

112TH CONGRESS
1ST SESSION

H. R. 2047

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.

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 2011”.

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 all for terms of 25 years, with Cuba Petroleo to
19 search for oil in Cuba’s deep offshore fields.

20 (4) As of June 2010, eight foreign oil compa-
21 nies had signed agreements with the Cuban regime
22 for the exploration of oil and gas off the shores of
23 Cuba. Repsol of Spain, StatOil of Norway, and
24 ONGC of India are partners in a joint project, while
25 Petrobras of Brazil, PdVSA of Venezuela, ONGC of

1 India, Petronas of Malaysia, and PetroVietnam also
2 have additional concessions, and Sonangol of Angola
3 and CNPC of China were in negotiations for conces-
4 sions.

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

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

14 (7) A Repsol-led consortium that includes Nor-
15 way's Statoil and ONGC Videsh, a unit of India's
16 Oil and Natural Gas Corp, has reportedly contracted
17 the rig first to drill off of Cuba's northwestern coast,
18 then will pass it on to other companies with leases
19 for offshore blocks.

20 (8) In addition to exploration and development
21 investments, Venezuela's state oil firm PDVSA has
22 helped the Cuban regime reactivate and retrofit its
23 Cienfuegos facility, a refinery owned by United
24 States company, Texaco, before it was confiscated by
25 the regime.

1 (9) On April 20, 2010, the Deepwater Horizon
2 oil rig, exploded in the Gulf of Mexico, killing eleven
3 crewmen. Two days later, the Deepwater Horizon
4 sank 48 miles from United States shores, leaving its
5 oil well gushing an estimated 2 million gallons of oil
6 per day.

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

12 (11) Drilling by or under the authorization of
13 the current Cuban regime in Cuban waters, a mere
14 45 miles from the Florida Keys, poses a serious eco-
15 nomic and environmental threat to the United
16 States.

17 **SEC. 3. STATEMENT OF POLICY.**

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

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

24 (A) United States national security, its in-
25 terests, and its allies;

1 (B) Florida’s marine environment, includ-
2 ing the most extensive living coral reef system
3 in North American waters and the third largest
4 in the world;

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

8 (D) to prolong the dictatorship that op-
9 presses the Cuban people; and

10 (2) deter foreign investments that would en-
11 hance the ability of the Government of Cuba, or any
12 agent or instrumentality thereof, to develop its pe-
13 troleum resources.

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

15 (a) IN GENERAL.—The Cuban Liberty and Demo-
16 cratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C.
17 6021 et seq.) is amended by inserting after section 401
18 the following new section:

19 **“SEC. 402. EXCLUSION FROM THE UNITED STATES OF**
20 **ALIENS WHO CONTRIBUTE TO THE ABILITY**
21 **OF CUBA TO DEVELOP PETROLEUM RE-**
22 **SOURCES LOCATED OFF CUBA’S COAST.**

23 “(a) IN GENERAL.—The Secretary of State shall
24 deny a visa to, and the Secretary of Homeland Security

1 shall exclude from the United States, any alien who the
2 Secretary of State determines is a person who—

3 “(1) is an officer or principal of an entity, or
4 a shareholder who owns a controlling interest in an
5 entity, that, on or after January 10, 2005, has made
6 or makes an investment that equals or exceeds
7 \$1,000,000 (or any combination of investments that
8 in the aggregate equals or exceeds \$1,000,000 in
9 any 12-month period), that contributes to the en-
10 hancement of the ability of the Government of Cuba,
11 or any agent or instrumentality thereof, to develop
12 petroleum resources of the submerged lands located
13 off Cuba’s coast; or

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

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

21 “(1) is necessary for critical medical reasons or
22 for purposes of litigation of an action under title III
23 of this Act; or

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

4 “(c) DEFINITIONS.—In this section:

5 “(1) AGENT AND INSTRUMENTALITY.—The
6 terms ‘agent’ and ‘instrumentality’ shall include the
7 Cuban Communist Party.

8 “(2) DEVELOP.—The term ‘develop’, with re-
9 spect to petroleum resources, means the exploration
10 for, or the extraction, refining, or transportation by
11 pipeline or other means of, petroleum resources.

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

20 “(A) The entry into a contract that in-
21 cludes responsibility for the development of pe-
22 troleum resources of the submerged lands lo-
23 cated off Cuba’s coast, or the entry into a con-
24 tract providing for the general supervision and

1 guarantee of another person’s performance of
2 such a contract.

3 “(B) The purchase of a share of owner-
4 ship, including an equity interest, in such devel-
5 opment.

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

10 “(D) The entry into, performance, or fi-
11 nancing of a contract to sell or purchase goods,
12 services, or technology related to such develop-
13 ment.

14 “(4) PETROLEUM RESOURCES.—The term ‘pe-
15 troleum resources’ includes petroleum and natural
16 gas resources, petroleum by products, and liquified
17 natural gas.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to aliens seeking admission to the
20 United States on or after the date of the enactment of
21 this Act.

1 **SEC. 5. IMPOSITION OF SANCTIONS AND PROHIBITION ON**
2 **FACILITATION OF DEVELOPMENT OF CUBA'S**
3 **PETROLEUM RESOURCES.**

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

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

25 (2) EXPORT SANCTION.—Prohibit the issuance
26 by the United States Government of any specific li-

1 cense and or other specific permission or authority
2 to export any goods or technology to a sanctioned
3 person under—

4 (A) the Export Administration Act of
5 1979;

6 (B) the Arms Export Control Act;

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

8 (D) any other statute that requires the
9 prior review and approval of the United States
10 Government as a condition for the export or re-
11 export of goods or services.

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

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

24 (B) PROHIBITION ON SERVICE AS A RE-
25 POSITORY OF GOVERNMENT FUNDS.—Prohibit

1 such financial institution from serving as agent
2 of the United States Government or serving as
3 repository for United States Government funds.

4 The imposition of either sanction under subpara-
5 graph (A) or (B) shall be treated as one sanction for
6 purposes of this section, and the imposition of both
7 such sanctions shall be treated as two sanctions for
8 purposes of this section.

9 (4) **PROCUREMENT SANCTION.**—Prohibit the
10 United States Government from procuring, or enter-
11 ing into any contract for the procurement of, any
12 goods or services from a sanctioned person.

13 (b) **TERMINATION OF SANCTIONS.**—Sanctions im-
14 posed pursuant to subsection (a) shall terminate if the
15 President determines and certifies to the appropriate con-
16 gressional committees that the requirements of sections
17 204, 205, and 206 of the Cuban Liberty and Democratic
18 Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6064,
19 6065, and 6066) have been satisfied.

20 (c) **PROHIBITION ON FACILITATION BY UNITED**
21 **STATES PERSONS OF CUBA’S ABILITY TO DEVELOP PE-**
22 **TROLEUM RESOURCES.**—It shall be unlawful for any
23 United States person to provide materials, technical equip-
24 ment, or other assistance that contributes to the enhance-

1 ment of Cuba's ability to develop petroleum resources of
2 the submerged lands located off Cuba's coast.

3 (d) REPORTS BY SECRETARY OF STATE.—Not later
4 than 180 days after the date of the enactment of this Act
5 and every 180 days thereafter, the Secretary of State shall
6 submit to the Committee on Foreign Affairs and the Com-
7 mittee on Appropriations of the House of Representatives
8 and the Committee on Foreign Relations and the Com-
9 mittee on Appropriations of the Senate a report relating
10 to—

11 (1) investments that equal or exceed
12 \$1,000,000 (or any combination of investments that
13 in the aggregate equals or exceeds \$1,000,000 in
14 any 12-month period) that contribute to the en-
15 hancement of the ability of the Government of Cuba,
16 or any agent or instrumentality thereof, to develop
17 petroleum resources of the submerged lands located
18 off Cuba's coast, including information relating to
19 the values of such investments, the identity of the
20 persons making such investments, and proposed in-
21 vestments that would satisfy such criteria, and infor-
22 mation relating to any sanctions that have been im-
23 posed pursuant to subsection (a) as a result of such
24 investments; and

1 (2) investments of any amount of money, in
2 conjunction with trafficking in confiscated United
3 States property, that contribute to such an enhance-
4 ment, including information relating to the values of
5 such investments, the identity of the persons making
6 such investments, and the identity of such con-
7 fiscated property, and information relating to any
8 sanctions that have been imposed pursuant to sub-
9 section (a) as a result of such investments.

10 (e) ASSESSMENTS OF ENVIRONMENTAL IMPACTS OF
11 DEVELOPMENT OF CUBA'S PETROLEUM RESOURCES.—

12 (1) IN GENERAL.—Not later than one year
13 after the date of the enactment of this Act and an-
14 nually thereafter, the Secretary of State, in consulta-
15 tion with the Secretary of the Interior and the Ad-
16 ministrator of the Environmental Protection Agency,
17 shall submit to the Committee on Foreign Affairs
18 and the Committee on Natural Resources of the
19 House of Representatives and the Committee on
20 Foreign Relations and the Committee on Energy
21 and Natural Resources of the Senate a report con-
22 taining an assessment of the impact that the devel-
23 opment of Cuba's petroleum resources has had on
24 the environment and natural resources of the sub-

1 merged lands located off Cuba’s coast and Florida’s
2 marine environment.

3 (2) USE OF ENVIRONMENTAL IMPACT STATE-
4 MENTS.—In preparing the assessment, the Secretary
5 of State shall use as a model environmental impact
6 statements prepared pursuant to the National Envi-
7 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
8 seq.).

9 **SEC. 6. DEFINITIONS.**

10 In this Act—

11 (1) the terms “appropriate congressional com-
12 mittees”, “confiscated”, “person”, “property”, and
13 “traffics” have the meaning given such terms in sec-
14 tion 4 of the Cuban Liberty and Democratic Soli-
15 darity (LIBERTAD) Act of 1996 (22 U.S.C. 6023),
16 except that the term “person” shall also include, for
17 purposes of this section, a foreign subsidiary of a
18 person and United States subsidiary of a foreign
19 person;

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

- 1 (3) the terms “agent” and “instrumentality”
- 2 shall include the Cuban Communist Party.

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