



# Coping with the Next Oil Spill: Why U.S.-Cuba Environmental Cooperation is Critical

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THE SINKING OF THE *DEEPWATER HORIZON* drilling platform and the resulting discharge of millions of gallons of crude oil into the sea demonstrated graphically the challenge of environmental protection in the ocean waters shared by Cuba and the United States.

While the quest for deepwater drilling of oil and gas may slow as a result of the latest calamity, it is unlikely to stop. It came as little surprise, for example, that Repsol recently announced plans to move forward with exploratory oil drilling in Cuban territorial waters later this year.<sup>1</sup>

As Cuba continues to develop its deepwater oil and natural gas reserves, the consequence to the United States of a similar mishap occurring in Cuban waters moves from the theoretical to the actual. The sobering fact that a Cuban spill could foul hundreds of miles of American coastline and do profound harm to important marine habitats demands cooperative and proactive planning by Washington and Havana to minimize or avoid such a calamity. Also important is the planning necessary to prevent and, if necessary, respond to incidents arising from this country's oil industry that, through the action of currents and wind, threaten Cuban waters and shorelines.

While Washington is working to prevent future disasters in U.S. waters like the *Deepwater Horizon*,

its current policies foreclose the ability to respond effectively to future oil disasters—whether that disaster is caused by companies at work in Cuban waters, or is the result of companies operating in U.S. waters.

## Context

In April 2009, the Brookings Institution released a comprehensive report on United States—Cuba relations *Cuba: A New Policy of Critical of Critical and Constructive Engagement* timed to serve as a resource for policymakers in the new Administration. The report, which reflected consensus among a diverse group of experts on U.S.-Cuba relations, was notable for its menu of Executive Branch actions that could, over time, facilitate the restoration of normal relations between the United States and Cuba through a series of confidence-building exercises in areas of clear mutual interest. The emphasis was on identifying unobjectionable, practical and realizable areas of cooperation between the two countries.

Among the initiatives recommended to the new Obama Administration were:

- “Open a dialogue between the United States and Cuba, particularly on issues of mutual concern, including migration, counter-narcotics, *environment*, health, and security.

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<sup>1</sup> Recent press reports indicate that Repsol has contracted for a deepwater semisubmersible from Milan based Saipem, a subsidiary of Italian oil company Eni SpA. The rig “Scarabeo 9” is currently being built at the Yantai Raffles Shipyards in China, and could be in Cuban waters this fall.

- Develop agreements and assistance with the government of Cuba for disaster relief and *environmental stewardship*.<sup>2</sup>

Shortly after releasing its report, Brookings and the Environmental Defense Fund (EDF) co-hosted [\*A New Era for U.S.-Cuba Relations on Marine and Coastal Resources Conservation\*](#), a conference highlighting the importance and value of environmental cooperation between Cuba and the United States. EDF has particular expertise in this area because it has been working with Cuban scientists and environmental officials for over a decade to protect coral reefs, marine life and coastal areas in their country. The joint Brookings/EDF conference identified areas of potential bilateral collaboration aimed at protecting shared marine and coastal ecosystems in the Gulf of Mexico, Caribbean Sea and the Atlantic Ocean. The importance of cooperation on environmental issues stressed at the conference is particularly relevant now in light of events like the *Deepwater Horizon* oil spill and the basic facts of geography and their relation to threats to contiguous U.S. and Cuban marine areas. Cuba sits at the intersection of the Atlantic Ocean, Caribbean Sea and Gulf of Mexico and thus shares marine waters with the United States, areas where oil and gas deposits are about to be explored.

Preserving that country's marine biodiversity is critically important because it constitutes the natural heritage of the Cuban people. The health of Cuba's ocean environment is likewise important to the economies of coastal communities in the United States where significant numbers of fish species that spawn in Cuban waters are carried by prevailing currents into U.S. waters and caught by commercial and recreational fishermen. Florida and the Southeastern United States are situated in the downstream of those currents, which bring snapper, grouper, tuna, swordfish (as well as manatee and sea turtles) to U.S. waters, but can serve equally as vectors of Cuban spilled oil.

The United States Geological Survey estimates that Cuba's Economic Exclusive Zone (EEZ), which

includes the Gulf of Mexico North Cuba Fold and Thrust Belt, has over five billion barrels of oil and 8.6 billion cubic feet of natural gas undiscovered reserves.<sup>2</sup> Like the United States, the size of Cuba's oil and gas reserves is both economically fortuitous and a measure of the threat it poses to the marine environment.

In addition to Spain's Repsol, over the next few years international oil companies such as Norway's Statoil-Hydro, Brazil's Petrobras and others will be conducting exploratory work off Cuba's north coast. It is only a matter of time before production begins in earnest and the environmental risks rise exponentially.

### Responding to Oil Spills in Cuban Waters

To respond effectively to an oil-related marine accident, any company operating in or near Cuban territorial waters will require immediate access to the expertise and equipment of U.S. oil companies and their suppliers. They are best positioned to provide immediately the technology and know-how needed to halt and limit the damage to the marine environment. Obviously, the establishment of working relations between the United States and Cuba to facilitate marine environmental protection is the first step in the contingency planning and cooperation that will be necessary to an effective response and early end to an oil spill.

A good framework for such practical cooperation is the 1990 International Convention on Oil Pollution Preparedness, Response and Cooperation. The Convention is designed to encourage and facilitate international cooperation and mutual assistance in preparing for and responding to major oil pollution incidents. Signatory nations are charged with developing and maintaining adequate capabilities to deal with such an emergency. In the case of Cuba and the United States, those capabilities must be transnational because there is no barrier to the movement of oil from one country's waters to another's.

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<sup>2</sup> The EEZ is 112,000 square kilometers that has been divided into 59 exploration blocks of approximately 2,000 sq km each at an average depth of 2,000 meters, with some blocks as deep as 4,000 meters. This EEZ lies within demarcation boundaries between Mexico, Cuba, and the United States agreed to in 1977. The northernmost of the blocks lies south of the Dry Tortugas, off Florida's southwest coast and the north westernmost blocks adjoin the U.S. Gulf of Mexico's Eastern Gap boundary.

Cuba and the United States are also members of the International Convention for the Prevention of Pollution from Ships (MARPOL) adopted in 1973. The MARPOL Convention is the main international convention covering prevention of pollution of the marine environment by ships from operational or accidental causes.

The 1983 Convention for the Protection and Development of the Marine Environment in the Wider Caribbean Region (Cartagena Convention) is another comprehensive umbrella agreement that provides the legal framework for cooperative regional and national actions to protect the marine environment.

So, the commitment to marine environmental cooperation already exists at the often aspirational level of international accords. What is needed now is for the United States and Cuba to develop appropriate regulatory and procedural protocols that ensure the free movement of equipment and expertise between the two countries that will be indispensable to a satisfactory response to a future oil spill.

Establishing specific protocols cannot wait because nothing in U.S.-Cuba relations is ever simple. For example, disaster response coordination between Cuba and the United States will involve various government departments such as the Environmental Protection Agency (EPA), the National Ocean and Atmospheric Administration (NOAA), the U.S. Coast Guard and the Department of Commerce because U.S.-origin equipment requires licenses for even temporary export to Cuba. The allocation of responsibilities and the development of interagency cooperation will take time. That luxury exists now, but will end very soon when the first drill bit hits the Cuban seabed.

On the subject of the legal basis for proactive regulatory action to deal with a future oil disaster in Cuba, the Obama Administration, irrespective of the current embargo, has the power to license the sale, lease or loan of emergency relief and reconstruction equipment to Cuba following an oil spill. It also

has the authority to license U.S. citizens to perform emergency response and subsequent reconstruction services in Cuba in the wake of such a disaster.<sup>3</sup>

## Recommendations for U.S. Policy

The appropriate place for U.S. policymakers to begin is with an expedited identification of all current regulatory prohibitions on the transfer of the U.S. equipment, technology and personnel to Cuba that will be needed to combat an oil spill—whether it originates there or here. Once identified, those regulations should be rescinded or amended, as required.

In particular, the Obama Administration should complete the following actions as soon as possible:

1. Proactive licensing by the Department of Commerce of temporary exports to Cuba of any U.S. equipment and technology necessary to emergency oil flow suppression, spill containment and clean-up. Examples include the licensing of submersibles and ROVs (remote operated vehicles), as well as booms and chemical dispersants.
2. The pre-approval of licenses for travel to Cuba by qualified U.S. citizens to contribute to emergency relief and clean-up efforts. For example, petroleum engineers, environmental specialists and others should be authorized for such travel.
3. Plans should be made for providing Cuba with the most up-to-date information, including satellite imagery and predictive models, to assess the potential impact of an oil disaster and to prepare for the worst eventualities.
4. The U.S. should hold joint exercises with Cuba to coordinate emergency responses, the deployment of resources and the identification of the specialized oil well technologies and clean-up equipment that will be needed to be shipped to Cuba in the event of an oil spill.

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<sup>3</sup> The U.S. embargo on Cuba is structured in such a way as to give the President the power to authorize, through the issuance of appropriate licenses and the promulgation of new regulations, any conceivable response to an environmental problem in Cuba. See 31 C.F.R. §201, et seq.

5. The U.S. should encourage and facilitate scientific exchanges at both government and NGO levels that will identify the nature and sequencing of effective responses to a marine disaster and the mitigation of environmental harm.

The President should also instruct the Department of State's Bureau of Oceans and International Environmental and Scientific Affairs (OES) and NOAA to meet with Cuban lead agencies such as the Transport Ministry's *Dirección de Seguridad e Inspección Marítima*, and the Science, Technology and Environment Ministry's *Agencia del Medio Ambiente*. The goal of such meetings should be a bilateral agreement on the protocols of cooperation needed to respond quickly and effectively to any incident that threatens either country's marine and coastal habitats.

The Obama Administration should also facilitate immediate cooperation between U.S. and Cuban academic and scientific institutions. For example, Texas A&M University's Harte Research Institute (HRI) for Gulf of Mexico Studies has a long history of promoting a tri-national approach to understanding the Gulf of Mexico ecosystem of the United States, Mexico and Cuba. Among their most

recent projects is the *Proyecto Costa Noroccidental*, a comprehensive multi-year research and conservation program for Cuba's Gulf of Mexico coast undertaken in cooperation with the University of Havana's Center for Marine Research.

Another valuable resource available to the Administration is the Environmental Defense Fund which has worked on a number of projects with Cuba's Ministry of Science, Technology and the Environment in order to develop cooperative projects and workshops to restore depleted shark populations, protect shallow and deepwater coral reefs, and manage vulnerable coastal ecosystems such as mangroves and sea grasses.

In conclusion, it is worth underscoring that the President should use his executive authority to authorize the above recommended actions *now*, rather than in the context of an improvised response to a cataclysmic environmental disaster. Should the Obama Administration fail to act, then Congress should consider passing legislation authorizing the provision by U.S. citizens and companies to Cuba of the relief and reconstruction supplies and services necessary to respond to a marine disaster in that country's waters and on its shores.

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## ABOUT BROOKINGS WORK ON U.S.-CUBA RELATIONS

The Brookings Institution's work on U.S.-Cuba Relations, led by Ted Piccone, senior fellow and deputy director for Foreign Policy, explores new policy approaches to break the stalemate in relations between the United States and Cuba. Through original research and frank dialogue among policymakers, academics, and other stakeholders, U.S.-Cuba Relations seeks to generate pragmatic strategies for engagement that serve U.S. interests in building trust, strengthening cooperation and improving the lives of the Cuban people.

### Other publications on U.S.-Cuba policy:

#### *Learning to Salsa: New Steps in U.S.-Cuba Relations*

By Carlos Pascual and Vicki Huddleston

Brookings Press, 2010

<http://www.brookings.edu/press/Books/2010/learningtosalsa.aspx>

#### *U.S. Public Diplomacy For Cuba: Why It's Needed and How to Do It*

By Paul Hare, former British Ambassador to Cuba, March 2010

[http://www.brookings.edu/papers/2010/03\\_us\\_cuba\\_diplomacy\\_hare.aspx](http://www.brookings.edu/papers/2010/03_us_cuba_diplomacy_hare.aspx)

#### *The Obama Administration and the Americas*

By Abraham F. Lowenthal, Ted Piccone, Laurence Whitehead and Foreword by Strobe Talbott

Brookings Press, 2009

<http://www.brookings.edu/press/Books/2009/theobamaadministrationandtheamericas.aspx>

#### *Cuba: A New Policy of Critical and Constructive Engagement*

By Carlos Pascual and Vicki Huddleston

Foreign Policy at Brookings, April 2009

[http://www.brookings.edu/reports/2009/04\\_cuba.aspx](http://www.brookings.edu/reports/2009/04_cuba.aspx)