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

MAY 26, 2011

Ms. ROS-LEHTINEN (for herself, Mr. Sires, Mr. Mack, Mr. Rivera, Mr. West, Mr. Connolly of Virginia, Mr. Buchanan, and Mr. Diaz-Balart) 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.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Caribbean Coral Reef
Protection Act of 2011”.

SEC. 2. FINDINGS.

Congress finds the following:

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

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

(3) In July 2009, the Russian oil company
Zarubezhneft signed four oil exploration contracts,
all for terms of 25 years, with Cuba Petroleo to
search for oil in Cuba’s deep offshore fields.

(4) As of June 2010, eight foreign oil compa-

ties had signed agreements with the Cuban regime
for the exploration of oil and gas off the shores of
Cuba. Repsol of Spain, StatOil of Norway, and
ONGC of India are partners in a joint project, while
Petrobras of Brazil, PdVSA of Venezuela, ONGC of
India, Petronas of Malaysia, and PetroVietnam also have additional concessions, and Sonangol of Angola and CNPC of China were in negotiations for concessions.

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

(6) A Chinese-built drilling rig, known as the Scarabeo 9, which belongs to Saipem, a unit of Italian oil company ENI SpA, is expected to arrive to Cuba in mid-2011.

(7) A Repsol-led consortium that includes Norway’s Statoil and ONGC Videsh, a unit of India’s Oil and Natural Gas Corp, has reportedly contracted the rig first to drill off of Cuba’s northwestern coast, then will pass it on to other companies with leases for offshore blocks.

(8) In addition to exploration and development investments, Venezuela’s state oil firm PDVSA has helped the Cuban regime reactivate and retrofit its Cienfuegos facility, a refinery owned by United States company, Texaco, before it was confiscated by the regime.
(9) On April 20, 2010, the Deepwater Horizon oil rig, exploded in the Gulf of Mexico, killing eleven crewmen. Two days later, the Deepwater Horizon sank 48 miles from United States shores, leaving its oil well gushing an estimated 2 million gallons of oil per day.

(10) The explosion on Deepwater Horizon and ensuing oil spill resulted in the largest environmental disaster in United States history, causing irreparable damage to the fragile marine ecosystem in the Gulf of Mexico as well as numerous species of wildlife.

(11) Drilling by or under the authorization of the current Cuban regime in Cuban waters, a mere 45 miles from the Florida Keys, poses a serious economic and environmental threat to the United States.

SEC. 3. STATEMENT OF POLICY.

It shall be the policy of the United States to—

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

(A) United States national security, its interests, and its allies;
(B) Florida’s marine environment, including the most extensive living coral reef system in North American waters and the third largest in the world;

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

(D) to prolong the dictatorship that oppresses the Cuban people; and

(2) deter foreign investments that would enhance the ability of the Government of Cuba, or any agent or instrumentality thereof, to develop its petroleum resources.

SEC. 4. EXCLUSION OF CERTAIN ALIENS.

(a) In General.—The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6021 et seq.) is amended by inserting after section 401 the following new section:

“SEC. 402. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO CONTRIBUTE TO THE ABILITY OF CUBA TO DEVELOP PETROLEUM RESOURCES LOCATED OFF CUBA’S COAST.

“(a) In General.—The Secretary of State shall deny a visa to, and the Secretary of Homeland Security
shall exclude from the United States, any alien who the Secretary of State determines is a person who—

“(1) is an officer or principal of an entity, or a shareholder who owns a controlling interest in an entity, that, on or after January 10, 2005, has made or makes an investment that equals or exceeds $1,000,000 (or any combination of investments that in the aggregate equals or exceeds $1,000,000 in any 12-month period), that contributes to the enhancement of the ability of the Government of Cuba, or any agent or instrumentality thereof, to develop petroleum resources of the submerged lands located off Cuba’s coast; or

“(2) is a spouse, minor child, or agent of a person described in paragraph (1).

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

“(1) is necessary for critical medical reasons or for purposes of litigation of an action under title III of this Act; or
“(2) is appropriate if the requirements of sections 204, 205, and 206 of this Act have been satisfied.

“(c) Definitions.—In this section:

“(1) Agent and Instrumentality.—The terms ‘agent’ and ‘instrumentality’ shall include the Cuban Communist Party.

“(2) Develop.—The term ‘develop’, with respect to petroleum resources, means the exploration for, or the extraction, refining, or transportation by pipeline or other means of, petroleum resources.

“(3) Investment.—The term ‘investment’ means any of the following activities if such activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that was or is entered into with the Government of Cuba (or any agency or instrumentality thereof) or a nongovernmental entity in Cuba, on or after January 10, 2005:

“(A) The entry into a contract that includes responsibility for the development of petroleum resources of the submerged lands located off Cuba’s coast, or the entry into a contract providing for the general supervision and
guarantee of another person’s performance of such a contract.

“(B) The purchase of a share of ownership, including an equity interest, in such development.

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

“(D) The entry into, performance, or financing of a contract to sell or purchase goods, services, or technology related to such development.

“(4) Petroleum resources.—The term ‘petroleum resources’ includes petroleum and natural gas resources, petroleum by products, and liquified natural gas.”.

(b) Effective Date.—The amendment made by this section shall apply to aliens seeking admission to the United States on or after the date of the enactment of this Act.
SEC. 5. IMPOSITION OF SANCTIONS AND PROHIBITION ON
FACILITATION OF DEVELOPMENT OF CUBA'S
PETROLEUM RESOURCES.

(a) IN GENERAL.—If the President determines that
a person has, on or after January 10, 2005, made an in-
vestment that equals or exceeds $1,000,000 (or any com-
bination of investments that in the aggregate equals or
exceeds $1,000,000 in any 12-month period) that contrib-
utes to the enhancement of the ability of the Government
of Cuba, or any agent or instrumentality thereof, to de-
velop petroleum resources of the submerged lands located
off Cuba's coast, or has made an investment of any
amount of money that contributes to such an enhancement
and has trafficked in confiscated United States property,
the President shall impose two or more of the following
sanctions:

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

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

   (A) the Export Administration Act of
   1979;
   (B) the Arms Export Control Act;
   (C) the Atomic Energy Act of 1954; or
   (D) any other statute that requires the
prior review and approval of the United States
Government as a condition for the export or re-
export of goods or services.

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

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

   (B) PROHIBITION ON SERVICE AS A RE-
   POSITORY OF GOVERNMENT FUNDS.—Prohibit
such financial institution from serving as agent
of the United States Government or serving as
repository for United States Government funds.
The imposition of either sanction under subpara-
graph (A) or (B) shall be treated as one sanction for
purposes of this section, and the imposition of both
such sanctions shall be treated as two sanctions for
purposes of this section.

(4) PROCUREMENT SANCTION.—Prohibit the
United States Government from procuring, or entering
into any contract for the procurement of, any
goods or services from a sanctioned person.

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

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

(d) Reports by Secretary of State.—Not later
than 180 days after the date of the enactment of this Act
and every 180 days thereafter, the Secretary of State shall
submit to the Committee on Foreign Affairs and the Com-
mittee on Appropriations of the House of Representatives
and the Committee on Foreign Relations and the Com-
mittee on Appropriations of the Senate a report relating
to—

(1) investments that equal or exceed
$1,000,000 (or any combination of investments that
in the aggregate equals or exceeds $1,000,000 in
any 12-month period) that contribute to the en-
hancement of the ability of the Government of Cuba,
or any agent or instrumentality thereof, to develop
petroleum resources of the submerged lands located
off Cuba’s coast, including information relating to
the values of such investments, the identity of the
persons making such investments, and proposed in-
vestments that would satisfy such criteria, and inform-
ation relating to any sanctions that have been im-
posed pursuant to subsection (a) as a result of such
investments; and
(2) investments of any amount of money, in conjunction with trafficking in confiscated United States property, that contribute to such an enhancement, including information relating to the values of such investments, the identity of the persons making such investments, and the identity of such confiscated property, and information relating to any sanctions that have been imposed pursuant to subsection (a) as a result of such investments.

(e) Assessments of Environmental Impacts of Development of Cuba’s Petroleum Resources.—

(1) In General.—Not later than one year after the date of the enactment of this Act and annually thereafter, the Secretary of State, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall submit to the Committee on Foreign Affairs and the Committee on Natural Resources of the House of Representatives and the Committee on Foreign Relations and the Committee on Energy and Natural Resources of the Senate a report containing an assessment of the impact that the development of Cuba’s petroleum resources has had on the environment and natural resources of the sub-
merged lands located off Cuba’s coast and Florida’s marine environment.

(2) Use of Environmental Impact Statements.—In preparing the assessment, the Secretary of State shall use as a model environmental impact statements prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 6. DEFINITIONS.

In this Act—

(1) the terms “appropriate congressional committees”, “confiscated”, “person”, “property”, and “traffics” have the meaning given such terms in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023), except that the term “person” shall also include, for purposes of this section, a foreign subsidiary of a person and United States subsidiary of a foreign person;

(2) the terms “develop”, “investment”, and “petroleum resources” have the meaning given such terms in section 402(c) of such Act, as added by section 4 of this Act; and
(3) the terms “agent” and “instrumentality” shall include the Cuban Communist Party.