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THE JOURNAL of INTERNATIONAL POLICY SOLUTIONS

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GRADUATE SCHOOL OF INTERNATIONAL RELATIONS AND PACIFIC STUDIES • UNIVERSITY OF CALIFORNIA, SAN DIEGO

DEDICATION

We would like to dedicate this edition of JIPS to Ayal Margalith, who tragically left us on November 20, 2011. Although he is in another place now, however, Ayal will not be forgotten. Those who knew him admired his passion for problem solving and his overwhelming sense of optimism. People devote their lives and careers to international relations for a variety of reasons: Ayal truly believed that learning languages, studying cultures and, most importantly, effectively analyzing and implementing domestic and international public policy can make the world a better place.

An avid reader, world traveler and all-around humanitarian in every sense of the word, Ayal closely followed everything from the Israel-Palestine conflict to the aftermath of earthquakes in Chile and Haiti to human rights violations in Colombia and development policy in Africa. Unlike many, he was able to put himself in the shoes of those on all sides of the issues, think flexibly and propose concrete actions. A man who slept little, Ayal used his time to make those around him better, constantly recognizing and seeking solutions to problems near and far.

His departure is a great loss to students and scholars of international relations, and to the global community as a whole. Yet as we examine the great challenges of our day and propose a path forward that may benefit those at home and abroad, Ayal remains by our side. His efforts to better understand the motivations, actions and reactions of world actors should be an inspiration to all. Moreover, his belief that each problem demands a solution and his desire to truly make a difference should reaffirm our commitment to studying international relations.

It's impossible to describe in words what Ayal meant to his friends, family and community, or the extent to which he devoted his life to the issues he cared so passionately about. While he will be missed greatly, he certainly will not be forgotten.

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Hong Kong Skyline
Russell Edwards

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EDITOR'S LETTER

What does the post-Kyoto world look like? As we look into 2012, issues of climate change, sustainable development and resource constraints have necessarily taken a backseat to our continued global economic woes. The more enlightened among us argue that the solution to these multiple crises is in fact the same: by allowing sustainability to enter into the bottom-line and big-picture calculations made by businesses and governments every day, we are paving the way – out of necessity – for an entirely new world order based on the understanding that the Earth's tolerance for the activities of mankind is not infinite. While in many ways this paradigm shift is already evident in the practices of some of the world's largest nations and corporations, its scale undoubtedly requires a policy response to match.

The challenge of how best to address the scarcity of our natural resources in the face of exponentially increasing demand will dominate the policy sphere with increasing urgency for years, and likely decades, to come. For that reason, we have opted to devote the Winter 2012 issue of the Journal of International Policy Solutions to the so-called elephant in the room in the climate change debate: energy.

Two of our longer papers address different national approaches to energy security: Anne Shiraishi describes the role pre-salt reserves may play in securing Brazil's energy future, and Elena Foukes considers the overland pipeline approach to oil security employed by China in its relationship with Kazakhstan. Catherine Harris examines the failure of the Australian Carbon Pollution Reduction Scheme and the political lessons it may hold in achieving international emissions regulation in the third.

In interviews with the Journal, Mikkal Herberg explores the escalating tensions over control of the South China Sea, home to substantial oil and gas reserves, and the role joint development arrangements could play in resolving the decades-old conflict; Jake Colvin and Sarah Stevens discuss the international political and environmental implications of Cuba's offshore drilling endeavors.

This year's issue also contains a number of new features, including short academic pieces exploring U.S. policy in Uganda, electoral politics in Venezuela and two approaches to peace between Israel and Palestine. We approached the professors at the University of California, San Diego Graduate School of International Relations and Pacific Studies to assess President Barack Obama's foreign policy in their regions of expertise, so you will find articles by Richard Feinberg, Stephan Haggard and Susan Shirk evaluating U.S. policy toward Latin America, the Koreas, and China, respectively, as well. And because we simply couldn't select only one of our fantastic photo submissions to grace the cover, we have incorporated a photo essay on transportation in China – one of the more significant components of our global carbon footprint – into our folds.

We hope that these articles and additions make the Journal both timely and relevant as we enter into this historically significant year. The 2012 presidential elections in the U.S. and Venezuela, the expiration of the Kyoto Protocol and ongoing negotiations over peace in the Middle East will all play a significant role in determining our global future.

Then again, if the Mayans got it right, the world is ending this year anyway – solutions notwithstanding.

Elisabeth Best
Editor in Chief

A MORE BALANCED APPROACH

The Case for Stronger U.S. Efforts to Promote Human Rights and Democracy in Uganda

Catherine Daly and Collin Laverty

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INTRODUCTION

On October 12, 2011, U.S. President Barack Obama authorized the deployment of 100 U.S. military personnel to Uganda to "advise" local troops in their pursuit of Joseph Kony, leader of the Lord's Resistance Army (LRA). Two days later, he informed Congress of his decision, citing "U.S. national security interests and foreign policy" to justify the military assistance.[1] The LRA terrorized northern Uganda for decades, slaughtering civilians and abducting youth to use as soldiers and sex slaves. However, Kony's forces have weakened considerably over the past 5 years; they currently number in the hundreds and are based mainly outside of Uganda. Although they continue to kill and abduct civilians in the Democratic Republic of Congo, South Sudan, and Central African Republic, they pose no realistic threat to U.S. national security. Theories on Obama's actual motivations for providing troops range from recent oil discoveries in Uganda to larger U.S. counter-terrorism objectives in Eastern Africa.

The U.S. has been steadily escalating its military involvement in Africa, including its efforts to eradicate the LRA, over the past decade. Within this context, the deployment is not entirely unexpected. These troops are almost certainly part of a larger strategy to promote various U.S. regional interests, many of which rely on the support of Ugandan President Yoweri Museveni. Yet increasing levels of repression under Museveni's government have resulted in fatal attacks on peaceful protests, crackdowns on free media and longstanding allegations of electoral fraud and corruption. The U.S. must do a better job of balancing its geopolitical objectives with policies that support a more open political atmosphere and respect for the rule of law in Uganda.

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The United States has a long history of prioritizing larger strategic interests over democracy and human rights protections, and parallels between unconditional support for Museveni and undemocratic leaders in the past, such as Hosni Mubarak, are troubling. While the full implications of the Arab Spring in Egypt, Libya and other countries in transition are still unknown, it is clear that failing to exert pressure on authoritarian regimes to reform in exchange for cooperation on economic, political and security issues, can put U.S. interests at risk in the long run. The U.S. has quietly criticized Museveni for human rights violations and taking undemocratic measures, but it has done little to use its influence to push for far-reaching reform.

The Obama Administration should consider whether Museveni's fiscal and political mismanagement – which is coming under increased criticism even within his own party and has fomented Sub-Saharan Africa's longest urban protest movement[2] – may eventually compromise both his presidency and Uganda's regional standing, with unsettling consequences for U.S. interests in East Africa. Moreover, strategic interests aside, the economic and political security provided by Uganda's alliance with the United States, among other more developed nations, enables Museveni to divorce himself from his constituency's needs. America's longstanding support for Uganda must be recalibrated to ensure that democracy, transparency and human rights are being strengthened, rather than eroded, as a result of this relationship.

THE RISE OF YOWERI MUSEVENI

Uganda, a British colony until 1962, endured decades of instability characterized by military coups, ethnic discrimination, and serious human rights abuses under Presidents Milton Obote and Idi Amin. In 1986, after years of well-coordinated assaults from the bush, Museveni's National Resistance Army (NRA) took control of Kampala, formed the National Resistance Movement (now known as the "Movement") and installed Museveni as President.

Museveni endeared himself to the international community by prioritizing the fight against HIV/AIDS and employing economic recipes from abroad. Initially opposed to the role of International Financial Institutions (IFIs), Museveni eventually implemented neoliberal economic reforms with the support of the World Bank and the International Monetary Fund: Uganda's economic growth throughout the 1990s was commonly cited by the World Bank as a "justification" for its use of structural adjustment programs.[3] On the health front, Uganda has achieved remarkable success in reducing the rate of HIV infections since 1986. Museveni's insistence on openly addressing Uganda's burgeoning HIV/AIDS epidemic put prevention initiatives on the national agenda. Educational campaigns and open dialogue facilitated the establishment of the National AIDS Control Program and the creation of TASO, an AIDS Support Organization.[4] Directly after assuming the Presidency, Museveni took a strong anti-corruption stance, and encouraged Ugandan media to cover and monitor the issue. He also demonstrated a refreshing willingness to speak to the foreign press. As a result of these bold initiatives and international relationships, Museveni cultivated a favorable public image, although domestic discontent still lingered.

Uganda's role as the poster child of the fight against AIDS, coupled with its newfound economic growth, generated significant support for Museveni from abroad, which enabled him to postpone implementing democratic measures. Throughout his presidency, Museveni has demonstrated a willingness to consolidate power through repressive tactics. His successful overthrow of the military regime in 1986 included a forceful disarmament of the Acholi in northern Uganda, whom he considered a threat because of their ethnic and political allegiances. Several rebel groups formed as a result of this assault, including The Lord's Resistance Army (LRA). The ensuing war in the north led Museveni to warn critics not to "malign the good name of the National Resistance Army [or] they will be locked up under the detention laws."[5] He immediately implemented a "no-party" system that effectively limited political opposition for years, and it was not until 2005 that a referendum to reinstate a multi-party system passed.[6] The first referendum in 2000, as well as Museveni's victories in each presidential election since 1996 (Uganda's constitution established the country as a republic in 1995), have sustained allegations of electoral fraud, voter intimidation, and other irregularities.

Museveni cited stability and security as his main justifications for failing to implement a multiparty democracy, arguing that such a system would be driven by ethnic differences and threaten a return to violence. Rather, a "no-party" system would enable all citizens to participate based on individual merit, rather than regional and tribal divisions. Many Ugandans supported this system initially, recognizing the country's need for a unique approach to governance given its complicated and fragile history. At the same time, the Ugandan army's war against the LRA, couched within Museveni's determination to quash Acholi opposition to his rule, resulted in decades of severe violence, displacement and repression for citizens of the north. Therefore, while the "no-party" system did receive popular support at first, and may have contributed to the relative peace enjoyed by the rest of the country, it proved an effective means of undercutting political opposition and allowing Museveni to maintain power. The current state of the economy and political system are now generating increased opposition to Museveni's distinct approach to governance.

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THE CURRENT ECONOMIC AND POLITICAL SITUATION

Uganda's much-celebrated economic success has proved unsustainable over the last several years. Despite decent growth and debt reduction, inflation hovers at around 30%. Rolling blackouts and soaring fuel prices have exacerbated a weakened economy and provoked growing discontent among Ugandans. The country currently relies on foreign funds to support basic welfare needs, including a public health system in shambles, with maternal services "in a state of emergency."[7] The country's population is projected to triple by 2050, threatening to reverse past successes in the battle against HIV and AIDS. Yet this past spring, the government spent more than half a billion dollars on fighter jets and military equipment, justifying the expenditure as a necessary security measure in light of recent oil discoveries.

Repression of civil society has also increased, prompting Amnesty International to issue a 2011 report cataloguing government restrictions on the media, peaceful protests and freedom of assembly.[8] Human rights abuses by the Movement are not new, but they are affecting a growing number of civilians as Museveni struggles to maintain power amid continued allegations of corruption, electoral fraud and public opposition to his leadership. New laws permit the government to dictate the staffing, initiatives and geographical parameters for NGO operations. Media outlets are heavily censored, and during coverage of the February 2011 General Elections, police and politicians supported and participated in physical assaults on journalists. Opposition leader Kizza Besigye, who has challenged Museveni in the past three elections, decried a "corrupt and repressive political climate" after his loss[9] and several observer missions confirmed the existence of irregularities throughout the electoral and campaign process.[10]

In April and May 2011, protests against the rising price of fuel and basic goods were met with violent opposition from military and police forces, who fired live ammunition into crowds, killing at least nine people, including a two-year-old child. Uganda is a party to both the U.N. International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples Rights (ACHPR), but current tactics of repression employed by Museveni's government violate many of the articles contained in these two instruments.

In addition to widespread repression of political protestors, in recent years homosexuals have come under particular attack within Uganda. Parliamentarian David Bahati presented The Anti-Homosexuality Bill in 2009, legislation that would increase the penalty for homosexuality, which is already illegal in Uganda, to include life in prison or the death sentence for certain acts. Museveni indicated he would get rid of the bill after strong international pressure from foreign donors, but has not done so, and in October 2011 Parliament voted to reopen debate on the bill. Hate crimes, including defamatory media coverage of homosexuals and the murder of a prominent gay activist in January 2011, are not condemned by the government.

STRATEGIC INTERESTS BEYOND THE LRA

While the LRA has continued to terrorize innocent civilians in the Democratic Republic of the Congo, South Sudan and the Central African Republic, it is significantly weaker now than in previous years. It lacks the ability to bring down central governments in the region and poses no direct threat to U.S. national security. Although the LRA was designated a terrorist organization under the post-9/11 Patriot Act,[11] and recent legislation renewed the United States' commitment to eliminating the group,[12] the timing of Obama's decision to send battle-equipped "advisors" to assist has to do more with larger U.S. strategic interests in the region.

Protecting and expanding markets

Africa's growing economic importance is one driver for increased military-to-military cooperation. Economic growth in many African countries has created new markets, while the continent's abundance in natural

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resources has led to competition over access to its commodities. The U.S. is attempting to keep pace with growing Chinese trade and investment in East Africa, as well as moves by India to expand its presence in the region.

The inauguration of the United States Africa Command (AFRICOM), which became operational in 2008, reflects U.S. intentions to expand its military influence on the continent. Military aid and an on-the-ground troop presence increase U.S. leverage on economic and political dealings in the region.

Oil Discoveries

Recent oil finds in Uganda have raised the country's economic potential and regional importance. Oil experts estimate Uganda's Albertine Basin has 2-6 billion barrels of recoverable oil, positioning the country to become one of sub-Saharan Africa's top oil producers, which could potentially double current government revenues within the next decade. Furthermore, the country could become an oil distribution hub for East Africa, including South Sudan's oil exports, if plans for an oil pipeline from Uganda to the Kenyan coast proceed.

The newfound reserves are said to need $10 billion for development, the bulk of which may come from China, who has pledged to build an oil refinery and to help turn oil into Ugandan-produced plastics and fertilizer. However, negotiations are still in the works, and experts claim Western governments and companies want to prevent China's advance into the Congo basin. One way or another, Uganda will soon become a mid-sized producer, earning up to $2 billion a year from oil production by 2015. The potential oil wealth raises Uganda's regional profile and, depending on which companies win oil contracts, its strategic importance to the United States as well.

Al-Shabaab

When President Obama announced the troop deployment, he – interestingly – did not mention the name Al-Shabaab. This terrorist organization with links to Al-Qaeda controls large areas of Somalia, a failed state threatening regional stability. Uganda currently has 5,000 troops deployed to AMISOM, the African Union Mission in Somalia, which supports the country's weak central government in its war against Al-Shabaab. Uganda was the first country to commit troops to the mission when it was established in 2007, which won it goodwill with the United States, who "does not want an American footprint or boot on the ground," in part due to the 1993 Black Hawk Down incident, during which 18 U.S. troops were killed.[13]

Simultaneously, however, the move sparked retaliation from Al-Shabaab against the Ugandan state. In what marked the group's first major attack outside of Somalia, Al-Shabaab claimed responsibility for twin bombings that killed more than 70 people in Kampala, the Ugandan capital, during the World Cup final in July 2010. Uganda's role in AMISOM and attacks on Al-Shabaab make it a strategic ally in the regional fight against terrorism. Intelligence analysts contend that Al-Shabaab is a significant threat to the U.S. – both for its links with Al-Qaeda, who provides safe haven and training to enemies involved in the direct planning of terrorist attacks against the U.S., and because its terror campaign could potentially destabilize the whole region, which is made up of relatively new, fragile states.

Recently, Al-Shabaab has been involved in complicating the delivery of aid to starving Somalis, an October bombing in Nairobi that injured dozens and the kidnapping of several Westerners, including Americans, in Kenya. The lawlessness of Somalia has made it a breeding ground for terrorists and criminal activity like the piracy that has haunted international shipping companies over the last several years.

It is apparent that the U.S. believes the destruction of Al-Shabaab and an eventual restoration of the Somali state will require a militarily strong Ugandan partner to help in the fight. This is evident through the support the United States has provided to the Ugandan and Burundian troops in Somalia, including upwards of $50 million in military equipment and training in 2011 alone.[14] With the Al-Shabaab threat in mind, the U.S. will seek to increase its troop presence and intelligence gathering capabilities in the region.

American support for the capture of Kony, a top priority for Museveni, is a favor in return for Uganda's fight against Al-Shabaab, with whom the U.S. has been reluctant to engage directly. The deployment can also be viewed as a way to test the waters for the sensitive issue – in Africa and in Washington – of having actual troops on the ground in the region, when horrific images of failed efforts in Somalia in 1993 still act as a deterrent to an American military presence in that country. Some experts also believe that this renewed U.S. effort against Kony is intended to effectively finish a task that the Ugandan army is incapable of completing on its own, despite years of technical and military assistance and millions of dollars from the U.S.

Uganda in the Region

Museveni has a strong history of influence among Uganda's East African neighbors. Paul Kagame, current President of Rwanda and leader of the army that overthrew the genocidal regime in the 1990s, trained in Museveni's National Resistance Army for years, drawing inspiration from Museveni for his own leadership and warfare strategies. In June 2011, the popular and competent Somali Prime Minister, Mohamed Abdullahi Mohamed, was forced to resign. Although the decision purportedly reflected political deals made between the President and Speaker of Parliament, Mr. Mohamed's departure, which was protested with riots in Mogadishu, is believed to have been facilitated by Museveni. Uganda also maintains close relations with the new government of South Sudan and has been influential in Congolese politics as well.

The deployment of U.S. military advisors to hunt down the LRA, therefore, must be understood within the larger context of regional interests, including the fight against Al-Shabaab, newfound oil wealth and Uganda's role as a leader in East Africa. The U.S. clearly views Museveni, with his political and military might, as a strategic ally.

UNCONDITIONAL U.S. SUPPORT FOR MUSEVENI?

With this in mind, the U.S. has largely turned a blind eye to the weakening of democracy and human rights abuses committed by Museveni over the years. It releases statements condemning Museveni's behavior from time to time and highlights mistreatment in agency reports, but has shown little willingness to use its leverage to push Museveni to reform.

The current State Department fact sheet on Uganda, for example, states that "bilateral relations between the United States and Uganda have been good since Museveni assumed power, and the United States welcomed Museveni's efforts to end human rights abuses and to pursue economic reform," while subtly noting that the government "sometimes uses charges of unlawful assembly, inciting violence, and promoting sectarianism to curtail government critics' freedom of speech and assembly."[15]

Files released by Wikileaks showed that despite its soft public discourse about Museveni, the U.S. is well aware of the darker side of the current Ugandan government. In a 2009 cable, current U.S. Ambassador to Uganda, Jerry Lanier, informed the State Department in no uncertain terms that Museveni's leadership and failure to support the development of the nation were creating long-term problems: "The president's autocratic tendencies, as well as Uganda's pervasive corruption, sharpening ethnic divisions and explosive population growth, have eroding [sic] Uganda's status as an African success story."[16]

While other Western governments (the UK for example) have withheld aid over violations of political freedoms and corruption scandals, the U.S. has not tied its support to respect for the rule of law or political and economic reform.

The State Department's annual human rights report highlights endless abuses by Ugandan security forces resulting in scores of deaths of innocent civilians, as well as thousands of political detentions and crackdowns on press freedom. This passage from the 2010 report highlights the known abuses of the regime:

> *"Security forces used tear gas and live ammunition to disperse demonstrators, resulting in 26 deaths and numerous injuries. More than 1,000 persons were detained, of whom more than 400 were in prison awaiting trial at year's end. Following the riots the government closed and suspended the licenses of four radio stations, closed a radio talk show, and suspended or dismissed journalists to control coverage of the event."*[17]

> *Oil experts estimate Uganda's Albertine Basin has 2-6 billion barrels of recoverable oil, positioning the country to become one of sub-Saharan Africa's top oil producers, which could potentially double current government revenues within the next decade.*

The same abusive forces, however, are rewarded with direct military cooperation, which sends a strong message of indifference to the atrocities committed.

The Obama Administration should be commended for its strong public stance on the 2010 Anti-Homosexuality Bill, which it viewed as "manifestly inconsistent with international human rights obligations" and lobbied strongly against.[18] On December 6, 2011, Obama informed U.S. government agencies that protecting and promoting the rights of gay, lesbian, bisexual and transgender persons is now a foreign policy priority.[19] Considering the Ugandan Parliament's recent decision to continue debates over a bill that would impose the death penalty for certain homosexual acts, we should hope to see Uganda receive increased attention from the U.S. State Department on this issue. However, more must be done to prevent the numerous violations of other civil and political rights within Uganda.

A MORE BALANCED APPROACH

It is in the national interests of the United States to pursue a more balanced approach toward Uganda. Increased respect for human rights, political pluralism and the rule of law will ensure a more stable and prosperous Uganda and have positive spillover effects for the region as a whole. Currently, however, the U.S. is prioritizing the security element of the relationship with an outdated approach of unconditional support for a strongman willing to pursue U.S. regional interests.

In both its foreign policy toward the Ugandan Government and its on-the-ground military assistance, the U.S. has consistently failed to prioritize civilian protection. The last time the Ugandan army closed in on Kony – during Operation Lightning Thunder in 2008, which also enjoyed U.S. military technical assistance – it provoked a retaliation that included the wholesale slaughtering of villages encountered during the LRA's retreat. Some analysts speculate that the current offensive has not been properly planned in consultation with experts on the LRA and the region, and could result in a similar tragedy.[20]

The quiet announcement of troop deployments late on a Friday afternoon was intended to keep the information out of news cycles. Nonetheless, the decision has generated debate among analysts as to Obama's true motivations. There are myriad factors that contribute to the current U.S. involvement against the LRA. Clearly, however, this military engagement signifies continued support for Museveni and exposes the depth of U.S. regional interests and reliance on Uganda at a time when the country is receiving increased criticism for the growing rights violations perpetrated by the government.

The image of Uganda as an innovator against AIDS or a model for economic development is no longer accurate. Serious corruption allegations surrounding oil revenue plague the President, Prime Minister Amama Mbabazi and a slew of others. Several Ugandan government officials have already resigned. Museveni is drawing greater domestic and international attention for his political and civil rights violations. Economic deterioration, political scandals, anti-gay movements and debates over oil have highlighted the extent of his failure to safeguard national stability and human rights. He has focused on maintaining power at all costs and ensuring Uganda's regional hegemony by pouring funding into military expenditures at the expense of badly needed improvements in domestic infrastructure and the provision of public goods. Uganda's progress over the past two decades can be saved if reforms are enacted quickly; otherwise, the country's role as a bastion of regional stability and value as a longtime U.S. ally will likely deteriorate as government corruption, disagreements over oil wealth, and domestic discontent increase.

If the Arab Spring taught a lesson, it is how quickly protests against economic mismanagement, undemocratic practices and repressive governments can unfold into widespread revolutions that rapidly change the strategic status quo in a neighborhood. Museveni's strong opposition to intervention in Libya is evidence of his concern about what could follow for him at home.[21] Currently, the U.S. has significant leverage through development and military aid. It needs to exert more pressure on the Museveni Regime to reform, despite the challenges and tensions this will likely generate.

The Obama Administration may be reluctant to criticize a valuable ally at a time when Museveni appears indispensable to U.S. foreign policy interests. The United States is relying on Uganda to maintain a military presence in Somalia and to remain stable within a region fraught with violent conflict and political upheaval. However, growing international investment in Uganda from countries like China, together with the anticipated wealth from oil, may unleash a torrent of conflicting interests that will complicate and weaken America's ability to influence the Ugandan government in the future. If the U.S. fails to act now, for fear of alienating Museveni, the ability to pressure for reform may diminish. In the event that a government transition becomes inevitable, U.S. failure to demonstrate concerted support for democracy and rights protections may undermine its ability to work with the next President, who may well come from the opposition.

The U.S. should exercise consideration and careful, long-term planning in its push for reform. Relying on conditionality for widespread improvement on blanket civil and political protections or exercising greater discretion over the disbursement and allocation of aid in-country may be appropriate for general improvements. In the case of such rights violations as those seen in the anti-homosexuality debates, however, conditionality may serve to further isolate minority groups and generate backlash against them as a result.[22] In those cases, working with civil society to build greater awareness and tolerance, as well as providing increased resources for marginalized groups, may be a more effective means of building long-term rights protections.

Regardless of the methods, it is imperative that the Obama Administration take action more meaningful than issuing written reports detailing the current violations occurring in Uganda. Continued support for Museveni, who is facing increasing domestic and international pressure to relax his autocratic tendencies, is reminiscent of George W. Bush-era duplicity on human rights promotions. Rhetoric is always convenient, but taking action can involve tradeoffs and sacrifices. President Obama has expressed a desire to demonstrate that the human rights hypocrisy that severely undermined America's international reputation throughout the post-9/11 era is truly a thing of the past. Prioritizing clear support for rights protections, regardless of regional or geopolitical goals, is a critical component of this commitment.

Economic gains across the African continent, recent oil discoveries (if managed correctly) and the perseverance of the Ugandan youth mean a brighter future is possible. The U.S. can and should play a role by doing a better job of balancing its economic, political and security interests in East Africa with the human rights of the Ugandan people.

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CHAVEZ'S BATTLE

No Cure For a United Opposition

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INTRODUCTION

Venezuelan President Hugo Chavez finds himself in a predicament in the months leading up to the October 2012 elections: he is fighting both cancer and a newly unified opposition coalition. While the president has announced he is clear of cancer, skeptics remain, and to date no concrete evidence has been released to support either claim. Regardless of whether Chavez is indeed still battling illness, there may be no cure for a unified opposition—provided it stays that way. A Chavez-free Venezuela would have sweeping domestic and international implications, ranging from the approach to price controls and social programs at home to whether or not to maintain—or, more likely, how to dismantle—the oil diplomacy currently employed in many countries, particularly in Cuba. Doubt about his health does not appear to have impacted polling, as Chavez was already in a dead heat with opposition candidates when the cancer announcement was made last summer,[1] and he has remained largely popular.

PUBLIC SENTIMENT

A recent poll by the Instituto Venezolano de Analisis de Datos (IVAD) showed that 70% of Venezuelans had a favorable perception of Chavez's performance.[2] While this may not translate directly into votes, half of the population endorses his reelection, while the other half would like to see his reign end. Yet in spite of the president's popular support, the opposition can capitalize on his lower approval ratings in almost every area of policy, including jobs, corruption, housing and the economy.[3] It seems that while much of the electorate is still loyal to Chavez, some swing voters are realizing that his policies may not be in the national interest; these voters may be more receptive to an opposition party offering real alternatives.

In fact, this is where the real challenge lies. The segment of the electorate that neither favors Chavez nor the opposition is the key to electoral victory. A full 33% count themselves among these "Ni-Nis." In the past, Chavez has been able to win much of the Ni-Ni vote: the recent IVAD poll cited above found that of the Ni-Nis, about 51% had pro-Chavista tendencies. This leaves very little wiggle room for the opposition. It must court the swing vote.

COURTING THE SWING VOTE

Enter 39-year-old Miranda Governor Henrique Capriles Radonski. According to recent polls, Governor Capriles is neck-in-neck with Chavez and is using some of Chavez's very own political tricks against him. Capriles supports social programs, in the style of Lula da Silva, and he has mimicked the former Brazilian President's Zero Hunger program in his home state. He also says he would not eliminate President Chavez's various social programs, but would instead seek to improve them. "Chavez is not the owner of social issues," Capriles has declared. "How can I not talk about poverty?" Among opposition candidates, Capriles is polling at 40% approval, and he is smart to play on the growing discontent with the economic policies of Chavez while also supporting effective social programs, especially given his success in his home state.[4]

Capriles is also wise to praise a reputable leftist in the region that will resonate with Venezuelans and not cause the same kind of frustration for elites that Chavez's relationship with the Castro brothers might. He is also prudent in his calls for reform, recognizing that abrupt changes, for example regarding price controls, are likely to make the situation worse by causing increased inflation and depreciation of the Bolivar. One of the key strategies for a successful opposition candidate will be to court the poor without alienating the wealthier classes. In the past, the lower class that has given Chavez the needed support to continually win elections, and it is this demographic that receives the social benefits of his programs. If the poor fear the loss of social programs that have brought them free health care, school, discounts on food and household goods and a return to the poverty from which they have risen in the past decade, they are likely to rally around Chavez or a designated successor. If, however, they see in the opposition a credible candidate who will continue these programs, increasing their efficiency while at the same time improving the economy, they may be inclined to shift their loyalty.

The opposition has certainly shown signs that it understands what the majority of Venezuelans want. In the 2010 legislative elections, opposition candidates realized that the votes needed to win were not going to come from the elite classes, who wanted to hear about democracy and human rights, but from the poor, who need to keep their social safety net in tact. Yet although social programs appeal to the poor, the opposition has also recognized that there are issues that resonate with everyone: namely government transparency, crime, and, of course, jobs.[5] Thus the opposition will need to frame the debate in 2012 carefully, because the to-date-unbeatable Chavez electoral machine will surely be touting recent economic growth rates of about 4%.[6]

POLITICAL CALCULATIONS AND THE UPCOMING ELECTIONS

Whether or not the opposition actually unites behind the candidate that wins the February 2012 primary election will be a major factor in its ability to defeat Chavez. Importantly, the fact that the opposition has pledged to unite behind one candidate will hopefully mitigate some of the public's fears of backing the wrong horse and being punished for it later in the event of a Chavez victory. The opposition is going to have to work hard to convince the population that their votes will not be for nothing, and it has already taken steps to signal this. Although in the past, individual parties have held primaries, this election will be the first time that a unified opposition is jointly holding a primary to elect a candidate to represent the whole coalition against Chavez. Currently, they are facing an unprecedented opportunity to take the government—an opportunity of which they seem to be acutely aware. Five candidates will compete in February for the chance to run against Chavez in October,[7] and by selecting one candidate, the Democratic Unity Coalition (MUD) will avoid splitting the vote between many candidates as has happened in the past. In September, 44 opposition leaders signed a pact under the MUD vowing to support the candidate that wins the primary. This is a powerful indication that the opposition is determined to harness this opportunity and make the necessary sacrifices in their individual party platforms, as well as credibly signal to the voters that their votes will count next October.[8]

If Chavez loses his battle with cancer before the elections, the opposition will have to adjust its strategy to face off against his designated successor. This is, however, unlikely, and merits a separate detailed analysis of how different actors in the country would respond. The important thing for now is that the MUD focuses on its national objectives and does not become fractionalized by the prospects of an electoral victory against someone other than Chavez, in the event that he is not a candidate. Chavez's health notwithstanding, toward economic and political recovery; a daunting task, given its track record. While a lot of attention is given to Chavez's misuse of public funds and opaque management practices, one must not forget that the break down of the party system and the corruption under Puntofijismo is what brought him to power in the first place. The failed coup attempt by the opposition in 2002 sought to replace the president with an appointed business leader who immediately dissolved the national assembly.[9] In the months leading up to the primaries, the MUD will have to work hard to convince the public that its policies will serve the Venezuelan people better than those of Chavez. Perhaps more importantly, it will have to convince them that the opposition can win and will keep these promises.

A Chavez-free Venezuela would have sweeping domestic and international implications, ranging from the approach to price controls and social programs at home to whether or not to maintain—or, more likely, how to dismantle—the oil diplomacy currently employed in many countries, particularly in Cuba.

the opposition's current plan is a good one for now as well as the future. Given Chavez's popularity, the MUD must have a plan for defeat as well as for victory, particularly looking ahead to upcoming governor and mayoral elections in December 2012 and April 2013, respectively. It will be of utmost importance that the opposition remains united according to the language and spirit of the pact they have signed, which essentially outlines a centrist platform. Their ability to do so could go a long way toward restoring voter confidence in the electoral process.

THE FUTURE OF VENEZUELAN POLITICS

No matter what the outcome of the October 2012 elections, one day Chavez will no longer be in power in Venezuela. However, with about 40% of the country claiming loyalty to his PSUV party, it will remain a formidable challenge to the opposition even without his leadership. Although the opposition's current plan could finally deprive Chavez of office, there are other looming considerations beyond an electoral win in October. Overall, Chavez has accepted defeat when it has been dealt him, but this election is winner-take-all. Will he step down? Win or lose, will he work with the opposition to strengthen the country? How great is the possibility of political crisis?

If all goes smoothly, the next challenge for the opposition will be to prove the MUD is committed to putting Venezuela on a course

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TRIFECTA OF DIVERGENT INTERESTS

The U.S., Israel and Palestine

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> ***Peace is hard work. Peace will not come through statements and resolutions at the United Nations – if it were that easy, it would have been accomplished by now. Ultimately, it is the Israelis and the Palestinians who must live side by side. Ultimately, it is the Israelis and the Palestinians – not us – who must reach agreement on the issues that divide them: on borders and on security, on refugees and Jerusalem.***
>
> \- President Barack Obama, Sep. 21, 2011

INTRODUCTION

In recent weeks, politicians and pundits the world over expressed their surprise at President Obama's attitude toward the prospect of Palestinian statehood. His denunciation of Palestinian Authority President Mahmoud Abbas' petition for national recognition at the United Nations appears to be in stark contrast to his stated support for a two-state solution to the Israel-Palestine conflict. In fact, he declared that the U.N. was not the proper forum in which a peaceful solution may be wrought, and that the conflict could only be brought to an end through direct negotiations between the two governments. To some, this decision to undermine the bid for statehood came as little surprise given the history of U.S.-U.N. relations, particularly pertaining to Palestine. On the contrary, it is an archetype of the unequivocal support from Washington that Israel has enjoyed for the past several decades and serves as a grim reminder that the U.N. has little power to influence Israeli policy.

A peaceful two-state settlement between Israel and Palestine has not come about primarily because of differences over the extent, if any, to which Israel is obligated to remove its settlements and its military from the West Bank and Gaza Strip as a precondition for formal peace agreements with the rest of the Arab world. The incentive for the Israeli government to withdraw to the international boundaries that existed before the Six-Day War in 1967 has been greatly diminished by Washington's unconditional commitment to provide huge amounts of financial, military, and ideological support to Israel – even in the face of heavy criticism from the international community. Although the Western media often touts President Obama's efforts to urge Israeli Prime Minister Netanyahu to follow the so-called "road-map to peace" and accept a two-state settlement, there is little or no evidence that he plans to use the enormous leverage of U.S. foreign assistance as a means to ensure that such a settlement comes about. Furthermore, it is in President Obama's own interests to continue the longstanding trend of supporting Israel by maintaining the flow of arms and presenting himself as an ideological partner to appease the powerful lobbies that represent both weapons manufacturers and the do\mestic pro-Israel voting constituency. He has chosen his words with great caution when speaking about the occupied territories and has been careful not to make any concrete commitments to the Palestinians. In this sense, he has followed a continuing presidential tradition of rhetorical sympathy to the plight of the Palestinians without formal endorsement of their legal right to self-determination or a sincere effort to end the occupation.

SEEDS OF CONFLICT

Israel's decisive military victory in the Six-Day War of 1967 led to the establishment of the country as a regional superpower. It wrested control over the Sinai Peninsula and Gaza Strip from Egypt, over East Jerusalem and the West Bank from Jordan, and over the Golan Heights from Syria. Although Israel returned control over the Sinai to Egypt after the 1978 Camp David accords, it has maintained control of the West Bank and Gaza Strip, now commonly referred to as "the occupied territories," which had previously been slated to be part of an independent Arab state following the 1947 U.N. partition of the former British Mandate of Palestine. The first Intifada, or uprising, that broke out in 1987 demonstrated to the world that the Palestinians had not accepted Israeli rule and that the occupation could no longer be ignored by the international community.

The 1993 Oslo Accords were the first face-to-face agreements between Israeli and Palestinian leaders seeking to end the Intifada, and they set the foundations for a permanent solution to the conflict by establishing a "Palestinian Authority" to be the legitimate administrators of the occupied territories. Hamas, the opposition party to Fatah, which represented Palestine during the negotiations, rejected the terms of the agreement on the grounds that they called for the recognition of the State of Israel. The Hamas charter explicitly denies Israel's right to exist. The continued Israeli expansion of settlements in the West Bank, particularly in the suburbs of Jerusalem, has further undermined the public faith in the accords, as did the escalation of violence directed at Israel and disproportionately brutal retaliation by the Israeli Defense Forces (IDF) against Palestinian civilians. Ironically, terrorist attacks from the paramilitary wing of Hamas, the Izz ad-Din al-Qassam Brigades, increased sharply in the wake of the accords, with over 50 percent more Israelis being killed in the five years after than were killed during the entire first Intifada.[1]

Popular protests against the Israeli occupation continued on a regular basis, and often ended in bloody clashes between Palestinian civilians and Israeli troops. The Palestinians, often armed with only stones, were no match for the highly-trained, heavily-armed IDF, who during the first Intifada had met unarmed protesters with American-made tanks, helicopters, and riot gear. Palestinian casualties in the occupied territories during this period outnumbered those of Israel by more than eight to one, almost a quarter of which were civilians under the age of eighteen.[2] Out of this imbalance of power emerged the deadly specter of the suicide bomber, and by late 2000 it was clear that the Oslo accords had failed and a second Intifada was underway.[3]

THE POWER OF WORDS

In November 1988, a year after the outbreak of the first Intifada, the Palestinian Liberation Organization (PLO) endorsed a two-state solution by officially declaring a State of Palestine that defined its borders based on United Nations Resolution 242. The resolution had been adopted unanimously by the U.N. Security Council in the aftermath of the Six-Day War and is considered the legal backbone of the Arab-Israeli peace settlement. This resolution called for the application of two principles: first, the "withdrawal of Israeli armed forces from territories occupied in the [1967] conflict," and second, the "termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force."[4]

It is an archetype of the unequivocal support from Washington that Israel has enjoyed for the past several decades and serves as a grim reminder that the U.N. has little power to influence Israeli policy.

The interpretation of Resolution 242, however, is perhaps the most significant point of contention in reaching a negotiated political settlement between the two states. The first of the two terms laid out in the resolution calls for the withdrawal of Israel armed forces from *"territories occupied in the [1967] conflict."* The English wording and subsequent translation into French (the two working U.N. languages at the time) has consistently been debated by international negotiators, as it states a withdrawal from "occupied territories" rather than "*the* occupied territories" or "*all* occupied territories."[5] The English version implies the former and the French the latter. The Israeli government, predictably, has taken the position that the resolution does not demand that the military withdraw to the pre-1967 border. The Palestinian point of view, on the other hand, is that Israel has not abided by the terms of the resolution and the occupation is a direct violation of international law. Arab nations, including Saudi Arabia, Iraq, Libya, Lebanon, and Syria, have refused to give diplomatic recognition to Israel and have preconditioned a formal peace agreement on Israel's compliance with Resolution 242, which they view as a withdrawal to the pre-1967 border.[6] A lasting peace in the Middle East cannot be achieved unless the Israeli government decides to act in accordance with the wishes of not only their closest neighbors, but the majority of the international community. As it stands now, Israel has not felt the need to comply with any such international consensus. It has been able to grow into a powerful, prosperous nation by means of overwhelming military might, and it may continue to thrive as long as it remains in the favor of its great benefactor, the United States.

BIG BROTHER, SUGAR DADDY

From the U.S. point of view, the Six-Day War saw a democratic nation defeat multiple Soviet-backed regimes without the need for direct American intervention and without risking nuclear war between the U.S. and the Soviet Union. Inspired by the potential for such an ally so close to the world's major energy reserves, the following year the Johnson administration dramatically increased the amount of military aid to Israel. This set the precedent for U.S. financial, military, and ideological support for Israeli dominance in the region that continues to this day. Not only is Israel by far the largest annual recipient of U.S. foreign assistance, it receives billions of "unofficial" dollars that go towards the development of state-of-the-art weapons systems. From 1971 to the present day, U.S. aid to Israel has averaged $3 billion per year, two-thirds of which has been military assistance.[7] In 1981, economic aid to Israel ceased to be given as loans and became all grant cash transfers, with military aid following suit in 1985. All past Israeli debts to the U.S. have been forgiven by Congress. When grants, loans, interest and tax deductions are added together, their country's "special relationship" with Israel costs U.S. taxpayers over $10 billion annually.[8]

President Obama is unlikely to scale back such unconditional support for Israel. There is no evidence that he plans to use foreign aid as a pressure point with which to push Israel to withdraw to the 1967 border or accept U.N. Resolution 242. On the contrary, the U.S. has opposed the United Nations in virtually all of its decisions regarding Israeli policy in Palestine. It unilaterally vetoed a total of forty-one U.N. Security Council resolutions against Israel between 1972 and 2007, thirty-two of which specifically condemned Israeli aggression in Palestine and called for its immediate withdrawal from the occupied territories.[9] As a result, the Pentagon has been able to bypass a number of legal human rights statutes that would otherwise prohibit the flow of arms to Israel. The U.S. Foreign Assistance Act, for example, prohibits the distribution of foreign aid to any country that "engages in a consistent pattern of gross violation of internationally recognized human rights... or other flagrant denial of the right to life, liberty, and the security of person."[10] Yet in spite of the U.N.'s consistent condemnation of Israel on such grounds, the U.S. Security Council veto has allowed the flow of arms to continue without question. The U.S. and Israel even "continue to oppose a political settlement in words, most recently in December 2008, when the two countries (and a few Pacific islands) voted against a U.N. resolution supporting 'the right of the Palestinian people to self-determination'[11] (it passed 173 to 5, U.S.-Israel opposed, with evasive pretexts)."[12]

POLITICS AS USUAL

In spite of popular global support for a two-state solution to the Israel-Palestine conflict, President Obama must consider the domestic political backlash that would accompany any significant change in U.S. policy towards Israel. The American Israel Public Affairs Committee (AIPAC), deemed one of the most powerful lobbying groups in Washington by the *New York Times,* is a staunch advocate of Israel's regional military superiority. With over 100,000 members and the ability to raise millions in campaign contributions to favorable presidential candidates, AIPAC "has gained the power to influence a Presidential candidate's choice of staff, to block practically any arms sale to an Arab country and to serve as a catalyst for intimate military relations between the Pentagon and the Israeli Army."[13] President Obama knows full well that alienating AIPAC would be severely damaging to his electoral prospects. Indeed, during his campaign for the presidency, Obama delivered one of the most hawkish oratories of his political career at an AIPAC conference in June 2008,[14] leaving no doubt of the ever-continuing and unconditional U.S. support for Israeli dominance over its neighbors.

Perhaps even more influential than AIPAC, the Aerospace Industry Association (AIA), a conglomerate of over 270 companies, represents “the nation’s leading manufacturers and suppliers of civil, military, and business aircraft, helicopters, unmanned aerial systems, space systems, aircraft engines, missiles, materiel, and related components.”[15] The AIA is one of the major profiteers of military aid to Israel and has given two times more money to campaigns than all of the pro-Israel groups combined.[16] Obama’s actions suggest that he is quite hesitant to make decisions that could lose him the support of these two groups.

A SILVER LINING?

Underneath the frustration toward President Obama’s opposition to Palestinian statehood lies an opportunity that has been largely unexplored. The fanfare that Mr. Abbas received upon his return to Palestine from New York after submitting the Palestinian bid for statehood may mark a turning point in his career. Arriving back at the presidential compound in the city of Ramallah, he received what numerous Palestinian media outlets described as a “hero’s welcome” from a jubilant crowd of supporters that had turned up in droves to demonstrate their support and gratitude for his efforts on their behalf at the U.N. An entire day of celebration was held in his honor, and thousands of Palestinians flocked to the city to join in the festivities. Abbas’s popularity has surged to unprecedented heights. If he left the West Bank a weak leader, reports *Al-Jazeera*, Abbas has since “positioned himself as a man of the cause that could stir the stagnant waters of the Middle East.”[17]

It is the party of Fatah, led by Abbas that has officially recognized Israel’s right to exist and demonstrated a willingness to work toward a peaceful two-state settlement. The charter of Hamas, on the other hand, explicitly calls for the destruction of Israel and is consequently barred from taking part in the peace process. The two parties experienced a seemingly irreconcilable division after the death of Yasser Arafat, with the former retaining control of the West Bank and the latter holding onto the Gaza Strip. Control over Gaza was further consolidated by the election of Ismael Haniyeh as Prime Minister in the legislative elections of 2006. As the senior Hamas figure in Gaza, Haniyeh spends millions of the Hamas budget each year on welfare, cultural, and educational activities. However, his entire budget for 2010 amounted to a mere $540 million[18] – a figure dwarfed by the annual $2 billion in annual grants that Israel receives from Washington in the name of national security. Clearly, Israel has the financial means to empower the Palestinian Authority, under the leadership of Mr. Abbas, to provide a network of social and welfare programs capable of competing with those of Hamas, which is currently the only lifeline available to poverty-stricken Gazans. A reaffirmation of Palestinian Authority legitimacy in the Gaza Strip, particularly at a time when Mr. Abbas is experiencing an unprecedented surge in popularity as the voice of the Palestinian cause to the rest of world, could go a long way towards consolidating his leadership and diminishing the influence of Hamas. Without the foundation of popular support derived from its monopoly on social services, Hamas would have a significantly smaller pool from which to draw recruitment for terrorist operations. It would also serve as a long-overdue humanitarian gesture that is badly needed to begin mending Arab-Israeli relations.

THE ROCKY ROAD AHEAD

Although recent news has suggested that President Obama intends to adopt a tough stance on Israeli expansion, the history of U.S. involvement in the conflict and domestic political ramifications strongly suggest the opposite. Current events in the United Nations have demonstrated this with alarming clarity. If the United States is serious about ensuring the security of its staunchest ally in the Middle East and the stability of the region’s only nuclear power, it must use its enormous influence over Israel to bring about a peaceful resolution to the Israeli-Palestinian conflict. The continuation of foreign assistance must be made contingent upon realistic efforts by the Netanyahu government towards self-determination for the Palestinian people, beginning with an immediate halt to the Israeli settlement expansion in the occupied territories. It must then allocate a percentage of its budget to sponsor a Fatah-administered social service network throughout Gaza as a means to draw public support away from Hamas. Finally, the United States must use its influence to consolidate the position of Mahmoud Abbas as the legitimate leader of a fledgling Palestinian nation and reverse its obstructionist position on the bid for statehood currently on the table at the U.N. This will carry the additional benefit of proving to the Arab world, as well as to his American constituents, that President Obama is genuinely committed to the democratic principles he espouses.

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MOVING FORWARD, TOGETHER

The Next Piece in the Middle East Peace Process

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INTRODUCTION

Over the past year, the world's attention has been focused on the Arab Spring and the exciting political developments sweeping across the Middle East. In this era of dynamic changes, it is of little surprise that the Israeli-Palestinian conflict, mired in a static peace process going on two decades now, has received relatively little attention. Yet now is a time as good as any for the U.S. to concentrate on the problem, as long as it has the will to try new and constructive policies that engage with all relevant actors. In particular, the U.S. should concentrate on reconciling Hamas and Fatah as a first step towards a comprehensive peace with Israel.

CHANCE FOR AGREEMENT

After several fits and starts, on May 4th, 2011 the Palestinian factions Hamas and Fatah signed a reconciliation agreement calling for the establishment of an interim government, the revival of the Palestinian Legislative Council (shut down since the 2006 civil war), and parliamentary and presidential elections within a year.[1] However, only weeks later the process stalled indefinitely, as the two sides could not agree who should lead the government. Fatah urged that technocratic prime minister and Western darling Salaam Fayyad continue in his post, while Hamas earnestly rejected him, decrying his illegitimate assumption of power in 2006 and the treatment of Hamas activists by the Palestinian Authority under his tenure.[2]

While internationally controversial at the outset, with both Israel and the United States critical of reconciliation and the European Union unsupportive of any Palestinian government not led by Fayyad, the agreement has taken a back seat to Palestine's appeal for formal statehood at the United Nations in September. As of this writing, the request remains pending in the United Nations Security Council, but the U.S. has vowed to veto it should it come up for a vote. This has angered the Palestinians, who still long for a state to call their own.[3]

If the United States wants to move past the imbroglio at the United Nations and, as it claims, seriously re-launch the peace process, it should support Palestinian unity and urge the implementation of a Fatah-Hamas reconciliation. Not only will this recapture the lost good will from the Palestinian side, but it will truly be a first step to lasting Palestinian-Israeli peace.

PROMISE AND DISAPPOINTMENT

When President Obama came into office in January 2009, his administration outlined clear objectives f.or its Middle East policy. Firstly, officials stressed that they intended to engage directly and early on with Arab-Israeli peace efforts – in stark contrast, they noted, to the previous administration's belated attempts at mediation.[4] Secondly, Obama stressed new efforts at outreach to the Muslim world, typified by the president's heralded "Cairo Speech" in June 2009.[5]

Yet after nearly three years in office, there is little – if anything – to show for it. In addition, short of the speech in Cairo, little effort has been made to further reach out to Muslims. Rather than displaying a marked break with the previous administration, Obama has continued the Bush-era framework for Arab-Israeli peace negotiations. The Obama administration must foster the reconciliation of Hamas and Fatah and intra-Palestinian harmony as a pre-requisite to brokering an Israeli-Palestinian peace accord if it is serious about bringing peace to the region. As recommended by Ambassador Daniel Kurtzer in his book with Scott Lasensky, Negotiating Arab-Israeli Peace: American Leadership in the Middle East (2008), any new political development could be used as a means to build new momentum.[6] Therefore, President Obama should seize this stalled arrangement as an opportunity to reach out to Hamas and Fatah and let them know that the U.S. is fully behind their reconciliation. A united Palestinian body politic will accomplish Obama's dual goals of finally achieving a lasting peace in the Middle East and concretely demonstrating America's new, open approach to the Muslim world.

ELECTIONS AND CONSEQUENCES

In one of the region's few free and fair elections, Hamas was elected by a landslide in January 2006 to lead the Palestinian Authority (PA).[7] This should have been a welcome development from the U.S. and the international community given the corruption and unpopularity of Fatah, the party that was previously in power. Instead, rather than being given a fair chance to lead and reveal its commitment to governance over religious fundamentalism and war mongering, Hamas's new PA government was deliberately undermined by the United States, the European Union, and Israel, which withheld both pledged international aid and Palestinian tax revenue to the governing body.[8] President Bush, who emphasized democratization of the region at the outset of his second term, could barely muster any constructive sentiment at this display of democracy: "The Palestinian people have voted in elections. And now the leaders of Hamas must recognize Israel, disarm, reject terrorism and work for lasting peace."[9] Even after a national-unity government deal was reached in Saudi Arabia in February 2007 (the "Mecca Agreement"), the international community continued to isolate Hamas.[10] The group was also shut out of peace negotiations, as the U.S. and the so-called "Quartet" of the U.S., Russia, European Union, and UN chose to deal only with Fatah, rather than the PA as a whole, in reaching a deal with Israel. In the absence of permission to peaceably exercise its popularly mandated right to lead, Hamas opted for violence.[11] In a brief but bloody civil war with Fatah, Hamas seized power in Gaza, while Fatah assumed control over the West Bank and appropriated the Palestinian Authority in its entirety.[12]

The Bush administration's actions were not only inappropriate and counter-productive; more importantly, they completely failed to bring the Palestinians any closer to peace with Israel. Bush's promise that "there [will] be a signed peace treaty by the time I leave office," in which "the state of Palestine will emerge," made in the wake of the now-moot Annapolis Conference, was overly-optimistic at best and delusional at worst.

A NEW APPROACH

What is clear is that a new approach is needed. Unfortunately, rather than seeking a new way forward to solve this impasse, the Obama administration has continued the Bush Administration strategy of dealing only with Fatah in trying to reach a peace accord. What the Obama team fails to understand is that Fatah is not the legitimate representative of the Palestinian people, on whose behalf it has been negotiating. There is no lawful governing body in Palestine: not only was the democratically-elected party ousted from power with a different prime minister railroaded into the commanding position, President Abbas is over a year past his four-year mandate and has no concrete plans for a new election. Given that President Abbas no longer has the mandate of the people, any negotiations he leads will most likely be illegitimate in the eyes of Palestinians and fellow Arabs across the region. A viable peace can only be achieved if the signatories truly speak for their respective sides; if such authority is lacking, not only will the international community not accept a resolution, but, more significantly, neither will the constituencies the government purports to represent.

If the United States wants to move past the imbroglio at the United Nations and, as it claims, seriously re-launch the peace process, it should support Palestinian unity and urge the implementation of a Fatah-Hamas reconciliation.

Israel thus needs to engage with a single, legitimate pan-Palestinian entity. In order to facilitate this, President Obama should focus on encouraging Fatah and Hamas to work together toward a new round of elections. Perhaps most importantly, the U.S. must pledge to support the results regardless of the outcome.

Practically speaking, the administration should convey to Hamas, through intermediaries if necessary, that should this reconciliation move apace and Hamas actually relinquish its Gazan sanctuary to the control of the PA, the U.S. would not repeat the mistakes of the past – namely, that it would continue Palestinian aid and impress upon Israel the need to return the Palestinians' tax revenue. In exchange, Hamas must pledge that its representatives will abide by all previous Palestinian Authority agreements, including peace with Israel. Hamas representatives would not need to recognize peace with Israel as a party platform, but simply as individual legislators undertaking an oath of office to uphold the arrangements of the institution which they are joining. Of course, the U.S. should establish an oversight mechanism through the consulate to ensure that international aid reaches the intended populace. Continued U.S. financial assistance to the Palestinian Authority would be contingent on compliance.

Following its January 2006 electoral victory, at a leadership summit in Cairo, Hamas made the exact pledge stipulated above, promising to abide by the PA's previous agreements with Israel, if only temporarily. With regard to its reconciliation with Fatah, Hamas has demonstrated a marked willingness to form a national unity government in the past, as was reached in 2007. Despite the subsequent violence and division of the Palestinian territories into canton-like individual spheres of governance, on several occasions Hamas has announced its willingness to reconcile with Fatah. Of course it is still possible that, in spite of these promises, Hamas may not take the deal outlined above, given its opposition to Fayyad as prime minister. However, if the international community holds the two parties to the pledge of national elections within the year, Fayyad's appointment would be temporary, perhaps weakening any objections.

This proposal is a tangible endeavor that President Obama could herald as part of his new engagement with the Muslim world. A common criticism of his speech in Cairo was that, while a new U.S. approach to the region is welcome, a real gauge of this policy change will be concrete action, not rhetoric. This wariness has been legitimized by the administration's prevarication during the revolution in Egypt and its inconsistent approaches to democracy in Yemen, Syria, Bahrain and Libya. Endorsing and signaling its willingness to deal with a united Fatah-Hamas government would be a demonstrable shift in U.S. foreign policy and real evidence of this new strategy.

PEACE – ELUSIVE, BUT NOT IMPOSSIBLE

Hamas is a dangerous organization currently dedicated to destroying the State of Israel, and it should be noted that even if this situation were being negotiated by two "moderate" entities, peace could prove elusive. However, the moves recommended above would pay dividends to all, even if peace remains beyond the reach of Obama's time in office. Palestinians would be better served by a united, representative government and a Hamas that is enfranchised into moderation rather than isolated into extremism. Israel would be assured a negotiating partner with the power to stand behind its word. Finally, the United States – long a mediator plagued by accusations of bias – would be conferred with tremendous pan-Arab and international goodwill; arbitrating a Hamas-Fatah peace brings the U.S. closer to the honest-broker status it needs to bring around an Arab-Israeli peace deal. Its ability to successfully negotiate such an agreement would be the ultimate confidence-building measure.

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OBAMA AND LATIN AMERICA

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As we pass judgment on the Obama Administration's policies in Latin America and the Caribbean, it's important to distinguish between "efforts" and "results." The big difference is that what actually transpires in the region – the results – derive from a host of causes, many of which are not under the control of the U.S. government.

Let's begin with efforts. Of course, the current administration has paid less attention to Latin America than to geographic areas where U.S. troops are engaged in battle or where nuclear proliferation threats loom large. But President Obama has traveled twice to the region – to attend the 2009 Summit of the Americas and to make a week-long swing through Brazil, Chile and El Salvador. Most impressively, Secretary of State Hillary Clinton has repeated returned to the area – not only to nearby Mexico and Haiti but also to Brazil and Ecuador, and most recently to the Dominican Republic. She has also launched a series of innovative initiatives to focus attention on social issues: micro-enterprise development; women's rights; trade-related issues, including labor standards and the environment; and financial flows from ethnic Diasporas to their home nations. Even as resources committed to these initiatives fall well short of what would be required to realize the stated goals, they have been useful to the various constituencies they engage. It is still too soon to judge the ultimate impacts of these new programs, and their success will ultimately depend on the administration's ability to stay focused during this flurry of policy innovation. Other noteworthy efforts include important recapitalization of the Inter-American Development Bank and, of potential future importance for the region, of the International Monetary Fund, which more than compensate for ever-diminishing bilateral U.S. devel opment assistance programs. The Obama administration has continued Bush administration initiatives pouring money into counter-narcotics efforts in Mexico and promoting development and security in Haiti.

GRADE FOR "EFFORT": A-

Now, let's look at results. Overall, the region is enjoying happy days. Economies are outperforming those in the developed world, and social indicators continue to rise. Infamous for its skewed income distribution, Latin American even appears to have realized some gains in that realm. U.S. policies have helped – the fiscal stimulus package and continued openness to imports – but many other factors are at play, notably the much-improved quality of economic management by many governments.

Politically, while there is wide variation among nations, the picture overall also looks bright. Democratic elections are the norm, and most societies continue to work to deepen their democracies and improve their governance capacities. Again, this is hardly the result of U.S. policies alone, although one can point to positive contributions here and there. Perhaps the U.S. mishandled the 2009 political disruptions in Honduras, but the end result has been the return to electoral norms. Obama administration efforts to improve relations with the more radical regimes – Venezuela, Bolivia, Ecuador, Nicaragua – have generally not borne fruit; indeed, the U.S. currently does not even maintain ambassadors in any of these nations – but at least the decibel level of hostile rhetoric has subsided, and tensions with Bolivia have eased as of late. For Hugo Chavaez, Obama is a much less inviting target than was George W. Bush; the popular Obama continues to poll well throughout the region.

Ironically, where Obama has fallen short has been in domestic politics. The Congress has blocked his efforts at major reforms that would hold important implications for Latin America: in place of promised immigration reform, there have been massive deportations; rather than comprehensive energy and climate change legislation, Congress continues agricultural and energy subsidies that harm Latin American producers; and Republicans have delayed and even derailed administration nominations to key positions. However Congress did, finally, ratify the free trade agreements with Colombia and Panama that had been negotiated during the Bush years.

In the on-going drug wars, where Obama has largely continued policies inherited from past administrations, results are alarming. Mexico is wracked with unprecedented levels of drug-related violence, and the cancer is spreading to Central American nations ill-equipped to deal with the powerful cartels. There are no easy answers for the decades-long drug wars. Similarly, there are no facile solutions to the many challenges that continue to overwhelm poor Haiti, including the 2010 earthquake that leveled the capital city of Port-au-Prince.

Finally, Obama has disappointed those supporters who imagined that he would radically alter American foreign policy with regard to Cuba, but he has used his executive power to return to Clinton-era approaches liberalizing regulations governing travel and remittances while toning down the confrontational rhetoric of some Bush-era political appointees. International relations students from around the country – including those at IR/PS – may soon be able to take advantage of the openings to purposeful travel and educational exchanges with Cuba.

GRADE FOR RESULTS: B+

General assessment: a good student with room for improvements.

THE OBAMA ADMINISTRATION AND THE KOREAN PENINSULA

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The death of Kim Jong Il raises important issues about the future of nuclear negotiations on the peninsula. What is the likelihood that talks will resume?

The North Korean nuclear crisis broke in late 2002, following revelations that Pyongyang had secured uranium enrichment technology from Pakistan. The first Bush administration pursued a hardline approach to Pyongyang, but with little effect. By 2004, the Six Party Talks that had been designed to address the crisis – involving the US, the two Koreas, Japan, China and Russia – had stalled out.

Under newly appointed Secretary of State Condeleeza Rice, the second Bush administration changed course and sought to move toward a negotiated settlement. This path did not prove an easy one; in 2006, the Democratic People's Republic of Korea (DPRK) tested missiles and a nuclear device. But negotiations yielded an important statement of principles in 2005 and by 2007 were making modest progress in shutting down the Yongbyon nuclear facility. In 2008, however, negotiations once again broke down over issues of verification and mutual mistrust.

The Obama administration came to office extending an olive branch to adversaries, promising a departure from the Bush administration. In the case of North Korea, however, the precise course of action was by no means straightforward. The Bush administration had in fact tried to engage North Korea but without success. Would the Obama administration try to pick up where the Bush team had left off?

Before the new administration could settle on an approach, the North Koreans attempted a long-range missile test in April 2009. The U.S. and its allies orchestrated a toughly worded statement from the U.N. Security Council in response, including a threat of additional sanctions. The North Koreans responded by withdrawing "permanently" from the Six Party Talks and undertaking a second nuclear test in May. This test was met with a new Security Council sanctions resolution, with support from China. The North Koreans conducted further missile tests in July of the same year.

From this point forward, the Obama administration's approach was dubbed "strategic patience," and it involved a combination of both sticks and carrots. On the one hand, sanctions were deemed necessary not only to signal displeasure and move North Korea back to the negotiating table, but also to protect the U.S. and its allies from potential proliferation of missiles and even nuclear design and materials. On the other hand, the U.S. repeatedly restated its willingness to re-engage through the Six Party Talks.

The reasons for the breakdown of negotiations in 2008 and the inauspicious beginning for the Obama administration remain unclear: they may reflect a strategic miscalculation on the part of Pyongyang. But the DPRK's actions are more likely related to the stroke that Kim Jong Il suffered in August of 2008. In North Korea's highly personalist political system, leader incapacitation raised crucial issues of succession and political survival and undoubtedly favored hardline forces.

Nonetheless, the parties started to circle back to negotiations in late 2009 and early 2010, and the U.S. had even issued a visa for a top North Korean negotiator to come to New York. But no sooner had progress been made than the North Koreans undertook a second round of provocations in 2010, including the sinking of a naval ship, the Cheonan, in March and the shelling of a South Korean island in November. This second round of North Korean actions had to do with important political developments in North-South relations. For nearly a decade under the Kim Dae Jung and Roh Moo Hyun governments, Seoul had pursued a policy of engagement with the North, including substantial economic assistance. In 2007, however, the Korean electorate voted in a conservative presidential candidate, Lee Myung Bak, who favored a more conditional approach to the North. President Lee was not averse to providing assistance to North Korea, but it would come only after Pyongyang desisted from nuclearization.

The DPRK's response to this approach was vitriolic. Pyongyang believed that Seoul had reneged on its commitments and sought to undermine President Lee's strategy by making it costly to pursue.

The North Korean actions vis-à-vis the South had complex ramifications for U.S. policy. At one level, they had the perverse (from North Korea's perspective) effect of strengthening the alliance between the U.S. and South Korea. Obama and Lee hit it off personally during their early meetings, but the sinking of the Cheonan and the shelling of Yeongpyeon island provided impetus to high-level political and military cooperation. The security situation probably also played a role in Congress' decision to pass the Korea-U.S. Free Trade Agreement prior to President Lee's recent visit to the U.S.

On the other hand, the events of 2010 held U.S. policy hostage to the Lee Myung Bak administration, which demanded an apology from the North that was highly unlikely to materialize. At some point, South Korea would probably have to give up on this demand if talks were to resume. North Korea has been arguing strongly for a resumption of talks, with no preconditions. This approach is designed to sound reasonable, but it sidesteps the crucial issues of North Korean culpability for the provocations of 2010 as well as their intent (or lack thereof) to denuclearize. The U.S. has been waiting for some signal that the North Koreans are serious about denuclearizing prior to starting to talks, perhaps in the form of a freeze on their much-expanded uranium enrichment effort.

The death of Kim Jong Il raises new uncertainties, as the regime naturally focuses on assuring the integrity of the transition. Up until the death of Kim Jong Il, Pyongyang had signaled a willingness to resume the talks. But even if the talks are restarted, it is not clear that North Korea is seriously interested in abandoning its nuclear capability. Nor is it clear that Kim Jong Un could make a bold move on the foreign policy front. The U.S. has been cautious during this inter-regnum.

Yet despite the difficulties that lie ahead for restarting the talks, it seems that we would be no worse off for resuming them. Critics will argue that it is a concession merely to talk. It was precisely this attitude that candidate Obama sought to counter with his more open posture toward engagement. Engagement does not foreshadow any particular outcome, and the U.S. must remain committed to the goal of denuclearization. But denuclearization is not likely to happen absent negotiations, and the hope that China will ratchet up pressure on North Korea is misguided. If Pyongyang is willing to move, we might as well get started.

THE OBAMA ADMINISTRATION'S FOREIGN POLICY IN CHINA

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Barack Obama entered the White House intending to continue the policy of engagement of China that every President since Nixon has pursued and lost no time getting started. Typically, each U.S. presidential candidate campaigns by accusing his predecessor of being too soft on China and then, once elected, spends the first two years of his administration trying – unsuccessfully – to show how a tougher approach can work. Finally, he ultimately returns to the four-decades-long bipartisan path of trying to cooperate with China and integrate it into the international community.

Developing a cooperative relationship with a huge rising power ruled by a communist government has not been easy. However, China's international restraint had been enhancing its reputation as a responsible power. In fact, the U.S. and China had become so comfortable with one another that at the end of the George W. Bush administration some commentators were suggesting that they form a "G-2" to solve the most pressing international problems.

The word "China" was hardly mentioned in the 2008 election campaign. As a result, Obama, unencumbered by campaign baggage, traveled to China for his first visit in November 2009 expecting a warm welcome and joint progress on North Korea, climate change, the financial crisis, and other regional and global issues. To his surprise, he got the cold shoulder. The authorities refused to televise his speech to university students, even though they had televised those of Presidents Clinton and Bush. President Hu Jintao used the joint press conference to highlight differences between the two powers instead of common ground; little progress was made on shared issues.

That difficult visit signaled that China's stance toward the United States had become less accommodating and more confrontational. The People's Liberation Army retaliated against U.S. arms sales to Taiwan by freezing mil-to-mil contacts for a longer period than it had in the past. The Chinese media resumed harsh broadsides against U.S. "containment" of China that had been banned since the late 1990s. Chinese spokespeople threatened U.S. military surveillance activities in China's coastal waters, and Chinese fishing boats confronted U.S. troops with water hoses and lewd gestures.

Beijing's words and actions toward its Asian neighbors also took on a harder edge. Chinese boats harassed Southeast Asians who were fishing or prospecting for oil and gas in the South China Sea. China infuriated South Koreans with its unwillingness to censure North Korea's torpedo attack on the navy corvette Cheonan and shelling of Yeonpyeong Island. A captain of a Chinese fishing trawler rammed a Japanese coast guard ship near the disputed Sengaku/Diaoyu Islands in the East China Sea. When the Japanese government released him and sent him home, Beijing, rather than declare victory, loudly demanded an apology and compensation.

Underlying China's new assertiveness was the reality that China recovered first from the global financial crisis; the American financial system caused the crisis; and the American economy has been struggling with recession. Public opinion in China, America and elsewhere concluded that China had already surpassed the U.S. as the most powerful economy in the world. Chinese elites and citizens demanded a foreign policy that was less deferential to the U.S. and less accommodating toward other Asian countries, and the Chinese leadership gave it to them. It became increasingly difficult for Hu Jintao and his comrades on the Politburo Standing Committee to sustain their restrained approach to foreign policy.

Alarmed by the change in China's behavior, its neighbors moved to protect themselves by drawing the United States closer to them. They sought more joint military exercises and offered additional support for U.S. forces in the region.

The Obama administration's response to this shift in China's behavior and the regional backlash it sparked was a perfect combination of three elements: It enhanced U.S. military presence in the region to reassure allies and friends and discourage further Chinese (and North Korean) provocations. It turned the other cheek in its public statements, avoiding rhetorical muscle-flexing and expressing a desire to continue engagement with China. And by increasing U.S. high level diplomacy in the region, including much more active participation in regional multilateral activities than any previous administration, the administration signaled to China and its neighbors that despite its temporary economic difficulties, it was in the Asia-Pacific region to stay.

The Obama administration has found itself dealing with a China relationship that was more mistrustful and competitive than it expected when it began. By responding to Chinese provocation with calm strength and active regional diplomacy, the government created the best environment possible for inducing China to revive its restrained foreign policy approach. On the eve of Hu Jintao's state visit to the United States in January 2012, the Chine Communist Party's top foreign policy official published a major essay declaring China's intention to maintain an international grand strategy of "peaceful development." It remains to be seen, however, whether the Chinese leadership has the domestic wherewithal to implement this pledge.

JOURNEY THROUGH CHINA

A Photo Essay

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Russell Edwards,
Car in Shanghai.

Deborah Bartell,
Yangtze River cruise through the 3 gorges and the 3 gorges dam.

Elena Foukes,
Pedicabs and a driver await business on top of the Xian city wall.

Elena Foukes,
Back alleyway in Xian near the bell tower.

Russell Edwards,
Motorcycle streetview.

Elena Foukes,
Father and son spin prayer wheels at Longwu temple, Tongren.

THE POLITICAL AND ENVIRONMENTAL IMPLICATIONS OF CUBAN OIL AMBITIONS

An Interview with Jake Colvin and Sarah Stephens

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In early 2011, Cuba's national oil company and international partners will begin exploratory offshore drilling in Cuban waters in the Gulf of Mexico. Some of the planned drilling will take place as close as 60 miles off the coast of Florida. A potential spill could have disastrous environmental and economic effects for the U.S. coastline, as well as serious political ramifications domestically. Moreover, if the drilling is successful and Cuba proves to have large amounts of oil and gas that can be extracted in a profitable manner, newfound oil wealth could have serious political and economic implications in Cuba and alter geopolitics in the region.

However, the lingering memories of the BP oil spill, domestic politics related to Cuba and the current Cuba sanctions regime pose significant challenges to crafting effective policy that protects and promotes U.S. national interests. To better understand Cuba's offshore drilling and the Obama administration's approach, I spoke with two experts in U.S. policy toward Cuba. Jake Colvin, Vice President for Global Trade Issues at the National Foreign Trade Council (NFTC), and Sarah Stephens, Executive Director of the Center for Democracy in the Americas, both of whom have published extensively on U.S. foreign policy and U.S.-Cuba relations, and they kindly offered important insight on the issue.

How much offshore oil does Cuba have? What is the timeline for exploration and potential extraction and processing?

JC: The U.S. Geological Survey indicates that Cuba has proven reserves of 0.1 billion barrels and estimates that the North Cuba Basin may house around 4.5 billion barrels of crude oil. The Congressional Research Service suggests it would take three to five years before production could begin if oil is found in any of the six off-shore projects that are getting underway. Cuba suffers from a lack of infrastructure and a limited capacity to refine any crude oil they take out of the ground and is working with Venezuela's national oil company, Petroleos de Venezuela, to try to upgrade their refineries in advance of any new discoveries.

How does current U.S. policy affect U.S. oil companies' involvement in the process?

JC: U.S. sanctions virtually prohibit American companies from participating in any activity related to drilling in waters controlled by Cuba. It is important to note that sanctions on Cuba are extra-territorial, meaning that the Government can attempt to apply them on foreign companies with ties to the United States, so it is not just American businesses that may be affected. According to reports, the Treasury Department has granted a license to a small number of American companies to assist remediation efforts in the event of an environmental disaster involving drilling in Cuba, but very few of those licenses have been granted.

In a world where companies rely on an increasingly integrated system of global suppliers, it would take a much more comprehensive effort from American companies to respond effectively to a disaster. The Obama administration has the ability under current law to issue a blanket license – in effect a permission slip – for American businesses to participate in remediation efforts and prepare for such an event, but it has not exercised that authority.

In light of the absence of U.S. oil companies, who are Cuba's partners in this endeavor?

JC: Cuba has offered a series of concessions to foreign companies to begin exploratory drilling for oil off its shores. Repsol YPF, a Spanish company, has received a significant amount of attention in the United States for its role in Cuba's oil drilling plans. It is captaining a project called the Jagüey Prospect, which will initially drill one exploratory well in waters about 50 miles from Key West. That project will also be supported by Norway's and India's state-owned oil companies. The rig that Repsol and others will use, called Scarabeo-9, was built in China using components from around the world (though, with one exception, not from the United States due to U.S. sanctions). Other companies, including national oil companies from Brazil, China, Malaysia, Russia, and Vietnam, are either partnering with Cuba on separate projects or exploring the possibility of doing so.

What is the story behind the rig that will be used for exploration?

SS: Because of the U.S. embargo, foreign oil companies working with Cuba had to build a rig that could drill in deep water but does not contain parts made in the U.S. that would disqualify its use in Cuba.

A semi-submersible rig, named Scarabeo 9, was built in China and is owned by the Italian company Saipem S.p.A. Lee Hunt, an energy expert and president of the Texas-based International Association of Drilling Contractors (IADC), called Scarabeo 9 a state-of-the-art rig, and added that there are six similar platforms from the same Chinese shipyard that are currently functioning in U.S. waters.

The rig is en route to Cuba from Singapore and it has been predicted that it will arrive in Cuba by the end of this year, with drilling beginning in January.

After Repsol completes drilling, Scarabeo 9 will be passed along to other companies with contracts to drill in the exploration blocks that Cuba has established in its Exclusive Economic zone. National oil companies from Malaysia, Norway, Russia, Vietnam, Angola and Venezuela have also reserved blocks. These blocks are contracted out to foreign investors to work in partnership with CUPET, Cuba's national oil company.

What are the environmental concerns associated with exploration efforts?

SS: The first block Repsol is expected to explore is at a depth of 5,600 feet - 600 feet deeper than the site of the BP Deepwater Horizon spill. It is also only about 55 miles south of Florida's Marquesas Keys. As this example illustrates, drilling will take place in waters where any accident has the potential of threatening Florida's coastal regions, wetlands, and keys, and potentially the entire East Coast of the United States if oil were to enter the Gulf Stream. Cuba promises to observe environmental standards, and it is in Cuba's political interests – and its partners' interests – that they do so. We are concerned that the embargo blocks the kind of cooperation and coordination that should take place between the U.S. government and Cuba to prepare for a crisis before the drilling takes place.

We are concerned that the embargo blocks the kind of cooperation and coordination that should take place between the U.S. government and Cuba to prepare for a crisis before the drilling takes place.

What safety and regulatory framework is Cuba employing?

SS: Cuba has demonstrated a serious commitment to the environment since the 1990s. Environmental oversight for Cuban offshore drilling is the responsibility of the Cuban Ministry of Science, Technology and the Environment (CITMA). According to CITMA officials, Cuba has plans for addressing spills, including training plans that are periodically tested and revised, and is working with its drilling partners to observe international safety and environmental standards. The officials have also stated that Cuba has adopted the "Safety Case" approach for its offshore drilling program, and CUPET has instructed Saipem, the owner of the rig that will drill for Repsol, to utilize the IADC safety case guidelines.

However, the U.S. embargo prevents Cuba from having adequate access to the range of tools needed to drill safely or respond to emergencies, even though they are close at hand in the U.S. It restricts Cuba's access to knowledge and associations that would help it plan for or react to a spill. The embargo prevents meaningful participation by U.S. private sector firms in planning for reaction, containment, or remediation. We believe the policy should be changed so that the two governments can work together, openly and effectively.

Are bilateral discussions taking place to prepare for a potential accident? Are U.S. companies and NGOs constrained from cooperating with Cuba in the event of a drilling-related crisis?

SS: Currently, companies can apply for specific licenses in order to respond to a potential emergency through the Treasury Department's Office of Foreign Assets Control (OFAC). However, this process would slow down a meaningful response at a moment where swift action is vital. The Center for Democracy in the Americas, along with others, has advocated that the Obama administration use its authority to issue a general license that would cover all companies specializing in oil spill response to operate in Cuba, without the need to go through the process of applying for a specific license.

There are currently no bilateral discussions between Cuba and the U.S. about preparation for a potential accident in the Gulf. Some third parties have engaged in conversations with Cuba's government and with Repsol. The Obama administration has facilitated third-party contacts by granting visas and OFAC licenses; however, the administration has not initiated any type of direct dialogue.

What has the Obama Administration's position been thus far?

SS: To date, the policy of the Obama administration has been to remain silent. The administration has quietly granted visas for oil and energy experts to engage on issues such as safety and effective regulation.

What role has Congress played in the policy debate?

JC: The role of Congress in the debate has been mixed. Much of the Florida delegation's attention has focused on trying to prevent companies such as Repsol from participating in the project through legislation and pressure on the Obama administration. The trouble with such an approach is that, to the extent that is effective, it would punish the most responsible actors involved and increase the environmental risks to the Gulf Coast. Congress is best able to influence the behavior of companies with ties to the United States and who, for one reason or another, want to maintain good relations with the American government. If Congress is successful in pressuring companies like Repsol – which has demonstrated a willingness to discuss its plans for drilling and share information with the Coast Guard and others in the government – to abandon the project, other companies will fill the void and may be less inclined to engage constructively or take U.S. environmental interests into account.

Latin America – especially in places like Brazil – is seeing new prospects of becoming a significant supplier for the global oil market.

On the other hand, Congress has held several useful hearings on the subject, including one called by New Mexico Senator and Chair of the Senate Energy Committee Jeff Bingaman on preparedness for and response to oil spills. These hearings explored some of the key issues that Cuba, Mexico and the United States are grappling with as Caribbean countries seek to increase offshore oil drilling, and they included witnesses from the U.S. Coast Guard and Department of the Interior, as well as academia and the private sector, who fleshed out some of the U.S. government response measures and policy flashpoints that are preventing more robust participation by the private sector.

Are U.S. oil companies interested in participating in exploratory drilling? Have they pressured Congress or the Administration to alter current policy?

JC: There has not been significant public pressure from U.S. oil companies to revisit current policies, though companies are keeping an eye on what Cuba and its partners are up to. Trade associations such as the U.S. Chamber of Commerce and my organization, the National Foreign Trade Council, have lobbied for some time to resume a more normal trade relationship with Cuba and have emphasized the importance of bringing U.S. technologies and expertise to bear on oil drilling in the Gulf as a reason for removing sanctions. Increasingly, nongovernmental organizations such as the Environmental Defense Fund have also encouraged changing U.S. policies to minimize the likelihood of an incident and maximize the ability of the United States to respond.

With an aging leadership and a reform process underway, what economic and political effects could a large find have in Cuba?

SS: It's important to remember that drilling is in an exploratory phase. Experts believe that Cuba has commercially viable amounts of oil in its offshore waters. Assuming they are correct, however, it will take Cuba and its foreign partners three to five years to begin producing oil, and time after for that Cuba to monetize what it discovers and brings on-shore.

Over time, however, a large find would provide revenue to Cuba's government and would reduce the island's dependence on Venezuela.

Could this have larger implications for Latin America as a whole?

SS: Latin America – especially in places like Brazil – is seeing new prospects of becoming a significant supplier for the global oil market. Cuba's off-shore drilling – and the investments it is making on-shore to build oil refineries and beef up the capacity of its ports – could portend a role for Cuba in a regional market. That said, this process will unfold over time.

To protect and promote U.S. national interests, what steps should policymakers take with regard to Cuban drilling?

JC: The United States should make sure there is adequate cooperation and information sharing among governments, particularly between Washington, Mexico City and Havana. In particular, the U.S. government should craft a crisis response agreement covering on-scene coordinators, a joint response team, response coordination centers, rapid notification protocols, customs and immigration procedures, and communications. To make certain that the U.S. private sector is ready to help in the event of environmental disaster, the Obama administration should ask the Treasury Department to issue a general license that would provide advanced permission for American companies to participate in transactions involving Cuba in service of remediation efforts in the Gulf.

The Obama administration could also issue licenses to permit U.S. companies to consult with the Cuban government and the foreign companies that will drill for oil, or to participate directly in the drilling operations. Given how politically sensitive any changes to policy involving Cuba remain, even after fifty years of sanctions and the end of the Cold War, it is unlikely that the administration, or Congress for that matter, will move aggressively to allow a bigger role for the private sector in Cuba's oil plans, even if it is in the economic and environmental interest of the United States.

DISPUTE IN THE SOUTH CHINA SEA

An Interview with Mikkal Herberg

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The South China Sea, home to some of the world's busiest shipping lanes and substantial oil and gas reserves, has garnered much attention of late as involved countries have intensified claims to the disputed waters. China claims the rights to a huge U-shaped area of the sea – a claim that overlaps areas which Brunei, Malaysia, the Philippines, Taiwan and Vietnam say belong to them (see Appendix A). The smaller nations are keen to negotiate with China as a bloc, while the Chinese prefer to tackle the issue through bilateral negotiations. The U.S., meanwhile, has called for dialogue on "maritime issues" in the region, leading China to demand that "external forces" stay out of the conflict.

To better understand the dispute and options for peaceful resolution, we sat down with Mikkal Herberg, a senior lecturer on international and Asian energy at the Graduate School of International Relations and Pacific Studies. Herberg, who previously spent 20 years in the oil industry in senior planning roles for ARCO, is an authority on energy issues in Asia.

What are the origins of the dispute in the South China Sea?

The maritime borders in the South China Sea were never satisfactorily agreed following the Second World War and the end of European and Japanese colonial occupation of much of the region. Also, until the 1970s, China was deeply preoccupied with domestic political challenges and lacked the capacity to assert its claims to the South China Sea and challenge those of other countries. Since the 1970s, sovereign control over that maritime space has become an increasingly salient issue as the region's main countries have increased their ability to access resources further from their coasts and in deeper waters. Finally, control over the South China Sea has escalated in importance as a result of the extraordinary post-2000 rise in oil prices, which has caused growing anxiety among the Asian powers over access to secure and reliable sources of energy.

Who are the main players? Between which countries is there the most tension?

The main countries involved are China, Vietnam, the Philippines, Malaysia, and Indonesia. Each has significant overlapping claims in the South China Sea. China has asserted a claim to nearly the entire sea through its publication of a "nine-dashed line" that reaches through the sea and overlaps claims of virtually all the other countries. There are also ongoing disputes over who has legitimate sovereignty over two significant island features, the Spratleys and the Paracel Islands.

The most heated recent tensions over control in the region have been between China and both Vietnam and the Philippines. During 2011, Chinese trawlers harassed both Vietnamese and Philippine seismic ships carrying out seismic surveys. China has also recently been more assertive in claiming that Vietnam's awarding of several oil and gas exploration blocks near or overlapping its claimed sovereignty line are infringements on Chinese territory. Inevitably, the U.S. is also an important player in the resolution process. As the major naval power in the region and major alliance partner, it has a vital stake in preventing these opposing claims from becoming a source of regional conflict.

Is there a potential for violence?

There is clearly a potential for confrontation and violence if the countries of the region mishandle these tensions. China and Vietnam have already engaged in two violent confrontations over maritime control in the past 20 years; the issues at stake are taking on greater urgency as China's power in the region and its capacity to forcefully assert its claims grow. China is rapidly modernizing and expanding its naval and air capabilities to increase its ability to project power across the South China Sea, a so-called "Blue Water" navy. As this happens, the traditional balance of military power in the South China Sea is shifting, and each of the other Southeast Asian states will have to find ways to manage China's growing capacity to assert its claims. Some believe China has become much more belligerent over the past 18 months.

What mechanisms exist for dialogue and a peaceful solution?

Although confrontation and violence are a serious risk, and I suspect there will be more incidents between China and the other key players, there have also been significant efforts to manage tensions and find peaceful solutions. For example, in 2002 the Association of Southeast Asian Nations (ASEAN) and China signed the Declaration on the Conduct of Parties in the South China Sea that commits the signatories to "peaceful settlements" of territorial disputes. The Treaty of Amity and Cooperation signed in 2003 by the founding members of ASEAN renounced the use of force on territorial disputes and called for increased cooperation.

There have been joint energy exploration projects that include China, Vietnam, and the Philippines, and there are several development agreements that cover overlapping claims. There have also been bilateral settlements of specific demarcation disputes between China and Vietnam and Vietnam and Indonesia, so the main players still seem committed to peaceful resolution of these territorial issues even though the situation tends to ebb and flow periodically. Presently, we seem to be witnessing a more confrontational period.

Beijing has resisted discussion of a regional solution or negotiations with the Southeast Asian states as a group.

Is there a role that multilateral institutions can play in diffusing tensions?

The main players have generally resisted involving multilateral institutions, preferring instead to seek regional or bilateral solutions. China in particular has been very resistant to multilateral, or even regional, negotiations over territorial disputes. China's view has been that negotiations must be on a bilateral basis between China and each of the other claimants, and Beijing has resisted discussion of a regional solution or negotiations with the Southeast Asian states as a group. Bilateral dealings clearly strengthen China's bargaining power compared to facing a unified regional grouping. Outside of ASEAN, it is hard to see a role for traditional multilateral institutions, given regional sensitivities and preferences.

What has the U.S. position on the conflict been? Could the U.S. have a more constructive approach?

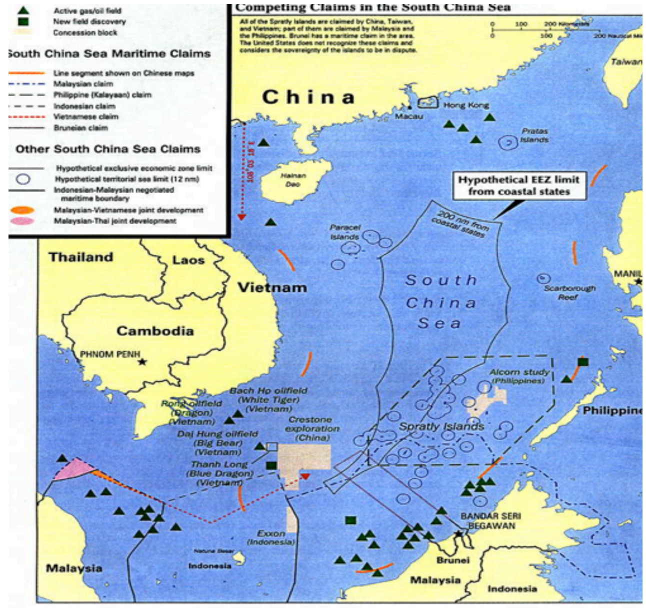
The U.S. has recently stepped up its involvement in these issues, much to the consternation of China. Traditionally, U.S. policy has been relatively hands off, but with the objective of "peaceful" settlement, given U.S. vital interests in stability and peace in the region. However, as China has apparently stepped up its pressure on other claimant states in recent months, the U.S. has similarly increased its engagement and recently offered to help facilitate negotiations towards a "regional solution" to these problems. The U.S. has stated that stability in the South China Sea and freedom of navigation through the region are vital to U.S. national security and economic interests. This took the Chinese by surprise and caused a furious reaction in Beijing. China strongly opposes regional negotiations and, in particular, strongly opposes any U.S. involvement in these territorial issues. Beijing believes the US is an outside party with no sovereign territorial stake in these matters.

Do you have any recommendations for the main players in terms of seeking sustainable solutions?

This will take many years, possibly decades, to resolve. There are a number of potential opportunities for a solution. One of the more promising is that around the world there are examples of countries carrying out joint oil and gas development in areas where they agree to set aside territorial differences in the interim. Thailand and Malaysia, for example, have a Joint Development Area (JDA) offshore that allows them to develop oil and gas resources there while continuing to disagree on sovereignty. China needs to be drawn into joint development arrangements like these in some manner, which would help diffuse regional tension. Moreover, badly needed oil and gas supplies could be developed through such arrangements to improve the region's energy outlook.

APPENDIX

COMPETING CLAIMS IN THE SOUTH CHINA SEA



Source: U.S. Energy Administration, Department of Energy

THE CHINA-KAZAKH ENERGY RELATIONSHIP

The Overland Pipeline Approach to Energy Security

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ABSTRACT

The energy relationship between Kazakhstan and China embodies the energy geopolitics of the 21st century. After the fall of the Soviet Union, Kazakhstan struggled to establish effective governance and effectively manage its economy as China increased its consumption of oil at a rapid pace. This article will examine the China-Kazakhstan relationship in the context of each nation's domestic policies and argue China is assertively pursuing a strong energy relationship with Kazakhstan to ensure its own future energy security. Kazakhstan, too, sees this partnership as furthering its plans to diversify its export market. However, as negotiations on energy policy progress, the understanding between governments fluctuates, and dynamic interactions between Chinese and Western oil companies create a shifting landscape for the development of a long-term solution.

INTRODUCTION

The energy relationship between Kazakhstan and China embodies the energy geopolitics of the 21st century. After the fall of the Soviet Union in 1991, Kazakhstan struggled to establish effective governance and to effectively manage its economy. During this same time, China increased its consumption of oil at a rapid pace as its own economy grew. As demand for oil in China has increased, the security of future energy supplies has become a salient issue for the central government. China's response has been to further explore and develop its own oil reserves and to diversify its sources.

Currently, China receives 60 percent of its crude oil from the Middle East through the straits of Hormuz and Malacca. Both of these straits present a security concern, as China does not have the naval power to secure these supply routes. Therefore China has pursued energy relations with its neighbors in order to secure land-based supply routes, seemingly evaluated by China as having a lower risk of disruption. This article will examine the China-Kazakhstan relationship in the context of each nation's domestic policies and argue China is assertively pursuing a strong energy relationship with Kazakhstan to ensure its own future energy security. Kazakhstan, too, sees this partnership as furthering its plans to diversify its export market. However, as negotiations on energy policy progress, the understanding between governments fluctuates, and dynamic interactions between Chinese and Western oil companies create a shifting landscape for the development of a long-term solution.

CHINA AND OIL

China is second only to the U.S. in national oil consumption; in fact, its growth in consumption accounted for 30 percent of the global increase in oil demand in 2009. In an effort to secure and expand sources of oil, China's National Oil Companies (NOCs) are searching to establish new transit routes. The rapid growth in oil consumption followed fantastic performance of the Chinese economy in terms of rising production and incomes over the past twenty years. In 1993, China became a net importer of oil, dependent on the open market to supply its demand of oil. Its energy consumption has increased across all sources, but oil demand will increase exponentially as Chinese consumers become motorized. Growth in automobile ownership in China is estimated to grow from 60 million vehicles in 2010 to between 80 and 100 million in 2015. Over the next three years, oil imports are expected to increase by 10 percent per year, bringing Chinese import dependency to close to 60 percent.[1]

With this growth in oil import dependency, the Chinese government has become increasingly concerned of the vulnerability of its current maritime supply routes. About 80 percent of its oil imports pass through the Strait of Malacca (between Malaysia and Indonesia) and the Strait of Hormuz (between Iran and the UAE). Although they are international waters, these shipping lanes are effectively controlled by the U.S. with the threat of its naval prowess. Unsurprisingly, China views this as a liability, as the Chinese navy would be unable to secure this route in the event of a security or shipping emergency. China has therefore sought alternative means to obtain oil: namely, the establishment of a stable land route for oil through Central Asia.[2]

With the breakup of the Soviet Union, Central Asian countries – primarily Kazakhstan, Turkmenistan and Azerbaijan – became available for exploration and investment in potential reserves. To China, Kazakhstan presented the best opportunity for investment. Its relatively few political challenges, as compared to Turkmenistan, and close proximity to China, relative to Azerbaijan, made it an ideal candidate. Although opportunities for investment in oil fields arose immediately after the breakup, China took gradual action because of conflicting interests in domestic policy, including separatist movements in Xingjian. International investment and expansion did not begin in earnest until 1993, when China became a net oil importer.

"GO OUT" ENERGY POLICY

The relationship China developed with Kazakhstan is an integral component of its "go out" energy policy. As energy issues became more salient in China, the policy-making community (including NOCs and government ministries), academia and the mass media informed and shaped the perceptions of the central leadership about petroleum security. Recognizing the growing need and importance of increasing energy security, Chinese leadership formulated the "go out" national petroleum policy with the following objectives:

1. Diversify the country's petroleum imports in terms of import variety, supply sources, and mode of transportation.

2. Build globally competitive flagship oil companies.

3. Conduct petroleum diplomacy.

4. Build a domestic oil tanker fleet and expand the Chinese Air Force and the Chinese Navy.

5. Set up national petroleum investment fund.[3]

In response to this direct policy encouraging global energy investment, NOCs pursued involvement in Kazakhstan out of a desire to diversify the oil import sources. However, at the time Kazakhstan was already flush with western oil companies competing for the best fields; the fields that remained open for development required more technological extraction processes. When the Chinese National Petroleum Corporation (CNPC) acquired the technological expertise in continental facies exploration through domestic operation and experience with international exploration and production activities, it was able to use this to become the first NOC to engage Kazakhstan in energy diplomacy.

At the outset of the CNPC's energy transactions in Kazakhstan, the only mode of oil transportation between Kazakhstan and China was the train, an unfavorable means given the capacity restrictions and slow delivery speed. To address this concern, the NOCs and Kazakhstani government negotiated the construction of an oil pipeline through eastern Kazakhstan to the Chinese border as a more effective means of oil transportation.

INTERNATIONAL INVESTMENT BY CHINESE NOCS: CROSSING THE RIVER BY FEELING THE STONES

Of the three major oil companies in China, CNPC, Sinopec and China National Offshore Oil Corporation (CNOOC), CNPC was the first to make the decision to go abroad for projects because it was the industry leader in oil extraction technologies. Wang Tao served as the president of CNPC from 1988 to 1996 after heading China's petroleum ministry between 1985 and 1988. As a result, he was keenly aware of the decline in China's oil production growth rate; however, he found no support for international expansion from national until energy became a security issue in 1991 when consumption of oil exceeded domestic production. This coincided with the opportunities posed by the collapse of the Soviet Union: specifically that Russia, Uzbekistan and Kazakhstan sought investment in their petroleum resources. The political volatility in the region drove all Chinese NOCs to first seek small and relatively more straightforward projects elsewhere in the early 1990s and politically before eventually moving to more technically challenging targets in the former Soviet bloc.[4]

When CNPC set its sights on Kazakhstan, it was in a desirable position to pursue negotiations. Chinese oil companies have five distinct financial, political and legal advantages over their competitors:

1. Direct subsidies from the Chinese government and favorable financing from state-owned banks.
2. Legal rights to enter countries that are under Western sanctions.
3. No restrictive transparency requirements in their deals.
4. Full backing of the government, including additional leverage in bargaining side deals to provide foreign aid or arms sales to supplement oil deals.
5. A competitive advantage in that the government is willing to overpay for oil for the sake of energy security.

Moreover, lax transparency requirements were a critical advantage to Chinese companies in the energy dialogue with Kazakhstan because Western companies – primarily those in the U.S. – are bound by anti-corruption laws. These legal transparency requirements played an important role in the 1990s; the allegation that Mobil Oil paid at least U.S. $1.1bn to Kazakhstani president Nazarbayev to gain access to the Tengiz oil development caused public lawsuits.[5]

Although China's NOCs enjoy preferential national policies that support them abroad, they are subject to the manipulation of the domestic price of oil. In conjunction with continuing broad economic reforms in China during the eighties and nineties, the standard policy was to include directives to encourage reforms. Economic reforms encouraged NOCs to perform more efficiently, but they also introduced a conflict of interest between the Chinese government and its NOCs. This is because during price fluctuations, the government holds prices low for Chinese consumers, meaning that NOCs are unable to retain enough revenue to cover the cost of production. In the past, this has incentivized NOC restriction of the oil supply to drive the market price upward, leading the government to bargain for the sake of social and economic stability.[6] However, the economic reforms also created an incentive for NOCs to compete against each other domestically and in foreign projects, which led to such aggressive competition that the government ultimately mandated that NOCs obtain its permission for foreign projects to ensure that the country present a politically and economically united front.[7]

China is second only to the U.S. in national oil consumption; in fact, its growth in consumption accounted for 30 percent of the global increase in oil demand in 2009.

OIL SECURITY TODAY

Following 9/11 and the U.S. invasion of Iraq, China was reawakened to the potential of future security threats to its imported oil supply. First, the war in Iraq challenged the affordability of petroleum imports and affected economies around the world. Second, the war had the potential to place transportation routes from the Middle East to China at risk. Third, the war changed the short and long term availability of petroleum resources for China.[8] In this regard, most analysts in China believed that China's access to Central Asia's petroleum resources would be endangered by the U.S. presence in the Middle East. To protect itself from potential maritime disruptions through the straits of Malacca and Hormuz due to global conflict, the Chinese government redoubled polices during the early 2000s to promote diversification of its energy transportation routes. In particular, this included the construction of overland pipelines with Kazakhstan.[9]

THE ROLE OF XINJIANG IN CHINA'S OIL LANDSCAPE

As the entrance point for pipelines from Central Asia, Xinjiang, China's westernmost province is crucial to their development. Xinjiang is a semi-autonomous region with an ethnically non–Han population, which has experienced recurring ethnic unrest, most dramatically during the 1980s. When the Soviet Union collapsed at the turn of the decade, officials were concerned that ethnic and political instability may spread to China through this border through the movement of refugees from the Soviet Union. Within China, the Turkic Uighur population began to call for the formation of its own country, East Turkestan.[10] The potential instability in the region was initially countered by its ability to create trade links with its Western neighbors. However, the explosion of several bombs in the capital city Urumqi in 1992 caused China to reduce its integration with Central Asia until the countries transitioned to fully independent states and became politically stable.[11] To facilitate this process, Chinese Premier Li Peng traveled to Kazakhstan to gain cooperation from the government through policies, which deterred minority nationalism.

In 1993, Kazakh President Nazarbayev was invited to China and a memorandum of cooperation was signed between the two defense ministries to secure a port access point for Kazakhstan's transit freights.[12] China further expanded its security cooperation with Central Asia through Mutual Military Confidence-Building Measures with Kyrgyzstan, Russia, and Tajikistan, as well as Kazakhstan, but the diplomatic conversation also included discussion of encouraging energy relationships.

Though these measures provided mutual security assurances, they ultimately provided a forum for economic cooperation in the region.[13]

Stability in Xinjiang remains important to the central government both as an indicator of national unity and a key component of energy security. Xinjiang is both the second-largest oil production area in China and the entry point for the Kazakhstan oil pipeline. It contains approximately 36 percent of the country's oil and gas reserves and now hosts a large number of refining facilities to process Kazakh oil. Recently, CNPC has made large investments in Xinjiang with the intent to further develop its refining capacity in the province. Further expansion of refining capacity is in line with CNPC's strategy to vertically develop its business in oil-producing regions and the central government's inclusion of Xinjiang in the Western Development Program to encourage economic development.[14] Following the outbreak of ethnic violence against the Han population by the Uighur ethnic group in summer 2009, CNPC has led the effort to encourage regional economic development in the hopes of fostering greater political stability.

KAZAKHSTAN OIL PRODUCTION

Kazakhstan produced oil at substantial levels before the collapse of the Soviet Union, but its oil production truly took off during the late 1990s. Because Kazakhstan is landlocked, it is reliant on its pipeline routes and neighbors for the export of oil – a fact that Russia exploited to extract greater rents from the pipelines through its territory. Kazakhstan has attempted to diversify its export routes in order to combat this monopoly. Invariably, efforts to diversify oil export routes included investment by Western oil corporations, developing relationships with NOCs in neighboring countries and conducting diplomatic negotiations with neighbors to secure satisfactory terms for transportation. Major powers have competed to stake a claim in Kazakhstan's natural resources because of the large volume of already-known resources and the potential for further exploration and field discovery. In fact, full development of proven reserves would push Kazakhstan into the top five global oil producers. It is already set to at least double its current production of 1.34 million bpd by 2019. [15]

HOW KAZAKHSTAN'S RELATIONSHIP WITH RUSSIA PAVED THE WAY FOR THE CHINESE PIPELINE

As the largest producer of oil in Central Asia, Kazakhstan has played the interested parties at its door, including Russia, China and Western oil companies, against each other to create a desirable balance between the powers. While Kazakhstan has established a close and cooperative relationship with Russia, it has maintained substantial room to direct its own foreign affairs.

A trusted and strategic Russian partner, Kazakhstan has developed relationships with other countries to guard against Russian dominance. The two countries' special relationship revolves around energy and includes the transit of Kazakhstan's oil through Russia and the development of three oil fields in the Caspian Sea through a long-term agreement signed in 2002. The terms of this agreement included the settlement of boundary disputes in the Caspian Sea so the country could move forward on development of oil fields. Yet Russia and Kazakhstan have a running dispute over the export routes of Kazakh oil.

Following 9/11 and the U.S. invasion of Iraq, China was reawakened to the potential of future security threats to its imported oil supply.

Additional difficulties with Russia arose in the negotiation of the Caspian Pipeline Consortium because of Russia's reluctance to relinquish its monopoly position as an export route for Kazakh energy. The CPC pipeline stretches from the Tengiz oil field in Kazakhstan to Novorossiysk on the Russian Black Sea coast and has a capacity of 700,000 bpd, with Kazakhstan and foreign investors seeking an expansion to 1.3 million bpd. An agreement on the expansion could not be reached until December 2008 due to Russia's efforts to slow it. The CPC was the only pipeline not owned by Russia's state pipeline company, Transneft, so Russia's refusal to cooperate appeared to be an attempt to extract greater rent from the CPC pipeline and hold onto the power it had over Kazakhstan.[16]

In addition to cooperation with its neighbors, Kazakhstan has also developed relationships with private foreign firms. After the fall of the Soviet Union, Kazakhstan needed money to finance development and fund the government so it welcomed foreign direct investment. The climate for foreign investment has since cooled because Kazakhstan believes the terms it offered during the first round of resource development were too generous. As a result, the government has attempted to adjust the terms of foreign consortiums and to have a greater stake in any new exploration and development. This includes tougher terms and higher taxes for projects in order to support the government, such as the increase from 65 to 85 percent tax on oil income in 2004. Private foreign companies expressed dissatisfaction with the changes in the investment climate and feared that they would continue. However, after the 2004 tax reforms, few new revisions to appease private foreign companies were made, which meant there was more opportunity for Chinese involvement.[17]

CHINA AND KAZAKHSTAN: ORGANIZATIONS, OILFIELDS AND PIPELINES

The Shanghai Cooperation Organization agreement was signed in April 1996 to assuage the fears of instability in Central Asia. Its formation was initiated by Russia out of its desire to create a tool against the West in the spirit of a "Central Asian OPEC." Each member has different incentives, yet the premise of the organization is that all can benefit in some way through negotiation, agreement and cooperation through the SCO.[18] At the time of the SCO's creation, the Central Asian member countries agreed that Russian action into their nations was highly unlikely, but they knew that they served an important role as a buffer between Russia and Afghanistan.[19] China, also a buffer state, had no role or influence, but realized it stood to benefit from the management of the Central Asian energy sector.

The Kazakhstan-China energy relationship began in 1997 with CNPC's acquisition of a 60.3 percent stake in AktobeMunaiGas (AMG) and an agreement to build a 3,000 km oil pipeline across their borders. Relations between CNPC and local populations have become strained, however, as a result of labor conditions. There have also been recurring issues related to the operations hiring policies of CNPC and affiliated contractors in Kazakhstan, yet energy relations are successful if measured by the completion of a cross-border oil pipeline.

Although the dialogue about the potential pipeline from Kazakhstan to China first began in 1997, progress on the project accelerated in 2003. By this time, the westernmost section from Atyrau to Kenkiyak in Kazakhstan (448 km) had already been completed; the next pipeline agreement in 2004 was signed by CNPC and KazMunaiGas (KMG)

> *As the largest producer of oil in Central Asia, Kazakhstan has played the interested parties at its door, including Russia, China and Western oil companies, against each other to create a desirable balance between the powers.*

during a trip by President Nazarbayev to China. The agreement involved investment of $700 million for the easternmost part of the pipeline from Atasu to Alashankou. The construction of the full supply route from Kazakhstan to China is a victory for CNPC and China's attempt to diversity its oil imports, but it is a small one. Despite opening the flow of oil from Kazakhstan to Xinjiang in July 2005, this volume accounted for less than 3 percent of China's total imports.[20]

Land transport of energy tends to generate political conflict between nations due to economic disagreements over the terms of transit lines. The dynamics between bilateral partners can change over time, leading to recurring bargaining and disagreement concerning cross-border pipelines, as has been the case with Russia.[21] The China-Kazakhstan crude oil-pipeline is less complicated than a transit pipeline through a third-party nation, but a pipeline agreement has only come to fruition because of China's increased awareness of its energy situation. The China-Kazakhstan pipeline is not economically viable, but China's willingness to pay a premium for Kazakhstani oil out of its concern for energy security has made it a reality. Kazakhstan supports the pipeline because it offers Kazakh oil regional export flexibility.

A CONTINUING RELATIONSHIP

As China's demand for oil continues to grow with its economy, China will continue to assert itself in Kazakhstan as it searches to secure energy resources. Kazakhstan's desire to diversify its oil exports – especially with close neighbors through secure overland routes – makes it a willing partner for China. Undoubtedly, negotiations and NOCs will continue to be a defining factor in the energy relationship between China and Kazakhstan due to the unique incentives and conditions in both countries.

Present events and the history of Sino-Kazakhstani oil relations suggest that the trajectory for this relationship is toward increased integration. Government officials have traveled between the countries to facilitate greater energy cooperation, including a recent visit in September 2011 by Wu Bangguo, the legislative leader of the National People's Congress of China.

Looking forward, there are growing sources of contention such as "over-participation" by China in Kazakhstan's oil market. Neither country is currently dependent on the other, but their energy relationship serves as a solid base for further interaction. Because China and Kazakhstan's relationship extends beyond energy and can be viewed as tenuous and beneficial for both parties, it must be carefully managed as both countries take on new roles in the global energy market. Policy concerns will shift and increase in number with the changing patterns of development in each country, bringing about a more nuanced relationship that requires more complex solutions to future conflicts. Given China's insatiable appetite for oil and natural resources and Kazakhstan's trajectory for economic growth, their relationship will likely continue to diversify beyond energy in the years ahead, although what exactly this will look like remains both uncertain and largely dependent on their ability to successfully navigate their energy partnership.

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THE FAILURE OF THE AUSTRALIAN CARBON POLLUTION REDUCTION SCHEME

An Examination of the Industry Politics Responsible

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ABSTRACT

The CPRS met with huge criticism from a variety of sectors, and was a key factor in Prime Minister Kevin Rudd being thrown out of office by his own party. The Australian Labor Party was so concerned over the failure to implement anything in response to climate change that they went to the polls early in 2010. A new Carbon Pollution Reduction Scheme (CPRS) was announced in February of 2011, which was met with strong opposition and every interest group in Canberra working to update their briefing papers. This new legislation presents the Australian Government with the opportunity to lead on climate change and environmental issues at the global level.

INTRODUCTION

The debate over global warming and Australia's contribution was a key federal election issue in 2007. Around the world, governments were debating global warming and whether they should try and do something about it, cumulating in the failed talks in Copenhagen in 2009. In parallel to the global discussions, the Australian Government failed to introduce the Carbon Pollution Reduction Scheme (CPRS) as a policy response to climate change and global warming. The CPRS met with huge criticism from a variety of sectors, and was a key factor in Prime Minister Kevin Rudd being thrown out of office by his own party. The Australian Labor Party was so concerned over the failure to implement anything in response to climate change that they went to the polls early in 2010. A new scheme was announced in February of 2011, which met with strong opposition and every interest group in Canberra working to update their briefing papers. However, this time around the Government faces a different scenario—they do not hold a majority in the lower house, and the Australian Greens hold the balance of power in the Senate. This new legislation presents the Australian Government with the opportunity to lead on climate change and environmental issues at the global level.

This paper will examine the interests of the Australian Industry Greenhouse Network (AIGN) and the Australian Coal Association (ACA) in relation to the first Carbon Pollution Reduction Scheme. It will provide background on cap and trade systems and the draft Australian scheme, and explore the applicability of Olson's and Stigler's theories of special interests to this case. It will then look at the political motivations behind the policy positions of the two industry groups. Finally, it will review the 2010 election results and consider how the strength of these two organizations may have influenced voting preferences and pushed the Government to withdraw the draft CPRS.

CAP AND TRADE SYSTEMS

The basic premise of cap and trade systems is to set an emissions cap and let the market determine the price of emissions. Polluters who can easily reduce pollution do so first and are subsequently able to sell their unused quota to those polluters who find it worthwhile to emit more. A similar scheme was successfully established in the United States to address acid rain and sulfur emissions in 1995. In addition, the European Union established a cap and trade system for carbon in 2005, though it has faced difficulties with implementation. California is in the process of establishing a state-based cap and trade system, which may expand to include the Western United States and Canada. Yet in order for carbon markets to succeed, a number of conditions must be present, including a "closed area" (such as a regional zone, or provisions for emissions offsets in other areas), enough players so that the market is deep enough to trade, and a system to prevent cheating.

Two key questions in establishing such a scheme are who receives the pollution permits and how much they pay for them. Governments usually have the power to issue the permits, and they can do so to serve a number of their interests. Government rules and processes about allocating the permits can include giving them away to existing polluters, selling them, or allocating a quota depending on current emissions levels. Another key issue concerns the baseline data – what is the baseline emission level, what date should be chosen, and how accurate is the information? All of these issues provide plenty of material for interest groups and voters to try and influence the design of the system to suit their own political and economic needs. This is precisely what occurred during the policy development process with the proposed Australian CPRS.

THEORY OF COLLECTIVE ACTION

Mancer Olson's theory of collective action states that "rational, self-interested individuals will not act to achieve their common or group interests" unless they are forced or coerced to do so. [1] Further, he believes that "the membership and power of large pressure-group organizations does not derive from their lobbying achievements, but is rather a by-product of their other activities."[2] Organizations are established to further the interest of their members, and this includes political interests – like influencing policy outcomes. Olson argues that large firms will be more successful in achieving their aims than small firms, or groups of firms. This is a result of large firms' ability to better organize themselves without the group collective action problem. However, large groups face problems providing common goods, as the share of the common good must be dispersed amongst a greater number of individuals. By applying Olson's theory, we can better analyze and understand the behavior of key industry groups who lobbied against the introduction of the CPRS in Australia in 2009.

THEORY OF ECONOMIC REGULATION

Expanding on Olson's theories and applying them to legislation, George Stigler's theory of economic regulation looks at special interests and regulation and concludes that regulators face pressure from two distinct groups: special interest pressure from producers (firms) and electoral pressure from consumers (voters).[3] Stigler believes that special interest pressure is greater than electoral pressure, so that producers win, and regulations are passed to benefit firms, not consumers. Combining the two theories, we can conclude that large firms will try to influence the outcomes of any proposed regulation to their own benefit. Further, these theories predict that large firms will be more successful because it will be easier to organize and mobilize, as there are a small number of large firms who do not face the collective action problems that constrain large groups or fragmented consumers. Stigler's theory has been criticized for ignoring regulator motivations, although it does mention a desire for political support. Using these theories of collective action and economic regulation, we will examine the position of key industry groups in relation to their support of the CPRS.

THE DRAFT AUSTRALIAN CARBON POLLUTION REDUCTION SCHEME

The Carbon Pollution Reduction Scheme was a proposed cap-and-trade system for reducing emissions from greenhouse gases. It was planned to commence in July 2010. The draft CPRS was first announced through the Green Paper process and then refined and detailed through a White Paper published on 15 December 2008. [4] Lacking a clear majority in the Senate, the Labor Government needed support from Coalition Liberal/National Senators, the Greens, Family First, or Independents. After a Senate inquiry in March 2009, the Government announced a number of changes in May 2009. In November the Opposition announced it had negotiated further changes. However, in late 2009 the legislation failed to pass the Senate twice, which is the trigger for a double dissolution of Parliament. The leader of the Opposition, Malcolm Turnbull, lost his job over the outcome. The Prime Minister then announced in April 2010 a delay in implementation until at least 2012. [5] The Prime Minister also ended up losing his job through an internal party restructure. This was precipitated by Labor's concerns about losing environmental votes at the upcoming election.

KEY FEATURES OF THE DRAFT CPRS

According to the Australian Government Department of Climate Change and Energy Efficiency, the CPRS was a cap-and-trade emissions-trading scheme designed to commence within a one-year period. [6] The carbon price was set at $A10/t CO_2-e.[7] Key features included the following:

- At the end of each year, liable parties would be required to surrender one emission unit for every ton of greenhouse gas emitted in that year.

- The number of emissions permits issued would be capped. Units would be issued primarily via auction (although a limited number would be issued through direct allocation to businesses).

- Under the CPRS, the government would allocate emission units equal in number to the level of the annual cap, which would become more stringent each year.

- The CPRS was designed to cover around 80 percent of Australia's carbon pollution, including carbon pollution from stationary energy, transport, industrial processes and waste, and fugitive emissions from coal mining, oil and gas extraction, and gas pipeline transport.

- All six greenhouse gases included under the Kyoto Protocol were to be included. Reforestation activities would generate permits on a voluntary basis.

- Major sources of carbon pollution excluded from the scheme were agriculture, legacy waste, and deforestation. However, these excluded sources could potentially create offset credits.

- International linking would enable liable parties to acquire international emissions units in Australia for compliance with their CPRS obligations, in place of Australian emission permits issued under the Scheme.

- The types of international units to be accepted into the CPRS would have been limited to maintain its environmental integrity. The CPRS included no quantitative limits on the number of international units that could be used.

- Assistance to low and middle-income households and small businesses was to be provided in the form of cash payments funded through the auction of permits.

- Assistance to heavy-emitting industries was to be provided in the form of free permits and targeted to those sectors that were likely to face significant short term impacts, such as brown coal electricity generators (the Electricity Sector Adjustment Scheme), underground gassy coal mines (the Coal Sector Adjustment Scheme) and emission-intensive, trade-exposed industries (EITEs).

- These assistance measures were designed to be transitional, with support phasing out over time.

- An independent regulator, the Australian Climate Change Regulatory Authority (ACCRA) would have been established to administer the CPRS.[8]

We now turn to examine some of the politics behind the failure of the CPRS legislation.

AUSTRALIAN INDUSTRY GREENHOUSE NETWORK

The Australian Industry Greenhouse Network (AIGN) represents large "industry associations and businesses that have a serious interest in climate change issues and policies."[9] Members include industry associations (such as the Australian Coal Association, the Minerals Council of Australia, and the Australian Industry Group), along with some of Australia's largest companies, including Alcoa, Bluescope Steel, BP, Chevron, Wesfarmers, and Xstrata Coal. [For a full list of members see Appendix A.] This is a small but powerful interest group that represents the large industrial firms, and these firms and industry associations are all large carbon emitters who compete in the global market. Thus they have an interest in ensuring any emissions trading scheme protects their existing investments, helps them remain globally competitive, and in some way benefits their business. Of particular interest to this group were the methods of allocating emissions permits, the economic impact from implementing the CPRS, the baseline data to be used to allocate permits, and the ability of the group to influence the drafting of the legislation and regulations around the scheme.

Consistent with Olson's and Stigler's theories about small but powerful interest groups, the AIGN disputed the economic impacts likely to arise from the draft CPRS legislation and put forward alternative recommendations for the commencement of a CPRS. The AIGN claimed that the key elements that would determine the economic impacts were not even evident in the draft CPRS bill.[10] Many of the impacts for trade-exposed industries would not be quantifiable until the regulations associated with the bill were released, and this was likely to happen only a few months before the CPRS was due to commence. According to the AIGN, this included both "the auctioning scheme and amendments to the Excise Tariff Act affecting transport fuel prices."[11] Understandably, there was concern over the lack of time available to prepare and assess these regulations.

In providing recommendations on draft legislation the AIGN presented a number of arguments supporting Stigler's claims that groups try to dominate and influence legislation so that it favors their own objectives. One example was AIGN's recommendation that Reviews (of the scheme) be done by the Productivity Commission rather than an appointee of the Minister.[12] The head of the Productivity Commission is an Australian Public Service role, bound by law to be more independent than any potential political appointee by the Minister. This could be favorable to the AIGN, as the Productivity Commission is also bound to operate under the rules of the Public Service Act, rather than operating under terms set by the Minister of the day.

Two key questions in establishing such a scheme are who receives the pollution permits and how much they pay for them.

Further, AIGN raised concerns over the draft legislation and the lack of detail around the auction process, whether permits should be counted as a tax, whether the trading of emissions permits constitutes a "financial product" trade under the Corporations Act (which requires additional licensing), and the need to streamline and reduce the number of State, Territory and Commonwealth regulations.[13] These are all areas where AIGN could influence the legislation to the benefit of its own members – for example, by pushing for fewer State regulations or tax deductions if the permits are classified as taxes.

The AIGN claimed that the key elements that would determine the economic impacts were not even evident in the draft CPRS bill.

AIGN pushed for a system that protects its industry members and their need to pollute. Key to this argument is the point that "future negotiations of Australian commitments under an international framework should not be compromised by decisions made by governments with respect to a domestic policy agenda."[14] AIGN also commented that there will be little gained by "adopting comparatively harsh domestic emission trajectories or budgets prior to the successful negotiation of a new international framework."[15] For AIGN, this approach supported their member organizations through a "status quo" approach. As there was uncertainty at the time as to how much progress would be made at the international level, it benefited AIGN members to support this approach. At a broader level, AIGN members could potentially achieve greater benefits from either a delay in an international system, or by pushing for a global system that better suits their interests than individual jurisdictional systems. By suggesting Australia wait until international agreements are done, the AIGN members can continue to emit virtually cost-free. While not as favorable an outcome as influencing (or writing) legislation might be, this option is still highly favorable for the organization, as it limits the costs to its members and delays the introduction of any changes. In their response to the CPRS, the behavior of AIGN fits with the theories proposed by Olson and Stigler.

THE COAL INDUSTRY

Australia is the world's largest coal exporter, and black coal is Australia's largest export, worth more than $A50 billion in 2008-09.[16] The Australian Coal Association (ACA) represents the industry. Coal provides industry and consumers with cheap electricity (including 85% of Australia's electricity), and provides thousands of jobs in regional Australia. The majority of Australian coal exports go to Asia (88.6% in 2008-09), with Japan, Korea, Taiwan, China and India the largest customers. Worldwide, coal produces 42% of world electricity generation; It is also key for producing steel and cement, with over 70% of global steel production depending on coal.

Despite the international push to cut carbon emissions in the face of accelerating climate change, Australia's coal industry intends to double its exports by 2030.[17] The coal industry has everything to gain by deferring and delaying a carbon pollution reduction scheme. It will also gain if it is allowed to influence the design of the system. The industry already receives some support from the government: over $A10 billion has been allocated by Federal and State governments for infrastructure improvements in order to help double exports by 2030. Also, the government has committed funds to develop clean coal technology and underground storage. Given its importance to the Australian economy, it is reasonable to predict that the industry will have a strong influence on any pollution and emissions policies. Coal producers are represented through both the ACA and the AIGN, which again supports Olson's theory that small groups are well organized. As a large greenhouse gas emitter, the coal industry was cautious over any carbon pollution reduction scheme. The mining of coal emits about 5% of Australia's greenhouse gases, and a further 35% of emissions are from coal-fired electricity generation. Their policy position paper stresses a commitment to research and partnership with governments by investing $A1 billion to demonstrate low emissions coal technology.[18] The policy paper states that the ACA supports the "introduction of a long term price on carbon as part of an international agreement."[19] However the ACA also stresses that any policies should:

> "maintain the international competitiveness of the Australian coal industry; be calibrated with the development of a global protocol and/or action by major emitters of greenhouse gases; promote the development and deployment of low emissions coal technologies; be economically efficient and equitable; be consistently, transparently and broadly applied; be effective and sustainable over the medium/long term or facilitate a transition to such an outcome; and contribute to abatement of emissions from mines."[20]

The ACA represents 99% of black coal producers, and their submission to the Senate Inquiry strongly supported a market based scheme, as long as it involves "equitable burden sharing," is "calibrated towards a global agreement, including avoiding carbon leakage," and includes measures for new technology, including low emission technology.[21] Given the assumption that political actors will behave rationally, we can see why the ACA would support a global scheme. As it was quite possible at the time that a global scheme would not come into operation quickly, supporting such a broad aim actually protects the coal industry and its entrenched position. By pushing the government to wait for an international agreement to cap emissions levels, the industry was trying to delay a local introduction.

The coal industry claimed that Emissions Intensive Trade Exposed (EITE) arrangements did not adequately protect trade-exposed industries, of which coal is Australia's largest. As anticipated by Olson's theory (that interest groups push for their own protection), the coal industry disagreed with the allocation formula for emissions permits and requested their own "specific coal industry allocation rule." Further, the industry is concerned over carbon leakage (claiming that it will shift investment off shore and increase emissions in developing countries) and questions the permit allocation process. They claimed that under the initial plan only 25% of permits were allocated to businesses exposed to trade, even though 45% of current emissions are generated from this sector. Predictably, the industry supported the Minerals Council of Australia (MCA) policy position of phasing in auctions, providing 90% of allocated permits at the start to industry (but not electricity generation), and dealing with cement, aluminium and other high energy users with additional assistance.[22] The ACA also claims that this approach contrasts to the proposed draft legislation, which had three different carbon costs, and recommends adopting the AIGN's approach to addressing trade exposure.[23]

In its position paper, the coal industry also draws on its contributions to state governments and regional Australia[24] to push its case, stating that it expected to provide over $A4 billion in royalty payments to State Governments in 2008-09. Given the tight fiscal position of the States, this is money they would not want to lose. As a major employer in regional Australia (especially on the east coast), the coal industry also holds sway over the government in this way. Pushing new emissions technology as part of their policy position also makes sense. While claiming to already be a global leader in new technology, support for research and development through the CPRS is likely to bring funding and competitive advantages to the industry. Thus the coal industry's actions with regard to the CPRS are anticipated by Olson's and Stigler's theories of interest groups and regulation.

ELECTION RESULTS

The 2010 election results revealed challenging trends for the Australian Labor Party, and could reflect influence from the AIGN and ACA on voting patterns. Industry organizations like AIGN and ACA were well organized to run media campaigns to influence both public opinion and policy makers over the proposed CPRS. For example, there were reports and media releases announcing large job losses from the proposed CPRS.[25] This argument was also made in the Coalition's policy paper in January 2010.[26] The Coalition paper claimed 28,000 job losses for Queensland, which was referenced from the Minerals Council of Australia (MCA) economic report examining potential job losses in the mining sector (although the number for Queensland was even higher at 34,000).[27], [28]

Considering the election results for Queensland, it is possible to see the political impact of the industrial lobby. Queensland is a vital state for the Labor Party to remain in government. According to the MCA Report, job losses from the CPRS would be highest for Queensland. This included key Labor constituencies: Brisbane-based fly-in-fly-out workers[29] and workers in regional towns. With the addition of the farming, sugar cane, and coal mining sectors, the political impact of a shift in voter support in Queensland were broad and significant. It is highly possible that Labor decided to drop the scheme because of these potential election impacts, and they were able to use the failure of the Copenhagen talks to support their position. While Labor had strong support in Queensland from unions, these voters were also concerned over losing their jobs due to the CPRS. In the 2010 election, the end results were not positive for Labor:

> "Labor was abandoned right across the sunny suburban sprawl. Not only did Labor lose five of its seats in the area, eight of the 15 seats where Labor had its most significant swings nationally were in Brisbane's suburbs......While the average swing against Labor was 9.4% in Queensland, it was 14% in the once-marginal east Brisbane seat of Bowman, and 13% in the inner suburban seats of Moreton, Bonner and Ryan. While in the outer-suburban electorates of Oxley and Rainkin there was an 11% swing, nearly all of which passed directly to the Coalition."[30]

Under the initial plan only 25% of permits were allocated to businesses exposed to trade, even though 45% of current emissions are generated from this sector.

The loss cannot be entirely attributed to the failure to pass the CPRS. The electorate was also upset over the proposed mining tax and Labor dumping Rudd as their leader. However, the swing to the Greens in urban seats, and swing to Coalition/Nationals in regional seats indicated that CPRS did have a broad impact across voters. While this paper cannot fully assess the impact of the AIGN and the ACA in voter preferences, viewed through the lens of Olson and Stigler, it is reasonable to assume that the industry argument about the negative impact of the CPRS did influence voter preferences. Policy on both sides was also strongly influenced by industry, with both Labor and the Liberal Coalition changing their policies to be more in line with industry preferences.

DOMESTIC AND INTERNATIONAL OPTIONs

To pass a CPRS, the government needs to better engage with industry and the electorate. The failure to do so on both levels resulted in the failure of the first scheme. Better engagement with industry during the design of a new scheme will help address some of its concerns. It would also mean there is more likely to be buy-in from industry groups, such as the AIGN and the ACA. Greater consultation upfront, followed by negotiations and agreement over the design and implementation of a scheme, including the price and who bears the costs, are essential to receive industry support. In addition, the government needs to better explain to the electorate the importance of a CPRS, and that it could be good for the economy. The rushed economic modeling of the initial scheme further contributed to the public's skepticism about the draft program. The inability to sell it to the electorate was also partially due to the lack of agreement on a worldwide scheme and concerns that Australia was "jumping in" too early.

Australia's experience follows the larger international failure to implement climate change initiatives. The failure to introduce a scheme internationally was a reason for its failure in Australia, yet places like Europe and New Zealand have now managed to introduce their own local schemes. However if Australia does successfully come up with a scheme, it could serve as an example for other countries that wish to address emission levels while still operating heavy industries such as mining.

While Australia's overall emission levels are well below those of large emitters like China and the US, its per capita level is one of the highest in the world. The relatively small total amount is one of the issues that the electorate was concerned about—the cost of a scheme that would have minimal impact globally without the involvement of the largest emitters. By implementing a successful scheme that does not destroy local industry, Australia could draw on its relationships with the US, China, and other large emitters, to encourage them to move towards greater emissions reductions. As Europe has led the way by implementing its own emissions scheme and California is leading US emissions reductions, so too could Australia lead a global group to sign up for reducing emissions. Australia could even draw on its experience in trade agreements (such as the Cairns Group), biological weapons proliferation (the Australia Group), and its leading role in APEC and other regional forums, to influence other countries to adopt a similar scheme, or join an Australian scheme. By leading in this area, Australia could help create some global momentum and create pressure for larger countries like the US and China to act further. Combined with Europe's approach, a successful domestic scheme could help increase global interest, especially if Australia can maintain its strong economic growth and high standard of living.

CONCLUSION

In conclusion, it is clear that both Olsen and Stigler's theories about political action were evident in the push from industry against the proposed CPRS. Olsen and Stigler offer a lens in which to understand the behavior of industry groups, and how they organize and influence governments and regulation. The draft CPRS received criticism from across industry, environmental groups, and the community, especially as it was so rushed, and proposed before any international agreement was reached on reducing emissions. The AIGN and ACA are both well funded and highly organized. The AIGN recommended the CPRS not go ahead until a world emissions target is agreed. In the end, they obtained their desired outcome they got their outcome, as the Prime Minister announced a delay. Members of these industry organizations stressed the potential economic costs and job losses, with a focus on Queensland. It can be concluded that the 2010 election results in Queensland reflected the influence of these industry organizations. To pass a new scheme, the government will need to better engage with both industry and the electorate to sell the merits of a scheme. Australia could also use this opportunity to become a leader in the region by implementing a successful scheme.

Australia's experience follows the larger international failure to implement climate change initiatives.

The challenge for the Labor Party now is to try and introduce a new scheme, against a background of a hung Parliament, the Greens holding the balance of power in the Senate, a Prime Minister with record low approval ratings, and an industry sector with a history of successful lobbying against this policy proposal. Labor has now introduced a new draft, and is hopefully learning from its previous experiences.

NOTES

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28 Brian Fisher. "Report: The Employment Effects in the Australian Minerals Industry from the Proposed Carbon Pollution Reduction Scheme." *Canberra: Concept Economics*, 2008. 11.

29 "Fly in fly out" is an employment method often used in mining projects in Australia. With many mines sites remotely located, or regional towns that are not large enough to house miners and their families, workers instead remain in the cities and fly-in-fly-out to the mine sites. Shifts vary, but usually go for 2 weeks or more, with amended time off back in the cities.

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APPENDIX A

MEMBERSHIP OF THE AUSTRALIAN INDUSTRY GREENHOUSE NETWORK

Industry Associations	Individual Members
Australian Aluminium Council	Alcoa of Australia Ltd
Australian Coal Association	Adelaide Brighton Cement
Australian Food and Grocery Council	Bluescope Steel Ltd
Australian Industry Group	BP Australia Ltd
Australian Institute of Petroleum	Caltex Australia
Australian Petroleum Production and Exploration Association	Cement Australia
	Chevron Australia Pty Ltd
Australian Plantation Products and Paper Industry Council	CSR Limited
	ExxonMobil
Australasian (Iron and Steel) Slag Association	Hydro Aluminium Kurri Kurri
	Inpex Browse Ltd
Australian Trucking Association	Leightons Holdings
Cement Industry Federation	Origin Energy Ltd
Federal Chamber of Automotive Industries	Qenos Pty Ltd
	Rio Tinto Australia Ltd
Minerals Council of Australia	Santos Ltd
National Association of Forest Industries	Shell Australia Ltd
	Tomago Aluminium
National Generator's Forum	Thiess Pty Ltd
Plastics and Chemicals Industries Association	Wesfarmers Ltd
	Woodside Petroleum Ltd
	Xstrata Coal Australia Pty Ltd

O PETRÓLEO É NOSSO

The Role of Pre-Salt in Fulfilling Brazil's Energy Vision

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ABSTRACT

Recently discovered pre-salt oil reserves are expected to catapult Brazil into a new era of energy dominance, just as global concerns over ‘peak oil’ and the availability of petroleum worldwide have garnered increasing international attention. Some estimates put the total pre-salt recoverable reserves at more than 50 billion barrels of oil equivalent. Given these developments, Brazil is in a unique leadership position to demonstrate a new regulatory model for effective energy management via a national, publicly traded company with the assistance of a fully state-owned auxiliary. However, Brazil could also be at risk of succumbing to a system all too characteristic of a still-developing Latin America – one mired in private interest greed, symptoms of Dutch disease, and stifling bureaucracy.

INTRODUCTION

“The oil is ours.” This phrase became famous in the 1940s during Brazil’s public opinion debates over how best to manage newly found oil reserves in a volatile and increasingly globalized environment. The population was effectively split between those who supported state control and those who sought foreign capital. The 1953 monopolistic creation of Petrobras, a semi-public Brazilian energy corporation headquartered in Rio de Janeiro, signaled a win for nationalists. Although the country has experienced a generally linear history of democratization and increased foreign investment since that time, this slogan remains significant. Pre-salt oil reserves are expected to catapult Brazil into a new era of energy dominance, just as global concerns over ‘peak oil’ and the availability of petroleum worldwide have garnered increasing international attention.

The term “pre-salt” refers to an offshore aggregation of rocks with the potential to generate and accumulate oil, deposited beneath an extensive layer of salt. In 2006, Petrobras (Brazil’s national publicly traded oil company) and a consortium of partners discovered an immense deepwater pre-salt oil cluster in the Tupi area of the Santos basin off the shores of the states of São Paulo and Rio de Janeiro. Subsequent discoveries in the Campos and Espirito Santo basins have led some analysts to estimate the total pre-salt recoverable reserves at more than 50 billion barrels of oil equivalent (boe).[1] These announcements immediately transformed the nature and focus of Brazil’s oil sector and the potential horizon for the country’s energy future. In August of 2009, deeming these new oil blocs “strategic” for the Brazilian state, the Lula Administration introduced four legislative bills that would change the rules for pre-salt exploration and increase government control over oil production in these areas. By the end of 2010, with the exception of one article dealing with distribution of royalties, the Congress and Senate had approved all four of them. Given these economic and political developments, Brazil is in a unique leadership position to demonstrate a new regulatory model for effective energy management via a national, publicly traded company with the assistance of a fully state-owned auxiliary. Such a model, if implemented as envisioned, would balance high profitability with equitable distribution of wealth and fortification of national socioeconomic development. However, Brazil could also be at risk of succumbing to a system all too characteristic of a still-developing Latin America – one mired in private interest greed, symptoms of Dutch disease, and stifling bureaucracy.

CURRENT DEBATES AND PROPOSALS FOR PRE-SALT

Despite the deepwater expertise that has come to define Petrobras, the difficulty of accessing the pre-salt reserves in Brazil, given the immense depths and pressures involved with pre-salt oil production,[2] presents substantial technical hurdles for the company. Furthermore, the scale of the proposed production expansion also presents many financial hurdles that both Petrobras and the government are currently attempting to overcome. Despite these challenges, in 2009 Brazil’s liquids production surpassed its consumption, and the U.S. Energy Information Administration (EIA) projects the country will remain a net oil exporter through the end of 2012 with the help of pre-salt (Appendix A). Growth is predicted to be moderate, however, due to the country’s rapid economic development and increased domestic consumption.[3]

To meet this growth, the Brazilian government has pursued three primary objectives in its strategic planning for the pre-salt reserves: (1) secure the investment needed for tapping the reserves, (2) ensure that Petrobras is primary operator of the fields and remains an efficient, competitive energy firm, and (3) see that the government is the primary recipient of the profits, a portion of which will be used to alleviate socioeconomic disparities. The first objective was addressed in June of 2010 when the Brazilian Senate approved the first part of Lula’s legislative package. This bill stipulated that in exchange for company shares, the government would transfer $4.25 billion worth of pre-salt oil reserves to Petrobras.[4] A second bill, which created a wholly state-owned subsidiary called Pré-Sal Petróleos S.A., or Petrosal, was signed into law in August of 2010. Petrosal functions as the regulatory vehicle with which the remaining objectives can be implemented. The third and fourth bills (proposed in 2009) were eventually combined into legislation that was passed in December of 2010. This latest law implements a production-sharing model for future pre-salt and “strategic” areas, mandates that Petrobras be the sole operator of and hold a 30% interest in all grants related to these areas, establishes a “social fund” and, most controversially, proposes a reallocation of cash royalties paid to federal and state governments that would redistribute the oil wealth of producing states.

The technical definition of “strategic,” as delineated in the language of the new law provides an interesting framework for predicting the Brazilian government’s behavior in relation to its oil industry. A strategic area is defined as “a region of interest to national development, bounded by act of the executive branch, characterized by low exploration risk and high potential for oil production, natural gas and other hydrocarbon fluids.”[5] This “interest to national development” clause serves as a strong reminder of the self-sufficient origins of Brazilian energy policy and security since the creation of Petrobras in 1953. When Petrobras ceased to be a formal monopoly in 1997 and faced increasing competition from abroad, the government created the National Petroleum Agency (ANP) to regulate the activities of the energy industry and protect its interests. It would come as no surprise, then, that the country would continue in this tradition. The co-existence of Petrobras and Petrosal presents a unique two-agent situation in Brazil that aims to both diminish the information asymmetry Petrobras holds as a corporate entity and realign its incentives as a public one. The proposed new production-sharing model, featuring a reallocation of oil royalties and the creation of a social fund can be seen as attempts to mitigate the potential negative effects of an oil windfall.

INCREASING STATE CONTROL

Since its creation in 1953, Petrobras has been one of the most important and recognizable agents of the Brazilian government. Substantial incentives – namely a monopoly over the country’s oil supply – were given to the company, with the expectation that in return it would help meet growing domestic demand, increase energy independence, and decrease the negative effect of oil imports on the trade balance. Although initially Petrobras grew within a low-risk corporate culture and focused on activities that were most aligned with its organizational capacities as a state-owned enterprise, the loss of its formal monopoly power and partial privatization in 1997 rendered the company an agent answering to both corporate and government principals. However, Brazil and investors share a common interest in the effectiveness of Petrobras, which has resulted in the appointment of pragmatic, rather than partisan, leadership for the company.[6] As an oil firm with both public and private capital, Petrobras has been able to operate with a reasonable amount of autonomy while still leveraging its identity as an important player in implementing national energy policy.

The Lula government likely sought to circumvent the pre-salt information asymmetry made possible by this arrangement by establishing Petrosal. Its motivations were ultimately not clear: perhaps the government predicted that the 49% corporate side of Petrobras might win out in the case of an oil windfall, answering to and representing investors instead of government bureaucrats in contract deals. However, it may also be equally reasonable to assume the government did not wish to burden Petrobras with the responsibilities of contract management or regulatory oversight, preferring instead to task Petrosal with these duties and therefore allowing Petrobras to focus on developing its technical and operational capabilities.

Some traditional analysts might see the existence of Petrosal and the new Production Sharing Agreement (PSA) regime it oversees as a future liability for Petrobras. The perceived operational and financial hurdles associated with placing Petrobras at the forefront of the pre-salt crusade might scare some anti-government-control investors away.[7] Moreover, Petrobras's increasing overseas operations and the discovery of pre-salt appear to have generated a separate set of preferences from those it previously shared with the government.

However it is also possible that Petrosal was created to serve as a bureaucratic ally for Petrobras. In fact, the Petrobras website explicitly states the benefits of its right to pre-salt:

> *"The Federal Government proposes Petrobras as the sole operator because it is a semi-public corporation... As such, Petrobras will have the role of defending and putting into practice, together with the other members of the Operating Committee, the guidelines for the preferential contracting of the good and services on the domestic market. As a result, this segment's supplier chain will grow and be strengthened, and there will be a ripple effect for the entire Brazilian industry, which may gain relevant space in the international good and service market for the oil and gas industry."*[8]

> *Subsequent discoveries in the Campos and Espirito Santo basins have led some analysts to estimate the total pre-salt recoverable reserves at more than 50 billion barrels of oil equivalent (boe). These announcements immediately transformed the nature and focus of Brazil's oil sector and the potential horizon for the country's energy future.*

This text provides an interesting way of looking at the relationship between government and national oil companies (NOCs). According to Victor, Thurber and Hults, many countries argue that a NOC serves the industrial development of the state through "forward" (distribution) and "backward" (supplier) linkages, but none – save Norway's Statoil – have thus far achieved this ideal.[9] Petrobras's website statement, while perhaps playing slightly on new propaganda, seems to mark a new mandate for Petrobras in pre-salt, particularly in its potential to consolidate Brazil's economic growth. Thus the government's domestic goals of the new legislative framework on pre-salt seem to be quite congruent to the international ambitions of Petrobras.

Avoiding the Resource Curse – Managing Petroleum Windfalls

The "resource curse" theory, also know as the paradox of plenty, attempts to explain why countries and regions with an abundance of natural (and usually non-renewable) resources tend to have less economic growth and development than countries and regions with fewer resources. The theory offers many explanations for this counterintuitive outcome, one in which an appreciation in the real exchange rate brought about by a resource's revenues causes a decline in the competitiveness of other export sectors. Often referred to as "Dutch disease" after the effects of North Sea gas on the Dutch economy thirty years ago, this phenomenon and other factors like volatile commodity markets, poor governance, and ineffective or corrupt government institutions are also used to explain the resource curse.

Development economist Paul Collier takes the poor governance explanation further with the notion that, at the heart of the resource curse, resource rents alter how electoral competition is conducted, thereby causing the democratic process to malfunction. He explains that political restraints on the use of power are undermined when resource revenues radically reduce the need to tax, thus eliminating the need for public scrutiny over public expenditures. Underinvestment in long-term projects, low return on short-term ones, and patronage politics are the usual by-products of large public sectors in countries with resource surpluses.[10] From Collier's analysis, we see a need for a resource-rich, socially diverse country like Brazil to have a democracy that emphasizes distinct political restraints in relation to its electoral competition. As oil is the resource most often responsible for Dutch disease, effective resource and revenue management of pre-salt in Brazil will be imperative in ensuring the country's successful economic development.

Under the production-sharing model within the new regulatory framework, the Brazilian state eliminates many of the initial risks of exploration while simultaneously reaping any benefits associated with pre-salt activities. The new contract system allows the government to reimburse contractors only if they make commercial discoveries and implement PSAs directing more of the oil windfall to the state (rather than to themselves) in the event of rising oil prices. The creation of Petrosal to oversee these contracts also frees Petrobras from the negative burdens associated with state-controlled monopolies.[11] These measures seem to directly address the resource curse phantoms of investment, volatile commodity swings, and oversized public sectors. However, the Brazilian government is also conscious of the fact that often the most politically poisonous attributes of a resource-cursed region are its extreme disparities in socioeconomic development.

Sovereign wealth funds are becoming a common way for states to better manage the revenues strategic resources generate. One of the bills the Brazilian National Congress approved in 2010 creates a social fund set to receive a big portion of pre-salt oil revenues to support public socioeconomic endeavors.

Social funds are usually associated with the clientelistic, vote-buying populism of countries like Hugo Chávez's Venezuela. Yet unlike Venezuelan petrodollars, Brazilian petrodollars will not be earmarked for subsidizing the poor, but rather for schools and programs that emphasize education, environmental protection, science and technology. Current President Dilma Rousseff has stressed the importance of this fund for the long-term betterment of the country and as a "passport to the future."[12] Her administration, assumed by many to be a continuation of President Lula's Worker's Party (PT) ideologies, is very much committed to the success of the new oil laws and their ability to improve equality within Brazilian society.

This idea of equity has been at the center of the latest controversy over reallocation of oil royalties (and consequently, the only formal measure contained within the four bills yet to be approved). The amendment in question calls for the equal distribution of royalties among Brazil's 26 states and the Federal District, after allocating 40% to the federal government. The top oil-producing states of Rio de Janeiro, São Paulo, and Espírito Santo strongly oppose this measure, claiming that it is unconstitutional to take away the right to compensation. Royalties are a major source of revenue for energy-producing states and municipalities, and if the proposed amendment becomes law without modifications, the state of Rio de Janeiro is estimated to lose around $2.8 billion per year.[13] Many in the government worry that the pre-salt bidding process will be undermined if a resolution cannot be reached on oil royalty distribution. President Lula had vetoed the bill during his final days in office, but sent it back to Congress for review, as he did not want to compromise his successor Rousseff's electoral success.

IMPLICATIONS

The oil royalty issue will play a central role in defining Brazil's political and economic future. Although the federal government has already conceded part of its original revenue share, as of October 2011, negotiations are still taking place among the states, and voting on the measure has been continuously postponed.[14] This ongoing debate has revealed the potential for Brazil to follow the same populist path as Venezuela. The reputable operations of a company like Petrobras could ultimately be sidetracked by the patronage politics that have plagued the once-great Petróleos de Venezuela S.A. (PdVSA). Thus far, Brazil has demonstrated support for a common national energy vision rather than succumbing to the partisan temptations of resource rents. However, the ultimate test of the centrist legacy Lula has left behind will be the outcomes of the negotiations over the future of pre-salt under the leadership of the Rousseff administration.

Brazil is in a unique leadership position to demonstrate a new regulatory model for effective energy management via a national, publicly traded company with the assistance of a fully state-owned auxiliary.

A successfully managed sovereign wealth fund will have tremendous positive implications for Brazilian society. Though the demographic and historical traditions of the two countries differ, one of the world's most successful sovereign wealth funds – Norway's Government Pension Fund – could provide a sustainable model for Brazil to adopt. The fund was established in 1990 to facilitate government savings in order to meet rapid rises in public expenditures and manage oil-revenues within a long-term model. Its investments adhere to strict ethical guidelines based on sector and company behavior. The fund is currently valued at $571.5 billion.[15] Moreover, beyond alleviating much of the poverty and underdevelopment found in the northeast of the country, a well-managed and well-defined Brazilian sovereign wealth fund would be the first of its kind in Latin America, providing a model for other oil-producing countries like Mexico and Colombia to adopt.

As oil is the resource most often responsible for Dutch disease, effective resource and revenue management of pre-salt in Brazil will be imperative in ensuring the country's successful economic development.

The creation of Petrosal and the change in the rules of the pre-salt game may indeed have negative consequences for Petrobras. Victor, Thurber and Hults argue that the most important condition for a NOC's high performance (in the absence of more ideal administration, regulation and governance systems) is a unified and predictable system of control for the oil and gas industry.[16] To many, the addition of another state agency like Petrosal represents an overreach on the part of the government that may threaten Petrobras's success. An "if it's not broken, don't fix it" mentality reverberates among many of the most influential players in Brazil's oil industry. Yet the new system may also offer an advantage in providing what Victor, Thurber and Hults call "opaque" and rigid rules to outsiders. If the interests of both the government and private stakeholders are communicated and aligned well enough for Petrobras to adapt easily to new pre-salt rules, the company will have clear competitive advantage over other foreign private contractors. In addition Brazil, even with a highly independent system of government control, is accustomed to building capacity from within to formulate policy and regulation in a way that does not rely on the expertise of a NOC like Petrobras.[17]

Firms like Goldman Sachs remain bullish on Petrobras and the Brazilian economy. In its update on the state oil company in August of 2009, Goldman Sachs predicted no economic threat from the creation of Petrosal, and in fact saw such potential legislation as "one of the better solutions" in aligning the long-term interests of the country with companies like Petrobras that are aiming to engage with pre-salt reserves. The report demystifies the common misconception that more state control would mean a less-profitable Petrobras. In stark contrast, the investment giant concluded, "without investment in some of the projects that are in the interest of the government... we do not believe Petrobras would have the opportunity to dominate offshore Brazil."[18] Other international investors have similarly positive expectations for the future of Brazilian oil, and in a larger sense, Brazilian governance.

Brazil is poised to capitalize on several unique opportunities as a result of the pre-salt discoveries. The execution of the country's energy vision over the next few years will prove to be a great economic, political and social experiment that will certainly be watched closely around the world. Energy security in Brazil – which has always been one of its defining public policy priorities – will play a significant role on the international stage as a model for countries seeking alternative energy sources and hoping to avoid the resource curse. With the current instabilities of the European debt crisis, the Arab Spring and the growing divisiveness in U.S. politics, many countries may begin to look to Latin America as a source for new reliable energy – with Brazil at the forefront. Perhaps, then, it is unsurprising that the Goldman Sachs report in 2009 recommended Petrobras shares as a "buy."

NOTES

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16 Victor, et al.

17 Victor, et al.

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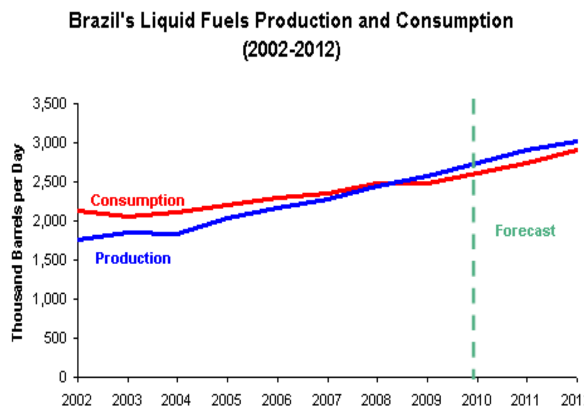
APPENDIX A



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