

**NORTH AMERICAN OFFSHORE
ENERGY: MEXICO AND CANADA
BOUNDARY TREATIES AND NEW
DRILLING BY CUBA AND BAHAMAS**

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND
MINERAL RESOURCES

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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**OVERSIGHT HEARING ON “NORTH AMERICAN
OFFSHORE ENERGY: MEXICO AND CANADA
BOUNDARY TREATIES AND NEW DRILLING
BY CUBA AND BAHAMAS.”**

**Wednesday, November 2, 2011
U.S. House of Representatives
Subcommittee on Energy and Mineral Resources
Committee on Natural Resources
Washington, D.C.**

The Subcommittee met, pursuant to call, at 10:06 a.m. in Room 1324, Longworth House Office Building, Hon. Doug Lamborn [Chairman of the Subcommittee] presiding.

Present: Representatives Lamborn, Broun, Rivera, Duncan of South Carolina, Holt, and Markey [ex officio].

Mr. LAMBORN. The Committee will come to order. The Chairman notes the presence of a quorum, which under Committee Rule 3[e] is two Members.

The Subcommittee on Energy and Mineral Resources is meeting today to hear testimony on an oversight hearing on the North American Offshore Energy: Mexico and Canada Boundary Treaties and New Drilling by Cuba and Bahamas.

Under Committee Rule 4[f], opening statements are limited to the Chairman and Ranking Member of the Subcommittee. However, I ask unanimous consent to include any other Members' opening statements in the hearing record if submitted to the clerk by close of business today. Hearing no objection, so ordered.

I recognize myself for five minutes.

**STATEMENT OF HON. DOUG LAMBORN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF COLORADO**

Mr. LAMBORN. At a time when world demand for energy is increasing, businesses that provide us with the oil and electricity that we use every day will continue to seek out new places around the world to develop these resources. We want to be attracting this energy development to our shores here in the United States. That way, the American people can compete for the jobs that come from energy development and our nation can reap the economic and national security benefits of increased U.S. energy development.

Unfortunately, as previous hearings we have conducted this year have so clearly pointed out, uncertainty is forcing companies to look elsewhere in globally competitive markets. As you can see from today's hearing, you don't have to venture too far to find new areas for oil and natural gas development. Cuba's lease blocks are only miles from our shores.

This is the subject of today's hearing. We will cover two boundary disputes that are hindering U.S. energy development, one with Mexico and one with Canada. It is my hope that an expeditious

and fair agreement between the U.S. and the other countries will give the certainty necessary to move forward with energy development along the U.S.-Mexico boundary and open the western gap in the Gulf of Mexico and in the disputed areas of the Beaufort Sea in Alaska.

Additionally, we will be discussing Cuba and the Bahamas' new pursuit of offshore resources development and what that development means to the United States. It is my hope that we can hear from BSEE and the U.S. Coast Guard today on the implications of this drilling in waters adjacent to the U.S. and how the inspection of Cuba's drilling rig announced at the Senate hearing on this issue will be conducted and what will happen afterwards.

It was my hope that the Committee would hear from all U.S. Government entities involved in issuing licenses and engaged in U.S.-Cuba drilling issues. However, the Departments of State, Treasury and Commerce all declined to participate in today's hearing.

There has been growing concern that companies will be allowed to expand their engagement with Cuba and that this Administration is weakening the U.S. embargo on Cuba, a state sponsor of terrorism. A recent trip to Cuba by the President's own chairman of the Oil Spill Commission and licenses and waivers for companies to sell technology to Cuba raise many concerns about this Administration's willingness to support the drilling efforts of the Cuban regime.

Companies that are interested in engaging in support of Cuba's efforts should be aware that they are under the greatest of scrutiny, and efforts to circumvent U.S. law will be closely monitored and appropriate actions taken. Like dealings with Iran, engagement with a Cuban dictatorship that sponsors terrorism is a road fraught with danger.

Our second panel will answer more philosophical questions about the laws of our nation and how we can work within the legality of these laws as we look toward the implications of Cuba's desire to pursue offshore drilling.

Offshore energy development in the U.S. is conducted with great transparency and extensive regulatory oversight. There is an entirely different story in Cuba where very little is considered transparent, especially with a brutal regime that has a huge list of human rights violations. A public hearing such as we are conducting today would not be allowed to occur under the Castro regime.

It is in the interest of this Committee to find out exactly how our nation is preparing to mitigate any problems that may occur as a result of Cuba's untested pursuit of offshore drilling. The Bahamas, Mexico and Canada are completely different examples of those nations pursuing offshore drilling in waters adjacent to the United States in a transparent and open manner that shows how our nations can work together to ensure the utmost safety.

Given the importance of these issues, I greatly look forward to the testimony we will hear today, and I thank all our witnesses today for answering questions on these diverse issues, all of which significantly impact our nation.

Now I would like to recognize the Ranking Member of the Subcommittee, Representative Holt of New Jersey, for five minutes.
[The prepared statement of Mr. Lamborn follows:]

**Statement of The Honorable Doug Lamborn, Chairman,
Subcommittee on Energy and Mineral Resources**

At a time when world demand for energy is increasing, businesses that provide us with the oil and electricity that we use every day will continue to seek out new places around the world to develop these resources. We want to be attracting this energy development to OUR SHORES here in the United States. That way, the American people can compete for the jobs that come from energy development—and our nation can reap the economic and national security benefits of increased U.S. energy development.

Unfortunately, as previous hearings we have conducted this year have so clearly pointed out: UNCERTAINTY is forcing companies to look elsewhere in a globally competitive market. As you can see from today's hearing—you don't have to venture too far to find new areas for oil and natural gas development. Cuba's lease blocks are only miles from our shores.

This is the subject of today's hearing—we will cover two boundary disputes that are hindering U.S. energy development, one with Mexico and one with Canada. It is the hope that an expeditious and fair agreement between the US and the other countries will give the certainty necessary to move forward with energy development along the U.S.—Mexico boundary and open the “western gap” in the Gulf of Mexico and in the disputed areas of the Beaufort Sea in Alaska.

Additionally, we will be discussing Cuba and the Bahamas' new pursuit of offshore resources and development— and what that development means to the United States. It is my hope that we can hear from BSEE and the U.S. Coast Guard today on the implications of this drilling in waters adjacent to the U.S. and how the inspection of Cuba's drilling rig announced at the Senate hearing on this issue will be conducted and what will happen afterwards.

It was my hope that the Committee would hear from all US government entities involved in issuing licenses and engaged in U.S.—Cuba drilling issues. However, the Departments of State, Treasury and Commerce all declined to participate in today's hearing. There has been growing concern that companies will be allowed to expand their engagement with Cuba and that this administration will weaken the U.S. embargo on Cuba, a state sponsor of terrorism. A recent trip to Cuba by the President's own Chairman of the Oil Spill Commission and licenses and waivers for companies to sell technology to Cuba raise many concerns about this Administration's willingness to support the drilling efforts of the Cuban regime. Companies that are interested in engaging in support of Cuba's efforts should be aware that they are under the greatest of scrutiny and efforts to circumvent US law will be closely monitored and appropriate actions taken. Like dealings with Iran, engagement with a Cuban dictatorship that sponsors terrorism is a dangerous road.

Our second panel will answer more philosophical questions about the laws of our nation—and how we can work within the legality of these laws as we look towards the implications of Cuba's desire to pursue offshore drilling.

Offshore energy development in the U.S. is conducted with great transparency and extensive regulatory oversight. This is an entirely different story in Cuba where very little is considered “transparent”—especially with a brutal regime that has a laundry list of human rights violations. A public hearing such as we are conducting today on this subject would not be allowed to occur under the Castro regime. It is in the interest of this Committee to find out exactly how our nation is preparing to mitigate any problems that may occur as a result of Cuba's untested pursuit in offshore drilling. The Bahamas, Mexico and Canada are completely different examples of a nation's pursuing offshore drilling in waters adjacent to the United States in a transparent open manner that shows our nation's can work together to ensure the utmost safety.

Given the importance of these issues, I greatly look forward to the testimony we will hear today and I thank all of our witnesses today for answering questions on these diverse issues—all of which significantly impact our nation.

**STATEMENT OF HON. RUSH D. HOLT, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. HOLT. Thank you, Mr. Chairman, and I thank the witnesses for coming.

In 2008, Vice President Dick Cheney asserted that China was drilling off Cuba. He said that with words dripping with import—as close as 60 miles to the Florida Keys—as a way to push for expanded drilling off of U.S. beaches on the East Coast and the eastern Gulf of Mexico. However, China was not actually drilling off Cuba, and Mr. Cheney's claims were unfounded.

Now a Spanish company, along with Norwegian and Indian partners, has announced plans to begin exploratory drilling off Cuba, roughly 80 miles from Florida, next January. Because of the embargo on Cuba, the Chinese-built drill rig will be used to conduct the exploration. However, I feel that rather than having a real discussion today about the ways we should engage Cuba to ensure that drilling takes place safely, we will be hearing about, well, the case for expanded drilling in the United States.

The independent blue ribbon BP Oil Spill Commission concluded that it is in our country's national interest to negotiate now with these near neighbor—meaning Mexico and Cuba—to agree on a common, rigorous set of standards and a system for regulatory oversight. The same operator adherence to effective safety culture called for in this report, along with protocols to cooperate on containment and response strategies and preparedness in case of a spill.

We should develop the strongest possible safety standards for offshore drilling here in the United States and work with countries with whom we share a maritime boundary to see that they adhere to such standards. Oil spills don't recognize international boundaries. In fact, the Obama Administration is already working to develop a protocol to establish a common set of safety and environmental standards with Mexico for the Gulf of Mexico. These negotiations are ongoing I believe.

In addition, the Administration is working with Repsol to ensure that the United States Coast Guard and Interior Departments can inspect any rig, such as the Chinese rig, prior to entering Cuban waters. The Administration should also consider issuing a general license to allow U.S. companies and personnel to provide assistance in the event of a spill.

In addition, the United States is working to negotiate maritime boundaries with countries like Canada in the Arctic Ocean, and I am sorry to say Republicans in the Senate are weakening our negotiating position. Republican Senators have blocked the ratification of the Law of the Sea Treaty, which would improve our ability to submit international claims to the Continental Shelf beyond 200 miles in places like the Arctic.

As a result, we are at a disadvantage in working to ensure that the United States and U.S. companies can claim those resources that are rightfully ours. In fact, what we are seeing in the Arctic Ocean as countries move to claim the seabed and the minerals below it could only be described as a black gold rush, and the United States is sitting on the sidelines because Senate Republicans refuse to ratify the Law of the Sea Treaty.

I expect today that people, some here, will be expressing their fears rather than expressing facts and rather than looking to solve actual problems. We will hear that Cuba is drilling and we are not. We will likely hear these claims despite the fact that U.S. oil production is at its highest level in nearly a decade and oil production from the Gulf of Mexico is higher than it was during the final year of the previous Administration.

In a symbolic move, Russia placed a flag on the sea floor at the North Pole in 2007, and both Russia and Canada intend to submit claims to the United Nations to extend their Continental Shelf in the coming years. If Republicans were serious about ensuring that U.S. interests and resources were protected in the Arctic, then they would end their opposition to ratification of the Law of the Sea Treaty.

I hope we will be dealing with the facts today. This is really not the Committee to be discussing embargoes. It is the Committee to discuss the environment and the protection of our environment, jobs, and resources. I yield back my time.

[The prepared statement of Mr. Holt follows:]

**Statement of The Honorable Rush D. Holt, Ranking Member,
Subcommittee on Energy and Mineral Resources**

Thank you Mr. Chairman,

In 2008, Vice President Dick Cheney asserted that China was drilling off of Cuba, as close as 60 miles from the Florida Keys, as a way to push for expanded drilling off U.S. beaches on the East Coast and in the Eastern Gulf of Mexico. However, China was not actually drilling off of Cuba and Mr. Cheney's claims were unfounded.

Now, a Spanish company, Repsol, has announced plans to begin exploratory drilling off of Cuba roughly 80 miles from Florida in January of next year. Because of the embargo on Cuba, a Chinese-built drill rig will be used to conduct the exploration. However, I fear that rather than having a real discussion today about the ways that we should engage Cuba to ensure that this drilling takes place safely, the majority will use this pending action to once again try to make the case for expanded drilling off the United States.

The independent, blue-ribbon BP Oil Spill Commission concluded that "it is in our country's national interest to negotiate now with these near neighbors [Mexico and Cuba] to agree on a common, rigorous set of standards, a system for regulatory oversight, and the same operator adherence to the effective safety culture called for in this report, along with protocols to cooperate on containment and response strategies and preparedness in case of a spill." We should develop the strongest possible safety standards for offshore drilling here in the United States and work with countries with whom we share a maritime boundary to see that they adhere to these standards. Oil spills don't recognize international boundaries.

In fact, the Obama Administration is already working to develop a protocol to establish a common set of safety and environmental standards with Mexico for the Gulf. Those negotiations are ongoing.

In addition, the Administration is working with Repsol to ensure that the U.S. Coast Guard and Interior Department inspectors can inspect the Chinese rig prior to it entering Cuban waters. The Administration should also consider issuing a general license to allow U.S. companies and personnel to swiftly provide assistance in the event of a spill.

In addition, as we are working to negotiate maritime boundaries with countries like Canada in the Arctic Ocean, Republicans in the Senate are weakening our negotiating position.

Republican Senators have blocked ratification of the Law of the Sea Treaty, which would improve our ability to submit international claims to our continental shelf beyond 200 miles in places like the Arctic. As a result, we are at a disadvantage in working to ensure that the United States and U.S. companies can claim those resources that are rightfully ours. In fact, what we are seeing in the Arctic Ocean, as countries move to claim the seabed and the minerals below it, could only be de-

scribed as a black gold rush. And the United States is sitting on the sidelines because Senate Republicans refuse to ratify the Law of the Sea Treaty.

I expect that we are likely going to hear a lot of the same fear mongering today that we heard in 2008. That Cuba is drilling and we are not. We will likely hear these claims despite the fact that U.S. oil production is at its highest level in nearly a decade and oil production from the Gulf of Mexico is higher than it was during the final year of the Bush Administration.

In a symbolic move, Russia placed a flag on the sea floor at the North Pole in 2007. And both Russia and Canada intend to submit claims to the United Nations to extend their continental shelf in the coming years.

If Republicans were serious about ensuring that U.S. interests and resources were protected in the Arctic, they would end their opposition to ratification of the Law of the Sea Treaty.

I yield back.

Mr. LAMBORN. OK. Thank you. Before I invite the witnesses forward, I ask unanimous consent that the gentleman from Florida, Mr. Bilirakis, and the gentleman from Nevada, Mr. Amodei, who is a member of the Committee but not this Subcommittee, be allowed to join the Members of this Subcommittee on the dais and participate in the hearing. These Members do not count for a quorum and cannot vote. Without objection, so ordered.

I now invite forward The Honorable Michael Bromwich, Director of Bureau of Safety and Environmental Enforcement, BSEE, and Vice Admiral Brian Salerno, Deputy Commandant for Operations, U.S. Coast Guard.

Like all our witnesses, your written testimony will appear in full in the hearing record, so I ask that you keep your oral statements to five minutes as outlined in the invitation letter to you and under Committee Rule 4[a]. Our microphones are not automatic, so you need to turn them on when you are ready to begin.

I will also explain how our timing lights work. When you begin to speak, our clerk will start the timer and a green light will appear. After four minutes a yellow light appears, and at that time you should begin to conclude your statement. At five minutes the red light will come on.

Director Bromwich, thank you for being here, and you may begin.

**STATEMENT OF HON. MICHAEL BROMWICH, DIRECTOR,
BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT**

Mr. BROMWICH. Thank you very much, Mr. Chairman, Mr. Holt and Members of the Committee. I am happy to be here today to discuss issues relating to oil and gas exploration in waters that border the United States Outer Continental Shelf.

As you know, the blowout and oil spill from the Macondo well last year prompted the most aggressive and comprehensive reforms to U.S. offshore oil and gas regulation in our history. Our reforms are designed to ensure that the exploration and development of oil and gas resources in U.S. waters proceed safely and with appropriate protection for ocean environments and our coastlines.

But the risks to U.S. waters and shores posed by offshore drilling are not limited to activities on the U.S. OCS. As a result, we have taken steps to try to improve drilling standards and practices as well as oil spill response preparedness for operations in foreign waters that could have an impact on our coastline.

We are working with key agencies across the Federal government, including the State Department, Coast Guard, EPA, NOAA and others, as well as with industry, oil spill response and blowout containment companies and our international counterparts in the Gulf of Mexico, in the Arctic and along our maritime boundaries with Canada.

More specifically, we are working closely with other Federal agencies to address the threat posed by offshore drilling and a potential oil spill in neighboring parts of the Gulf of Mexico that could affect U.S. waters, shores and interests. Several other countries on or near the Gulf of Mexico are expected to move forward with offshore drilling in their exclusive economic zones in the near future.

The Spanish oil company, Repsol, as has been mentioned, has announced its intention to drill offshore wells in Cuba's waters using a newly constructed mobile offshore drilling unit. In the near future, there also will likely be offshore drilling activity in the EEZs of the Bahamas and Jamaica and continuing offshore activity in Mexico's EEZ.

The U.S. Government is taking steps to protect our waters and coastal resources by promoting safety through prevention and by preparing response contingencies in the event of a spill. These activities include communicating with Repsol to encourage its compliance with U.S. safety and environmental standards, cooperating with our regulatory agency counterparts in the region, including Mexico, through bilateral and multilateral mechanisms to develop common safety standards and taking steps to ensure that U.S. resources are available to respond to a spill.

The simple fact is we do not have regulatory authority over Repsol's activities in Cuba, but beginning in February of this year Repsol has voluntarily provided us information regarding its drilling and oil spill response plans. We have had numerous contacts with the company, and we have made it clear that we expect it to adhere to the highest environmental health and safety standards and to have adequate prevention, mitigation and remediation systems in place in the event of an incident.

Repsol officials have stated publicly that in carrying out its exploratory drilling plans in Cuban waters it will adhere to U.S. regulations and the highest industry standards. Repsol has also offered U.S. agencies an opportunity to board the mobile offshore drilling unit that it intends to use in Cuban waters to inspect the vessel and drilling equipment and to review relevant documentation.

To protect U.S. interests, we have sought to gather information on the unit's operation, technology and safety equipment. BSEE and the Coast Guard are planning to coordinate a joint visit to the unit that would occur shortly before the rig is scheduled to enter Cuban waters.

In addition to keeping BSEE regularly informed of its plans, Repsol has expressed a desire to keep U.S. regulators and spill response planners apprised of its oil spill preparedness activities offshore Cuba. Along with other U.S. representatives, BSEE has already witnessed a tabletop spill response exercise. During the exer-

cise, Repsol's spill management team mobilized to respond to a hypothetical spill.

Beyond our specific engagement with Repsol, BSEE has been engaged with our regulatory counterparts in the Gulf of Mexico in an effort to harmonize drilling safety standards in the region. BSEE and its predecessor agencies have been collaborating with officials from all levels of the Mexican Government since the late 1990s, and this cooperation has increased substantially since the creation of the new Mexican Regulatory Commission.

The U.S. Government will immediately use all appropriate resources and authorities to conduct response operations in the event of an oil spill from activities in the region that threaten U.S. waters or its coastline. The Administration has engaged state and local governments and private parties that might be affected by such a spill. We will continue with active support of these efforts to ensure that appropriate plans and resources are in place to respond promptly and effectively to an oil spill that reaches U.S. waters.

The Gulf of Mexico is not the only area in which we are proactively working on issues related to a potential oil spill, and my prepared testimony discusses the ways in which DOI and BSEE specifically are engaged in a number of multilateral and bilateral initiatives for oil spill preparedness and response in the Arctic and with Canada.

We view engagement with our foreign counterparts in the areas of shared interest as a central part of our efforts to protect U.S. environmental and economic interests. Thank you very much, and I look forward to your questions.

[The prepared statement of Mr. Bromwich follows:]

Statement of Michael R. Bromwich, Director, Bureau of Safety and Environmental Enforcement, United States Department of the Interior

Mr. Chairman and Members of the Committee,

I am pleased to be here today to discuss oil and gas exploration in North American waters that border the United States Outer Continental Shelf (OCS). As Director of the Bureau of Safety and Environmental Enforcement, the agency in charge of enforcing safety and environmental regulations on the U.S. OCS, I would like to share with you information on the actions we have taken to ensure that oil and gas operations in neighboring waters are done in as safe and environmentally responsible manner as possible, and to ensure that the U.S. responds appropriately to protect U.S. interests in the event of a spill originating in foreign waters that may affect adjacent U.S. waters and shorelines.

As you know, the blowout and oil spill from the Macondo well last year prompted the most aggressive and comprehensive reforms to offshore oil and gas regulation and oversight in U.S. history. Our new standards and other reforms are designed to ensure that the exploration and development of oil and gas resources in U.S. waters proceeds safely and with appropriate protections for ocean environments and our coastlines.

Because the risks to U.S. waters and shores posed by offshore drilling are not limited to the activities on the U.S. OCS, the Department of the Interior (DOI) and my agency have taken steps to improve drilling standards and practices, as well as oil spill response preparedness, for operations in foreign waters that could have an impact our coastline. DOI and the Bureau of Safety and Environmental Enforcement (BSEE) are engaged with the key agencies across the federal government—including the State Department, United States Coast Guard (USCG), Environmental Protection Agency (EPA), National Oceanic and Atmospheric Administration (NOAA) and others—as well as with industry, oil spill response and blowout containment companies, and our international counterparts in the Gulf of Mexico, in the Arctic and along our maritime boundaries with Canada.

Status of Response Capability and Readiness in the Gulf of Mexico

DOI and BSEE are working closely with other federal agencies to address the threat of an oil spill in neighboring parts of the Gulf of Mexico that could affect U.S. waters, shores and interests. Several other countries on or near the Gulf of Mexico are expected to proceed with offshore drilling in their exclusive economic zones (EEZ) in the near future. As you know, the Spanish oil company Repsol has announced its intent to drill offshore wells in Cuba's waters using a newly constructed mobile offshore drilling unit (MODU), the Scarabeo 9. In the near future, there also likely will be offshore drilling activity in the EEZs of the Bahamas and Jamaica and continuing offshore activity in Mexico's EEZ, including possible activity along the U.S.-Mexico maritime boundary pursuant to a transboundary agreement between the two countries, which is currently under negotiation. Formal negotiations of the agreement, which would advance the shared commitment of Presidents Obama and Calderon to promote the safe, efficient and equitable development of transboundary hydrocarbon reservoirs, began in August 2011. Multiple rounds of negotiations have followed, and the parties hope to have a final agreement by the end of the year.

The U.S. government is taking steps to protect U.S. waters and environmental and economic resources by promoting drilling safety to prevent spills in the first place and by preparing response contingencies in the event of a spill. These activities include: (1) communicating with Repsol to encourage its compliance with U.S. safety and environmental standards; (2) cooperating with our regulatory agency counterparts in the region, including Mexico, through bilateral and multilateral mechanisms to develop common safety standards; and (3) taking steps to ensure that U.S. resources are available to respond to a spill.

1. Engagement with Repsol

While BSEE does not have regulatory authority over Repsol's activities in Cuba, beginning in February of this year, Repsol has voluntarily provided us information regarding its plans related to drilling and oil spill response. In our numerous communications with Repsol, we have made clear that we expect it to adhere to industry and international environmental, health, and safety standards and to have adequate prevention, mitigation, and remediation systems in place in the event of an incident. Repsol officials have stated publicly that in carrying out its exploratory drilling plans in Cuban waters, it will adhere to U.S. regulations and the highest industry standards. Repsol has offered U.S. agencies an opportunity to board the Scarabeo 9 rig that Repsol intends to use in Cuban waters to inspect the vessel and drilling equipment and to review relevant documentation. Given the proximity of drilling to U.S. waters, and considering the serious consequences a major oil spill would have on our economic and environmental interests, we have welcomed the opportunity to gather information on the rig's operation, technology, and safety equipment. BSEE and the Coast Guard are coordinating a joint visit to the Scarabeo 9 that will occur shortly before the rig is scheduled to enter Cuban waters.

In addition to keeping BSEE regularly informed of its plans, Repsol has expressed a desire to keep U.S. regulators and spill response planners apprised of its oil spill preparedness activities offshore Cuba. Along with other U.S. representatives, BSEE has already witnessed a table-top spill response exercise held at the Repsol office in Trinidad.

During the exercise, Repsol's spill management team mobilized to respond to a hypothetical spill and demonstrated response equipment deployment capabilities. Repsol has subsequently invited BSEE and Coast Guard officials to observe another emergency drill to be conducted in Trinidad related to contingency planning for the drilling.

2. Regional Drilling Safety Initiatives in the Gulf of Mexico

In addition to our communications with Repsol and in parallel with the negotiations of a transboundary agreement, BSEE has been engaged with our regulatory counterparts in the Gulf of Mexico in an effort to harmonize drilling safety standards in the region. BSEE and its predecessor agencies have been collaborating with officials from all levels of the Mexican government since the late 1990s on issues related to the safe and responsible development of oil and gas resources in the Gulf of Mexico. This cooperation has increased substantially in the aftermath of Deepwater Horizon and after the creation of the National Hydrocarbons Commission (CNH), the Mexican agency responsible for regulating offshore drilling safety on Mexico's continental shelf.

BSEE and CNH are working towards a set of common safety and environmental standards through a series of technical workshops. Following a workshop held this summer in BSEE's Gulf of Mexico regional office, the U.S. and Mexico developed an action plan to define subject areas where the creation of common standards

would be appropriate. CNH officials will be returning to BSEE's offices in the near future for a technical exchange about BSEE's Worst Case Discharge analysis.

In addition to this ongoing cooperation, Secretary of the Interior Ken Salazar and I traveled to Mexico for a series of meetings with Mexican officials to discuss the development of common safety and environmental standards for offshore oil and gas exploration and development in the Gulf of Mexico.

3. Spill Response and Preparedness

The U.S. government will immediately use all appropriate resources and authorities to conduct response operations in the event an oil spill from activities in Cuban waters or from activities in other states in the region that threaten U.S. waters or its coastline. The Administration has engaged state and local governments and private parties that might be affected by such a spill to ensure awareness and mutual cooperation and the adequacy of five different existing Area Contingency Plans covering Florida where models predict varying probabilities of U.S. shoreline impacts should a spill occur at the planned exploratory drilling locations in Cuban waters. BSEE staff is also engaged with District Seven USCG staff out of Miami in the development of an International Offshore Drilling Response Plan and will be participating in an upcoming workshop to validate the plan. We will continue with active support of these efforts to ensure that appropriate plans and resources are in place to respond in a rapid and effective manner to an oil spill that reaches U.S. waters.

As part of this planning for possible oil spills from deepwater drilling off of Cuba, NOAA, in cooperation with the Bureau of Ocean Energy Management (BOEM), has run sophisticated trajectory models to identify potential landfall areas along the U.S. coasts.

Using worst case discharge data provided by Repsol, coupled with computer model results, the USCG is working with Area Committees in the areas that potentially could be affected by such a spill to enhance Area Contingency Plans—an effort that requires local and state participation in the development of protection strategies and establishing priorities for threatened resources.

The U.S. is also taking measures to ensure that the appropriate private industry parties are able to respond quickly in the event of an oil spill in Cuban waters. The Department of Commerce and the Treasury Department have a long-standing practice of providing licenses to address environmental contingencies in Cuban waters. The Department of Commerce's Bureau of Industry and Security (BIS) has issued a number of licenses for post-incident oil spill containment and cleanup items for use by U.S. companies in Cuban waters. These items include booms, skimmers, dispersants, pumps and other equipment and supplies necessary to minimize environmental damage in the event of a spill. Several such applications are currently under review by BIS, including applications for a subsea well containment system and related equipment, such as remotely operated submersible vehicles and subsea construction, dive support, and well intervention vessels.

In consultation with the Department of State, the Treasury Department can issue licenses to U.S. entities to prepare for and to operate in the event of an oil spill. The Treasury Department has been issuing such licenses for over a decade, including licenses for environmental response, maritime salvage, and spill prevention activities.

Finally, BSEE is working closely with other federal agencies on a number of regional initiatives with countries in the region, including Mexico, Cuba, the Bahamas and Jamaica. For example, planning is underway for a Regional Oil Pollution Preparedness, Response and Cooperation Seminar to Focus on Developing National Plans for Marine Pollution Preparedness and Response Related to Offshore Units and Regional Cooperation. This seminar, which is sponsored and conducted by the International Maritime Organization, will take place in the Bahamas later this year and officials from the Bahamas, Cuba, Mexico, Jamaica and the United States have been invited to participate. The seminar will provide a valuable opportunity for participating countries to learn about other nations' plans for emergency well control and oil spill response, which will help us improve our own response planning for upcoming offshore drilling expected in the EEZs of participating states. We believe a multilateral approach that involves all parties in the region contemplating drilling activities that could affect the United States is the most effective means of safeguarding our interests. We therefore intend to continue to vigorously pursue continued multilateral engagements in the Gulf of Mexico.

Status of Response Capability and Readiness in the Arctic and with Canada

In addition to our activities in the Gulf of Mexico, DOI and BSEE are also engaged in a number of multilateral and bilateral initiatives for oil spill preparedness and response in the Arctic and with Canada.

1. Arctic Council

The U.S. is a member of the Arctic Council Ministerial Meeting, which is a high-level forum of eight nations—Canada, Russia, Norway, Denmark, Iceland, the United States, Sweden and Finland—and their indigenous peoples.

The Arctic Council's meeting in Nuuk, Greenland this past May led to the creation of two important initiatives to address oil spill prevention, preparedness and response in the Arctic. The first of these is the Oil Spill Preparedness and Response Task Force, of which BSEE is a member and which intends to develop an international instrument on oil pollution preparedness and response in the Arctic. The Task Force met in Oslo, Norway last week. In addition, BSEE is participating in the Arctic Council Emergency Prevention, Preparedness and Response working group, which is developing recommendations on best practices in oil spill prevention. The results of both initiatives will be presented at the next Ministerial Meeting of the Arctic Council in the spring of 2013.

2. Bilateral Cooperation with Canada

BSEE also participates in a number of bilateral initiatives with Canada related to oil spill preparedness and response. BSEE's Technology Assessment and Research Program has collaborated with Canada in over 35 joint research and development projects, many of which relate to improving oil spill response and preparedness. For example, the Bureau is collaborating with Canada's Department of the Environment on a number of joint oil spill response research projects focusing on remote sensing and measurement of spilled oil; chemical treating agents; the properties and behavior of spilled oil; testing and evaluation of oil spill absorbents; cleaning up oil from shorelines; mechanical containment and cleanup of spilled oil; and examining matters relating to dispersant use. Another project has involved collaboration with Canada's Department of Fisheries and Oceans on a study of dispersants.

BSEE's predecessor agencies also initiated and conducted two meetings of the US-Canada Northern Oil and Gas Research Forum (Forum). The first Forum took place in October 2008 in Anchorage, followed by a second Forum in December 2010 in Calgary. The forums focused on technical, engineering, and scientific research concerning offshore drilling safety, oil spill prevention and management, ice engineering and transportation issues, as well as the environmental effects of oil and gas exploration and development in the Arctic. These multidisciplinary conferences brought together participants from government, industry, academia, indigenous groups, and non-governmental organizations to discuss research issues of relevance to the management of oil and gas activities.

BSEE has also cooperated in joint projects with the Canadian Coast Guard at the Oil and Hazardous Materials Simulated Environmental Test Tank (OHMSETT), which is the U.S. oil spill response and renewable energy test facility located in New Jersey. One project evaluated remote sensing equipment to detect spilled oil; another evaluated the oil containment performance of five different types of fire-resistant booms. We will continue this engagement under the leadership of BSEE's Oil Spill Response Division.

Finally, BSEE will participate in the annual Arctic and Marine Oil Spill Program (AMOP) Technical Seminar with Canada. The Seminar was created in 1978 by Canada's environmental ministry to improve the knowledge base and technology for combating Arctic and marine oil spills. Since then, it has been a useful forum for cooperation and information exchange, providing BSEE with the opportunity to engage researchers from other countries who have similar Arctic response interests, learn about emerging technologies and scientific discoveries, inform attendees of findings from BSEE-funded research, and identify research gaps and needs. In the last AMOP seminar conducted in October 2011, the program included discussions on the use of Ohmsett for research related to biofuel spill response and dispersant operational research conducted at Ohmsett over the last ten years, evidencing the contributions that BSEE has and will continue to make to improving oil spill response.

BSEE is also on the Executive and Planning Committees of the International Oil Spill Conference, which is held every three years—the most recent Conference was held in mid-2011. The conference focuses on new technologies and hosts exhibitors and participants from around the globe.

As you can tell from this description of the activities of DOI and BSEE, we view engagement with our foreign counterparts in areas of shared interest and concern as a central part of protecting U.S. environmental and economic interests.

Thank you and I look forward to your questions.

Mr. LAMBORN. OK. Perfect timing. You have had a little practice here.

Mr. BROMWICH. A little bit.

Mr. LAMBORN. Thank you for your statement and for being here.

And, Vice Admiral Salerno, thank you for being here, and please begin your statement.

**STATEMENT OF VICE ADMIRAL BRIAN SALERNO,
DEPUTY COMMANDANT FOR OPERATIONS, U.S. COAST GUARD**

Admiral SALERNO. Good morning, Chairman Lamborn, Ranking Member Holt, Ranking Member Markey from the full Committee and distinguished Members of the Committee and full Committee. I am very pleased to be here this morning to answer your questions on the Coast Guard's response capability and readiness for oil spills originating in foreign waters adjacent to the United States which may affect or threaten our nation and our natural resources.

Protecting the marine environment from oil spills is an important Coast Guard mission. Contingency planning, training and exercises are fundamental to our readiness to respond to oil spills. These in turn have their foundation in the National Oil and Hazardous Substances Pollution Contingency Plan or NCP for short.

Contingency planning under the NCP occurs at several levels. Local level planning is conducted by an area committee under the guidance of the Coast Guard captain of the port, who is also predesignated as the Federal on-scene coordinator in coastal areas. The area committee brings together Federal, state, local and tribal officials and commercial responders to identify risks, sensitive areas to be protected and protection strategies.

At the regional level, Coast Guard districts participate with other Federal agencies and state officials through regional response teams on such issues as dispersant use and in situ burning preauthorizations. And finally, at the national level, the Coast Guard serves as the vice chair of the national response team, which is comprised of 16 Federal agencies with environmental response responsibilities and ensures national level capabilities are available as needed to support response efforts.

Each of these organizational levels also has a role to play in developing strategies and cooperative relationships with our foreign neighbors to enhance preparedness and response to transboundary environmental threats. In particular, we have well-established relationships with Canada, Russia and Mexico to achieve cooperation on potential pollution threats, the identification of equipment and personnel resources available to respond to incidents and procedures for notification and incident management in the event of an actual response.

In each of these cases, cooperation in controlling the source of the pollution is paramount in addressing the transnational nature of the threat. Facilitating movement of people and equipment to the source is an essential component of the aforementioned agree-

ments. Additionally, these agreements include regular planning sessions, exercises and support mutual cooperation in oil spill research and development.

Under these agreements, we have concluded a bilateral response exercise with Mexico in San Diego just this past August. We also successfully completed a joint Coast Guard/Canadian Coast Guard environmental response summit last month. Just yesterday, I hosted a Russian delegation here in Washington and signed a bilateral memorandum of understanding that will expand our current cooperative response agreements to cover boundary waters between the United States and Russia.

While we can point to successes and healthy relationships in the areas already mentioned, we do not have the same bilateral ability to engage with all countries which are potential sources of trans-boundary pollution threats. This is particularly true in the northern Caribbean and the anticipated deepwater drilling in the Cuban EEZ as a primary example.

However, we are taking steps to engage multilaterally in the Caribbean. By working through the International Maritime Organization we have garnered support to convene a multilateral seminar this December in the Bahamas that will invite Caribbean nations to discuss oil spill prevention and response issues.

At the same time, we are working extensively with our domestic response partners to update our contingency plans. We are also directly engaged with Repsol related to their response strategies, resources and capabilities in support of their drilling operations.

In the event that an oil spill does occur within the Cuban EEZ, the Coast Guard would mount an immediate response under the national contingency plan in partnership with other Federal, state and local agencies. We would focus on combating the spill as far offshore and as close to the source as possible using all viable response tactics.

In preparation for such an eventuality, our Seventh District in Miami has been working closely with the state and local response organizations in southern Florida since March. Our district office will conduct a response exercise later this month.

As was highlighted by the Deepwater Horizon oil spill, any spill of national significance, regardless of its source, will require unity of effort across all levels of government, industry and the private sector. Thank you, and I look forward to answering your questions.

[The prepared statement of Vice Admiral Salerno follows:]

**Statement of Vice Admiral Brian Salerno,
Deputy Commandant for Operations, United States Coast Guard**

Good Morning Chairman LAMBORN, Ranking Member HOLT, and distinguished Members of the Committee. I am pleased to have this opportunity to answer any questions you may have on the U.S. Coast Guard's response capability and readiness for oil spills originating in foreign waters adjacent to the United State that may affect or threaten our Nation and our natural resources.

SUMMARY

Protecting the marine environment from oil spills is an important Coast Guard mission. Contingency planning, training, and exercises are fundamental to our readiness to respond to oil spills. These in turn have their foundation in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

Contingency planning under the NCP occurs at several levels:

- Local level planning is conducted by an Area Committee, under the guidance of the Coast Guard captain of the port, who is also pre-designated as the Federal On Scene Coordinator for the coastal zone. The area committee brings together federal, state, local, and Tribal officials and responders to identify risks, sensitive areas to be protected, and protection strategies.
- At the regional level, Coast Guard Districts participate with other federal agencies and state officials, through Regional Response Team, on such issues as dispersant use and in-situ burning pre-authorizations;
- And finally at the national level, the Coast Guard serves as the vice chair of the National Response Team, which is comprised of 16 federal agencies with environmental response functions, and ensures national level capabilities are available as needed to support response efforts.

International Partnerships

Each of these organizational levels also has a role to play in developing strategies and cooperative relationships with foreign neighbors to enhance preparedness and response to transboundary environmental threats. In particular, we have well established relationships with Canada, Russia and Mexico to achieve cooperation on:

- potential pollution threats,
- identification of equipment and personnel resources available to respond to incidents, and
- procedures and protocols for notification, incident management, and coordinating a spill response.

In each of these cases, cooperation in controlling the source of the pollution is paramount in addressing the transnational nature of the threat. Facilitating movement of essential people and equipment to the source is an essential component of these agreements.

Additionally, these agreements include regular joint planning sessions and exercises; they also help sponsor and support bi-lateral cooperation in oil spill research and development.

For example, we conducted

- a major bi-lateral response exercise with Mexico in San Diego this past August; and
- we successfully completed a joint U.S. Coast Guard/Canadian Coast Guard Environmental Response Summit last month.

Just yesterday I hosted a Russian delegation here in Washington, and signed a Bi-lateral Memorandum of Understanding that will expand our current cooperative response agreements to cover the entire U.S./Russian boundary waters.

Preparedness in the Northern Caribbean

While we can point to successes and healthy relationships in the areas already mentioned, we do not have the same bi-lateral ability to engage with all countries which are potential sources of transboundary pollution threats. This is particularly true in the northern Caribbean, and the anticipated deepwater drilling in the Cuban EEZ is the salient example. However, we are taking steps to engage multi-laterally in the Caribbean. By working through the IMO we have garnered support to convene a multilateral seminar this December in the Bahamas that will invite Caribbean nations to discuss oil spill prevention and response issues.

Consequently, we are working extensively with our domestic response partners to update our contingency plans. We are also engaged directly with REPSOL, the Spanish-owned company which plans to drill the first well in the Cuban offshore starting in January 2012, related to their response strategies, resources, and capabilities in support of their drilling operations.

In the event that an oil spill does occur within the Cuban EEZ, the Coast Guard would mount an immediate response under the NCP, in partnership with other Federal, State and local agencies. And we would focus on combating the spill as far offshore and as close to the source as possible, using all viable response tactics. In preparation for such an eventuality, our Seventh District in Miami has been working closely with state, local and response organizations in Southern Florida since March. Our District Office will conduct a response exercise this month.

Conclusion

As was highlighted by the Deepwater Horizon Oil Spill, any spill of national significance, regardless of its source, will require unity of effort across all levels of government, industry, and the private sector.

Thank you and I look forward to answering any questions you may have.

**Senate Energy and Natural Resources Committee Hearing on Outer
Continental Shelf Oil Spill Response Capabilities, Panel 1, October 18, 2011**

SALERNO:

Good morning, Mr. Chairman, Ranking Member Murkowski, distinguished members of the committee. I'm pleased to have this opportunity to answer any questions you may have on response capability and readiness for oil spills originating in foreign waters adjacent to the United States that may affect or threaten our nation or our natural resources.

Protecting the marine environment from oil spills is an important Coast Guard mission. Contingency planning, training and exercises are fundamental to our readiness to respond to oil spills. These, in turn, have their foundation in the National Oil and Hazardous Substances Pollution Contingency Plan, now simply as the NCP. That's a long title.

Contingency planning under the NCP occurs at several levels. Local level planning is conducted by an area committee, under the guidance of a Coast Guard captain of the port, who is also pre-designated as the federal on-scene coordinator for the coastal zone.

The area committee brings together federal, state, local and tribal officials and responders to identify risks, sensitive areas to be protected and protection strategies.

At the regional level, Coast Guard districts participate with other federal agencies and state officials through the regional response team. And they consider such issues as dispersant use and in-situ burning pre-authorizations.

And finally at the national level, the Coast Guard serves as the vice chair of the National Response Team, which is comprised of 16 federal agencies with environmental response functions, and ensures national level capabilities are available, as needed, to support response efforts.

Each of these organizational levels also has a role to play in developing strategies and cooperative relationships with foreign neighbors to enhance preparedness and response to trans-boundary environmental threats.

In particular, we have well established relationships with Canada, Russia and Mexico to achieve cooperation on potential pollution threats, the identification of equipment and personnel needed to respond to actual incidents, and procedures and protocols for notification, incident management and coordinated spill response.

Each of these cases involves cooperation in controlling the source of the pollution as—as paramount in addressing the trans-national nature of the threat. Without controlling the source, you cannot get ahead of the problem. So the facilitated movement of people and equipment to the source is an essential component of these agreements.

Additionally, these agreements include regular joint planning sessions and exercises. They also help sponsor bilateral cooperation in oil spill research and development. Under these agreements, we've recently completed a major bilateral exercise with Mexico, held in San Diego this past August.

We also held a joint U.S. Coast Guard/Canadian Coast Guard environmental summit this past month. And next month, I plan to meet with the Russian delegation here in Washington to sign a bilateral memorandum of understanding that will expand our parent cooperative agreements to cover the entire U.S./Russian boundary waters.

We are also working with Russia, Canada and the six other Arctic nations through the Arctic Council, to produce an arctic-wide pollution preparedness and response instrument that will build on our existing bilateral agreements to enhance preparedness throughout the Arctic region.

In light of the growing interest in oil exploration in the northern Caribbean, we are also working hard to improve regional cooperation there. The anticipated drilling in—off Cuban waters is a salient example, but others, like the Bahamas, are also considering deepwater drilling operations.

By working through the International Maritime Organization, we've garnered support for a regional, multilateral seminar to be held, to which other Caribbean nations will be invited, including the Bahamas, Jamaica, Cuba and Mexico, for the purpose of discussing oil spill prevention and response issues.

Meanwhile, we're working extensively with all of our domestic response partners to update our contingency plans. We're also engaged directly with Repsol, the Spanish company which plans to drill the first well off Cuba, starting in January of 2012, to better understand their response strategies, their resources and their capabilities.

In the event an oil spill does occur within Cuban waters, the Coast Guard would mount an immediate response under the NCP and partnership with other federal, state and local agencies. We would focus on combating the spill offshore, using all available response tactics.

As was highlighted by the Deepwater Horizon spill, any spill of national significance, regardless of its source, will require a unity of effort across all levels of government, industry and the private sector.

Thank you, and I look forward to answering your questions.

Mr. LAMBORN. Thank you, Vice Admiral, for your statement and for being here today.

Before we begin our questions, I would like to recognize as a courtesy to the Minority the Ranking Member of the full Committee, Representative Markey, for five minutes.

STATEMENT OF HON. EDWARD J. MARKEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. MARKEY. I thank you. I thank you, Mr. Chairman, very much, and I thank our witnesses for being here.

A few months from now the Spanish oil company, Repsol, will begin the first exploratory deepwater drilling in the waters off of Cuba, and other companies are now also lining up to drill off of Cuba.

When you think of the oil companies that would be the logical candidates to do the first drilling in a new area, most people would think of companies like Exxon Mobil, Chevron and ConocoPhillips, but which are the companies that are planning to drill in the waters off of Cuba a mere 80 miles from Florida? They are the state-owned oil companies of Malaysia, Vietnam, Venezuela and China.

Because of a relic of the Cold War, the Cuban embargo, American oil companies cannot drill in this area that could contain as much as five billion barrels of oil. The Majority has been so focused on a make believe moratorium on drilling in the Gulf that they have apparently missed the actual decades long moratorium on American companies drilling off of Cuba that is the result of the embargo.

Republicans like to claim that U.S. rigs are disappearing from the Gulf. Well, there are rigs that are going to be flocking to the waters off of Cuba, but they are going to be drilling for China and Venezuela because of the embargo. I would think that my Republican colleagues would rather have this drilling done by Chevron than by Chavez.

We are fortunate that the Administration has persuaded Repsol to agree to allow a single inspection of their drilling rig by Coast Guard and Interior Department inspectors before it enters Cuban waters. But once the rig crosses the maritime boundary with Cuba, our inspectors will not be permitted to ever review it again. Once it crosses that line, it will be as if it has crossed into a Bermuda Triangle of safety, forever disappearing from the site of our inspectors and our regulators.

We should be able to work with Cuba as the independent BP Spill Commission has recommended to create the strongest possible safety standards and ensure that there can be cooperation in the event of a spill. We shouldn't be forced to hope that oil spills so close to our shores can be prevented by a Cuban Government that has no experience, no experience, in regulating the oil industry.

We should end the Cuban embargo so that American companies and American workers can reap the benefits of drilling so near to our own shores. I would hope that the Majority's opposition to lifting the embargo against Fidel does not outweigh their fidelity to creating more jobs for American businesses and American workers in our own country.

I would urge my Republican colleagues to drop their opposition to all of the mythical moratoriums and all pretend permit- oriums and instead join with Mr. Holt and I in supporting the repeal of an actual embargo that prevents our American oil companies from even competing for these Cuban leases. Thank you, Mr. Chairman. [The prepared statement of Mr. Markey follows:]

**Statement of The Honorable Edward J. Markey, Ranking Member,
Committee on Natural Resources**

Thank you.

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When you think of the oil companies that would be the logical candidates to do the first drilling in a new area, most people would think of companies like ExxonMobil, Chevron and ConocoPhillips.

But who are the companies that are planning to drill in the waters off of Cuba, a mere 80 miles from Florida? They are the state-owned oil companies of Malaysia, Vietnam, Venezuela, and China.

Because of a relic of the cold war, the Cuban embargo, American oil companies cannot drill in this area that could contain as much as 5 billion barrels of oil.

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Republicans like to claim that U.S. rigs are disappearing from the Gulf. Well, there are rigs that are going to be flocking to the waters off Cuba but they are going to be drilling for China and Venezuela because of the embargo.

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We should be able to work with Cuba, as the independent BP Spill Commission has recommended, to create the strongest possible safety standards and ensure that there can be cooperation in the event of a spill. We shouldn't be forced to hope that oil spills so close to our shores can be prevented by a Cuban government that has no experience in regulating this industry.

We should end the Cuban embargo so that American companies and American workers can reap the benefits of drilling so near our shores. I would hope that the Majority's opposition to lifting the embargo against Fidel does not outweigh their "fidel-ity" to creating more jobs for American businesses and workers.

I would urge my Republican colleagues to drop their opposition to all mythical moratoriums and all pretend permit- oriums and instead join me in supporting the repeal of an actual embargo that prevents our American oil companies from even competing for these Cuban leases.

Mr. LAMBORN. Thank you. We will now begin our questioning. Members are limited to five minutes for their questions, but we may have additional rounds. I now recognize myself for five minutes.

Director Bromwich, I think one of the predominant questions that we need to address today is about Cuba moving forward with offshore drilling. I know that your agency has been engaging di-

rectly with Repsol, as you referred to, but from what I understand you do not have in your possession their detailed exploration plan. Is that true? Have you seen with your own eyes Repsol's drilling plans for drilling in Cuban waters?

Mr. BROMWICH. Mr. Chairman, no, we don't have Repsol's exploration plan. There are confidentiality agreements that we have been advised they have with the Cuban Government.

We are in the process of discussions with Repsol, and I am hopeful that in the near future we will be able to surmount their concerns and be able to obtain those materials. So right now we don't have it, but we are hopeful we will get it and related materials.

Mr. LAMBORN. OK. If you haven't seen their plans for how they are going to conduct drilling, how can you say that you expect Repsol and the other involved parties to adhere to our nation's standards?

Mr. BROMWICH. Well, we have met, as I mentioned in my opening statement, we have met with Repsol on a number of occasions and have had a number of telephone discussions with them in which we have discussed these issues.

They have pledged to us repeatedly that they will in fact adhere to and observe all of the U.S. standards that apply both to the submission of exploration plans as well as to the submission of permits. They have an interest in backing up that pledge with actually doing it because they have interests in U.S. waters.

I think that is certainly one of the reasons that they approached us. We didn't approach them. They approached us last February telling us of their plans to drill in Cuba, and they have been quite cooperative at every stage of the process.

Mr. LAMBORN. But it remains true that we are going strictly by their good faith, which I hope is unimpeached. But we have absolutely no enforcement capability whatsoever?

Mr. BROMWICH. We will have no enforcement capability no matter what, whether we get the exploration plans or other geological and geophysical material. That will help us to provide feedback to Repsol, which I think they are genuinely eager to have, but we have no enforcement authority in Cuban waters. No.

Mr. LAMBORN. OK. Just to clarify, and also, Vice Admiral Salerno, I would like to ask you a question. I have read a lot of press accounts of plans by BSEE and the U.S. Coast Guard to inspect Repsol's drilling rig before it enters Cuban waters.

What happens if you go onto the rig and there are areas where your inspectors are not allowed to go? Or what happens if you inspect the rig and have serious concerns about what you find? It seems to me that with no enforcement capability we won't be able to do anything.

Admiral SALERNO. Well, you are correct about the lack of enforcement capability. The visit will be consensual on the part of the owner of the rig and Repsol. However, Repsol has indicated to us that they have every intention of complying with U.S. standards.

So essentially we have their word that they would match our standards as if they were operating in the Gulf of Mexico, but again this is consensual. We do not have any way to compel them to make changes on that rig. It was strictly their goodwill.

Mr. LAMBORN. So what do we do if you are not allowed to go into certain areas or you have major concerns?

Admiral SALERNO. Well, again we would communicate that with Repsol. We would also communicate that with the flag authority of the rig, which has the legal oversight of the rig, as well as with the owner and the Classification Society. The Classification Society is the recognized organization that performs inspection services on behalf of the government, the flag under which the vessel is registered.

Mr. BROMWICH. Mr. Lamborn, if I may add I completely agree with everything that Admiral Salerno has said, but if Repsol was to declare certain parts of the rig off limits, I would view that as a breach of what they pledged to us to do. So again, we don't have enforcement authority over them, but that would be contrary to everything that they have told us. They have not attempted to cordon off any aspect of the rig from the inspection that the Coast Guard and BSEE will be doing, and a last-minute attempt to do that would not be received well.

Mr. LAMBORN. OK. Thank you. Vice Admiral, for clarification, who is the flag authority again?

Admiral SALERNO. The flag authority is Bahamas.

Mr. LAMBORN. All right. Thank you.

I would now like to recognize the Ranking Member for five minutes of questions.

Mr. HOLT. Thank you. Thank you, Mr. Chairman.

It is worrisome, of real concern to some of us that we have in place a system to get blowout containment systems, other containment and cleanup systems to any Gulf disaster. Help me understand how much confidence we have that we could or that Repsol would get to their site whatever they need.

And then let me also ask how much time do we have to get in place whatever agreements would be necessary to give us the confidence that those would get there? And this is really a question for both the Admiral and the Director.

Mr. BROMWICH. Mr. Holt, I have a high level of confidence that the necessary licenses will be in place. That is an ongoing process that involves Treasury Department and the Commerce Department, and both as a result of historical licenses as well as some recently granted licenses, there is a range of both equipment and services that right now could be provided, and those include vessels, other kinds of equipment, the capping stack and containment system, which, as you know, is an extremely important element of a response.

One of the things that the Coast Guard and we and the rest of the Administration have been involved in over the last several months is trying to work to make sure that all of the relevant preparations are made and so this has had high-level attention for many months, and I think we are in a pretty good place right now in terms of getting everything that is needed in place.

Mr. HOLT. And before I let the Admiral give his part of the answer to this, let me understand clearly. This is because of our agreement with Repsol, not because of any agreement with Cuba?

Mr. BROMWICH. There is no agreement with Cuba, so these are understandings that we have with Repsol, but the licenses are real-

ly separate and are sought after by other companies that are in a position to provide such services.

Mr. HOLT. But is it not true that Repsol's rig will be flagged in the Bahamas just like Deepwater Horizon and that all safety inspections will be conducted by a third party, so the same applies for cleanup? I mean for containment and disaster response. Isn't that true? The rig would be inspected by the Norwegian company, the same company that BP used in the Deepwater case?

Mr. BROMWICH. Yes.

Mr. HOLT. OK. Admiral?

Admiral SALERNO. The only thing I would add, sir, is Repsol does have agreements, preexisting agreements, with spill response organizations that do have the capabilities that Mr. Bromwich mentioned.

From a Coast Guard perspective, we would mount a response as aggressively as possible as close to the source as possible. There is really no prohibition for the Coast Guard moving into the Cuban EEZ, but there is a problem with commercial pollution responders operating in the Cuban EEZ. That is the reason why the issue of licenses is so critical and why we are working so closely with State Department, Treasury and Commerce on that issue. So that is actively being managed.

So the Coast Guard would not have enough pollution response capability in its own inventory to mount a large-scale response. We rely very heavily on commercial capabilities to work with us in a response.

Mr. HOLT. Admiral, you spoke about a recently signed bilateral agreement with Russia. Does that provide for oil disaster response?

Admiral SALERNO. Yes, sir, it does. Actually we have a long-standing joint contingency plan with the Russian Federation for oil spill response in the Bering Sea and in the Chukchi Sea. We updated that based on some lessons learned from Deepwater Horizon.

Plus we just signed yesterday a memorandum of understanding which expands our levels of cooperation in oil spill R&D, mutual cooperation as additional drilling takes place in the Arctic and the rest.

Mr. HOLT. And you felt that agreement was useful or necessary beyond any licensing agreements, isn't that right, and so wouldn't we want an agreement like that with Cuba if we could get it?

Admiral SALERNO. Sir, the way we are approaching that is multilaterally under the auspices of the Cartagena Convention, which covers most of the Caribbean, including Cuba, but also the Bahamas, Jamaica, Mexico, the other countries that are planning to engage in drilling activity.

That is the forum for coming to some agreement on mutual cooperation, sharing of resources, notifications and joint response activity.

Mr. LAMBORN. All right. I now recognize the gentleman from Florida for five minutes.

Mr. RIVERA. Thank you, Mr. Chairman. My question is for Mr. Bromwich to start off.

Regarding the inspection that is going to take place on the Repsol rig, do we have a more exact timetable of when that is going to occur?

Mr. BROMWICH. We don't have an exact timetable because it depends on the speed of the vessel coming from foreign waters. Our best estimate is sometime in the first half of December, but that could slide.

Mr. RIVERA. First half of December?

Mr. BROMWICH. Correct.

Mr. RIVERA. And tell me a little bit about how that inspection will take place and how we will know or become aware of the results of that inspection.

Mr. BROMWICH. We will have a small team of inspectors, together with Coast Guard inspectors, that will actually board the vessel and go through the full set of the inspection regime that it would conduct on a rig in U.S. waters and go through all of that. We will receive the information from that inspection. We will also provide feedback to Repsol, pointing out any deficiencies that we have observed.

Mr. RIVERA. And when you point out, hypothetically speaking, any deficiencies there will be time to address deficiencies before it actually enters Cuban waters?

Mr. BROMWICH. Well, it depends on the deficiencies. I think for most the answer is yes, but for some, depending on what we find, that may take more time. We won't know until we actually identify deficiencies if there are any.

Mr. RIVERA. Now we mentioned earlier about enforcement capabilities. Going past the inspections, let us say we have given them our concerns as to their deficiencies and it enters Cuban waters. In terms of enforcement capabilities in national waters of other nations, does the United States have any enforcement capabilities on rigs in the waters of other nations right now: Mexico, Canada, other nations?

Mr. BROMWICH. No.

Mr. RIVERA. So even if Cuba were our best neighbor and Cuba was not a state sponsor of terrorism and Cuba was not a nation that holds American citizens hostage, as is occurring right now, even if all that were not to be true, the United States would still not have enforcement capabilities. Is that correct?

Mr. BROMWICH. That is correct. And let me follow up a little bit about the inspection. I want to make clear that the completeness and the thoroughness of the inspection will not match what we are able to do in U.S. waters.

There are certain aspects of the inspection that you do, including, for example, what is called an on-bottom test of the blowout preventer that can only be done at the site where the rig will actually be doing its work. And since our inspection will be many, many miles from where the rig will be drilling there are certain things, about a dozen things, that we will not be able to do because we are not doing the inspection where the drilling will already take place.

Mr. RIVERA. No, I understand.

Mr. BROMWICH. So I want to be clear that in our judgment it is a lot better than nothing, but I don't want you or anyone else to think it is equivalent to—

Mr. RIVERA. No, I understand that. I am only making the point once it enters Cuban waters, because I know some have tried to make the argument that if you lift the embargo, for example, that

somehow that is a panacea in terms of enforcing what could happen in Cuban waters.

And that is just not the case because we do not have enforcement capabilities, as you have said, in other nations' waters, correct?

Mr. BROMWICH. That is correct, yes.

Mr. RIVERA. Yes? Did you want to add something?

Admiral SALERNO. If I could offer just one caveat to that?

Mr. RIVERA. Yes.

Admiral SALERNO. I agree with everything Mr. Bromwich said. However, there is one distinction. If U.S. flag drilling rigs are operating in foreign waters, the U.S. does have jurisdiction over the rig itself.

Mr. RIVERA. And the flag on this particular rig?

Admiral SALERNO. The flag on this rig is Bahamas.

Mr. RIVERA. OK.

Admiral SALERNO. But if a U.S. flag—

Mr. RIVERA. So we would not have enforcement capabilities?

Admiral SALERNO. Not on this one, no.

Mr. RIVERA.—on this rig irrespective of the current relations?

Admiral SALERNO. Correct. That is correct.

Mr. RIVERA. Mr. Bromwich, let me ask you, any assurances from Repsol as to this rig's compliance with existing economic sanctions against the Castro dictatorship?

Mr. BROMWICH. Yes. My understanding is that they have complied with the rules that govern—

Mr. RIVERA. How did you reach that understanding?

Mr. BROMWICH. Based on information supplied by Repsol.

Mr. RIVERA. Repsol has given information regarding the rig not being in violation of any U.S. law in terms of the parts on the rig?

Mr. BROMWICH. Correct.

Mr. RIVERA. Thank you. Thank you, Mr. Chairman.

Mr. LAMBORN. OK. And with the indulgence of the witnesses, let us have a second round, but a truncated second round, two and a half minutes per Member. And if the clerk could keep track of that? I will begin.

Mr. Bromwich or I guess Mr. Salerno also, will any other agencies be assisting with the inspection that we have been talking about? For example, will you be using Commerce or Treasury agents to review the equipment and parts of the rig?

Admiral SALERNO. Not to my knowledge, sir. This would be a technical exam, and we have the technical expertise within our cadre to perform that inspection, as does BSEE from their aspect.

Mr. BROMWICH. I agree with that. We have had no conversations that I am aware of that Treasury and Commerce personnel would be boarding the rig. I am not sure any of them has ever done an inspection.

Mr. LAMBORN. OK. Just wanted to clarify that. That is all that I have for this hearing, and I would like to now recognize the Ranking Member.

Mr. HOLT. Director Bromwich, you said earlier you wouldn't be able to conduct an inspection of the rig, so what sorts of things would not be covered, and have you been able to talk with your counterparts in Cuba say to get some assurance that those inspections that you would have conducted perhaps would be conducted?

Mr. BROMWICH. There is a list of 12 or 13 items that I got from our personnel.

Mr. HOLT. Give us a sense. Do you have a sense?

Mr. BROMWICH. One is the on-bottom test that I mentioned before, which is actually an important test. One is we generally inspect how the well has been secured. We obviously can't do that. There are specific diverter system requirements we are not going to be able to check, specific well control drill requirements we are not going to be able to check, specific drilling fluid program requirements we are not going to be able to check and specific casing program requirements that relate to the implementation of the drilling program that we are not going to be able to check.

Mr. HOLT. And have you been able to talk with counterparts in Cuba to see that those are being done?

Mr. BROMWICH. No, we have not.

Mr. HOLT. If there were a bilateral agreement, would you expect to have those conversations or even that inspection authority?

Mr. BROMWICH. Well, I think it would be likely we would have such instructions. I am not sure if we had those kinds of discussions around and available and we had confidence in the Cuban regulatory regime, I am not sure that we would even be doing this inspection.

Mr. HOLT. Director Bromwich, one last thing. This Committee has invited the CEOs of BP and other companies involved in the Deepwater Horizon disaster to testify this afternoon. The CEOs from these four companies have all refused to appear.

Do you believe that these CEOs should testify before Congress on the government's joint investigation report on the spill so that the American people can hear from them what actions the companies are taking to improve the safety of their drilling operations?

Mr. BROMWICH. Well, with the litigation and enforcement proceedings going on, I understand their decision, but I am quite disappointed by their decision. It is obviously an issue of great public importance. I know that Members on both sides would like to hear from the CEOs of those companies.

Mr. HOLT. We are disappointed in those decisions too and feel the public deserve and really need to hear. Thank you.

Mr. LAMBORN. Thank you. And I am also disappointed that the Departments of State, Commerce and Treasury refused to be here this morning. I am very disappointed in them.

I would now like to recognize the gentleman from Florida if he has any followup questions.

Mr. RIVERA. Thank you very much. First, before I proceed with my question, which will be for the Coast Guard, Mr. Chairman, I would like to ask unanimous consent that a letter which was sent to President Obama yesterday and signed by my colleagues, the Chairman of the Foreign Affairs Committee, Ileana Ros-Lehtinen, Congressman Mario Diaz-Balart, Congressman Albio Sires, regarding this very issue expressing our concerns as to the inspections of the rig and the lack of conformity with U.S. law, if that could be entered into the record with your permission.

Mr. LAMBORN. If there is no objection, that will be entered into the record.

Mr. RIVERA. Thank you very much.

[The letter submitted for the record by Mr. Rivera follows:]

Congress of the United States
Washington, DC 20515

November 1, 2011

The Honorable Barack Obama
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

We are extremely concerned over what seems to be a lack of a coordinated effort by the Administration to prevent a State Sponsor of Terrorism, just 90 miles from our shores, from engaging in risky deep sea oil drilling projects that will harm U.S. interests as well as extend another economic lifeline to the Cuban regime.

Spain's state-owned energy company, Repsol, has entered into an agreement with the Cuban regime to drill off Cuba's coast. A Chinese-built deep water oil rig will be used for this project – the Scarabeo 9. Despite the fact that the oil rig has not reached Cuban territorial waters, or the Western Hemisphere for that matter, the Department of Interior has been actively providing assistance, guidance, and technical advice to Repsol. This is inconsistent with numerous U.S. foreign policy and national security objectives with regards to Cuba.

The Trading with the Enemy Act (TWEA) as implemented by 31 C.F.R. § 515.201, prohibits certain transactions involving property in which Cuba or a Cuban national has any interest whatsoever, directly or indirectly. The support that the Department of Interior is providing to Repsol appears to be in contravention of TWEA, as such assistance will result in a financial windfall to the Cuban regime. It may also facilitate processes that could lead to an environmental disaster off U.S. shores and the greater Caribbean.

The Director of the Bureau of Safety and Environmental Enforcement for the Department of Interior at a recent Senate Energy and Natural Resources Committee hearing, indicated that Interior, in coordination with the U.S. Coast Guard, will conduct an examination of the rig just before it enters Cuban waters. However, in conjunction with this examination, we request that the Department of Commerce's Bureau of Industry and Security (BIS) also be involved and conduct its own review and inspection to ensure that no U.S. laws or regulations are being violated, including the TWEA and the Export Administration Act (EAA).

We are concerned by reports that the Scarabeo 9 may have been designed specifically to avoid U.S. economic sanctions against Cuba. While the EAA and the Export Administration Regulations (EAR) generally prohibit virtually all exports and reexports of U.S. – origin goods, software and technology to Cuba, we need clarity on how the Administration is applying the sanctions and EAR to foreign produced items incorporating 10 percent or less controlled U.S. content.

According to press reports, the Scarabeo 9 includes a U.S. origin blowout preventer and may contain other controlled, U.S. origin items, and possible advanced computer software that may be in violation of EAR section 734.4, the de minimis U.S. content rule regarding technology found on this structure. What information or assurances has the Administration sought or received from Repsol to ensure that the oil rig complies with existing U.S. sanctions against Cuba?

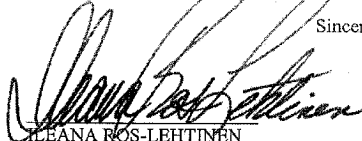
Recently, your Administration announced a settlement with a Texas company, Flowserve, for alleged violations stemming from transactions that included, among others, the exports of pumps, valves, and related component parts and supplies from the United States indirectly to Iran. According to the Federal Register notice, several of Flowserve's foreign affiliates engaged in transactions involving property in which Cuba or a Cuban national had an interest. The company has agreed to remit \$2.5 million to BIS to settle apparent violations of the EAR arising from the same course of conduct. We would appreciate additional information about this matter to learn what U.S. oil drilling or related technologies may have made their way to Cuba and if any of this technology could be used for the Scarabeo 9 project.


The Export Administration Regulations clearly state that the only items allowed to be exported to Cuba are donations of medical equipment, agricultural exports, and telecommunications equipment. Thus, even if the de minimis rule does not apply, the broader prohibitions against exports to Cuba must still be enforced.


We are concerned that sensitive U.S. technology can fall in the hands of a regime that supports terrorism and as such, this Committee would appreciate a response to the matters raised in this letter as soon as possible.

Thank you very much for your attention to this matter.

Sincerely,


ELEANA ROS-LEHTINEN
Member of Congress


ALBIO SIRE
Member of Congress


MARIO DIAZ-BALART
Member of Congress


DAVID RIVERA
Member of Congress

Mr. RIVERA. And my question for the Coast Guard. In the case of a foreign sourced spill, whether it comes from Mexico, the Bahamas or Cuba, and that oil reaches American waters and beaches, who would pay for that cleanup?

Admiral SALERNO. Two answers on that, sir. One is we immediately would open the Oil Spill Liability Trust Fund, so we have a source of funding to manage the Coast Guard and private contractor response in our EEZ, in our waters and our coasts. We would also seek legal avenues to obtain compensation from the source.

When it occurs in a foreign EEZ it becomes very complicated legally, very fact-dependent. However, I do know that Department of Justice as well as the legal branches of many of the involved agencies are working with those issues now and running through various scenarios as to how that would be applied.

Mr. RIVERA. Now, in terms of the Oil Liability Trust Fund that you mentioned, there is a cap on that?

Admiral SALERNO. That is correct. The fund is broken up into two parts. There is an emergency fund and a principal fund.

Mr. RIVERA. What are the caps?

Admiral SALERNO. There is a \$1 billion cap per incident. The initial authorization is for \$50 million. It can be advanced by \$100 million and then beyond that requires congressional approval, but the overall cap is \$1 billion.

Mr. RIVERA. And is there a cap within that \$1 billion for response?

Admiral SALERNO. That is the response portion of the fund. The overall fund is a \$2 billion plus fund.

Mr. RIVERA. So there is not a \$125 million cap on response?

Admiral SALERNO. Well, the initial authorization is \$50 million. It can be enhanced by \$100 million, so that is \$150 million, and then beyond that requires congressional approval.

Mr. RIVERA. I only have a few seconds left, but let me just ask you, what was the ultimate cost of the response on the Deepwater Horizon?

Admiral SALERNO. The cost to the fund—sorry, I would have to get you an exact amount. I don't believe we—we did not reach the \$1 billion mark.

BP of course paid about roughly \$20 billion in response plus another \$20 billion for the Gulf Coast restoration, so about \$40 billion total paid.

Mr. RIVERA. Thank you.

Mr. LAMBORN. All right. I want to thank the panel for their testimony, for each of them being here. Members of the Committee may have additional questions for the record, and I would ask that you respond to these in writing. We appreciate your attendance today.

Mr. BROMWICH. Thank you very much, Mr. Chairman.

Mr. LAMBORN. You are welcome.

Admiral SALERNO. Thank you, sir.

Mr. LAMBORN. You are welcome.

I would now like to invite forward the second panel consisting of Mr. Mauricio Claver-Carone, Executive Director of the Cuba Democracy Advocates; Mr. Jorge Piñon, Visiting Research Fellow, Latin American and Caribbean Center of Cuban Research Institute; Mr. Daniel Whittle, Senior Attorney and Cuba Program Director, the Environmental Defense Fund; and Ms. Caitlyn Antrim, Executive Director of the Rule of Law Committee for the Oceans.

[Pause.]

Mr. LAMBORN. OK. Thank you for being here today. Like all our witnesses, your written testimony will appear in full in the hearing record, so I ask that you keep your oral statements to five minutes as outlined in the invitation letter to you.

Our microphones are not automatic. Like I was saying earlier, you have to turn them on to begin speaking. The way our timing lights work is that when you begin to speak the clerk will start the timer and a green light comes on. After four minutes a yellow light comes on, and after five minutes the red light comes on.

Mr. Claver-Carone, you may begin.

**STATEMENT OF MAURICIO CLAVER-CARONE,
EXECUTIVE DIRECTOR, CUBA DEMOCRACY ADVOCATES**

Mr. CLAVER-CARONE. Thank you, Mr. Chairman. It is truly a privilege to be here with all of you today. My name is Mauricio

Claver-Carone, and I am the Executive Director of Cuba Democracy Advocates, a nonprofit, nonpartisan organization dedicated to the promotion of human rights, democracy and the rule of law in Cuba.

I have held this position for seven years, and throughout this time I have been closely monitoring the plans, developments and geopolitical motivations behind the Cuban regime's efforts to pursue offshore oil exploration.

However, it is important to note that despite the broad media attention given to the Cuban regime's most recent plans, which we are discussing here today, its efforts to conduct offshore oil exploration date back almost 20 years now, and ultimately all of them have been unsuccessful.

Please allow me to begin with some broader observations. Cuba is a totalitarian dictatorship. It is the sole remaining dictatorship in the Western Hemisphere. Therefore, it should not be viewed through the same lens as its democratic neighbors, the Bahamas and Mexico, nor should it be treated in the same manner.

The Bahamas and Mexico are allies of the United States. We share a relationship of trust and cooperation with these two friendly nations. Meanwhile, the Cuban regime remains under U.S. sanctions, which Congress codified into law under the 1996 Cuban Liberty and Democratic Solidarity Act, due to three fundamental reasons: 1] The brutal violations of the Cuban people's human, civil, political and economic rights; 2] Its hostile anti-American policies; and 3] The illegal expropriation of properties belonging to U.S. nationals.

Moreover, Cuba remains one of four countries designated by the U.S. Government as a state sponsor of terrorism based on its harboring of fugitives, including the murderers of U.S. law enforcement officials, its unwillingness to cooperate with U.S. antiterrorism efforts, its intelligence gathering and sharing with other rogue regimes and its support for foreign terrorist organizations. The other three countries on the state sponsors of terrorism list are Iran, Sudan and Syria.

Considering the background of Cuba's regime, a strong case can be made that it is not in our national interest to lift sanctions and assist yet another anti-American dictatorship, particularly a state sponsor of terrorism, in its ambitions for oil exploration. To do so would not ease domestic fuel costs or enhance energy independence here at home, which should be the goal of U.S. energy policy.

To the contrary, it would add to the extortionate practices that other oil-producing dictatorships have exploited for the last half a century. Furthermore, considering that the same Cuban regime has already expropriated U.S. oil assets in the past, it would send a dangerous message to other hostile governments that, in this region alone, would like to do the same.

Now allow me to focus on some of the specifics of the Cuban regime's offshore exploration plans, which unfortunately tend to get overlooked. Despite the Cuban regime's highly publicized efforts over the last 20 years, there have been no commercially viable discoveries or extraction of oil in waters off Cuba's shores. Moreover, there is currently no drilling taking place in waters off Cuba's shores.

The Cuban regime first began using offshore drilling rights to extract political concessions from various nations of the world soon after the 1991 collapse of the Soviet Union, which ended that country's hefty subsidies to Cuba. According to recently declassified documents by Brazilian Foreign Ministry, in 1993 the Cuban regime first offered the government of then-President Itamar Franco the most promising blocks for oil exploration to Brazil's national oil company, Petrobras, in exchange for their shunning of Cuban dissidents on the island and canceling a meeting with Cuban exiles at the Brazilian Embassy in Washington, D.C. The Brazilian Government happily complied with both, only to exit from Cuba empty-handed years later.

The Cuban regime found a new partner when Hugo Chavez rose to the presidency of oil-rich Venezuela in 1998. With the backing of Chavez and Venezuela's state oil company, the Cuban regime resumed its diplomatic offensive, signing highly publicized oil leases with Spain's Repsol, Norway's Statoil, Russia's Gazprom, India's ONGC, Malaysia's Petronas, Canada's Sherritt, Angola's Sonangol, Vietnam's PetroVietnam and China's CNPC.

However, only one company has actually conducted any exploratory drilling, Spain's Repsol in 2004. It found some oil but not in any commercially viable quantities. It then pulled out of Cuba.

Similarly, after much initial fanfare, Canada's Sherritt and Brazil's Petrobras, perhaps the most credible and respected of the region's oil companies outside the United States, publicly abandoned their efforts in 2008 and 2011 respectively, stating that Cuba offshore drilling was not commercially viable and citing poor prospects.

Much of this can be attributed to U.S. sanctions, which dramatically drive up cost of production. The Cuban regime has itself admitted that U.S. sanctions make it commercially impractical to produce oil in its territorial waters. As long as U.S. trade sanctions against Cuba remain in place, producing or refining any oil found in Cuban waters isn't an option.

That leads to the question, if offshore drilling in Cuban waters is not commercially viable for the most respectable regional oil companies which are located relatively close to Cuba and have the most experience in dealing with the Cubans, is such drilling really viable for the Angolans, the Malaysians or the Chinese? The answer is no.

Initially, as the Ranking Member noted, we learned this in 2006 when the Cuban regime had seemingly convinced public policy-makers in Washington and many here in Congress that the Chinese were ready to drill off Cuba's shores. That threat never materialized, but it served the Cuban regime's political interests.

Last year's oil spill in the Gulf of Mexico by BP and the justifiable public outrage that ensued has given the regime a new and strategic opportunity to use the threat of offshore drilling as a means of forcing the U.S. to unilaterally ease sanctions.

Despite the fact that Repsol still faces exploratory hurdles, the U.S. is erring on the side of caution. While such precautions are necessary, efforts should also be made to prevent the Cuban regime from engaging in offshore exploration altogether. Precaution might bring us temporary peace of mind, but prevention would better

serve our long-term national interest, and there is legislation filed in Congress to do so.

Mr. Chairman, this concludes my testimony. Again, I truly appreciate the invitation and the opportunity to speak before you and the Committee. I will be pleased to respond to any questions.

[The prepared statement of Mr. Claver-Carone follows:]

**Statement of Mauricio Claver-Carone, Executive Director,
Cuba Democracy Advocates**

Thank you, Mr. Chairman.

It's truly a privilege to be here with all of you today.

My name is Mauricio Claver-Carone and I'm the Executive Director of Cuba Democracy Advocates, a non-profit, non-partisan organization dedicated to the promotion of human rights, democracy and the rule of law in Cuba.

I have held this position for seven years and throughout this time, I have been closely monitoring the plans, developments and geo-political motivations behind the Cuban regime's efforts to pursue offshore oil exploration.

However, it's important to note that despite the broad media attention given to the Cuban regime's most recent plans, which we are discussing here today, its efforts to conduct offshore oil exploration date back almost 20 years. And ultimately—all of them have been unsuccessful.

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Moreover, Cuba remains one of four countries designated by the U.S. Government as a state-sponsor of terrorism based on its harboring of fugitives (including the murderers of U.S. law enforcement officials); its unwillingness to cooperate with U.S. anti-terrorism efforts; its intelligence gathering and sharing with other rogue regimes; and its support for foreign terrorist organizations. The other three countries on the state-sponsors of terrorism list are Iran, Sudan and Syria.

Considering the background of Cuba's regime, a strong case can be made that it is not in our national interest to lift sanctions and assist yet another anti-American dictatorship—and state-sponsor of terrorism—in its ambitions for oil exploration. To do so would not ease domestic fuel costs or enhance energy independence here at home, which should be the goals of U.S. energy policy. To the contrary, it would add to the extortionate practices that other oil-producing dictatorships have exploited for the last half-a-century.

Furthermore, considering that this same Cuban regime has already expropriated U.S. oil assets in the past (Esso and Texaco), it would send a dangerous message to other hostile governments that—in this region alone (e.g. Hugo Chavez in Venezuela)—would like to do the same.

Now, allow me to focus on some of the specifics of the Cuban regime's offshore exploration plans, which unfortunately tend to get overlooked.

Despite the Cuban regime's highly publicized efforts over the last 20 years, there have been no commercially viable discoveries or extraction of oil in waters off Cuba's shores. Moreover, there is currently no drilling taking place in waters off Cuba's shores.

The Cuban regime first began using offshore-drilling rights to extract political concessions from various nations of the world soon after the 1991 collapse of the Soviet Union, which ended that country's hefty subsidies to Cuba.

According to recently declassified documents by the Brazilian Foreign Ministry, in 1993 the Cuban regime first offered the government of then President Itamar Franco the "most promising" blocks for oil exploration to Brazil's national oil company, Petrobras, in exchange for their shunning of Cuban dissidents on the island and cancelling a meeting with Cuban exiles at the Brazilian Embassy in Washington, D.C. The Brazilian government complied with both, only to exit from Cuba empty-handed years later.

The Cuban regime found a new “partner” when Hugo Chavez rose to the presidency of oil-rich Venezuela in 1998. With the backing of Chavez and Venezuela’s state-oil company PdVSA, the Cuban regime resumed its diplomatic offensive signing highly publicized oil-leases with Spain’s Repsol, Norway’s Statoil, Russia’s Gazprom, India’s ONGC Videsh, Malaysia’s Petronas, Canada’s Sheritt, Angola’s Sonangol, Vietnam’s PetroVietnam and China’s CNPC.

Only one company, however, has actually conducted any exploratory drilling—Spain’s Repsol in 2004. It found some oil, but not in any commercially viable quantities. It then pulled out of Cuba.

Similarly, after much initial fanfare, Canada’s Sheritt and Brazil’s Petrobras—perhaps the most credible and respected of the region’s oil companies outside the United States—publicly abandoned their efforts in 2008 and 2011, respectively, stating that Cuba offshore drilling was “not commercially viable” and citing “poor prospects.”

Much of this can be attributed to U.S. sanctions, which dramatically drive up costs of production. The Cuban regime has itself admitted that U.S. sanctions make it commercially impractical to produce oil in its territorial waters. Keep in mind that even the largest neighboring foreign oil companies, Mexico’s Pemex and Venezuela’s PdVSA, refine the majority of their oil in the U.S. and then repatriate it, for they lack the domestic infrastructure to process their own heavy crude and the U.S.’s geographical proximity enhances profitability. As long as U.S. trade sanctions against Cuba’s regime are in place, producing and refining any oil found in Cuban waters in the United States isn’t an option.

That leads to a question: If off-shore drilling in Cuban waters is not commercially viable for the most respectable regional oil companies, which are located relatively close to Cuba and have the most experience in dealing with Cubans, is such drilling really viable for the Angolans, Malaysians or the Chinese? The answer is no.

Initially, we learned this in 2006, when the Cuban regime seemingly had convinced public policymakers in Washington—including many here in Congress—that the Chinese were ready to drill off Cuba’s shores. The threat never materialized, but it served the Cuban regime’s political interests. As Reuters reported from Cuba at the time: “Havana is eager to see American oil companies join forces with the anti-embargo lobby led by U.S. farmers who have been selling food to Cuba for four years.”

Last year’s oil spill in the Gulf of Mexico by BP and the justifiable public outrage that ensued has given the Cuban regime a new and strategic opportunity to use the threat of offshore drilling as a means of forcing the U.S. to unilaterally ease sanctions. Cuban Foreign Minister Bruno Rodriguez has confirmed this on various occasions and relayed as much to former New Mexico Gov. Bill Richardson, who recently traveled to Havana in an unsuccessful effort to secure the release of American hostage Alan Gross; Gross has been held for nearly two years in a Cuban prison for helping the island’s Jewish community connect to the Internet.

In a flashback to 2004, Spain’s Repsol is back in Cuba preparing to drill another exploratory well early next year. This time, the Cuban regime is “threatening” that if Repsol is pressured into abandoning drilling, India’s ONGC Videsh or Malaysia’s Petronas will step forward.

Curiously, this peculiar corporate trio was granted extensive oil-rights last year by Hugo Chavez to develop a block with 235 billion barrels of reserves in Venezuela’s oil-rich Orinoco belt. Reserves in that one Venezuelan block alone are believed to be 50 times greater than the best estimates in all of Cuba’s territorial waters. Some geo-political foul play can surely be deduced from the particularity and timing of this arrangement.

Despite the fact that Repsol still faces exploratory hurdles (and gargantuan production costs if oil is ever found), the United States is erring on the side of caution and licensing specialty oil spill mitigation firms to respond quickly in the case of an accident. This is also not a new phenomenon. The U.S. has been licensing such firms since at least 2001. Moreover, current U.S. law provides all of the necessary flexibility to do so.

While such precautions are necessary, efforts should also be made to prevent the Cuban regime from engaging in offshore exploration altogether. The anti-American nature of the Cuban regime will simply not provide the necessary safeguards regardless of the level of U.S. engagement on this issue. Thus, there is currently legislation filed with this goal in mind, including H.R. 2047, the Caribbean Coral Reef Protection Act, which targets U.S. visas and loans to the Cuban regime’s foreign business partners, and H.R. 373, which amends the Outer Continental Shelf Lands Act to deny U.S. leases to foreign companies that engage in oil exploration with countries under U.S. sanctions, such as Iran and Cuba. Precaution might bring us

temporary peace of mind, but prevention would better serve our long-term national interests.

Mr. Chairman, this concludes my testimony. Again, I truly appreciate the invitation and the opportunity to speak before you and the committee. I will be pleased to respond to any questions.

Mr. LAMBORN. All right. Thank you.
Mr. Piñon, you may begin.

**STATEMENT OF JORGE R. PIÑON, VISITING RESEARCH
FELLOW, LATIN AMERICAN AND CARIBBEAN CENTER,
CUBAN RESEARCH INSTITUTE**

Mr. PIÑON. Thank you, Mr. Chairman and Members of the Committee.

The 1982 Third United Nations Convention on the Law of the Sea defines the rights and responsibilities of nations in their use of the world's oceans, establishing guidelines for businesses, the environment and the management of their marine natural resources.

The United States has signed maritime boundary agreements with most of its neighbors—Russia [Alaska], Canada [ex Arctic Ocean], Cuba and Mexico—delineating an economic exclusive zone under which each state has sovereign rights on the exploration and exploitation of its water, seabed and subsurface marine resources.

As the United States, Mexico, Cuba and the Bahamas embark in developing their respective deepwater hydrocarbon resources within their EEZs and after the catastrophic experience of the Ixtoc and Macondo well blowouts, the establishment of a working relation between all four countries and marine environmental protection would assist in the contingency planning and cooperation necessary to an early and truly effective response to an accidental oil spill.

The United States has already in place agreements of cooperation with Mexico and Canada that set protocols to follow in case of an oil spill which would pose a threat to their shared marine environment. A similar bilateral agreement is urgently needed with Cuba and the Bahamas.

The Bahamas, Cuba and the United States are signatories of multilateral agreements that commit the parties to prepare for and cooperate on potential oil spills. As was mentioned here, this includes the International Convention on Oil Pollution Preparedness Response and Cooperation, which was adopted in 1990 under the auspices of the International Maritime Organization. Under the Convention, parties are required to establish measures for dealing with pollution incidents either nationally or in cooperation with other countries.

To respond effectively to an oil-related marine accident, all four countries would also require immediate access to each other's oil services and equipment resources that can provide the needed instant technology and know-how that will be needed to prevent, limit and hold the damage of their shared marine environment.

We are very naive to think that in the case of Cuba a handful of licenses would prevent and contain a deepwater oil exploratory well blowout. A general license to export and supply equipment, personnel and services to international oil companies operating in Cuba in the case of an emergency is urgently needed.

Deepwater Horizon response resources needed to assist in containment and cleanup efforts were unprecedented: over 48,000 responders, more than 5,050 vessels, over 10 billion feet of containment boom, two million gallons of dispersant and also two ultra deepwater semi-submersibles that were needed to drill relief wells to permanently seal the reservoir.

Over the last few months we have seen a number of congressional concerns questioning the experience in deepwater drilling of the international oil companies, the standards and regulations under which they will operate, the technology and quality of the drilling equipment and the lack of a multilateral disaster preparedness and coordination agreement in the event of an oil spill.

Most noticeable, Mr. Chairman, throughout this debate, it has been singularly focused on Spain's publicly held oil company, Repsol, while ignoring all other exploratory oil drilling activities in Cuba, Mexico and the Bahamas by a number of state-owned national oil companies, such as Malaysia's Petronas, Russia's Gazprom and Mexico's Pemex, among others.

Mexico, Cuba and the Bahamas are in the process of implementing the most up-to-date drilling regulations and standards, but do they have the resources, capabilities, assets, personnel and experience to enforce them? Can these countries' regulatory agencies appropriately police the operators?

The United States not only needs to reach out and share lessons learned and best practices with all companies operating in the region for the benefit and protection of our common economic and environmental interests but most importantly with the regulatory agencies such as Mexico's Comisión Nacional de Hidrocarburos, Cuba's Oficina de Regulación Ambiental y Seguridad Nuclear and the Bahamas' Ministry on the Environment.

Having said this, the recent unprecedented international role played by the Department of the Interior's Bureau of Safety and Environmental Enforcement appears to me, Mr. Chairman, to be outside of its constitutional mandate to take charge of the nation's internal affairs and therefore merits further review and consideration as it establishes precedents which are not in the best interests of the United States' national security and could impact negatively in your efforts of hydrocarbon development in the Perdido Fault of Mexico and in the Chukchi Sea.

The economic and environmental consequences from an accidental oil spill for all 19 million Florida residents demands proactive joint planning by Cuba, Mexico and the Bahamas and the United States. In order to prevent such a disaster, this planning should be done in the spirit of cooperation and not confrontation.

The editorial position of Florida's three largest newspapers, Mr. Chairman, underscores this view. The St. Petersburg Times, and I quote, "Florida lawmakers' hope of thwarting Cuba's offshore drilling ambitions by isolating it from oil companies that do business in the United States is shortsighted political posturing that won't work."

The Fort Lauderdale Sun Sentinel, "Cuba's oil drilling ought to be put above the diplomatic and political fray."

And The Orlando Sentinel, "Politics instead of wise policy continues to undermine the U.S. approach to oil drilling in Cuban waters."

Thank you, Mr. Chairman.

[The prepared statement of Mr. Piñon follows:]

Statement of Jorge R. Piñon, Visiting Research Fellow, Florida International University Latin American and Caribbean Center, Cuban Research Institute

Thank you Mr. Chairman and members of the committee, for the privilege and honor to be here today testifying and sharing with you what I consider to be an issue of national security.

My name is Jorge Piñon, I am a Visiting Research Fellow with Florida International University, Latin American and Caribbean Center's Cuban Research Institute. I am also the former president of Amoco Oil de Mexico and president of Amoco Oil Latin America.

The 1982 Third United Nations Convention on the Law of the Sea (UNCLOS III) defines the rights and responsibilities of nations in their use of the world's oceans, establishing guidelines for businesses, the environment, and the management of the marine natural resources.

The United States has signed maritime boundary agreements with most of its neighbors; Russia (Alaska), Canada (ex Arctic Ocean), Cuba, and Mexico; delineating an economic exclusive zone—EEZ—over which each state has sovereign rights on the exploration and exploitation of its water, seabed, and subsurface marine resources.

As The United States, Mexico, Cuba and The Bahamas embark in developing their respective deepwater hydrocarbon resources within their EEZs, and after the catastrophic experience of the Ixtoc and Macundo wells blowouts, the establishment of working relations between all four countries in marine environmental protection would assist in the contingency planning and cooperation necessary to an early and truly effective response to an accidental oil spill.

The United States have already in place agreements of cooperation with Mexico and Canada which set protocols to follow in case of an oil spill which would pose a threat to their shared marine environment. A similar bilateral agreement is urgently needed with Cuba and The Bahamas.

Cuba, The Bahamas and the United States are signatories of multilateral agreements that commit the parties to prepare for and cooperate on potential oil spills. This includes the International Convention on Oil Pollution Preparedness, Response, and Cooperation (OPRC), which was adopted in 1990 under the auspices of the International Maritime Organization (IMO). Under the convention, parties are required to establish measures for dealing with pollution incidents, either nationally or in cooperation with other countries.

To respond effectively to an oil-related marine accident, all four countries would also require immediate access to each others' oil services and equipment resources that can provide the near-instant technology and know-how that will be needed to prevent, limit, and halt damage to their shared marine environment.

We are very naïve to think that in the case of Cuba, a handful of individual export licenses could prevent and contain a deepwater oil exploratory well blowout. A general license to export and supply equipment, personnel and services to international oil companies operating in Cuba in the case of an emergency is urgently needed.

The Deepwater Horizon response resources needed to assist in containment and cleanup efforts were unprecedented; over 48,000 responders, more than 5,050 vessels including skimmers, tugs, barges, tankers, and recovery vessels; hundreds of aircrafts, remotely operated vehicles, and multiple mobile offshore drilling units and support equipment, 2.93 million feet of containment boom, 8.35 million feet of sorbent boom and nearly 2 million gallons of dispersant. Also, 2 ultra-deepwater semi-submersibles were needed to drill relief wells to permanently seal the reservoir.

Over the last few months, we have seen a number of congressional concerns questioning the experience in deepwater drilling of the international oil companies, the standards and regulations under which they will operate, the technology and quality of the drilling equipment, and the lack of a multi-lateral disaster preparedness and coordination agreement in the event of an oil spill.

Most noticeable throughout this debate has been the singularly focus on Spain's publicly held oil company Repsol, while ignoring all other exploratory oil drilling activities in Cuba, Mexico and The Bahamas by a number of state-owned national oil

companies such as; Malaysia's Petronas, Russia's Gazprom, India's ONGC, Angola's Sonangol, and Mexico's Pemex among others.

Mexico, Cuba and The Bahamas are in the process of implementing the most up to date drilling regulations and standards; but do they have the resources, capabilities, assets, personnel, and experience to enforce them? Can these countries' regulatory agencies appropriately police the operators?

The United States not only needs to reach out and shared lessons learned and best practices with all companies operating in the region for the benefit and protection of our common economic and environmental interests; but most importantly with the regulatory agencies such as Mexico's *Comision Nacional de Hidrocarburos*, Cuba's *Oficina de Regulación Ambiental y Seguridad Nuclear*, and The Bahamas Ministry of the Environment.

Having said this, the recent unprecedented international role played by the Department of Interior's Bureau of Safety and Environmental Enforcement appears to be outside of its constitutional mandate to "take charge of the Nation's internal affairs" and therefore, merits further review and consideration as it establishes precedents which are not in the best interest of the United States national security; and could impact negatively in our efforts of hydrocarbon development in the Perdido Fault (Mexico) and in the Chukchi Sea (Russia).

The economic and environmental consequences from an accidental oil spill for all 19 million Florida residents, demands proactive joint planning by Mexico, Cuba, The Bahamas and the United States in order to prevent such a disaster. This planning should be done in a spirit of cooperation, and not confrontation.

The editorial position of Florida's three largest newspapers Mr. Chairman underscores this view:

The St Petersburg Times; *"Florida lawmakers' hopes of thwarting Cuba's offshore drilling ambitions by isolating it from oil companies that do business in the United States is shortsighted political posturing that won't work."* (February 7, 2011)

The Fort Lauderdale Sun Sentinel; *"Cuba's oil drilling ought to be put above the diplomatic and political fray."* (October 23, 2011)

And the Orlando Sentinel; *"Politics instead of wise policy continues to undermine the U.S. approach to oil drilling in Cuba's waters."* (October 19, 2011)

Thank you Mr. Chairman.

Jorge R. Piñón began his thirty year career in the energy sector when he joined Shell Oil Company. He was president and CEO of Transworld Oil USA prior to joining Amoco Corporation in 1991 as president of Amoco Corporate Development Company Latin America. In this position Mr. Piñón represented the business development and joint venture efforts in the region between Amoco Corporation and state oil companies.

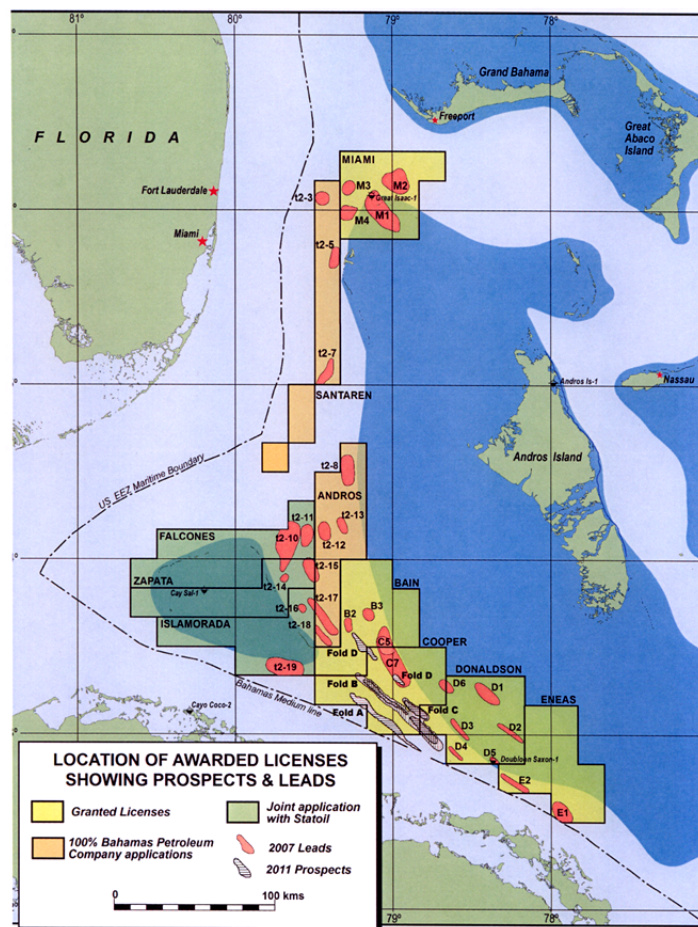
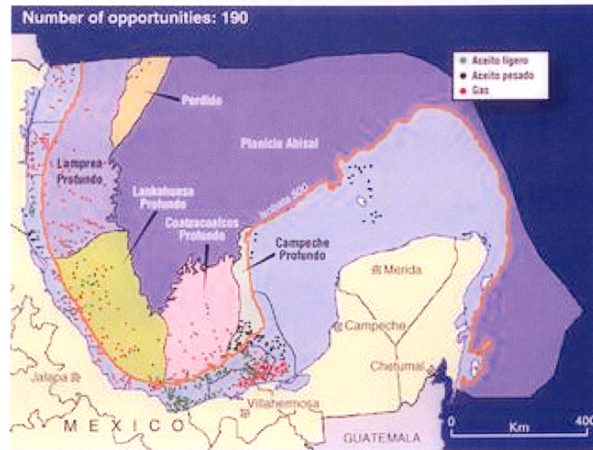
In 1994 he was transferred to the downstream oil sector to serve as president of Amoco Oil de México and president of Amoco Oil Latin America, based in Mexico City. After the 1999 merger between Amoco and BP, Mr. Piñón was transferred to Madrid, Spain, to manage BP Europe's western Mediterranean petroleum supply and logistics operations. He retired from BP in 2003.

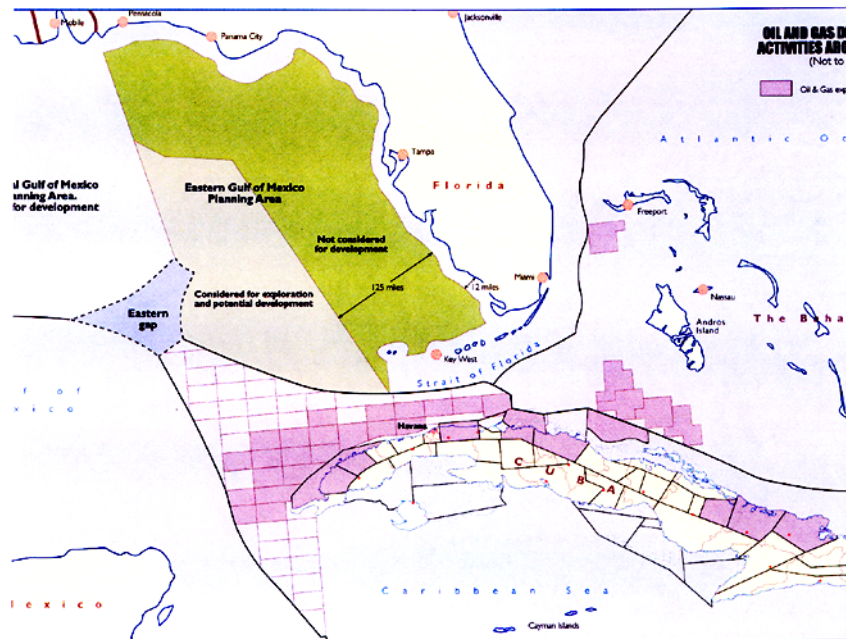
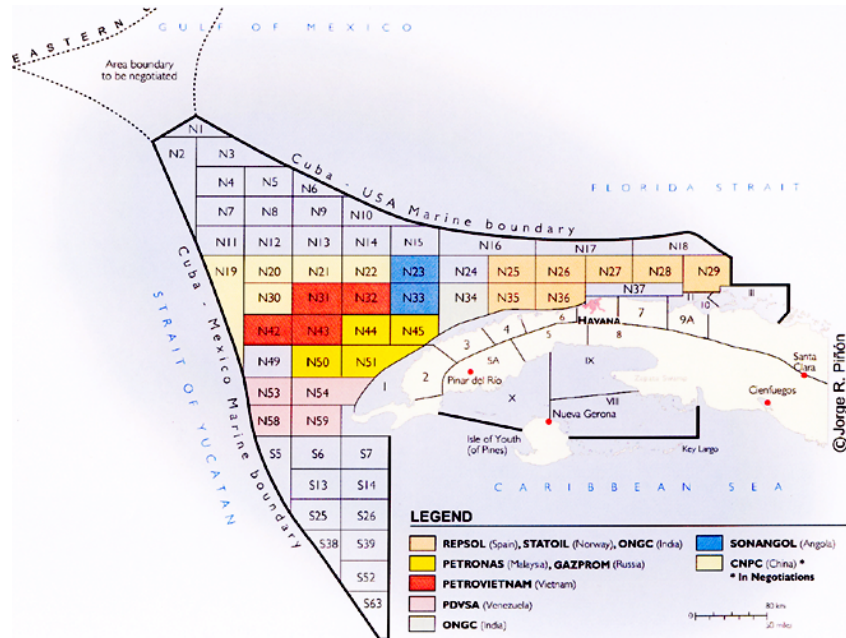
In 1997, when vice-president and member of the board of directors of the American Chamber of Commerce of Mexico—AMCHAM—Mr. Piñón received the "Yiacatecutli" award for distinguished service in the promotion of U.S.-Mexico business relations.

Mr. Piñón is today an international energy consultant, as well as a visiting research fellow with Florida International University's Latin American and Caribbean Center—Cuban Research Institute. With international experience in emerging markets and a network of senior energy contacts in Latin America, he is an independent analyst of regional energy issues, as well as the politics of oil and natural gas in Latin America.

He is also recognized as an expert on Cuba's energy sector, as well as on the island's future economic transition challenges and opportunities. He is an advisor and a member of the Cuba task forces at The Brookings Institution and The Council of the Americas, and a member of the board of directors of the Association for the Study of the Cuban Economy—ASCE—; and a co-author of Cuba's Energy Future: Strategic Approaches to Cooperation (Brookings, 2010), a monograph addressing the major challenges facing Cuba's access to energy resources that are environmentally sustainable and sufficient to meet the nation's revitalization and development goals.

Mr. Piñón holds a degree in Economics and a certificate in Latin American Studies from the University of Florida.





Mr. LAMBORN. All right. Thank you.
Mr. Whittle?

**STATEMENT OF DANIEL WHITTLE, SENIOR ATTORNEY/
CUBA PROGRAM DIRECTOR, ENVIRONMENTAL DEFENSE
FUND**

Mr. WHITTLE. Thank you, Mr. Chairman and Members of the Committee. It is an honor to be here today.

The Environmental Defense Fund has been working for years to rebuild fisheries and conserve coastal ecosystems in the Gulf of Mexico and along the Atlantic coast. We started working in Cuba in the year 2000 because the health of marine life, coral reefs and fisheries in the U.S. depends in part upon how well these resources are managed in Cuba.

The BP disaster was a wakeup call and a costly reminder that deepwater drilling is inherently risky. Lessons from the massive spill are still being learned, and it falls to Congress, the Administration and industry to adopt reforms to ensure that nothing like it ever happens again in U.S. waters. Congress, the Administration and industry must also take steps now to ensure that nothing like it happens again in Mexican, Cuban or Bahamian waters.

Following the Ixtoc spill in 1979, Mexico and the United States entered into an agreement called MEXUS to ensure close coordination and cooperation on planning and responding to future trans-boundary spills. As Vice Admiral Salerno indicated this morning, we also have similar agreements in place with Canada and Russia.

Just months after the Deepwater Horizon blowout, the Administration initiated a new round of talks with all levels of Mexican Government designed to strengthen MEXUS. U.S. and Mexico are also talking and meeting on the need for common environmental and safety standards, which were not part of the original agreement 31 years ago. The Administration does not have a MEXUS-like agreement with Cuba, and discussions, as we know, between the two governments are extremely limited because of U.S. law and policy.

A major spill in Cuban waters would have devastating environmental and economic impacts in both Cuba and the United States. In the U.S., marine life, coastal communities and livelihoods from Florida to North Carolina would be at risk. Florida's multibillion dollar a year tourism and fishing industries, especially in the Keys and along the state's East Coast, would take a direct and costly hit. With the prospect of oil drilling in Cuba as early as December, the Administration should act now to minimize the possibility of oil spills in Cuba altogether and to ensure that our national interests are fully protected.

Dialogue and cooperation between the U.S. and Cuba on environmental protection and safety standards is not without precedent. Since 1963, the National Hurricane Center in Miami has worked directly with its Cuban counterparts to track and monitor tropical storms and hurricanes. The U.S. has provided training to Cuban forecasters, and in turn Cuba has allowed the U.S. Air Force C-130 hurricane hunters into its airspace. This cooperation has saved lives and property.

In its report earlier this year, which was already quoted, the President's Oil Spill Commission called upon the U.S. Government to engage with both Cuba and Mexico to agree upon a common set of standards. The Administration has done this with Mexico, Can-

ada and Russia but has not yet initiated such negotiations with Cuba.

In September, I led a nine-member delegation to Havana with William Riley, the former EPA Administrator and Co-Chair of the Commission, and Richard Sears, the Commission's chief scientist. Our delegation also included the International Association of Drilling Contractors president, Lee Hunt. Though Cuban environmental agencies have developed a strong set of regulations, best practices and standards, our visit confirmed that more needs to be done to ensure that Cuba is adequately prepared to regulate and oversee offshore oil exploration.

In my written testimony, I outline some of the constructive steps that the Department of the Interior and Coast Guard have taken to date on this issue. Negotiations with Repsol are good, but they are no substitute for direct negotiations with Cuban government agencies. As a result, I believe the U.S. remains unprepared to minimize the environmental and economic damage that could occur from a spill in Cuban waters.

My testimony also outlines a number of specific actions the Administration can take now. I believe the Administration should preauthorize companies through a general license to assist in preventing and responding to major oil spills in Cuban waters. Most importantly, the Administration should initiate a dialogue with Cuba, much like we have with Mexico and Canada, to ensure that future drilling is conducted safely. Also, dialogue is the best way to enhance transparency. It is in fact the only way in this case to have transparency. Third, the Administration should develop a joint contingency plan with Cuba.

Ultimately our countries should work together much more broadly on environmental cooperation to protect the many shared resources, migratory fish populations, coral reefs, wetland systems, et cetera, that we share with our neighboring country. Thank you very much.

[The prepared statement of Mr. Whittle follows:]

**Statement of Daniel J. Whittle, Senior Attorney
and Cuba Program Director, Environmental Defense Fund**

Thank you Mr. Chairman and members of the subcommittee, it is an honor to join you in a discussion of the potential environmental implications of new offshore energy development and what measures can be taken to protect marine ecosystems, coastal communities, and livelihoods against future oil spills in ocean waters we share with Cuba, Mexico and the Bahamas.

My name is Daniel Whittle and I work for the Oceans Program at Environmental Defense Fund (EDF) where I am the director of the Cuba Program. EDF is a national environmental organization that searches for solutions that maximize economic incentives for solving environmental problems.

EDF has been working in the Gulf of Mexico for 35 years to protect and restore coastal ecosystems and to rebuild troubled multi-billion dollar fisheries. EDF is working now to address the economic and environmental devastation of the BP oil disaster and to ensure that Congress sends money where it is needed most: projects to repair Gulf Coast communities, wildlife and the environment, including the restoration of the delta of the Mississippi River. We support passage of The Resources and Ecosystems Sustainability, Tourist Opportunity, and Revived Economies of the Gulf States Act of 2011 (RESTORE Act) that would ensure that 80 percent of the Clean Water Act (CWA) penalties to be paid by BP and other responsible parties will be used to restore the communities, economies and ecosystems of the Gulf region directly.

For the past 11 years, under a specific license from the US Department of Treasury, EDF has worked with marine biologists and other scientists in Cuba to protect

coral reefs and other important ocean and coastal ecosystems, and to identify strategies for restoring declining fish populations. Cuba's coral reefs remain of high quality and are vital habitats for many fish species of importance to the United States. The particular emphasis of our Cuba Program has been on waters of the Atlantic Ocean, the Caribbean Sea and the Gulf of Mexico that the United States shares with and Cuba. Therefore, over the last several years we have closely monitored Cuba's plans to develop offshore oil and gas resources in the Gulf of Mexico; since 2009 we have been particularly focused on promoting bi-lateral and/or multi-lateral dialogue and cooperation to ensure that any oil exploration and production that does take place, proceeds in an environmentally sound and safe manner.

Finally, my colleagues and I are also closely following Cuba's progress in implementing country-wide energy efficiency programs and in its investment into renewable energy, including wind, solar, biomass, and clean ocean energy.

Current US Policy on Cuba Impedes Cooperation on Environmental Protection

Current US policy on Cuba permits EDF and other scientific, academic, and conservation organizations to conduct on-the-ground research and conservation projects with Cuban partners and institutions. Scientific and professional exchange is generally limited, however, to non-governmental groups and academic institutions. Most private companies are prohibited from doing business in Cuba because of the embargo. There is a narrow exception for some private entities, such as oil services companies, but they must first apply for specific approval from the US Treasury and Commerce Departments to provide services and export equipment to Cuba. This process is complicated and time-consuming and apparently few companies in the oil services sector have asked for or received specific licenses so far. In the event of an oil spill in Cuban waters, this licensing process would cost precious time.

US government agencies such as the Coast Guard, the Department of Interior, the National Oceanic and Atmospheric Administration (NOAA), and the Environmental Protection Agency (EPA) are extremely limited in their ability to communicate or coordinate with their Cuban government counterparts on environmental protection or natural resources management. This compromises each country's ability to ensure that shared waters and natural resources are properly managed and adequately protected.

This lack of dialogue, cooperation, and joint planning between government agencies leaves the United States especially vulnerable to future oil spills in Cuban waters. Florida and other states along the east coast as far as North Carolina would be threatened by a major oil spill in Cuba. Therefore, as outlined below, the Administration should take immediate steps to initiate negotiations with the Cuban government to ensure that sufficient environmental and safety safeguards are in place before drilling begins later this year. In addition, the Administration should pre-approve categories of private companies to send personnel and equipment to Cuba in the event of an oil spill that threatens US waters.

Shared Ecosystems and Shared Resources

Because of the prevailing currents and Cuba's close proximity to the United States, Mexico and the Bahamas, marine and terrestrial ecosystems in all countries are tightly linked. For example, Cuba provides important spawning grounds for snappers, groupers and other reef fishes that are crucial to commercial and recreational fisheries along the southeast United States and in the Gulf of Mexico. Cuba, the Bahamas, and the United States also share a recently discovered deep-water coral ecosystem that covers more than 25,000 square miles and extends as far north as North Carolina. Cuba provides essential habitats that sustain an amazing array of birds and the area around Havana is a major launching point for most of the familiar songbirds that nest along the east coast of the United States.

The health of the Gulf of Mexico ecosystem is inordinately important to the ecological systems of the Gulf and the people who depend upon it for their livelihoods and culture, but also to the ecosystems and fishing communities of the broader western Atlantic. The coastal wetlands and beaches of the Gulf provide essential habitats for the vast preponderance of economically important species harvested in the Gulf, one of America's great fishing grounds. The coral reefs, eelgrass beds and mangrove swamps of the southern and eastern Gulf are key habitats for a wide array of marine organisms, and are especially vulnerable to oil pollution.

The northern Gulf also functions as a key spawning and nursery ground for many highly migratory species from tunas to billfishes to sharks. In fact, whale sharks from a large portion of the North Atlantic congregate in the Gulf to feed. A large population of sperm whales lives in the northern Gulf, feeding on abundant mid-water biota. In addition, the Gulf plays a key role for passage of larvae from up-

current spawning grounds in the western Caribbean to and through the Florida Straits into the broader Atlantic beyond.

Oil pollution in the Gulf threatens a wide array of essential habitats and important fishery species, and many protected species.

Offshore Oil and Gas Development Demands Region-wide Planning and Cooperation

As evidenced by the BP oil disaster in 2010 and the Ixtoc spill in the Bay of Campeche, Mexico in 1979, deepwater drilling in the Gulf of Mexico is inherently risky and can result in severe and long lasting impacts to marine life, coastal ecosystems, and communities. These disasters underscore that oil spills do not observe political boundaries and that cross-border cooperation on spill prevention and response is in the best interests of each country.

In 1980—prompted by the Ixtoc spill—Mexico and the United States entered into an agreement (known as the MEXUS agreement) for planning and responding to future spills that might threaten the waters of both countries. MEXUS includes a number of mandatory provisions designed to ensure the two countries have the readiness and capacity to prepare for and respond to trans-boundary oil spills. Among other things, the agreement provides for rapid incident notification, a joint response team, on-site coordinators, communication protocols, and expedited customs and immigration procedures to ensure that equipment and personnel can be deployed efficiently and in a timely manner.

In its report earlier this year, President Obama's *National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling* recommended that cooperation be extended to include Cuba as well.

“It is in our country's national interest to negotiate now with these near neighbors [Cuba and Mexico] to agree on a common, rigorous set of standards, a system for regulatory oversight, and the same operator adherence to the effective safety culture called for in this report, along with protocols to cooperate on containment and response strategies and preparedness in case of a spill.”

In his testimony before the Senate Energy Committee on October 18, 2011, Michael Bromwich, the Director of the Department of Interior's Bureau of Safety and Environmental Enforcement, indicated that United States-Mexico cooperation “has increased substantially in the aftermath of Deepwater Horizon and after the creation of the National Hydrocarbons Commission (CNH), the Mexican agency responsible for regulating offshore drilling safety on Mexico's continental shelf.” To their credit, Director Bromwich and Department of Interior Secretary Ken Salazar have held a series of meetings with Mexican officials to discuss the need for common safety and environmental standards for future offshore oil and gas development in the Gulf of Mexico.

In contrast, the US government's engagement with Cuba on this issue has been, for the most part, limited to the exchange of information after Cuban officials raised concerns that Cuban waters were threatened by the BP blowout. At that time, the two governments (through the US State Department and the Cuban Ministry of Foreign Affairs) opened up limited lines of communication, and US officials shared information and data with Cuba on the movement and transport of the oil, potential environmental impacts, and on response efforts being carried out in US waters. The US government also sought and received permission from Cuba to send a NOAA research vessel into Cuban waters to test for oil.

In the absence of meaningful government-to-government dialogue, the Administration has taken some positive steps to enable private companies and non-governmental organizations to interact with Cuban agencies directly on this issue. For example, in the wake of BP, the US Treasury Department authorized the International Association of Drilling Contractors (IADC) to meet with Cuban energy officials to discuss safety and environmental issues associated with offshore oil and gas production in Cuban waters. The Treasury and Commerce Departments have also signaled that they are prepared to issue more specific licenses to private companies in the US with the capacity to respond to, contain, and clean up oil spills. At least one US company, Clean Caribbean and Americas, already has Treasury and Commerce approvals to provide oil spill response services in Cuba.

The Department of Interior has also reportedly had productive discussions with the Spanish company Repsol over its future drilling in Cuban waters and has apparently secured the company's pledge to adhere to US environmental and safety standards.

These positive steps, however, fall far short of those needed and pale in comparison to those the Administration taken to strengthen and expand cooperation with

Mexico. As a result, the United States remains unprepared to effectively assist in the prevention, containment, or clean-up of a major oil spill in Cuban waters.

EDF Fact Finding Delegation to Cuba in September 2011

In September 2011, EDF organized and led a fact finding delegation to Cuba on the government's plans to develop oil and gas resources in the Gulf of Mexico. Our delegation of nine experts included William Reilly, former Administrator of the US Environmental Protection Agency and the co-chair of the President's *National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling*, Richard Sears, chief scientist of the commission, and Lee Hunt, President of the International Association of Drilling Contractors, who partnered with EDF in planning and carrying out the delegation's activities in Cuba.

Our delegation met with a wide-range of Cuban officials and experts involved in the operation and regulation of offshore oil and gas exploration and development. Our goal was to get a better understanding of Cuba's plans for offshore drilling, their approach to regulation and oversight of offshore operations, and of their readiness and capacity to conduct offshore activities in a safe and environmentally sound manner. We also came prepared to make suggestions to Cuban officials on how lessons learned from the BP oil spill should be incorporated into their laws, regulations, oversight, and response planning.

The Cuban government made clear its determination to begin exploratory activities this year. Cuban energy officials indicated to us that, in partnership with Repsol and other foreign oil companies, they expect to drill up to six exploratory wells between 2011 and 2013. In such a short period of time, it was not possible for us to conduct a comprehensive assessment of Cuba's oil drilling plans or of the strength of its regulatory framework and capacity, and many questions remain. Nonetheless, we had frank and open discussions and Cuban officials acknowledged the challenges associated with building an offshore oil and gas industry from scratch. They repeated their pledge to follow the highest international environmental and safety standards and expressed a strong willingness to cooperate with the United States and other countries in the region on all aspects of environmental protection and safety matters.

After all, adopting all possible measures to minimize the likelihood of an oil spill is very much in the interest of Cuba, not just the United States, because of the importance of its coastal-oriented economy.

The Administration Should Take Specific Actions Now to Negotiate with Cuba and Other Countries in the Region

First and foremost, the Administration should take steps now to ensure that US-based companies are pre-authorized to assist in preventing and containing major oil spills in Cuban waters. Specifically, the US Department of Treasury should adopt a new general license that provides authority to any qualified oil services company in the United States to send personnel to Cuba in response to a request from Cuba, Repsol or any other oil company conducting operations in Cuban waters; likewise, the US Department of Commerce should pre-approve the export of vessels, equipment, and supplies needed for containment and response. This would allow Repsol and other foreign oil companies to contract with US oil service companies in advance of drilling. This is particularly important because of the proximity to Cuba of US firms with the requisite deep water drilling and advanced response, technical, and planning capabilities, in contrast to the distance between Cuba and other countries, such as the UK, Norway or Brazil, with state-of-the-art deep water oil development experience.

Second, it is in our national interest to negotiate now with Cuba, Mexico and the Bahamas to ensure that any future drilling in waters of the Gulf of Mexico, Atlantic, or Caribbean is conducted according to the highest possible environmental and safety standards. In addition, the Administration should develop a joint contingency plan with Cuba that ensures the full participation of key US government agencies in oil spill response, including the US Coast Guard, the Department of Interior, NOAA and others. The MEXUS agreement discussed above can serve as a potential model for a US-Cuba agreement or for a region-wide agreement that includes the United States, Cuba, Mexico and the Bahamas. We urge action on this score as soon as possible.

But the MEXUS agreement, with its emphasis on oil spill response, should only be a first step. A comprehensive solution requires that negotiations between the countries go beyond spill response and include how the countries can work together on prevention and on improving baseline scientific knowledge of shared waters and resources. Ultimately, our two countries must collaborate on protecting resources, such as coral reefs and coastal wetland systems that ecologically we share, and on

advancing deep water oil and gas production and spill-prevention technologies that advance our common interests in the Gulf of Mexico, Atlantic, and northern Caribbean ecosystems.

In conclusion, because of our shared interests in protection of Gulf of Mexico resources, the importance of coastal resources to the health of our citizens and visitors, and physical processes that can disperse spilled oil far and wide, we urge the United States to engage Cuba, as it has Mexico, to strengthen standards and areas of cooperation that will minimize the likelihood of significant damage from any deep water oil and gas operations.

As Cuba progresses toward extraction of oil and gas from deep water sites, EDF looks forward to a continuing dialogue with members of Congress as to how the marine environment of the Gulf, Atlantic and Caribbean may be best protected in that process.

Thank you.

Mr. LAMBORN. All right. Thank you.
Ms. Antrim, you may begin.

**STATEMENT OF CAITLYN ANTRIM, EXECUTIVE DIRECTOR,
RULE OF LAW COMMITTEE FOR THE OCEANS**

Ms. ANTRIM. Good morning, Mr. Chairman and Members of the Committee. Thank you for the opportunity to testify before you today.

I serve as the Executive Director of the Rule of Law Committee for the Oceans, a bipartisan group of experts and educators in international ocean law. Over my career I have worked as an ocean engineer, mineral economist, industry analyst, Federal official and diplomat, all with a focus on the development of minerals of the ocean floor. I would like to draw from that experience today to expand on our offshore energy base for development by American industry.

As U.S. industry moves further seaward in search of exploitable energy resources, we approach the limits of the exclusive economic zone. Wide recognition of the exclusive economic zone has assured the stable legal environment essential for billion dollar investments in offshore oil.

Now a warming Arctic and advances in technology are drawing attention to areas of the Continental Shelf outside the EEZ. The seabed north of Alaska is the most promising of these areas. Recent studies indicate that due to its unique geology the continental margin north of Alaska may extend 600 nautical miles or more from shore. There are reports of natural gas releases from the seabed at nearly that distance.

The Alaskan Arctic isn't the only region with energy resources beyond the EEZ. The continental margins off of South Carolina and south of Alaska extend beyond the EEZ as well, and there are also large areas of the seabed around some U.S. Pacific Ocean island territories that may be claimed as our extended Continental Shelf as well.

Lack of clarity of the legal status of the continental margin beyond the Continental Shelf was of serious concern to U.S. policy-makers throughout the 1970s. In 1970, the Nixon Administration proposed a new intermediate region between the shelf and the abyssal plains in which the coastal state would manage exploitation and share royalties with the international community.

Over the course of the Law of the Sea negotiations, U.S. diplomats quietly negotiated the extension of U.S. sovereignty over seabed resources from the edge of the Continental Shelf to the full extent of a new 200-mile EEZ, securing vast areas of the seabed with potential for energy and hard mineral resources. But as U.S. companies look to the sea floor beyond the EEZ, investors must consider the international perspective of conducting operations beyond the uncontested region of the economic zone.

The Law of the Sea negotiations designed a process by which a coastal state may submit the boundary of an extended Continental Shelf to an international body of experts for confirmation of conformity with the criteria of the Convention. With such confirmation, coastal state jurisdiction over resources of that region would be recognized by all parties of the Convention. This part of the Convention has been accepted by every U.S. President since Gerald Ford, Republican and Democrat alike.

If the U.S. remains outside of the Convention, we will still lay claim to a full continental margin off our shores, explaining that it is a right inherent in our national sovereignty, but other nations are not forced to agree with us. Such disagreement could be a serious matter for multinational companies that seek foreign investment, conduct business in foreign nations and sell in foreign markets.

In 1981, the Reagan Administration review of the draft Convention found that it would be possible for the United States to exploit mineral resources of the seabed outside of a convention, but only if all other significant producers of minerals remained outside the Convention as well. As the only major nonparty nation with significant energy resources beyond the EEZ, our firms must be concerned about possible foreign discrimination or even legal action in response to exploitation of these resources without international recognition and without sharing royalties as provided in the Convention.

International recognition and clear title of recovered resources are essential to any energy firm that invests, operates or markets beyond our shores. The provisions of the Law of the Sea Convention related to the extended shelf and sharing of royalties within it were negotiated with the advice, participation and approval of American industry and continue to be supported by individual energy companies and by the American Petroleum Institute.

I agree with them that the Convention's provisions on the extended Continental Shelf are in the economic interest of the United States. I hope the consideration of U.S. policies for this new region, including the establishment of agreed maritime boundaries with Canada in the Beaufort Sea and with Mexico and Cuba in the eastern gap of the Gulf of Mexico, will be designed to conform with possible U.S. accession to the Law of the Sea Convention and will utilize the Convention's requirements for international sharing of information related to the impact of seabed development on the marine environment for our own benefit if and when the U.S. Senate gives its advice and consent.

That concludes my statement. Thank you again for the opportunity to appear before you today.

[The prepared statement of Ms. Antrim follows:]

**Statement of Caitlyn Antrim, Executive Director,
Rule of Law Committee for the Oceans**

National authority over resources of the sea floor beyond the territorial sea rests on a combination of domestic and international law and regulation. This is particularly true with regard to the offshore oil and gas industry. Multinational corporations that develop resources beyond the territorial sea are funded by domestic and foreign investors and sell their products in international markets. The offshore oil and gas industry has been one of the strongest supporters of the development of international law regarding coastal state authority over the continental shelf, and of US accession to the 1982 Convention on the Law of the Sea, and it presents a pragmatic view of offshore oil and gas development as a domestic industry operating in an international environment.

The United States needs to address international legal aspects of continental shelf development in all of its coastal waters. In the Arctic, the US has yet to establish an agreed maritime boundary with Canada in the Beaufort Sea or an outer boundary to the continental shelf beyond the 200 mile Exclusive Economic Zone. In the Gulf of Mexico, there is an unresolved area of the continental shelf beyond the EEZ that is bordered by the United States, Mexico and Cuba, and the maritime boundary with Cuba in the Florida Strait that was negotiated in 1977 has not been submitted to the Senate for advice and consent. It remains a functional boundary that is provisionally applied but not a durable, legally recognized agreement. Development of hydrocarbon resources of the ocean floor in the region of the state of Florida, Cuba and the Bahamas is guided by principles of international law, the domestic laws and regulations of the coastal states and the Cartagena Convention and its protocols. The areas around the Pacific Ocean Island Territories are largely unexplored so far but may have mineral resources for future development.

The majority of U.S. offshore oil and gas resources are found in the Exclusive Economic Zone (EEZ). The 1982 United Nations Convention on the Law of the Sea (LOS) defines the EEZ for states parties to the Convention. Although the U.S. is not yet a party to it, the Convention's definition of the EEZ has been applied by the United States as proclaimed in the 1983 statement of ocean policy by President Ronald Reagan:

Third, I am proclaiming today an Exclusive Economic Zone in which the United States will exercise sovereign rights in living and nonliving resources within 200 nautical miles of its coast. This will provide United States jurisdiction for mineral resources out to 200 nautical miles that are not on the continental shelf. Recently discovered deposits there could be an important future source of strategic minerals.

The Law of the Sea Convention details the internationally negotiated statement of rights, authorities and obligations of states within its Exclusive Economic Zone. For its parties, the Convention also provides a mechanism through which parties may secure international recognition of claims to the continental margin beyond the EEZ, an area referred to as the "extended continental shelf." The US, as a non-party, does not have access to this mechanism for obtaining international recognition of rights beyond the EEZ. Without international recognition of US authority in the extended shelf, the oil and gas industry sees domestic development beyond the EEZ as adding increased significant political risk to their international financing and trade relationships.

Initial Steps in Creating the Exclusive Economic Zone

Prior to the end of World War II, international law recognized only two ocean zones: the territorial sea that was generally, but not always, limited to a breadth of 3 nautical miles, and the high seas, which encompassed all waters seaward of the territorial sea. In the territorial sea, the coastal state had sovereign rights subject only to the right of foreign ships to pass through the under the conditions of "innocent passage." On the high seas, ships were under the authority of the flag state, subject to foreign authority in only a few specified cases, such as suspicion of piracy and transport of slaves.

Advances of technology and the improvement of the economics for offshore development of living and mineral resources in the post-WWII period led to expanding claims of jurisdiction by coastal states over widening areas of what had previously been the high seas. In 1945, President Truman proclaimed US authority over the resources of the continental shelf contiguous to the lands of the United States (approximated by the 200 meter isobath). The proclamation was limited to seabed resources and their development and did not extend sovereignty to other activities beyond the territorial sea.

Regardless of US intent, the Truman Proclamation opened the way for other nations to extend claims over the high seas and its resources. In 1958, Iceland extended its claim to a fisheries zone to 12 nautical miles (nm), out from a previous limit of 4 nm. This displaced British fishing fleets from fisheries they had been utilizing and initiated the first so-called "Cod War" with a confrontation between the Icelandic coast guard and the Royal Navy. A subsequent extension of Iceland's fishing zone to 50 nm in 1972 resulted in a renewed maritime confrontation and a third confrontation came with an extension of the zone to 200nm in 1977.

In the 1960s, Chile, Peru and Ecuador extended their territorial sea to 200 nm, a claim that included all of the sovereign rights associated with the territorial sea once limited to 3 nm. American flag tuna boats were regularly impounded by Chile for fishing within the 200 mile zone. US officials protested these actions, but the seizures continued. US flag boats were released on payment of fines and, with the encouragement of the US government, returned to continue to challenge the extensive Chilean claim.

Seeking the Certainty of International Law for the Seabed and its Resources

The sudden collapse of the centuries-old regime of a narrow territorial sea and a vast expanse of ocean subject to high seas freedoms led to an effort to define a new legal order for the seas that could establish clear agreement on the limits of coastal state authority over the seas and its resources and stem the enclosure of ocean space by coastal nations.

This effort to accommodate changes of practice into a new legal order was undertaken in the 1950s by the International Law Commission. This culminated in the 1958 Law of the Sea Conference in Geneva and the adoption of a set of conventions that addressed four issues: the Territorial Sea and Contiguous Zone, Fisheries, the Continental Shelf, and the High Seas. While the four conventions laid out important principles regarding activities within each of the four issue-areas, it failed to clearly specify the geographic limits to the regions. In particular, the territorial sea convention failed to reach agreement on the breadth of the territorial sea, the fisheries convention failed to recognize exclusive coastal state authority over fisheries beyond the territorial sea and the continental shelf convention produced a vague and self-contradictory definition of the extend of the continental shelf. The first article of the Geneva Convention on the Continental Shelf has this definition:

For the purpose of these articles, the term "continental shelf" is used as referring (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

By rejecting the more expansive phrase "continental margin" in order to retain the more limited reference to the "continental shelf" and replacing "contiguous," which had been part of the Truman Proclamation, with "adjacent," which added a vague criteria for nearness, the definition introduced a qualitative limit on the seaward extent of the legal continental shelf. In establishing a depth limit of at least 200 meters but going as far as exploitation could be conducted, the outer limit was left open to debate and disagreement. The result was a definition that was sufficient for the near term, but in need of revisions in order to resolve legal and political impediments to development in the longer term.

A second attempt to define the outer limit of the territorial sea was attempted at a second conference in 1960, but it was unsuccessful. Clarifying the outer limit of the continental shelf would have to wait for a more significant effort to update and clarify the law of the sea.

The Third Conference on the Law of the Sea

A decade after the completion of the four Geneva Conventions of 1958, preparations began on a new effort to define national rights, responsibilities and limits at sea. Instead of seeking separate agreements on different issues, it was decided to seek a comprehensive agreement in which all essential national security interests would be met, while creating a package deal in which nations could seek to maximize their economic, environmental and scientific interests as a whole with tradeoffs between issues in order to facilitate the creation of an overall agreement attractive to all states.

The determination of the breadth of a coastal state resource zone and the jurisdiction a state would have within the zone became a major focus of negotiators at the Third UN Conference on the Law of the Sea in both the preparatory discussions and the formal negotiations that began in 1973. While the initial focus of coastal state

claims to resources in the area beyond the territorial sea had been on living resources, the zone came to include management of resources of the seabed within the zone regardless of whether the seabed was part of the geological shelf or part of the deep ocean floor.

Recognizing the Continental Shelf beyond the EEZ

In 1970, during the preparations for the Third UN Conference on the Law of the Sea, the United States introduced a draft convention that incorporated a three-part system for management of mineral resources of the seabed. It included a continental shelf extending to the 200 meter isobath where minerals were under the exclusive jurisdiction of the coastal state, the deep seabed beyond the continental margin and beyond the jurisdiction of the coastal state where minerals would be managed by an international authority and an intermediate area, described as a trusteeship, in which minerals would be managed by the coastal state for the mutual benefit of the coastal state and the international community. As the EEZ was hammered out during the negotiations, the seabed within 200 miles from shore was incorporated into the EEZ. The negotiation of the provisions for the continental shelf beyond the EEZ took on aspects of the original US proposal for the seabed trusteeship zone.

Under the LOS Convention, coastal state may have jurisdiction over the continental margin beyond the EEZ if it meets the geologic criteria specified in Article 76 of the Convention that establishes conditions and limits to the extent of coastal state jurisdiction. Just as originally proposed by the United States, excessive or frivolous claims are blocked by requiring that continental shelf claims that extend beyond the EEZ be reviewed by an international panel of experts. Under the LOS Convention, the Commission on the Limits of the Continental Shelf serves this role. The Commission is empowered to review claims submitted to it and make recommendations as to whether the claims are in compliance with Article 76 or to recommend how the submissions might be brought into compliance. If claims are found to be in compliance, they are to be recognized by all of the parties to the Convention. The Commission does not resolve disputes between adjacent or opposing states as to how overlapping claims are to be decided, but it may review a joint proposal for recognition of an outer limit to the extended shelf by two or more states, leaving the division of the areas for later resolution among the states that made the joint submission.

Under the definition used by the Convention, the US continental shelf would extend beyond the EEZ in two parts of the Gulf of Mexico, off of the US coast along the Atlantic Ocean and around some of the Pacific Island territories and, most significantly, in the Arctic Ocean north of Alaska. If the US were party to the LOS Convention, the Convention's definition of the continental shelf would allow international recognition of US claims in the Arctic Ocean that may extend as far as 600 miles from shore. While potential claims in the Gulf of Mexico are much more limited, they are adjacent to regions of proven economic potential.

Following the model of the 1970 US Draft Convention, the LOS Convention provides for sharing of revenues from oil and gas production in the extended continental shelf. Negotiations in which representatives of US oil companies played a central role produced a royalty system that provided for no royalties for the first five years of production, rising one percent per year from year six to 7% in year 12 and remaining at 7% thereafter.

Industry and the Extended Continental Shelf in the Law of the Sea Convention

With regard to the continental shelf, the Law of the Sea Convention represents significant benefits for industry over the preceding Geneva Conventions. There benefits are:

- establishment of a clear definition of the outer extent of the continental shelf, providing essential certainty for investment;
- incorporation of the seabed beyond the continental margin when within the EEZ, an area excluded by the 1958 definition;
- inclusion of the continental margin far beyond the old limits of depth and adjacency;

International Recognition of Claims to the Extended Continental Shelf

For countries whose continental shelf will be developed by private industry, the most important feature of the LOS Convention's regime for the continental shelf is the clear recognition of the authority of the coastal state to license exploration and production, to make licenses exclusive to the developer and to grant clear title to the recovered products. Oil industry representatives on the US delegation to the LOS negotiations made clear that benefits of the Convention's continental shelf pro-

visions greatly outweighed those of its predecessor, the 1958 Geneva Convention on the Continental Shelf.

Revenue Sharing in the Extended Shelf

The revenue sharing provisions for the extended continental shelf are consistent with the US proposal in 1970. The coastal state is authorized to collect royalties on behalf of both itself and the international community. Production is exempt from royalties during the first five years of production, allowing early recovery of investment during the most productive years of a well, rising over a seven year period to a maximum of only 7%, ensuring that coastal states will also be able to share in the revenues of production from the continental shelf.

Industry Statement of the Convention's Provisions on the Extended Shelf

Writing at the conclusion of the LOS negotiations in 1982, John Norton Garrett, who represented the Gulf Oil Exploration and Production Company on the US delegation to the LOS Conference, said:

In conclusion, I believe that the international petroleum industry can live with a law of the sea treaty incorporating those provisions of the Draft Convention that specifically apply to margin delimitation and revenue sharing seaward of the 200 mile Exclusive Economic Zone as well as navigation and pollution control.

Marine Environmental Pollution, Regional Agreements and Dispute Resolution

Responding to Pollution from Continental Shelf Development in the LOS Convention

The Law of the Sea Convention was negotiated just as marine environmental issues were gaining attention in the international community. As such, they provide a framework for action but identify few specific activities. The provisions related to pollution from seabed activities, listed in Article 208 of the Convention, all fall into good-faith responsibilities of states parties that are not subject to binding dispute settlement:

Article 208

Pollution from seabed activities subject to national jurisdiction

1. Coastal States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment arising from or in connection with seabed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction, pursuant to articles 60 and 80.
2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.
3. Such laws, regulations and measures shall be no less effective than international rules, standards and recommended practices and procedures.
4. States shall endeavour to harmonize their policies in this connection at the appropriate regional level.
5. States, acting especially through competent international organizations or diplomatic conference, shall establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment referred to in paragraph 1. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

As a non-party that shares interests in preventing or reducing marine environmental pollution from seabed activities, the United States seeks strong environmental protection rules for seabed mineral development and works through the International Maritime Organization, the Arctic Council and other international bodies to ensure effective regulation for activities in the US EEZ and in the EEZs of other nations. Unfortunately, having not yet joined the Convention, US diplomats start from behind in assuring foreign states of commitment to the Convention's principles and face difficulty in leading the development of provisions for marine environmental protection.

The fifth paragraph of article 208 could provide the US with leverage to engage other nations in multilateral discussions of rules, standards and practices for continental shelf development. In the Caribbean Sea, the United States already works through the Cartagena Convention and its protocols to provide a regional approach to marine environmental protection in the Caribbean.

Regional Maritime Governance

The Cartagena “Convention for the Protection and Development of the Marine Environment in the Wider Caribbean Region” is the umbrella agreement addressing the marine environment in the region of the Caribbean Sea. The Convention was adopted in conjunction with its protocol on oil spills in 1983.

The oil spill protocol recognizes the responsibility of states parties to take preventive and remedial actions to avoid and respond to oil spills, to share information, to require their nationals to report oil spill incidents, notify other parties of spills, establish operational measures, create subregional arrangements, and establish institutional arrangements.

A protocol to the Cartagena Convention addressing land-based sources of pollution came into force in 2010 and the United States, Cuba and the Bahamas are all parties to the agreement.

Resolving International Disputes

Dispute settlement processes always pose an issue of effectiveness versus freedom of action. The Cartagena Convention provides an arbitral process that parties may use if they agree to do so, but it is clearly not mandatory, though the commitment to resolve disputes peacefully is mandated.

In the LOS Convention, marine environmental disputes related to the continental shelf may be referred to mandatory dispute settlement, but only as allowed by Article 297, Paragraph 1(c), which limits mandatory settlement to cases “when it is alleged that a coastal State has acted in contravention of specified international rules and standards for the protection and preservation of the marine environment which are applicable to the coastal State and which have been established by this Convention or through a competent international organization or diplomatic conference in accordance with this Convention.” As such, a party to the Convention could only be bound to mandatory settlement when has agreed to “specified international rules” and may, as part of another agreement, establish dispute resolution procedures that supersede those of the LOS Convention, although the default arbitration processes of the convention may be agreeable to parties to the Convention.

Conclusions

The UN Convention on the Law of the Sea provides the international legal framework for a strong US offshore industry to operate in the US extended continental shelf and for protection of US interests in the marine environment. The provisions of the Convention related to the EEZ have largely been accepted as customary international law unaffected by US non-party status other than lack of access to the dispute resolution provisions of the Convention. With regard to the continental shelf beyond the EEZ, however, the United States lacks access to the Commission on the Limits of the Continental Shelf for international recognition of claims beyond the EEZ and cannot expect recognition of claims to an extended shelf by other states as long as the US rejects the revenue sharing provisions of article 82 of the Convention and other provisions that form the package deal agreed to by all parties in return for coastal state authority over mineral resources of the continental shelf beyond the EEZ.

Provisions of the Convention related to marine environmental pollution from activities on the continental shelf are relevant to the United States both as a developer of the continental shelf and as a neighbor of countries that develop their own shelves. If the US becomes a party to the Convention, it will have greater leverage to negotiate rules, standards and practices to protect its marine environment from activities in foreign EEZs. However, consideration must be given to the advantages and disadvantages of mandatory dispute settlement both under the Convention and under regional agreements and ensure that future agreements, treaties and conferences reflect US interests in the balance of mandatory settlement and national autonomy of action. Dispute resolution provisions of conventions and protocols can be negotiated to incorporate their own dispute settlement provisions that provide for negotiation of differences with binding arbitration as an option subject to mutual agreement of the parties, which would resolve any lingering US concerns over the LOS Convention’s dispute settlement provisions.

Mr. LAMBORN. All right. I want to thank each of the witnesses for their testimony. Members of the Committee may have additional questions for the record, and I would ask that you respond to those in writing.

We will now begin questioning. Members are limited to five minutes for their questions, but we may have additional rounds. And I now recognize myself for five minutes.

First of all, a general statement. I would like to thank you for being here and for the varying and diverse opinions that were expressed. Cuba's interest in pursuing offshore oil and gas development certainly is a dangerous prospect to which we have almost no clear understanding of their plans, commitment or capability.

As we hear more about Cuba, we see a multitude of U.S. agencies working to help Cuba's drilling to go forward: the Bureau of Safety and Environmental Enforcement or BSEE, the State Department, the U.S. Coast Guard, NOAA, the Commerce Department and the Office of Foreign Assets Control through the Treasury Department. As Chairman of this Subcommittee, I would just like to say I wish there was equal effort to help our own oil and gas resources to be produced in the Outer Continental Shelf here in the United States.

OK. First question. Mr. Claver-Carone, you mentioned that the Cuban Government has pushed offshore drilling for the past 20 years. Have you noticed an increase in engagement by this particular Administration on this issue at such a level as we have seen recently?

For instance, we know, as was stated in earlier testimony on this panel, Mr. Riley, the Chairman of President Obama's hand-picked Oil Spill Commission, recently went down there to meet with Cuban officials.

Mr. CLAVER-CARONE. Well, I think that they have been at it for 20 years. Since 2001, frankly, there has been a licensing process in regards to oil spill mitigation firms in order to have some type of safety mechanism in place as there has been now.

In regards to this particular Administration, my biggest fear, we have seen that sanctions have worked as a deterrent for the last 20 years in keeping this offshore exploration from taking place. If the Administration would have taken a harder stance from day one toward Repsol—there was an opportunity earlier this year when actually Secretary Salazar was in Spain and he met with Repsol. Repsol came out of that meeting thinking that they had a green light as opposed to saying hey, don't go there.

I believe, as we have seen in the last 20 years, if the Administration would have taken a stronger stance, would have strongly tried to dissuade the Spaniards from proceeding that we really wouldn't have been seeing this right now. Absolutely.

Mr. LAMBORN. All right. Thank you for that answer.

Mr. Whittle, as you mentioned, you were part of a recent group that traveled to Cuba to speak with Cuban officials.

In the past, the Environmental Defense Fund has called offshore drilling in the U.S. a tragic sacrifice. However, after traveling to Cuba you seem to have a more optimistic view of drilling in Cuban waters. You were quoted as saying of Cuban officials that "they are taking the lessons of the BP spill very seriously."

Do you see any inconsistency in the more pessimistic view that your group has expressed about U.S. offshore drilling versus what seems to be a more optimistic view of Cubans drilling offshore?

Mr. WHITTLE. Thank you, Mr. Chairman. Let me clarify our position on offshore drilling. We have consistently opposed offshore drilling off the coast of New Jersey, Virginia, North Carolina and California. We have not opposed offshore drilling in the western or central Gulf, and in fact after the BP disaster we have worked to improve standards and have had some measure of success.

In Cuba, we do not oppose or support offshore drilling. In fact, we have grave concerns with the drilling in the area that it is. It is in sensitive marine environments, and a spill could risk Cuban marine life and ecosystems and those in the U.S.

As far as my state of North Carolina, the way we look at it is Cuba is determined to drill. I believe that it will begin drilling this year or early next year. The rig is on its way. I cannot comment on whether sanctions would work or not. We are extremely concerned that if drilling begins anytime soon that the U.S. simply isn't prepared to protect our environment.

Mr. LAMBORN. And that is what you meant when you said you came back and you thought that they needed to do more? I mean, you weren't satisfied with the status of where they stood in their oversight capabilities?

Mr. WHITTLE. Right. We were there for about five days, and we had maybe two and a half to three days of intense meetings with engineers, scientists, officials, et cetera, and so we got a first glimpse at what steps are being taken in terms of training, regulation, et cetera. A fair amount has been done. There are a couple gaps.

One thing we pointed out, Cuba doesn't have an oil spill prevention fund like we do in the United States. So if there is a spill, how do you pay for the cleanup? It was extremely important in responding to BP. Liability questions, capability, independence.

Cuba is just now beginning to develop an offshore industry and, frankly, they don't have the history of regulating. We found out the hard way that even in the U.S. we did not have the accountability we thought we had beforehand. So many questions that can only be answered through continued conversations like this.

Mr. LAMBORN. OK. Thank you. I would now like to recognize the Ranking Member.

Mr. HOLT. Thank you, Mr. Chairman. I would like to continue that line of questioning, Mr. Whittle.

We appreciate the efforts of groups like the Environmental Defense Fund to reach out to Cuba, and I think you have experience with let me call it the Riley delegation in the bilateral discussions. You have said a little bit about this, but I would like to give you more time to elaborate.

Both on inspection to prevent spills and on response in the case of a spill, what more can we do and what more might we wish we could do to be assured that things would be handled well?

I was struck by what I thought was a lack of alarm from the government witnesses a few minutes ago, and I would like to be assured. I would like to think that everything is fine. I wonder from your visits to Cuba whether you are comfortable with their safety standards and, if not, what you would wish that we as the United States could do about that.

Mr. WHITTLE. Thank you. I have been following Cuban environmental law and policy for about a decade and have been impressed how strong their basic framework, laws and policies are. In fact, many of them have been based upon U.S. environmental law and some are in fact a bit stronger.

In terms of ensuring that inspections are comprehensively done and response is well done, I think the model is the relationship we have with Mexico. In fact, as Director Bromwich testified, following the BP spill, despite the fact that we had an agreement in place, he indicated that we have taken many steps to strengthen the agreement and understanding. So we have greater confidence that inspections in Mexican waters will be done adequately because of that agreement and that ongoing dialogue.

In other words, there is much more transparency of what is going on in Mexico than in Cuba to U.S. Government agencies with the expertise.

In terms of responsiveness, the Cubans do not have the capacity to respond to a major oil spill. They are relying upon Repsol and other foreign countries to contract out. I am encouraged that Treasury and Commerce have begun issuing licenses. I think bureaucratically that it is a slow process, and in the event of an emergency even best-case scenario it would take several days to get everything lined up, and because of the Florida currents that could be too late.

Mr. HOLT. If the drilling is going to begin in a matter of months I believe, should we pursue the national hurricane agreement, a bilateral agreement, as a model for getting in place environmental cooperation? Does the hurricane agreement, with which I am not familiar with, provide exemptions to the embargo or is it just exchange of information? And I would like any of the witnesses who are prepared to talk about this to take that on. Is this a model that we should use for environmental protection?

Mr. CLAVER-CARONE. If I may address that, Congressman? You know, first of all, in regards to the observation that Cuba's environmental laws are very impressive and things of the sort, I would like to remind everyone Cuba is a totalitarian state. You know, basically rulemaking in Cuba is based on a dictator and his whim. So everything might look very pretty on paper. You know, actually Cubans have constitutional rights, but at the end of the day that doesn't exist.

In regards to the hurricane agreement, I actually think that is the case in point of the dangers of this. While it might be very pretty in theory and on paper, the reality of the hurricane agreement in practice, pursuant to Hurricane Michelle in 2001 and Hurricane Dennis in 2008, has been the high politicalization of this agreement by the Castro regime.

The United States has even offered aid for hurricane relief to Cuba and the Castro regime. It hasn't saved lives; it has actually cost lives. Cuba has refused to accept that aid unless the United States eases sanctions. So we see how the Cuban Government is almost masterful at manipulating the agreement.

Mr. HOLT. In the short time remaining, do other witnesses have any comments on this matter? Thank you.

Mr. WHITTLE. I think in fact the hurricane cooperation does show that there are certain issues—narcotics, migration, hurricanes and I believe the environment—in which the two countries can have a dialogue independent of the more controversial issues that separate us.

Mr. CLAVER-CARONE. May I answer that?

Mr. HOLT. Well, I think my time is expired.

Mr. CLAVER-CARONE. It will take two seconds.

Mr. HOLT. Unless I get more time. Thank you.

Mr. LAMBORN. OK. We will have a second round, and we could certainly pursue that at that time.

The gentleman from Florida?

Mr. RIVERA. Thank you, Mr. Chairman. My questions are to start off for Mr. Piñon. I know you have spoken extensively on this and have given the perception when you do speak that you try to be a neutral observer or analyst on this matter, and I appreciate that, but I need to ask you. You have often traveled to Cuba and met with officials from the Cuban Interest Section here in Washington regarding this matter. In your discussions and your travels with Cuban officials, do you ever discuss with them how to best approach the American Government in terms of easing sanctions?

Mr. PIÑON. No, sir, I have not.

Mr. RIVERA. And when I talk about easing sanctions, I am including in there sanctions regarding the energy sector and oil exploration. Do you ever discuss those issues?

Mr. PIÑON. No, sir, I have not.

Mr. RIVERA. And the reason I ask is much of your testimony today and previously and other remarks that you have made has been couched around the issue of the Deepwater Horizon accident and couched on issues related to preparing for a disaster.

But even previous to the Deepwater Horizon, in comments and testimony that you have given, and I will point to one in particular back in 2009, April 2009, testimony that you gave before the House Oversight and Government Reform Subcommittee, you spoke about the importance of Cuba achieving energy independence. You spoke about the importance of allowing U.S. companies to contribute in developing Cuba's hydrocarbon reserves as well as renewable energy such as solar, wind, sugarcane, ethanol. So even much before—

Mr. PIÑON. Yes.

Mr. RIVERA.—the Deepwater Horizon crisis you had been advocating—

Mr. PIÑON. Yes.

Mr. RIVERA.—for increased engagement—

Mr. PIÑON. Yes.

Mr. RIVERA.—between U.S. companies in Cuba's energy sector.

Mr. PIÑON. Yes.

Mr. RIVERA. And in fact, you have advocated for the fact that U.S. companies should be allowed increased access to those energy sectors.

Mr. PIÑON. Yes.

Mr. RIVERA. So, Mr. Chairman, with your permission and with unanimous consent, I would like to ask that that testimony from

April 29, 2009, by Mr. Piñon be entered into the record for this hearing as well.

Mr. LAMBORN. If there are no objections, so ordered.

[The testimony of Mr. Piñon submitted for the record by Mr. Rivera follows:]

Oral Testimony of Mr. Jorge Piñon
Energy Fellow, Center for Hemispheric Policy, The University of Miami
Before the
House Oversight and Government Reform
Subcommittee on National Security and Foreign Affairs
Hearing on "National Security Implications of U.S. Policy toward Cuba
April 29, 2009

Thank you, Mr. Chairman.

Nearly two years ago, under the auspices of the Brookings Institution, I was invited to be part of a group of 19 distinguished academics, opinion leaders and international diplomats committed to (ph) seeking a strong and effective U.S. policy toward Cuba. Under the leadership of Ambassador Palos Pasquale (ph) and Ambassador Vicki Huddleston, a team of well-known experts in the field of U.S.—Cuba relations carried out a series of simulation exercises and discussions that have served to enhance our understanding of the complex political realities of Cuba and the United States.

By testing the responses of several strategic actors and stakeholders a variety of scenarios, we have identified potential catalysts and constraints to political change on the island. The end result of our effort was a road map report entitled, "Cuba: A New Policy of Critical And Constructive Engagement," which I believe the committee has a copy of.

Two-fourths Cuba's petroleum (inaudible) currently relies on important, and Venezuela is the single source of this import under heavily subsidized (inaudible) returns. This petroleum dependency, valued at over \$3 billion in 2008, could be used by Venezuela as a tool to influence a Cuban government in maintaining a political antagonistic and belligerent position toward the United States.

Cuba has learned from past experiences and is very much aware of the political and economic risk and consequences of depending on a single source of imported oil. The collapse of the Soviet Union in 1991 and a 2003 Venezuelan oil strike taught Cuba very expensive lessons.

Raúl Castro understands the risks. His recent visits to major oil exporters, such as Brazil, Russia, Angola and Algeria, underscore his concerns.

A relationship with Brazil would provide a bonus to Cuba's current dependency, while others could (inaudible) a corrupt and unsavory business practices. Only when Cuba diversifies suppliers and develop its own resources, estimated by the U.S. to be at 5.5 billion barrels of oil and 9.8 trillion cubic feet of natural gas, would have the economic independence needed in order to consider the political and economic evolution.

Although Cuban authorities have invited the United States oil companies to participate in developing their offshore oil and natural gas resources, U.S. law does not allow it. Today, international oil companies such as Staines-Wetzell (ph), (inaudible), and Brazil's Petrobras are active in exploration activities in Cuba's Gulf Mexico waters.

American oil (ph) and oil and equipment service companies have the capital, technology and operational know-how to explore, produce and refine in a safe and responsible manner Cuba's potential oil and natural gas reserves, with the remaining (inaudible) line, because our almost (inaudible) five (inaudible), international (ph), political and economic embargo.

The president can end this impasse by licensing American companies to participate in developing Cuba's offshore oil and natural gas. In the opinion of legal experts consulted, Mr. Chairman, no legislation prevents the president from authorizing U.S. oil companies from developing Cuba's oil and natural gas reserves.

A Cuban government influenced by its energy benefactors, would most likely result in a continuation of the current political and economic model. If Cuba's future leaders are (inaudible) to fill the power vacuum left by the departure of the old cadre, they could become (inaudible) of illicit business activities, drug cartels, and the United States could face a mass illegal immigration by hundreds of thousands of Cubans.

The Brookings Report proposes, Mr. Chairman, as part of a full (ph) strategy, a policy that supports the allegiance (ph) of the Cuban state where the Cuban people (inaudible) in the political and economic future of their country to Democratic rules. And to achieve this goal, Mr. Chairman, Cuba must achieve energy independence.

In conclusion, Mr. Chairman, if U.S. companies were allowed to contribute in developing Cuba's hydrocarbon reserves, well as renewable energy such as solar, wind, and sugar cane ethanol, it would reduce the influence of autocratic and corrupt government on the island's road toward selfdetermination. Most importantly, it would provide the United States and other Democratic countries with a better chance of working with Cuba's future leaders to carrying out reforms that will lead to a more open and representative society.

Thank you, Mr. Chairman.

Mr. RIVERA. Thank you very much. So I would think that in terms of your testimony today being couched around the Deepwater Horizon accident, that is really not the impetus for your advocacy in terms of engagement for the energy sector in Cuba. You have been for several years now advocating for that increased engagement.

Mr. PIÑON. Yes.

Mr. RIVERA. Would that be accurate?

Mr. PIÑON. That is correct. That is correct.

Mr. RIVERA. I believe to do so, as I discussed earlier, all those energy sectors that you mentioned in terms of increased engagement, whether it be hydrocarbon, solar, wind or sugarcane, ethanol, you would agree all those energy sectors in Cuba are not controlled by any private entities but are controlled by the Castro dictatorship?

Mr. PIÑON. That is correct.

Mr. RIVERA. So, if we were to engage or to follow your line of reasoning and to allow more engagement by U.S. companies with the Cuban energy sector, the financial windfall would fall to the Cuban Government as well?

Mr. PIÑON. Yes, but there is an issue of—may I?

Mr. RIVERA. Sure.

Mr. PIÑON. Yes. The testimony that you are referring to was testimony based on the Brookings reports of which I was a member, along with Pepe Hernandez from the Cuban National American Foundation and a group of another 19 people, including Ambassador Pascual and others. So my testimony that I gave to the House in 2009 was based on the new policy of critical and constructive engagement with Cuba out of the Brookings reports, of which I was a member.

I would encourage the Members to read this report because what it encourages us to do is that for the economic and political transition of Cuba what we argued here was that we needed not a weak Cuba where a power vacuum would be left but a strong Cuba. We also studied in this report that the monetary impact, the monetization of any of Cuba's resources, will take anywhere between five to 10 years.

Mr. RIVERA. I have run out of time. I have run out of time, but I will just state the fact that any—

Mr. PIÑON. The answer is yes.

Mr. RIVERA. I understand that.

Mr. PIÑON. Yes.

Mr. RIVERA. The fact that any report that would argue to make the Castro dictatorship stronger is flawed on its face.

Mr. PIÑON. Fine.

Mr. RIVERA. Thank you, Mr. Chairman.

Mr. LAMBORN. OK. Thank you. Mr. Duncan of South Carolina?

Mr. DUNCAN. Thank you, Mr. Chairman. I apologize. Having a markup in another committee sort of took my focus away from this hearing, and I hate that I missed Mr. Bromwich when he was here because we have had a lot of conversations this year on this Committee about the safety and the de facto moratorium, the actual moratorium and drilling in the Gulf of Mexico. The fact is that we are drilling off the coast of Brazil and supporting that. Our President is saying we will be your first and best customer.

And I think about Deepwater Horizon. It was 50 miles off the coast of Louisiana, and we had a terrible accident there that impacted the environment. We had a hearing last week about the true impacts of that horrific event to the shrimpers and the oystermen and also the welders and pipefitters and other things and the money that might be available or not.

And so I reflect back on my experience under MMS, under the Outer Continental Shelf Five Year Planning Subcommittee, which I was on for about 18 months in the waning years of the last Administration. I remember when we were talking about a five-year plan of where we were going to allow offshore drilling and lease sales.

I think about the very limited area that we were able to even talk about on that committee was western Gulf of Mexico, no eastern GOM at all, a very small grid square in the Alaskan Sea, nothing on the Outer Continental Shelf on the Atlantic side and nothing around Florida. Yet here we are having a conversation today with these panelists about Cuba harvesting resources off their coast and allowing foreign companies to come in and help them, assist them with that.

But the question I have is, OK, we are not allowing lease sales for American companies that would be under American laws and American regulations. The safety that we learned from Deepwater Horizon, those mechanisms would be put in place, are being put in place in the Western GOM and anywhere the United States allows deepwater drilling off our Outer Continental Shelf. Yet we have Cuba 90 miles off the coast of Florida. If you come north to the drilling waters where they are going to purport to be drilling, it is very, very close to, according to the environmentalists, the very fragile waters around the coast of Florida.

And so my question would be, and it will be in panel two because I won't have enough time to ask this question and get an answer and delve into it, but we will in a minute, is what kind of safety mechanisms are in place? What sort of power does the United States have toward a foreign government, especially one that we have no diplomatic ties with at all?

How can we ensure that the Chinese companies that are doing the drilling off the coast of Florida and off the coast of Cuba are going to implement the safety requirements that our own drillers and our own producers have to put in place in order to get back to work?

The slow walking of the permits by this Administration of American companies that want to produce American resources, the slow walking of those permits to make sure, to ensure to Americans that we won't have another Deepwater Horizon, we have no certainty that the Cuban companies and the Cuban drilling efforts are putting in place those safety requirements that we won't have a Deepwater Horizon type accident off the coast of Cuba that will impact the waters of Florida, the Keys and even the Gulf Coast states.

And so those are the kind of questions that I want to see answered. That is what I am interested in, and I appreciate you giving me the time. I look forward to the second round of questioning.

Mr. LAMBORN. Did you want one of the witnesses to respond to what you just commented on?

Mr. PIÑON. If I could?

Mr. LAMBORN. OK. The gentleman has yielded back, so we are going to start our second round of questions.

Mr. Whittle, let me follow through on one other thing that had to do with the trip we were talking about that you and others took to Cuba recently. Were you able to talk to or about the plight of environmental activists when you met with Cuban officials, some of whom have been oppressed and mistreated?

Mr. WHITTLE. No, sir, we did not talk about that during this particular trip.

Mr. LAMBORN. OK. Mr. Carone, you note that the Cuban Government in the past expropriated U.S. oil assets from Esso in Texas. Do you think there is any possibility that that could happen with their relationship with Repsol's assets?

Mr. CLAVER-CARONE. Perhaps, and we are seeing that actually it has happened now with a bunch of companies in other sectors in Cuba in other industries that have actually been long-term trade partners of the regime. You know, it is kind of always whimsical with them and when it meets their interest.

In the case of Repsol, Petronas, and India's ONGC, I think there is a peculiar situation there because those companies, there is a Chavez angle. The Chavez angle is that those companies have been given rights, extensive rights last year, to drill in an area in the Orinoco belt which has over 235 billion barrels of oil. That is over 50 times what can be expected in all of Cuba's offshore waters.

Therefore, there is a lot of geopolitical profiling taking place there, and Chavez to a degree is protecting them and sort of pushing them in that realm in order to be in this situation, in order to be able to extract and push and have the fear factor like we saw in 2006 with the Chinese, to basically push the United States to unilaterally ease sanctions, which is something that they use with all of these issues. We have seen it.

You know, when we talk about these cooperation agreements in regards to narcotics, yes, we cooperate with the Cuban regime in narcotics. Yet we still have open indictments for senior officials of the Cuban regime for narcotrafficking here in the United States.

I mentioned the environmental. This is a long trend of using these issues to try to unilaterally extract political concessions from the United States, which is very worrisome.

Mr. LAMBORN. OK. Thank you. I would now like to recognize the Ranking Member.

Mr. HOLT. Thanks. Ms. Antrim, a number of commercial organizations—the American Petroleum Institute, the International Association of Drilling Contractors, the National Ocean Industries Association and others have called for ratifying the Law of the Sea. It appears that industry is wary of making investments in waters—well, in many places around the world but also around the U.S. Do you think that ratification of the Law of the Sea would benefit these extraction industries? They seem to think so.

Ms. ANTRIM. Thank you for the question. Yes, I do agree with that. When we were looking at this during the Reagan Administration and preparing to go back to the final negotiating session we had delegations go to major industries to talk about the importance of obtaining international recognition of mining rights, of title to secured minerals. We were mainly looking at deep seabed minerals, but oil and gas of the extended shelf fall into the same category.

Mr. HOLT. Now would ratification or full participation in the Law of the Sea treaty allow resolution of the kinds of liability questions that were raised earlier about damage from oil spills?

Ms. ANTRIM. It provides a channel to do that, but the Law of the Sea Convention is very much a framework convention. Some of that work would be pursued through regional organizations such as the Cartagena Convention process, but as we develop more guidelines and regulations through the International Maritime Organization those become the minimum standards that all nations are expected to apply to their activities. If we reach those through a multilateral process, they become something that we can actually use dispute resolution to enforce. So, yes, it does strengthen our hand with regard to protecting ourselves from activities in foreign zones.

Mr. HOLT. Thanks. I would like to go back to pursue a question I asked a few minutes ago that I am still not clear on. I was asking about the hurricane agreement and whether that would serve as a model.

We have heard that Cuba might not be well prepared to deal with a major oil spill. We have heard from our own Coast Guard that they/we are dependent on commercial organizations, commercial entities coming in to assist with the cleanup. I will sort of repeat the question I asked before. Could the hurricane agreement serve as a kind of model?

Under that are there permitted general licenses? Are there permitted exemptions of the embargo? I am concerned about what is going to happen to the Gulf waters, to the environment, to the U.S. Gulf Coast if there is a major oil spill relatively close to the United States that the Cubans for whatever reason, whatever their internal politics, are unable to deal with and we are still confronted with an embargo.

I am not here trying to say this—let us assume the embargo remains in place. Is there a way to deal with the environmental problem that looms? Yes? Yes, please.

Mr. WHITTLE. I am happy to take that one on. The Executive Branch has Presidential prerogative with current laws in place to engage with the Cubans both through the licensing authority and through diplomatic discussions.

The hurricane example is a good model for U.S. Government dialogue and cooperation, not so much for licensing and sending personnel. We have sent hurricane hunters in Cuban airspace. We have trained Cubans. There is a pretty active exchange of non-governmental experts on hurricanes that the Center on International Policy conducts, bringing officials from Galveston, from Louisiana and elsewhere to Cuba to look at how Cuba prepares, so there is some dialogue and discussion.

But there is authority. The model that the hurricane example provides is just that. There are issues in our national interest that can be conducted independent of these more controversial issues, and I would just like to say that having a dialogue and some limited cooperation in oil and gas will not facilitate keeping the oil and gas production. I am convinced they are moving in that direction now and that they will begin drilling independent of whether we make that step or not.

Mr. HOLT. Thank you. I guess the time has expired.

Mr. LAMBORN. OK. Thank you. The gentleman from Florida?

Mr. RIVERA. Thank you, Mr. Chairman.

For Mr. Whittle, a couple questions. Can you tell me a little bit about Cuba's environmental record nonenergy sector?

Mr. WHITTLE. Yes, sir. Since the mid 1990s, Cuba has at least on paper made the environment a policy priority. They established a cabinet level ministry for the environment, and they ushered in a new suite of environmental laws, everything from a NEPA law, environmental impact statements, to a Coastal Zone Management Act to protect the area law, et cetera.

Cuba has a mixed record on the environment. They have a number of environmental problems and challenges from water pollution to air pollution, extensive soil erosion associated with intensive agriculture. They have also done a good job in certain areas in protecting natural areas. They have a system of national parks and refuges where they intend to protect up to 25 percent of the Cuban insular shelf and up to 20 percent, I believe, of Cuban territory. They have done a good job of protecting coral reefs, mangrove forests, sea grasses and other fish habitat.

They have some problems in managing fisheries, commercial fisheries now, so it is a mixed bag like it is everywhere else, but I have seen good progress in conserving coastal areas and natural areas in the last 10 years as a direct result of the laws implemented since 1995.

Mr. RIVERA. Well, let me ask Mr. Claver-Carone. Mr. Whittle says it is a mixed record, some problems. Would you agree with that? What would be your assessment of Cuba's environmental record?

Mr. CLAVER-CARONE. Cuba's environmental record historically, particularly under this regime, has actually been quite disastrous. I mean, we have seen from 1969 when they grazed pretty much all of Cuba's land in order to plant sugarcane throughout. I mean, if there were environmental crimes against humanity, that would be definitely on the top of the list because Cuba has pretty much lost—it used to be able to feed itself. Cuba has not been able to do so since then. So definitely I don't think Cuba's environmental record is one to be admired.

On this particular issue I think there is one big concern that I think no one has really talked about in regards to the general licenses and the hurricane cooperation. We have general licenses for government officials, and that is how it is really used in regards to the hurricane. I mean, NOAA officials go there, et cetera, the general licenses for the Coast Guard to be able to do the same and for other government officials in regards and Interior to be able to do the same in that regard.

I really urge caution. I think since 2001 the Treasury Department has been licensing specific disaster oil mitigation relief efforts to the island and different specialty companies, but I urge great caution in regards to a general license for commercial basically response. That would create a scenario in which there would be no control whatsoever.

And I think that the Coast Guard can tell you and I know Mr. Piñon painted one scenario in his testimony in which he had all the vessels that went down in regards to the Deepwater Horizon. That would be the Coast Guard's security nightmare. To have 5,000 vessels pretty much going down to Cuba uncontrolled, unlicensed, et cetera, would be a security nightmare for the Coast Guard. That would be the largest maritime traffic since the Morielle, and we saw how the Cuban Government used that against us when that was supposed to be just about migration and they used that against us.

So I really urge caution, and I am sure the Coast Guard speaks for itself in that regard, but general licensing would be probably one of the most dangerous things we can do for a mass commercial response and for individual response to this drilling.

Mr. RIVERA. Let me ask you in the minute that I have left also for Mr. Claver-Carone. With respect to the comments made earlier as to energy independence on behalf of the Castro dictatorship or strengthening the dictatorship's energy sector, what type of impact would that have on potential democratic reforms or changing the nature of the regime?

Mr. CLAVER-CARONE. It would be devastating. I mean, energy has always been the Achilles heel of the regime. Therefore, we have seen this. We saw the Soviet subsidies through 1991. Then their new godfather, and that was pretty much as the Chairman's question before had gone to, their new godfather is Chavez. So why is Repsol and Petronas and these companies protected? Because Chavez is their godfather. He is protecting them, and he is protecting them with these subsidies. That wouldn't be the case for American companies of course.

So that essentially is what has maintained the economic livelihood of this regime. Now, even if they discovered some offshore, which, like I said, they have been at it 20 years. In 2004, Repsol said nothing there. Petrobras said not worth it. Sherritt has said I am out of here. You know, would it be sufficient to maintain that regime? Maybe, maybe not.

But the one beneficiary immediately would be Chavez. That would be less than the 100,000 barrels a day that he has to send to the regime, and that is something that Chavez is also looking forward to, and a strong Chavez is a strong Castro, and a strong Castro is a strong Chavez.

Mr. RIVERA. Thank you, Mr. Chairman.

Mr. LAMBORN. OK. The last person asking questions is Representative Duncan of South Carolina.

Mr. DUNCAN. Thank you. I would just follow back up with some of the comments I made earlier.

Mr. Whittle, does your group, the Environmental Defense Fund, do you all advocate drilling off the coast of Cuba?

Mr. WHITTLE. No, sir. As I explained maybe before you showed up, domestically we oppose oil and gas drilling offshore of sensitive areas off North Carolina, Virginia, New Jersey and California. We do not oppose offshore drilling in the Gulf of Mexico, particularly in the western and central Gulf. We do think offshore is here to stay. We are strong advocates of an alternative energy future, but we recognize the place of offshore.

In terms of Cuba, we don't take a position on their drilling. We recognize that they will drill, so our posture has been if and when Cuba drills it is imperative that steps be taken, that we protect our environmental and economic interests.

Mr. DUNCAN. OK. Mr. Piñon, you were going to comment on something I had said earlier. I will give you the opportunity now if you have a question or a comment.

Mr. PIÑON. Yes. I think your comment was about environmental regulations. One of the things, I am not an academic. I am retired after 32 years in the oil industry. I was president of Amoco Oil-Latin America.

I can tell you that I have been to countries in which the environmental regulations, when you and I would pull them off the shelf, they are probably the best in the world and you and I will be surprised. They are meaningless unless the regulators have the resources, the expertise to enforce those regulations.

I am the first to admit that in the case of the Bahamas and Cuba and even maybe Mexico the regulations on the shelf might be fantastic. In fact, they might very well just copy the U.S. regulations. But as far as the enforcement is concerned, it is certainly lacking.

Mr. DUNCAN. All right, sir. You are saying that it is safer? The practices they put in place are safer than what Americans are doing now in the Western Gulf?

Mr. PIÑON. No. What I am trying to say is that even though Cuba might have the regulations in place, the Government of Cuba itself, the regulatory agencies, don't have the set of skills and/or experience to enforce them.

In this case, you do have something to protect you, and that is Repsol. Repsol just drilled about a year ago the prospect Buckskin, which was about 180 miles south of Houston. It was a record-setter at a 32,000 feet depth. So here is a company that has a U.S. interest. Here is a company that is very well versed in know-how, in experience, following U.S. regulations, and they are the first ones that are going to drill in Cuba.

The second company, by the way, as soon as the excavator 09 finishes with Repsol, which will be sometime in April, it is going over to Petronas. No one in the first panel I assure you even has the telephone number of Petronas. They wouldn't even know who Petronas is. So it is sad that all of the emphasis has been put on Repsol. If we are really concerned about safety, we should have

been engaging Petronas and Gazprom, who are taking over the excavator 09.

You are right, Representative Rivera. As soon as that rig leaves Trinidad and Tobago, a lot of things can happen before she gets to Cuba. When that rig leaves the hands of Repsol in April and goes over to Petronas, we won't even have a telephone number to call and talk to. That to me is really totally unacceptable.

Mr. RIVERA. Mr. Claver-Carone, the resources that are being harvested, where are they going to be refined? Is Cuba building refineries?

Mr. CLAVER-CARONE. And that is the million dollar question. I mean, they have talked about like the regime does a lot of propaganda that Chavez and the Chinese are building this huge facility for refining in Cuba, but that will take years and years. Even the Venezuelans refine their oil here in the United States. The Mexicans refine their oil here in the United States.

What will they do with it? I think that part of their big strategic bet here is that with all this that we are hearing eventually they are going to start garnering support from different lobbies here in the United States that are going to push to lift sanctions, and therefore whatever we find in Cuba we will be able to refine here in the United States and then repatriate it back to Cuba. You know, that is one bet.

Another bet is maybe with the expansion of the Panama Canal with tankers being able to go by will they be able to send it to China? It is still very expensive. So that is one of the huge impediments and has been one of the deterrents that for the last 20 years has prevented Cuba from doing.

In regards to Petronas coming after, I guarantee you that if Repsol once again, as they did in 2004, comes out with a commercially unviable find that Petronas will not be following up in any way whatsoever.

Mr. DUNCAN. My hope is that our refining capacity, which we have capacity now, will be filled up with the Keystone XL Pipeline and oil coming from Canada, a friendly country who we will have economic relations with. My fear is that the Cuban oil will go to Venezuela or Valero's Refinery in Aruba, which is all part of the Venezuelan regime. So that is an interesting concept. Thank you. I yield back.

Mr. LAMBORN. All right. That concludes our questioning. This has been a good hearing.

As I said earlier, Members may have additional questions for the record, and I would ask that you respond to those in writing. Thank you for being here.

If there is no further business, without objection the Committee stands adjourned.

[Whereupon, at 11:57 a.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

Council of the Americas

NORTH AMERICAN OFFSHORE ENERGY: MEXICO AND CANADA BOUNDARY TREATIES AND NEW DRILLING BY CUBA AND BAHAMAS

The Council of the Americas ("Council") appreciates the opportunity to provide a statement for the record concerning North American offshore energy, particularly deepwater drilling in the Gulf of Mexico. The Council is a business organization representing some 190 member companies invested in and doing business throughout the Western Hemisphere. Since our founding in 1965, the Council has been dedicated to the promotion of open markets, social and economic development, democracy, and the rule of law, and we are widely recognized for our policy and commercial leadership throughout the Americas.

The Council is deeply engaged in hemispheric energy issues as well as U.S.-Cuban relations through member working groups. The Energy Action Group brings together the public and private sectors to develop strategic energy policies for the Americas. The Energy Action Group hosts forums in cities across the Americas and publishes working papers and recommendations on key energy topics. The Cuba Working Group includes corporate leaders from the worlds of banking, financial services, energy, telecommunications, hospitality, pharmaceuticals, and law. This effort has produced a series of papers on regulations and laws affecting U.S. business activity under the U.S. embargo and in Cuba.

Background

Spanish oil company Repsol is preparing to drill in the deep waters of the Cuban portion of the Gulf of Mexico. While much attention has been focused on Repsol and the arrival of its Chinese-constructed rig, the Scarabeo 9, in Cuban waters at the end of 2011, more than a handful of other oil companies are also engaged in exploratory activities off the Cuban, Jamaican, and Bahamian coasts. Mexico, as well, has its sights set on extracting deepwater oil in its stretch of the Gulf.

The Deepwater Horizon blowout in the U.S. Gulf of Mexico in 2010 was a terrible tragedy but also a wake-up call for companies and countries about the risks inherent in deepwater drilling and the need for a well-coordinated emergency response plan, with public and private actors ready to deploy at a moment's notice.

The Council Applauds Private Sector Action and US-Mexico and US-Canada Cooperation

Since the Deepwater Horizon explosion, the U.S. government has overhauled its offshore oil and gas regulations. In February 2011, several oil companies launched a quick-response system in case of another spill in the U.S. Gulf. At the international level, the United States is working with Mexico to develop shared safety and environmental standards for the Gulf. Outside of the Gulf, the United States and Canada are collaborating bilaterally and as part of the Arctic Council (members also include Denmark, Finland, Iceland, Norway, Russia, and Sweden) on oil spill prevention and response in the Arctic.

While U.S.-Cuban communication on Gulf drilling issues has thus far been limited to updates on the Deepwater Horizon spill, U.S.-Repsol engagement has been more active. Repsol has pledged to comply with U.S. regulatory requirements and industry standards in the Cuban area of the Gulf of Mexico and has shared its drilling and oil spill response plans with the United States as well as promised to allow U.S. agencies to inspect the Scarabeo 9.

Safety First

Repsol's transparency is to be commended, but it is no substitution for direct U.S.-Cuban interaction on Gulf safety issues at the technical level. An oil spill in the Cuban Gulf puts at risk the waters and coast of the Eastern half of the United States from Florida to as far north as North Carolina. Such a spill would require more than a good working relationship between Repsol and the U.S. government. Complete cooperation and open communication between the U.S. and Cuban governments is essential for effective response management.

For its part, the United States has issued licenses that exempt U.S. companies from the embargo and allow them to assist in the case of a possible spill off the coast of Cuba. In addition to the licensing, the United States has facilitated contact between some U.S. companies and NGOs and Cuban officials on drilling safety and environmental topics.

These measures are constructive, but the Council is concerned that the licensing application process is too complicated and that too few companies have applied for or received licenses. Communication between U.S. companies and NGOs and Cuban officials is extremely important but no substitute for direct government-to-govern-

ment contact. The Council urges the United States to grant relevant oil and oil service companies an embargo waiver that would allow them to provide equipment and share safety and prevention best practices now in order to avoid the need to provide emergency assistance in response to a spill in Cuban waters later. The Council further urges the United States to enter into direct discussions with Cuba at a technical level, as well as with Jamaica and the Bahamas, to ensure that safety and environmental standards for drilling in shared waters are at the highest level, and that communication and cooperation procedures are in place in case of a spill.

Bottom Line: The United States Must Do Everything Possible to Protect Its Waters and Coasts

Legitimate concerns about strengthening the Cuban regime in ways that allow it to continue its level of political repression cannot be overlooked but should nonetheless be considered as part of a larger picture. With only 90 miles between the tip of Florida and the north coast of Cuba, our aquatic ecosystems are inextricably linked. What damages marine life and fouls beaches in Cuban waters, if not promptly contained, will damage marine life and foul beaches in U.S. waters as well. To the extent drilling occurs off Cuba's coast, the United States must do everything within reason to protect its people and its environment. We can do this by working with Cuba (as well as Jamaica and the Bahamas) at a technical level to ensure drilling safety, prevention, sound practices, and, in the unfortunate event of an oil spill, quickly mobilize all necessary resources to contain it.

For further information, please contact:

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