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Eleven Months After Denial, Biden-Harris Administration Approves Four-Year License To Export Electric Vehicles To Micro, Small & Medium-Size Enterprises (MSME's) In Cuba

On 17 November 2022, the Biden-Harris Administration (2021-) approved a license application submitted on 22 October 2022 by Columbia, Maryland-based **Premier Automotive Export, Ltd.** (PAE) to the Bureau of Industry and Security (BIS) of the United States Department of Commerce to export electric vehicles and chargers to republic of cuba nationals with the “*ULTIMATE CONSIGNEE: Privately owned companies in the Republic of Cuba owned by Cuba Nationals.*” The BIS license (D1297862) is valid to 30 November 2026. Requirements:

- “1. The items must be used to meet the needs of the Cuban people. 2. The items are not for resale to the Cuban government, or Cuban Government officials. 3. The items may not be reexported from Cuba to any other destination. 4. The items may not be used to enable or facilitate the export of goods or services from Cuba that primarily generate revenue for the Cuban government.”
- “Quantity: 500. ... Electric Vehicle with a range of 150 miles per charge and 40Kw battery that can be used for Vehicle to Grid Technology to support the current grid.”

On 15 December 2021, the Biden-Harris Administration denied a license application submitted on 30 September 2021 by to PAE to the BIS to export electric vehicles and chargers to republic of cuba nationals. From the license application: “*Specific End Use- Ordinary Cuban Nationals would be the specific End User and purchasing electric vehicle for their own personal transportation.*”

NOTE: On 28 September 2022, the BIS issued a license to PAE for the export of electric scooters and electric bicycles to Republic of Cuba nationals and to Micro, Small, & Medium-size Enterprises (MSMEs) in the Republic of Cuba owned by Republic of Cuba nationals.

According to the government of the Republic of Cuba, there are 5,643 private MSMEs in the Republic of Cuba of which includes sixty-eight (68) Republic of Cuba government-operated entities and fifty-nine non-agricultural cooperatives. Fifty-two percent (52%) of the entities are conversions of pre-existing enterprises and forty-eight percent (48%) are new enterprises.

Original BIS License Application Background

**United States Department of Commerce- Bureau of Industry and Security
Office of Nonproliferation and Treaty Compliance- Foreign Policy Division
Washington DC
10 November 2021**

“The Department of Commerce intends to deny the application referenced above. We are taking this action pursuant to Section 1756(a)(2) of the Export Control Reform Act of 2018 (ECRA) and in accordance with Part 750.6(a) of the Export Administration Regulations (EAR). The Department of Commerce believes that denial of this application furthers the United States policy in Section 1752(1)(B) of the ECRA, “to restrict the export of items if necessary to further significantly the foreign policy of the United States.” We have reviewed your license application

U.S.-Cuba Trade and Economic Council, Inc.

to export electric vehicles to Empresa Logistica Palco for resale to the general population in Cuba. Interagency reviewers have determined that your proposed transaction would be detrimental to U.S. foreign policy interests due to an unacceptable risk of diversion to unauthorized end uses and/or end users that primarily generate revenue for the state (including uses in the tourism industry).”

“The attached application is rejected pursuant to Section 1756(a)(2) of the Export Control Reform Act of 2018 (ECRA), as amended, and paragraph 750.6 of the Export Administration Regulations. The U.S. Government has concluded that the export would be detrimental to U.S. foreign policy interests. Please refer to the attached official intent to deny letter dated November 10, 2021 for details regarding this denial. If you wish to rebut the intent to deny, a work item has been sent via SNAP-R that will allow you provide a rebuttal.”

**United States Department of Commerce- Bureau of Industry and Security
Office of Nonproliferation and Treaty Compliance- Foreign Policy Division
Washington DC
15 December 2021**

“This application [500- Nissan Leaf Electric Vehicle value US\$17,500,000.00] is denied pursuant to Section 1756(a)(2) of the Export Control Reform Act of 2018 and Section 750.6 of the Export Administration Regulations. The Department of Commerce, in consultation with other U.S. Government agencies, has concluded that this export would be detrimental to U.S. foreign policy interests. Refer to the formal intent to deny letter for details regarding this denial.”

Recent Administration Policy Changes Background And Issue With Payments

The Biden-Harris Administration policies and regulations have, thus far, focused upon providing connective and re-connective opportunities to the re-emerging private sector in the Republic of Cuba.

The remaining challenge to transition Biden-Harris Administration policies from aspirational to operational is recreating a cost-efficient, timely, transparent, and secure mechanism to move funds from the United States to the Republic of Cuba and from the Republic of Cuba to the United States through the authorization of direct correspondent banking.

On 10 May 2022, the Office of Foreign Assets Control (**OFAC**) of the United States Department of the Treasury issued a license authorizing direct investment in and direct financing to a privately-owned company located in the Republic of Cuba owned by a Republic of Cuba national. Investment funds and dividends, and financing funds and interest/interest/principal payments must currently be transferred through financial institutions located in third countries.

- [Biden-Harris Administration Approves First Equity Investment Since 1960 In A Private Cuban Company May 10, 2022](#)
- [With U.S. Government Authorization For First Direct Equity Investment Into A Private Company In Cuba, Here Is Important Context And Details. About The Parties; About The Message. May 16, 2022](#)

The issuance of the licenses in May 2022, September 2022, and November 2022 by the OFAC and BIS will result in two-way transfers that are small in value but consistent. Privately-owned

U.S.-Cuba Trade and Economic Council, Inc.

companies located in the Republic of Cuba sending dividend (profit sharing) payments to the source (s) of direct investment and sending interest and principal payments for direct financing. Republic of Cuba nationals and privately-owned companies located in the Republic of Cuba sending payment(s) for the purchase of an electric vehicle.

From Mr. John Felder, Founder and Chief Executive Officer of PAE, *“Essential for the OFAC to authorize direct correspondent banking so payments for electric vehicles may be transferred by citizens of Cuba with the least amount of cost, least amount of effort, least amount of time, most amount of security, and most amount of transparency. Payments should not need to move through third-country banks. Support two-way transactions rather than three-way transactions.”*

A significant transaction hurdle remains receiving payments in the United States from Republic of Cuba nationals residing in the Republic of Cuba who are restricted in the amount of Cuban Pesos they may exchange for convertible currencies, including United States Dollars and Euros.

The OFAC authorizes United States financial institutions to have correspondent accounts with Cuba-based financial institutions.

The decision by the Obama-Biden Administration (2009-2017) not to authorize Republic of Cuba-based financial institutions to have correspondent accounts with United States-based financial institutions never made sense- the marketplace, meaning United States-based financial institutions and their customers should determine if they want to engage in direct correspondent banking. As written, the OFAC regulations today do not provide United States companies with a viable mechanism to avoid the use (and delay and expense) of third-country financial institutions to send or receive authorized payments. *Why one way, but not both ways?*

The use of correspondent accounts is particularly critical to the re-emerging private sectors in Cuba as represented by MSMEs.

The current requirement to move funds from the Republic of Cuba and to the Republic of Cuba through third-country financial institutions is inefficient, not transparent, and expensive- especially when considering that MSME transactions are often small which makes the fees far more onerous as a percentage of the total transaction. This is true for vehicles and vehicle parts.

There are discussions within the BIS, OFAC, and United States Department of State to authorize Republic of Cuba-based financial institutions to have correspondent accounts with United States-based financial institutions which would then permit the efficient, transparent, and cost-effective movement of funds for authorized transactions.

- [Facing Extinction Like Javan Rhino? Non-U.S. Banks Engaging With U.S. And Non-U.S. Entities For Authorized Transactions Involving Cuba Due To Risk Of OFAC Penalties. Since 2015, Only Two U.S. Banks. October 17, 2022](#)

PAE BIS License History

This is the fifth (5) BIS license issued to PAE for the export of vehicles (gasoline and electric) to the Republic of Cuba, including for use by embassies. The first BIS license was issued during the Obama-Biden Administration (2009-2017), the second BIS license was issued during the Trump-Pence Administration (2017-2021), and the third, fourth, and fifth BIS licenses were issued during the Biden-Harris Administration.

U.S.-Cuba Trade and Economic Council, Inc.

From the BIS: “There is a general policy of denial for exports and reexports to Cuba of items subject to the EAR, as described in Section 746.2(b) of the EAR. However, there are exceptions to the general policy of denial, some of which are listed below: ... *Items necessary for the environmental protection of U.S. and international air quality, waters and coastlines, including items related to renewable energy or energy efficiency, are generally approved.*”

- BIS License D1297862 (11/17/22- 11/30/26)- Electric vehicles and chargers to republic of cuba nationals with the “ULTIMATE CONSIGNEE: Privately owned companies in the Republic of Cuba owned by Cuba Nationals.”
- BIS License D1290656 (9/28/22-9/30/26)- Electric scooters and electric bicycles to individuals of Cuban descent and to Micro, Small and Medium-Size Enterprises (MSMEs) in the Republic of Cuba owned by Republic of Cuba nationals.
- BIS License D1267261 (1/24/22-1/31/26)- Sales only to embassies. Automobiles: Gasoline powered, Pickup trucks with ICE, Electric or Hybrid Engines. Options to include 4x4, 2 or 4 door cab.
- BIS License D1166163 (7/3/19-7/31/23)- Sales only to embassies. Forty-one (41) different parts for gasoline powered vehicles.
- BIS License D1076571 (1/9/17-1/31/21)- To export Nissan Leaf electric vehicle and Clipper Creek level II 40-amp electric charger with J-1772 universal charging connector to embassy of Guyana in Havana, Republic of Cuba. [LINK](#)
- BIS License Exception (2017/2018)- Four (4) electric scooters. A license exception is a general authorization to export or reexport certain items without a license under stated conditions. Only the license exceptions, or portions thereof, listed Section 746.2(a)(1) of the EAR are available for Cuba.... Support for the Cuban People: License Exception Support for the Cuban People (SCP) “§ 740.21 *Support for the Cuban People (SCP). (a) Introduction. This License Exception authorizes certain exports and reexports to Cuba that are intended to support the Cuban people by improving their living conditions and supporting independent economic activity; strengthening civil society in Cuba; and improving the free flow of information to, from, and among the Cuban people. (b) Improving living conditions and supporting independent economic activity.... (1) Items for use by the Cuban private sector for private sector economic activities... (2) Items sold directly to individuals in Cuba for their personal use or their immediate family's personal use.*” [LINK](#)

PAE-Related Analyses Links

[Biden-Harris Administration Re-Engagement With Cuba’s Re-Emerging Private Sector Brings Urgency To Re-Authorization Of Direct Correspondent Banking, U-Turn Transactions. One-Way Does Not Work. October 06, 2022](#)

[Ten Months After Denial, Biden-Harris Administration Approves Exports Of Electric Motorcycles, Electric Scooters To Cuba Nationals And To Privately-Owned Companies In Cuba October 05, 2022](#)

[BIS "Returned Without Action" License Application To Donate EV Chargers To U.S. Embassy In Havana Because "Ultimate Consignee" Cancelled Transaction March 07, 2022](#)

U.S.-Cuba Trade and Economic Council, Inc.

U.S. Department Of State Appoints "Chief Sustainability Officer"- Mandate Text Includes Focus On "Electrifying Fleet" And "Host Partners" Does This Mean EVs For Cuba? President Biden Supports? February 10, 2022

While Promoting EV Use In The United States, Biden-Harris Administration Refuses To Permit Exports Of EVs To Cuba For Use By Re-Emerging Private Sector- And U.S. Embassy In Havana Does Not Want One. February 08, 2022

Surprise Decision: Biden-Harris Administration Renews Trump-Pence Administration License To Export EVs To Embassies In Cuba. Company Offers To Donate EV Chargers To U.S. Embassy/Ambassador Residence January 25, 2022

President Biden Rejects BIS License Application To Export Electric Vehicles/Chargers To Cuba's Self-Employed, MSME's. Reversal Of "General Policy Of Approval." President Trump Authorized EV Exports. December 20, 2021

Beginning Today Residents Of Cuba May Purchase And Install Residential Solar Systems. Cost 55,000.00 Pesos (US\$2,300.00). Call 7833-3333. November 04, 2021

Cuba Has Nickel And Cobalt. Vehicle Electric Batteries Use Nickel And Cobalt. Cuba Should Benefit. September 25, 2021

Cuba Owes Partner Canada's Sherritt International Corporation Tens Of Millions Of US Dollars. But, Both Cuba & Patient Company (And Shareholders) Anticipate Profitable Role With Electric Vehicles. July 03, 2021

Restriction On Sale Of Premium Gasoline May Benefit Electric Vehicles & Solar Panels; Embassies Concerned. April 07, 2017

Florida Company Receives License To Export Electric Vehicles To Cuba; Charging Stations From New Jersey-Based Company. January 25, 2017

Florida Company Receives License To Export Electric Vehicles To Cuba; Charging Stations From New Jersey-Based Company January 25, 2017