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OCA@bis.doc.gov

BIS TAKES ENFORCEMENT ACTION AGAINST VENEZUELAN CARGO AIRLINE FOR VIOLATION OF U.S. EXPORT CONTROLS

WASHINGTON, D.C. – Today, Matthew S. Axelrod, Assistant Secretary for Export Enforcement, U.S. Commerce Department’s Bureau of Industry and Security (“BIS”), issued a Temporary Denial Order (“TDO”) suspending the export privileges of Venezuela-based cargo airline Empresa de Transporte Aéreo cargo del Sur, S.A., a/k/a Aerocargo del Sur Transportation Company, a/k/a EMTRASUR (“EMTRASUR”) for 180 days for acquiring custody or control of a U.S.-origin Boeing 747 aircraft from Mahan Air of Iran in violation of U.S. export controls and for engaging in further violations by operating that aircraft on flights between Venezuela, Iran, and Russia. The TDO is available online [here](#). In a related action, the Department of Justice announced the issuance of a seizure warrant for the aircraft.

“Today’s coordinated actions target the unlawful transfer of an Iranian cargo plane to a Venezuelan airline and the airline’s subsequent operation of that plane in violation of our rules,” **said Assistant Secretary of Export Enforcement Matthew S. Axelrod.** “We will continue to take significant and direct enforcement action against foreign airlines operating U.S.-origin aircraft in violation of U.S. export controls.”

“Airlines providing potential cargo service to and from Iran utilizing aircraft in violation of U.S. export controls will face consequences,” **said Office of Export Enforcement (“OEE”) Director John Sonderman.** “We are bringing a whole of government effort to go after violators with two coordinated enforcement actions – BIS’ Temporary Denial Order and the Department of Justice’s seizure warrant.”

The TDO is based upon facts indicating that EMTRASUR engaged in conduct prohibited by a previously issued BIS temporary denial order (“TDO”) against Iranian airline Mahan Air, a/k/a Mahan Airlines, a/k/a Mahan Airways (“Mahan Air”), by acquiring custody and/or control from Mahan Air of a U.S.-origin Boeing 747 aircraft bearing manufacturer’s serial number 23413 (“MSN 23413”). This plane is subject to the Export Administration Regulations (EAR) and classified under ECCN 9A991. The aircraft was acquired on or about October 2021 by EMTRASUR’s parent company, Venezuelan state-owned Consorcio Venezolano de Industrias Aeronauticas Y Servicios Aereos, S.A., a/k/a CONVIASA (“CONVIASA”). Available evidence, including publicly available flight tracking data, reveals the aircraft, which was previously operating under Iranian tail number EP-MND, has now been painted in EMTRASUR’s livery and logo and bears Venezuelan tail number YV-3531.

Mahan Air has been on BIS’s Denied Persons List since March 2008 due to numerous significant, continuing, deliberate, and covert violations of the EAR. The BIS-issued TDO against Mahan Air (“Mahan Air TDO”) has been renewed on or about every six months thereafter and remains in effect. Any named parties to the TDO, which further encompasses any related parties, agents, representatives, or those acting for or on their behalf, are broadly prohibited from directly or indirectly participating “in any way” in a transaction involving items subject to the EAR. The TDO also prohibits third parties from engaging in a broad range of conduct subject to the EAR with denied persons.

In addition to the prohibited conduct arising from EMTRASUR acquiring custody and/or control of the aircraft from Mahan Air, EMTRASUR’s continued use of MSN 23413 on flights into Iran, Russia and elsewhere runs afoul of General Prohibition 10, which (among other restrictions) prohibits the continued use of an item that was known to have been exported or reexported in violation of the EAR. *See* General Prohibition 10 of the EAR at 15 C.F.R. § 736.2(b)(10). Moreover, there are no license exceptions available for this General Prohibition. Specifically, OEE’s investigation, including publicly available flight tracking information, indicates that EMTRASUR operated MSN 23413 on flights into and out of Tehran, Iran and Moscow, Russia. The information about those flights includes the following:

| Tail Number | | Aircraft Type | Departure/Arrival Cities | Dates |
|-------------|--|---------------|--------------------------|-------------------|
| YV-3531 | | 747-300M | Caracas, VZ/ Tehran, IR | February 19, 2022 |
| YV-3531 | | 747-300M | Caracas, VZ/ Tehran, IR | March 13, 2022 |
| YV-3531 | | 747-300M | Caracas, VZ/ Tehran, IR | April 17, 2022 |
| YV-3531 | | 747-300M | Caracas, VZ/ Tehran, IR | May 21, 2022 |
| YV-3531 | | 747-300M | Tehran, IR/ Moscow, RU | May 24, 2022 |
| YV-3531 | | 747-300M | Moscow RU/ Tehran, IR | May 25, 2022 |

BIS has become aware that, on or about June 6, 2022, MSN 23413 landed at Ezeiza International Airport in Buenos Aires, Argentina. On or about June 8, 2022, MSN 23413 departed to Uruguay to refuel, but Uruguay refused to grant MSN 23413 access to its airspace due to its association with multiple sanctioned entities. That same day, MSN 23413 landed a second time at Ezeiza International Airport in Buenos Aires, Argentina, and the Government of Argentina temporarily detained the aircraft. Based upon the on-going violations by EMTRASUR, and the potential release of the MSN 23413 from detention, there are heightened concerns of future violations of the EAR, especially given that any subsequent actions taken with regard to MSN 23413 may violate the EAR. Such actions include, but are not limited to, refueling, maintenance, repair, or the provision of spare parts or services.

Today's coordinated enforcement actions against EMTRASUR are the result of a joint investigation by OEE's Miami Field Office and the Federal Bureau of Investigation. In addition to the TDO, BIS is working closely with the U.S. Department of Justice, the U.S. Attorney's Office for the District of Columbia, the U.S. Attorney's Office for the Southern District of Florida, and the FBI, who jointly announced today the issuance of a seizure warrant for a BOEING 747-300 aircraft, bearing tail number YV3531 and manufacturer's serial number 23413. Additional information on those actions is available [here](#).

ADDITIONAL BACKGROUND:

The issuance of a TDO is one of the most significant civil sanctions under the EAR and is issued by the Assistant Secretary for Export Enforcement to deny the export privileges of a company or individual to prevent an imminent or on-going export control violation.

Parties that suspect an export control violation has taken place are encouraged to e-mail: EELead@bis.doc.gov or call the Enforcement Hotline at 800-424-2980.

These BIS actions were taken under the authority of the Export Control Reform Act of 2018 and the EAR.

Criminal and administrative sanctions can be imposed for violations of the EAR. For more information, please visit: <https://www.bis.doc.gov/index.php/enforcement>.

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