

111TH CONGRESS
2^D SESSION

H. R. 5620

To amend the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to exclude from the United States aliens who contribute to the ability of Cuba to develop petroleum resources located off Cuba's coast and to provide for the imposition of sanctions and prohibition on facilitation of development of Cuba's petroleum resources, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2010

Ms. ROS-LEHTINEN (for herself, Ms. WASSERMAN SCHULTZ, Mr. MARIO DIAZ-BALART of Florida, Mr. SIRES, and Mr. LINCOLN DIAZ-BALART of Florida) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Foreign Affairs, Financial Services, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to exclude from the United States aliens who contribute to the ability of Cuba to develop petroleum resources located off Cuba's coast and to provide for the imposition of sanctions and prohibition on facilitation of development of Cuba's petroleum resources, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Caribbean Coral Reef
5 Protection Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) In July 2008, a Presidential Directive ban-
9 ning United States offshore drilling and gas develop-
10 ment in the Outer Continental Shelf was lifted.

11 (2) In October 2008, Brazilian President Luiz
12 Inacio Lula da Silva visited Cuba to sign agreements
13 allowing state-run Petroleo Brasileiro SA to invest
14 \$8 million initially for a seven-year, deep-water ex-
15 ploration project north of Cuba.

16 (3) In July 2009, the Russian oil company
17 Zarubezhneft signed four oil exploration contracts
18 with Cuba Petroleo to search for oil in Cuba’s deep
19 offshore fields. Zarubezhneft general director
20 Nikolay Brunich said the company has signed four
21 contracts, all for terms of 25 years.

22 (4) As of June 2010, eight foreign oil compa-
23 nies had signed agreements with the Cuban regime
24 for the exploration of oil and gas off the shores of
25 Cuba. Repsol of Spain, StatOil of Norway, and

1 ONGC of India are partners in a joint project, while
2 Petrobras of Brazil, PdVSA of Venezuela, ONGC of
3 India, Petronas of Malaysia, and PetroVietnam also
4 have additional concessions, and Sonangol of Angola
5 and CNPC of China are in negotiations for conces-
6 sions.

7 (5) As of June 2010, five foreign companies
8 had secured land and marine block concessions from
9 the Cuban regime, including PdVSA of Venezuela,
10 Sinopec of China, Sherritt of Canada, Zarubezhneft
11 of Russia, and PetroVietnam.

12 (6) As of 2010, in addition to exploration and
13 development investments, Venezuela's state oil firm
14 PDVSA has helped the Cuban regime reactivate and
15 retrofit its Cienfuegos facility, a refinery owned by
16 United States company, Texaco, before it was con-
17 fiscated by the regime.

18 (7) On April 20, 2010, the Deepwater Horizon
19 oil rig, exploded in the Gulf of Mexico, killing eleven
20 crewmen. Two days later, the Deepwater Horizon
21 sank 48 miles from United States shores, leaving its
22 oil well gushing an estimated 2 million gallons of oil
23 per day.

24 (8) The explosion on Deepwater Horizon and
25 ensuing oil spill has resulted in the largest environ-

1 mental disaster in United States history, causing ir-
2 reparable damage to the fragile marine ecosystem in
3 the Gulf of Mexico as well as numerous species of
4 wildlife.

5 (9) Drilling by or under the authorization of
6 the current Cuban regime in Cuban waters, a mere
7 45 miles from the Florida Keys, poses a serious eco-
8 nomic and environmental threat to the United
9 States.

10 **SEC. 3. STATEMENT OF POLICY.**

11 It shall be the policy of the United States to—

12 (1) undertake the necessary measures to deny
13 the Government of Cuba, the Cuban Communist
14 Party, or any agent or instrumentality of either, the
15 financial resources to engage in activities that
16 threaten—

17 (A) United States national security, its in-
18 terests, and its allies;

19 (B) Florida’s marine environment, includ-
20 ing the most extensive living coral reef system
21 in North American waters and the third largest
22 in the world;

23 (C) the environment and natural resources
24 of the submerged lands located off Cuba’s
25 coast; and

1 (D) to prolong the dictatorship that op-
2 presses the Cuban people; and

3 (2) deter foreign investments that would en-
4 hance the ability of the Government of Cuba, or any
5 agent or instrumentality thereof, to develop its pe-
6 troleum resources.

7 **SEC. 4. EXCLUSION OF CERTAIN ALIENS.**

8 (a) IN GENERAL.—The Cuban Liberty and Demo-
9 cratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C.
10 6021 et seq.) is amended by inserting after section 401
11 the following new section:

12 **“SEC. 402. EXCLUSION FROM THE UNITED STATES OF**
13 **ALIENS WHO CONTRIBUTE TO THE ABILITY**
14 **OF CUBA TO DEVELOP PETROLEUM RE-**
15 **SOURCES LOCATED OFF CUBA’S COAST.**

16 “(a) IN GENERAL.—The Secretary of State shall
17 deny a visa to, and the Secretary of Homeland Security
18 shall exclude from the United States, any alien who the
19 Secretary of State determines is a person who—

20 “(1) is an officer or principal of an entity, or
21 a shareholder who owns a controlling interest in an
22 entity, that, on or after January 10, 2005, has made
23 or makes an investment that equals or exceeds
24 \$1,000,000 (or any combination of investments that
25 in the aggregate equals or exceeds \$1,000,000 in

1 any 12-month period), that contributes to the en-
2 hancement of the ability of the Government of Cuba,
3 or any agent or instrumentality thereof, to develop
4 petroleum resources of the submerged lands located
5 off Cuba's coast; or

6 “(2) is a spouse, minor child, or agent of a per-
7 son described in paragraph (1).

8 “(b) WAIVER.—The Secretary of State may waive the
9 application of subsection (a) if the Secretary certifies and
10 reports to the appropriate congressional committees, on a
11 case-by-case basis, that the admission to the United States
12 of a person described in subsection (a)—

13 “(1) is necessary for critical medical reasons or
14 for purposes of litigation of an action under title III
15 of this Act; or

16 “(2) is appropriate if the requirements of sec-
17 tions 204, 205, and 206 of this Act have been satis-
18 fied.

19 “(c) DEFINITIONS.—In this section:

20 “(1) AGENT AND INSTRUMENTALITY.—The
21 terms ‘agent’ and ‘instrumentality’ shall include the
22 Cuban Communist Party.

23 “(2) DEVELOP.—The term ‘develop’, with re-
24 spect to petroleum resources, means the exploration

1 for, or the extraction, refining, or transportation by
2 pipeline or other means of, petroleum resources.

3 “(3) INVESTMENT.—The term ‘investment’
4 means any of the following activities if such activity
5 is undertaken pursuant to an agreement, or pursu-
6 ant to the exercise of rights under such an agree-
7 ment, that was or is entered into with the Govern-
8 ment of Cuba (or any agency or instrumentality
9 thereof) or a nongovernmental entity in Cuba, on or
10 after January 10, 2005:

11 “(A) The entry into a contract that in-
12 cludes responsibility for the development of pe-
13 troleum resources of the submerged lands lo-
14 cated off Cuba’s coast, or the entry into a con-
15 tract providing for the general supervision and
16 guarantee of another person’s performance of
17 such a contract.

18 “(B) The purchase of a share of owner-
19 ship, including an equity interest, in such devel-
20 opment.

21 “(C) The entry into a contract providing
22 for the participation in royalties, earnings, or
23 profits in such development, without regard to
24 the form of the participation.

1 “(D) The entry into, performance, or fi-
2 nancing of a contract to sell or purchase goods,
3 services, or technology related to such develop-
4 ment.

5 “(4) PETROLEUM RESOURCES.—The term ‘pe-
6 troleum resources’ includes petroleum and natural
7 gas resources, petroleum by products, and liquified
8 natural gas.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to aliens seeking admission to the
11 United States on or after the date of the enactment of
12 this Act.

13 **SEC. 5. IMPOSITION OF SANCTIONS AND PROHIBITION ON**
14 **FACILITATION OF DEVELOPMENT OF CUBA’S**
15 **PETROLEUM RESOURCES.**

16 (a) IN GENERAL.—If the President determines that
17 a person has, on or after January 10, 2005, made an in-
18 vestment that equals or exceeds \$1,000,000 (or any com-
19 bination of investments that in the aggregate equals or
20 exceeds \$1,000,000 in any 12-month period) that contrib-
21 utes to the enhancement of the ability of the Government
22 of Cuba, or any agent or instrumentality thereof, to de-
23 velop petroleum resources of the submerged lands located
24 off Cuba’s coast, or has made an investment of any
25 amount of money that contributes to such an enhancement

1 and has trafficked in confiscated United States property,
2 the President shall impose two or more of the following
3 sanctions:

4 (1) PROHIBITION ON LOANS AND GUARAN-
5 TEES.—Prohibit the issuance by the Overseas Pri-
6 vate Investment Corporation, the Export-Import
7 Bank, or any other United States instrument of any
8 loan, guarantee, insurance, extension of credit, or
9 participation in the extension of credit in connection
10 with the export of any goods or services to any sanc-
11 tioned person.

12 (2) EXPORT SANCTION.—Prohibit the issuance
13 by the United States Government of any specific li-
14 cense and or other specific permission or authority
15 to export any goods or technology to a sanctioned
16 person under—

17 (A) the Export Administration Act of
18 1979;

19 (B) the Arms Export Control Act;

20 (C) the Atomic Energy Act of 1954; or

21 (D) any other statute that requires the
22 prior review and approval of the United States
23 Government as a condition for the export or re-
24 export of goods or services.

1 (3) PROHIBITIONS ON FINANCIAL INSTITU-
2 TIONS.—The following prohibitions may be imposed
3 against a sanctioned person that is a financial insti-
4 tution:

5 (A) PROHIBITION ON DESIGNATION AS
6 PRIMARY DEALER.—Prohibit the Board of Gov-
7 ernors of the Federal Reserve System and the
8 Federal Reserve Bank of New York from desig-
9 nating, or permitting the continuation of any
10 prior designation of, such financial institution
11 as a primary dealer in United States Govern-
12 ment debt instruments.

13 (B) PROHIBITION ON SERVICE AS A RE-
14 POSITORY OF GOVERNMENT FUNDS.—Prohibit
15 such financial institution from serving as agent
16 of the United States Government or serving as
17 repository for United States Government funds.

18 The imposition of either sanction under subpara-
19 graph (A) or (B) shall be treated as one sanction for
20 purposes of this section, and the imposition of both
21 such sanctions shall be treated as two sanctions for
22 purposes of this section.

23 (4) PROCUREMENT SANCTION.—Prohibit the
24 United States Government from procuring, or enter-

1 ing into any contract for the procurement of, any
2 goods or services from a sanctioned person.

3 (b) TERMINATION OF SANCTIONS.—Sanctions im-
4 posed pursuant to subsection (a) shall terminate if the
5 President determines and certifies to the appropriate con-
6 gressional committees that the requirements of sections
7 204, 205, and 206 of the Cuban Liberty and Democratic
8 Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6064,
9 6065, and 6066) have been satisfied.

10 (c) PROHIBITION ON FACILITATION BY UNITED
11 STATES PERSONS OF CUBA’S ABILITY TO DEVELOP PE-
12 TROLEUM RESOURCES.—It shall be unlawful for any
13 United States person to provide materials, technical equip-
14 ment, or other assistance that contributes to the enhance-
15 ment of Cuba’s ability to develop petroleum resources of
16 the submerged lands located off Cuba’s coast.

17 (d) REPORTS BY SECRETARY OF STATE.—Not later
18 than 180 days after the date of the enactment of this Act
19 and every 180 days thereafter, the Secretary of State shall
20 submit to the Committee on Foreign Affairs and the Com-
21 mittee on Appropriations of the House of Representatives
22 and the Committee on Foreign Relations and the Com-
23 mittee on Appropriations of the Senate a report relating
24 to—

1 (1) investments that equal or exceed
2 \$1,000,000 (or any combination of investments that
3 in the aggregate equals or exceeds \$1,000,000 in
4 any 12-month period) that contribute to the en-
5 hancement of the ability of the Government of Cuba,
6 or any agent or instrumentality thereof, to develop
7 petroleum resources of the submerged lands located
8 off Cuba's coast, including information relating to
9 the values of such investments, the identity of the
10 persons making such investments, and proposed in-
11 vestments that would satisfy such criteria, and infor-
12 mation relating to any sanctions that have been im-
13 posed pursuant to subsection (a) as a result of such
14 investments; and

15 (2) investments of any amount of money, in
16 conjunction with trafficking in confiscated United
17 States property, that contribute to such an enhance-
18 ment, including information relating to the values of
19 such investments, the identity of the persons making
20 such investments, and the identity of such con-
21 fiscated property, and information relating to any
22 sanctions that have been imposed pursuant to sub-
23 section (a) as a result of such investments.

24 (e) ASSESSMENTS OF ENVIRONMENTAL IMPACTS OF
25 DEVELOPMENT OF CUBA'S PETROLEUM RESOURCES.—

1 (1) IN GENERAL.—Not later than one year
2 after the date of the enactment of this Act and an-
3 nually thereafter, the Secretary of State, in consulta-
4 tion with the Secretary of the Interior and the Ad-
5 ministrator of the Environmental Protection Agency,
6 shall submit to the Committee on Foreign Affairs
7 and the Committee on Natural Resources of the
8 House of Representatives and the Committee on
9 Foreign Relations and the Committee on Energy
10 and Natural Resources of the Senate a report con-
11 taining an assessment of the impact that the devel-
12 opment of Cuba’s petroleum resources has had on
13 the environment and natural resources of the sub-
14 merged lands located off Cuba’s coast and Florida’s
15 marine environment.

16 (2) USE OF ENVIRONMENTAL IMPACT STATE-
17 MENTS.—In preparing the assessment, the Secretary
18 of State shall use as a model environmental impact
19 statements prepared pursuant to the National Envi-
20 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
21 seq.).

22 **SEC. 6. DEFINITIONS.**

23 In this Act—

24 (1) the terms “appropriate congressional com-
25 mittees”, “confiscated”, “person”, “property”, and

1 “traffics” have the meaning given such terms in sec-
2 tion 4 of the Cuban Liberty and Democratic Soli-
3 darity (LIBERTAD) Act of 1996 (22 U.S.C. 6023),
4 except that the term “person” shall also include, for
5 purposes of this section, a foreign subsidiary of a
6 person and United States subsidiary of a foreign
7 person;

8 (2) the terms “develop”, “investment”, and
9 “petroleum resources” have the meaning given such
10 terms in section 402(c) of such Act, as added by sec-
11 tion 4 of this Act; and

12 (3) the terms “agent” and “instrumentality”
13 shall include the Cuban Communist Party.

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