as well. Specifically, on February 7, 2017, Triadi Senna Kuntjoro sent his father Sunarko Kuntjoro a document titled, "*MoU W5-AK-3.docx*". The attachment was a memorandum of understanding between Mahan Air and PTAK, with Triadi Senna Kuntjoro listed as a managing director of PTAK.⁴ The purpose of the memorandum of understanding was to define the scope of the working relationship between "W5 [Mahan Air] and Antasena [PTAK] with respect to aviation industry for purchasing, repair, consultant and forwarding the aircraft parts for W5 [Mahan Air]."

Similarly, OEE has provided evidence that Sunarko Kuntjoro's brother Satrio Wiharjo Sasmito was not only aware of restrictions on exports to prohibited end-users and destinations such as Iran, but was also involved in obtaining aircraft parts from the United States for such prohibited end-users and destinations. An example of such evidence includes June 2015 correspondence between Satrio Wiharjo Sasmito and a U.S. aviation parts company using his PTMS Aero email account. Specifically, Satrio Wiharjo Sasmito provided the U.S. Company with a signed "End-Use Statement" form on behalf of PTMS Aero listing his position within the company as "President Director" and omitting any reference to Mahan and/or Iran. The form further acknowledges that PTMS Aero will not export or reexport the items to prohibited destinations such as Iran or to parties on BIS's Denied Persons List or OFAC's SDN List. These

⁴ "W5" is the unique code given to Mahan Air by the International Air Transport Association ("IATA").

actions show not only an awareness of the EAR but also a willingness to provide false end-user information which resulted in the concealment of the item's ultimate destination from both the U.S. exporter and law enforcement.

Additionally, the above-referenced indictment states in part that PTMS Aero, PTKEU, and Satrio Wiharjo Sasmito [identified in the indictment as "Person C"] wired hundreds of thousands of dollars to the United States to "repair Mahan airplane parts in the United States and to re-export those airplane parts back to PTMS [Aero] and Mahan." This conduct violates the Mahan TDO's prohibition on "[e]ngaging 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 a Denied Person [Mahan]... For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing."

III. FINDINGS

I find that the evidence presented by BIS demonstrates that a violation of the Regulations by the above-captioned parties is imminent in both time and degree of likelihood. 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 PT MS Aero Support, PT Antasena Kreasi, PT Kandiyasa Energi Utama, and Sunarko Kuntjoro in export or reexport transactions involving items subject to the EAR. Such a TDO is consistent with the public interest to preclude future violations of the Regulations given the deliberate, covert, and determined nature of the misconduct and clear disregard for complying with U.S. export control laws. Additionally, I find that Triadi Senna Kuntjoro, and Satrio Wiharjo Sasmito meet the criteria set out in Section 766.23 and should be added to the TDO as related persons in order to prevent evasion.

This Order is being issued on an *ex parte* basis without a hearing based upon BIS's showing of an imminent violation in accordance with Section 766.24 and 766.23(b) of the Regulations.

IT IS THEREFORE ORDERED:

FIRST, that **PT MS Aero Support**, with an address at Mth Square Building, No. B9B, Jl. Mt. Haryono Kav 10, East Jakarta 13330, Indonesia, and Halim Perdana Kusuma Airport Building, 2nd Fl. #261-262, Jakarta 13610, Indonesia, and Sinar Kasih Building 4th Floor, JL. Dewi Sartika No. 136 D, Jakarta 13630 Indonesia; **PT Antasena Kreasi**, with an address at Mth Square Building, No. B9B, Jl. Mt. Haryono Kav 10, East Jakarta 13330, Indonesia, and Palma One Building, Lt 5, Suite 500, JIHR Rasuna Said Blok X-2 Kav 4, Setiabudi Jakarta Selatan, Indonesia; **PT Kandyasa Energi Utama**, with an address at Jalan Wijaya No 75, Jakarta Selatan 12170 Indonesia, and Palma One Building, Lt 5, Suite 500, JIHR Rasuna Said Blok X-2 Kav 4, Setiabudi Jakarta Selatan, Indonesia; **Sunarko Kuntjoro**, with an address at Mth Square Building, No. B9B, Jl. Mt. Haryono Kav 10, East Jakarta 13330, Indonesia; **Triadi Senna Kuntjoro**, with an address at Mth Square Building, No. B9B, Jl. Mt. Haryono Kav 10, East Jakarta 13330, Indonesia, and Jalan Wijaya No 75, Jakarta Selatan 12170 Indonesia; and **Satrio Wiharjo Sasmito**, with an address at Mth Square Building, No. B9B, Jl. Mt. Haryono Kav 10, East Jakarta 13330, Indonesia, and Halim Perdana Kusuma Airport Building, 2nd Fl. #261-262, Jakarta 13610, Indonesia, and when acting for or on their behalf, any successors or assigns, agents, or employees (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 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. 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 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 a Denied Person any item subject to the EAR;

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

D. Obtain from a 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 a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a 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 PT MS Aero Support, PT Antasena Kreasi, PT Kandiyasa Energi Utama, or Sunarko Kuntjoro 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.

In accordance with the provisions of Section 766.24(e) of the EAR, PT MS Aero Support, PT Antasena Kreasi, PT Kandiyasa Energi Utama, and Sunarko Kuntjoro 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 Sections 766.23(c)(2) and 766.24(e)(3) of the EAR, Triadi Senna Kuntjoro and Satrio Wiharjo Sasmito may, at any time, appeal their inclusion as a related person 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. Respondents PT MS Aero Support, PT Antasena Kreasi, PT Kandiyasa Energi Utama, and Sunarko Kuntjoro 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 each denied person and shall be published in the *Federal Register*.

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

Dated: August 19, 2020.

P. Lee Smith,

*Performing the Non-exclusive Functions and Duties of the
Assistant Secretary for Export Enforcement.*

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