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ECONOMIC EYE ON CUBA©

October 2021

Ten Months After Denial, Biden-Harris Administration Approves Exports Of Electric Motorcycles And Electric Scooters To Republic Of Cuba Nationals And To Privately-Owned Companies In The Republic Of Cuba

On 28 September 2022, the Bureau of Industry and Security (BIS) of the United States Department of Commerce issued a license to Columbia, Maryland-based [Premier Automotive Export, Ltd.](#) (PAE) for the export of electric scooters and electric bicycles to Republic of Cuba nationals and to privately-owned companies in the Republic of Cuba owned by Republic of Cuba nationals. The U.S.-Cuba Trade and Economic Council assisted PAE during the process.

This is the fourth (4) 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 and fourth BIS licenses were issued during the Biden-Harris Administration (2021-). Additionally, one related BIS license application is pending, and one related BIS license application remains on appeal.

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 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)

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- *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](#)*

In a press statement directed to Republic of Cuba nationals on 20 May 2021, [The Honorable Antony Blinken](#), United States Secretary of State, expressed United States support for Republic of Cuba entrepreneurs: *“The United States recommits to accompanying the Cuban people in your quest to determine your own future. We will support those improving the lives of families and workers, cuentapropistas who have forged their own economic paths, and all who are building a better Cuba – and a better tomorrow for themselves in Cuba.”* Secretary Blinken was reiterating the bipartisan conviction of the Obama-Biden Administration, Trump-Pence Administration, and Biden-Harris Administration that the United States should *“support the development of private business and [the] operation of economic activity in the non-state sector by self-employed individuals,”* as that language is codified at 31 CFR § 515.570(g)(3).

State Department spokesperson Mr. Ned Price (3 December 2022): *“The Biden Administration has clearly articulated the United States’ goal to accelerate and deploy electric vehicles and charging stations, create good-paying, union jobs, and enable a clean transportation future to combat climate change. However, the United States Embassy in Cuba does not operate any electric vehicles nor has any solar power charging stations at our Embassy compound or residences in Havana. At this time, it would be unlikely that the United States Embassy consider importing one or more electric vehicles for use in Cuba in the near future due to impediments in the electrical infrastructure and lack of trained mechanics on the island to service electric vehicles.”*

On 15 December 2021, the Biden-Harris Administration denied a BIS license application from PAE submitted on 30 September 2021 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.”*

**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 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).”

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“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 and September 2022 by the OFAC and BIS will result in two-way transfers that are small in value but consistent. Privately-owned 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*

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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."

PAE-Related Analyses Links

[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. 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](#)