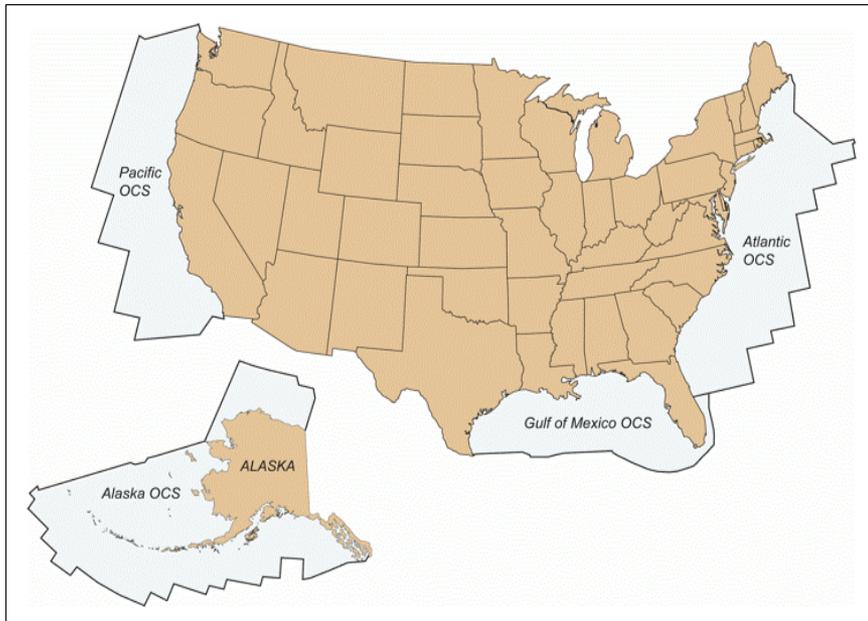


U.S.- Mexico Transboundary Hydrocarbon Reservoirs Agreement by Robert L. Sebastian Bureau of Ocean Energy Management



Geographic areas relevant to the Transboundary Agreement:

“Transboundary Area” – a 550-mile strip running east beyond Texas waters, through the Western Gap, to the western edge of the Eastern gap

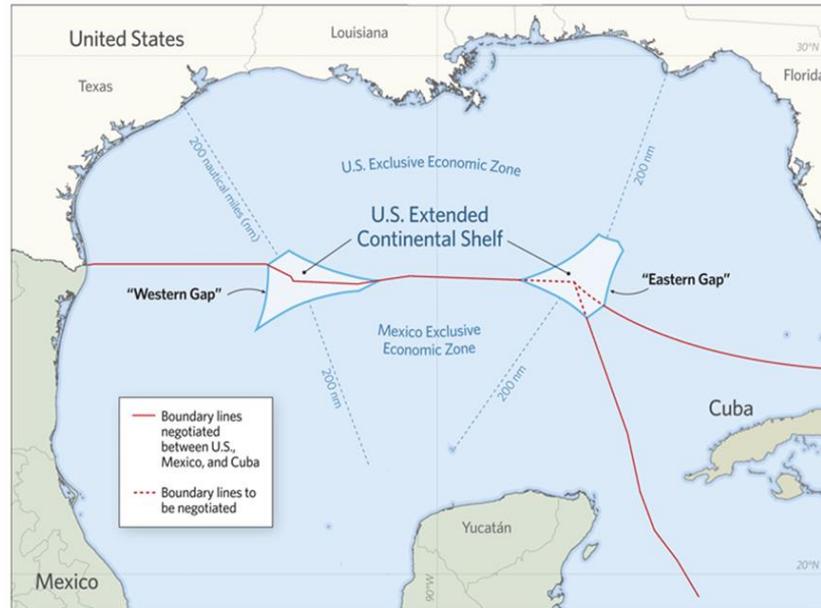
“Western Gap” – encompasses 4.2 million acres in the extended continental shelf delimited by treaty between the U.S. and Mexico in June 2000. The U.S. acreage in the Western Gap includes about 1.5 million acres.

“Moratorium Area” – located entirely within the Western Gap and comprises a narrow (1.4 miles nautical miles on each side of the delimitation line) corridor cutting across a 135-mile distance. The moratorium terminated when the Transboundary Agreement became effective on July 18, 2014.

MAP 2

U.S. Extended Continental Shelf in Gulf of Mexico

The Gulf of Mexico contains two areas of submerged continental shelf that extend beyond the 200-nautical-mile exclusive economic zones (EEZ) of Mexico and the United States—the “western gap” and the “eastern gap.” The U.S. and Mexico signed a treaty in June 2000 that divides the area of extended continental shelf within the “western gap” between the two nations.

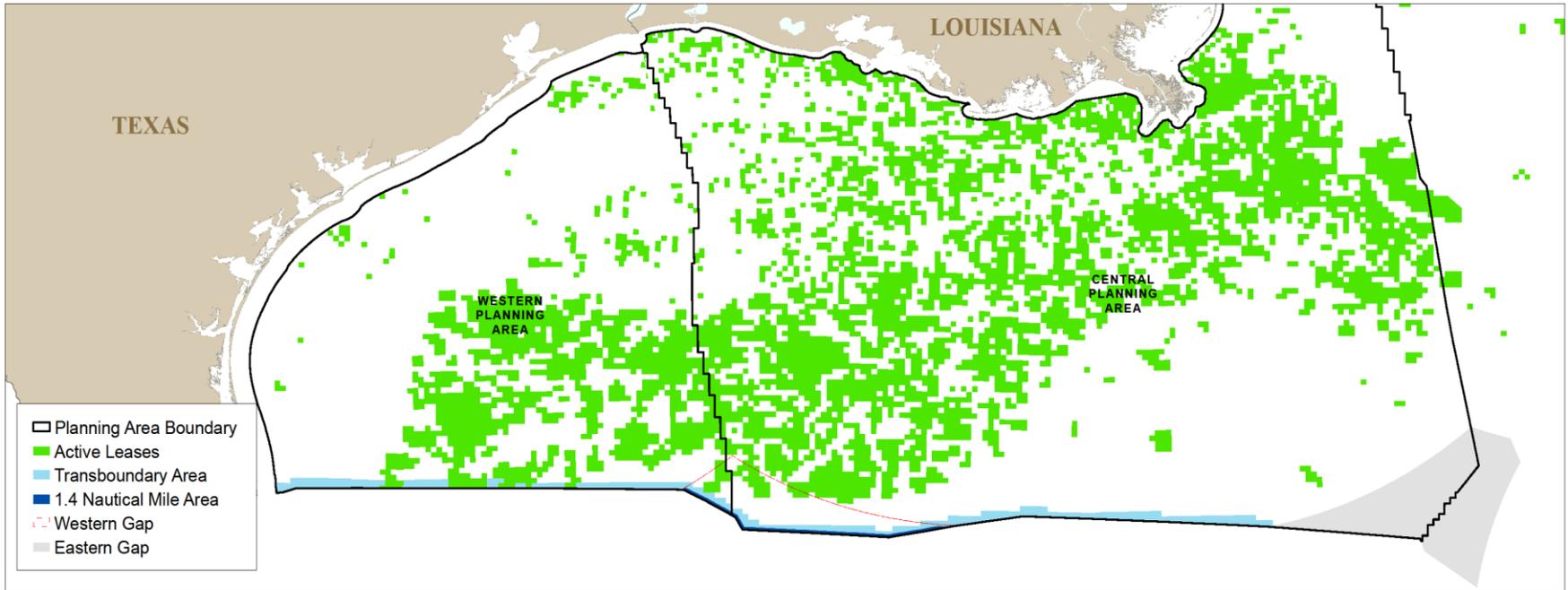


Sources: U.S. Department of the Interior, Bureau of Ocean Energy Management, “Treaty on Maritime Boundaries Between the United Mexican States and the United States of America,” May 4, 1978, http://www.boem.gov/uploadedFiles/BOEM/Regulations/Treaties/1978_0504-Treaty-MaritimeBoundariesMexicoandUS.pdf (accessed April 17, 2012); U.S. State Department, “Maritime Boundary Agreement Between the United States of America and the Republic of Cuba,” December 16, 1977, <http://www.state.gov/documents/organization/125389.pdf> (accessed May 8, 2012); and United Nations, “Executive Summary: A Partial Submission of Data and Information on the Outer Limits of the Continental Shelf of the United Mexican States Pursuant to Part VI of and Annex II to the United Nations Convention on the Law of the Sea,” December 2007, http://www.un.org/depts/los/clcs_new/submissions_files/mex07/part_i_executive_summary.pdf (accessed May 8, 2012).





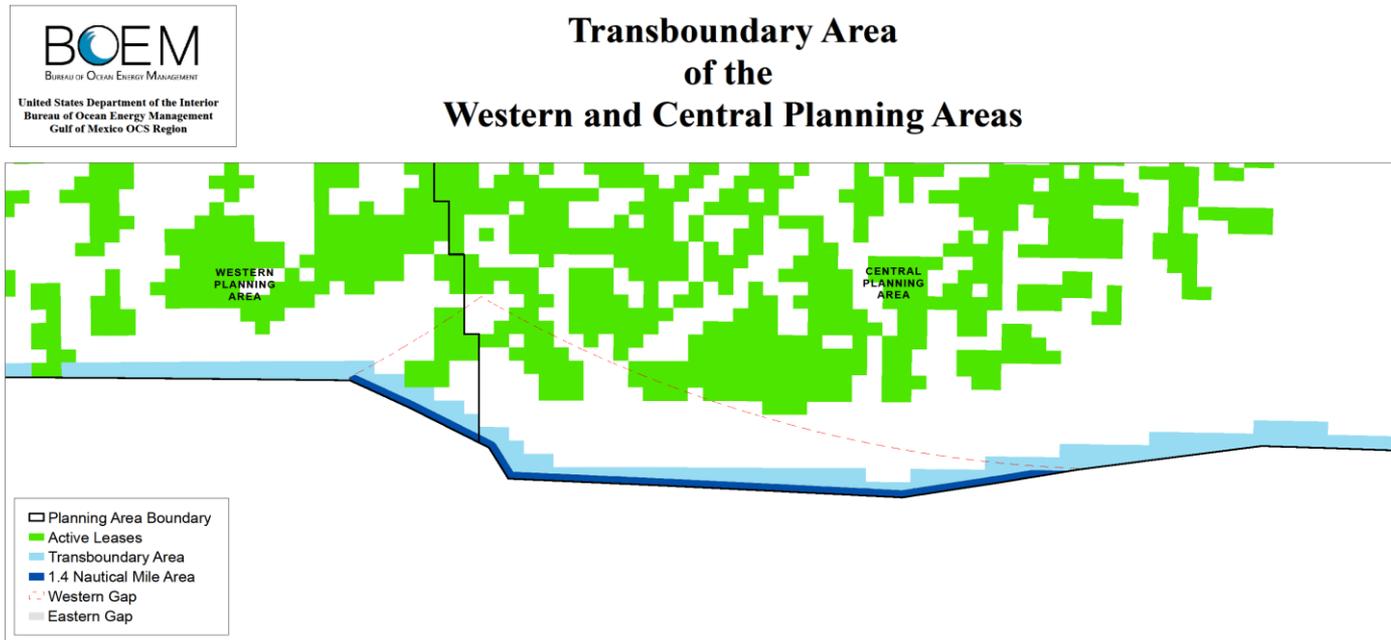
Transboundary Area of the Western and Central Planning Areas



- The continental shelf in the Western Gulf of Mexico beyond 200 miles was delimited by The Treaty Between the Government of the United Mexican States and the Government of the United Mexican States signed on June 9, 2000 (“the Western Gap Treaty”)
- The Western Gap Treaty allowed the U.S. to begin leasing areas within the former Western Gap - first offered in Central GOM Sale 178 (Part 2) and Western GOM Sale 180 held in August 2001.



However, this treaty included a 10-year drilling moratorium covering a 1.4 nautical mile area on either side of the boundary within the Western Gap to allow the U.S and Mexico time to reach an agreement to jointly develop transboundary oil and gas resources.



Announcement of Negotiations

- In January 2010, Mexico submitted the first working draft outlining the principal elements Mexico thought should be considered for inclusion in an eventual agreement.
- As a result of a meeting between Presidents Obama and Calderón, on June 23, 2010 (ten years after the Western Gap Treaty), the United States and Mexico officially announced their intention to negotiate a hydrocarbon reservoirs agreement.
- Both Governments agreed to extend the 1.4 nautical mile moratorium until 2014.



Parties Involved

MEXICO

US



Timeline

- The negotiation team had an aggressive schedule – formal discussions started in December 2010
- Various informal technical meetings were held and formal negotiations were conducted between August and December 2011
- Agreement on the text was completed December 21, 2011.



On February 20, 2012, the U.S. Secretary of State and the Mexican Minister of Foreign Affairs signed the Agreement in Los Cabos.



- The Mexican Senate approved the Agreement in April 2012.
- U.S. Congress approved the Agreement as part of the Bipartisan Budget Act of 2013, which the President signed on December 26, 2013.



Exchange of Diplomatic Notes and Entry into Force

The U.S. and Mexico
exchanged
Diplomatic Notes on
May 19, 2014.

The Agreement
entered into force
sixty days later on
July 18, 2014, per
the terms of the
Agreement.

"This document is a true and accurate copy
of the signed original."



No. 14-1441

Richard Davy
May 19, 2014"

The Embassy of the United States of America presents its compliments to the Secretariat of Foreign Relations of the United Mexican States and refers to the Secretariat's Note No. 03004 regarding the Agreement between the United Mexican States and the United States of America Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico, signed at Los Cabos on February 20, 2012.

The Embassy has the honor to inform the Secretariat that the Government of the United States of America has also completed its internal procedures necessary for the entry into force of the Agreement.

Therefore, in accordance with Article 22 of the Agreement, it will enter into force on July 18, 2014.

The Embassy of the United States of America avails itself of this opportunity to renew to the Secretariat of Foreign Relations the assurances of its highest consideration.

Embassy of the United States of America

Mexico, D.F., May 19, 2014.



DIPLOMATIC NOTE



- Recognizes the possible existence of hydrocarbon reservoirs that may extend across the continental shelf boundary
- Establishes a legal framework to achieve safe, efficient, equitable and environmentally responsible exploitation of transboundary hydrocarbon reservoirs
- Encourages the establishment of “cooperative arrangements”, based primarily on the principles of unitization, but recognizing that additional cooperative arrangements may be developed outside of the framework of this Agreement



- Previously, the only avenue for producing hydrocarbon resources in a transboundary reservoir was through unilateral exploration and development from one side of the maritime boundary under the common law “Rule of Capture.”
- Now, it is possible for U.S. and Mexican operators to secure their own hydrocarbon resources by entering into unitization agreements.



Cooperative Management of the Agreement

Each party names an Executive Agency to carry out the functions of the Agreement

Each party nominates a representative, and alternate representative, to a Joint Commission to resolve disputes relating to interpretation and implementation of the Agreement.



Jurisdiction

- Nothing in the Agreement affects the sovereign rights and the jurisdiction that each Party has under international law over the continental shelf that appertains to it.
- Mexican law will apply to operations under Mexican jurisdiction and U.S. law will apply to operations under U.S. jurisdiction.



Consultations and Exchange of Information

Under Article 4, within 90 days of Agreement's entry into force, and annually thereafter, the parties must exchange (nonproprietary) information on Exploration and Exploitation activities:

Either party shall notify the other of:

- the likely existence of a transboundary reservoir;
- approval of a seismic permit within 3 statute miles of the Delimitation Line;
- submittal and approval of an exploration or development and production plan within 3 statute miles of the Delimitation Line;
- a hydrocarbon occurrence near the Delimitation Line; or
- an application for a permit to drill a well within 3 statute miles of the Delimitation Line.



Voluntary Unitization

- Combines areas for joint exploration and/or development of a “geologic structure” or a single “reservoir” that extends across the boundary
- A unitization agreement and a unit operating agreement are negotiated between U.S. and Mexican licensees and submitted to the relevant governments for approval
- In the U.S., the Bureau of Safety and Environmental Enforcement (BSEE) and the Bureau of Ocean Energy Management (BOEM) are the relevant agencies. In Mexico, the Agreement will be implemented by the Ministry of Energy (SENER), the National Hydrocarbons Commission (CNH) and the new Agency for Industrial Safety and Environmental Protection (ASEA).



Unitization, continued

- Production may be prohibited for up to 16 months to allow the parties time to pursue a voluntary unit.
- If the governments cannot agree on a unitization agreement, or if the operators fail to enter into a unit operating agreement and submit a unitization agreement, each operator may separately produce its share of the transboundary resources.
- This Agreement differs from other international models that allow governments to prohibit production if there is no unitization agreement.



Safety and Environment

- The Agreement requires the parties to develop common safety, health, and environmental standards and requirements for activities conducted pursuant to the Agreement
- Both governments have the right to jointly inspect any unit facility wherever it is located. Inspectors operating outside their jurisdiction have the right to request the inspector, under whose jurisdiction the inspection is taking place, to enforce compliance with safety and environmental standards and requirements (including cessation of operations if serious risk of personal injury, death or significant damage to the environment)



Oil Spill Preparedness, Response and Cooperation

- The Parties recognize existing obligations with respect to oil spill preparedness, response and cooperation and are to review their implementation of such obligations in light of the activity contemplated under the Agreement to ensure an appropriate framework for ongoing cooperation.
- Complements existing protection through the “Mexus Plan” that provides for joint contingency planning and standard operating procedures in case of incidents that threaten the coastal waters or marine environment of both countries. U.S. response team is coordinated by the Coast Guard.



Dispute Resolution

- Parties must attempt in good faith to resolve disagreements through consultations if possible
- Parties may refer issues to the Joint Commission. If the Joint Commission is unable to make a determination on certain issues (existence of transboundary reservoir, allocation or reallocation of production), the parties may submit the dispute for Expert Determination (but must be a well on each side of the prospective transboundary reservoir).
- Parties may also submit disagreements to non-binding mediation by a neutral third party or, if the disagreement is not subject to Expert Determination, either Party may refer the disagreement to Arbitration



Pre-Agreement Leases

- Leases issued before May 19, 2014 (date of exchange of diplomatic notes to bring the Agreement into force) are exempt from the Agreement's provisions, although the lessees may voluntarily agree to abide by its terms. However, the United States must make a good faith effort to bring existing leases under the terms of the Agreement.
- BOEM has contacted all lessees of pre-Agreement leases and offered them the opportunity to "opt-in" to the terms of the Agreement. To date, none have accepted the offer. There are currently nine active pre-agreement leases, all within the Western Gulf of Mexico.
- Lessees of pre-Agreement leases will not be able to voluntarily unitize those leases unless they elect to subject the leases to the terms of the Agreement.



New Leases

- Any new leases on areas located in the “Transboundary Area” (described as blocks located or partially located within 3 statute miles of the maritime and continental shelf boundary with Mexico) will be made subject to the Agreement by a stipulation attached to the leases.
- The U.S. is the party to the Agreement and subject to its obligations. However, the stipulation requires the lessees to comply with all obligations undertaken by the U.S. in the Agreement.



Bipartisan Budget Act Section 304 amended the Outer Continental Shelf Lands Act to provide:

- Section 32(c) Implementation of Specific Transboundary Agreement with Mexico
 - “The Secretary may take actions as necessary to implement the terms of the Agreement between the United States and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico, signed at Los Cabos, February 20, 2012, ...”
 - Includes approving unitization agreements and related arrangements, making nonproprietary exploration, development and production information available, taking actions consistent with an expert determination, and ensuring only appropriate BSEE inspection staff, the operator, or the lessee have authority to stop work on any OCS facility or vessel.



The Agreement is only a framework; many details, processes and procedures to be worked out:

- Develop model unitization agreements
- Draft and adopt Joint Commission rules of procedure
- Establish dispute settlement mechanisms (mediation, arbitration, and expert determination)
- Establish procedures for joint inspection of facilities in a Unit Area
- Harmonize safety and environmental standards
- Review oil spill preparedness, response and cooperation to ensure appropriate framework for ongoing cooperation.



DOI Secretarial Order No. 3333, effective June 3, 2014

- The Secretary designated the Department of the Interior (DOI) as the “Executive Agency” to carry out the functions of the Agreement and appointed the DOI Deputy Secretary as the representative, and the Assistant Secretary – Land and Minerals Management, as the alternate representative to the Joint Commission; requires BOEM and BSEE to enter into an MOU

BOEM/BSEE MOU, effective July 17, 2014

- Assigns to BOEM and BSEE, by function, the responsibility to carry out the specific obligations contained in each Article of the Agreement on behalf of the Executive Agency (DOI)



Informal “kick-off” meeting held in Mexico City in June 2014



- First Article 4 “consultation” held in Washington, D.C. in December 2014



Western Gulf of Mexico Sale 233

- Held August 28, 2013
- \$21,333,850 in high bids by Exxon Mobil Corporation
- 3 leases awarded as a result of the sale

Western Gulf of Mexico Sale 238

- Held August 20, 2014
- \$28,059,734 in high bids by BP, BHP, Shell and Exxon
- 24 leases awarded as a result of the sale



Central Gulf of Mexico Sale 235

- Scheduled for March 18, 2015
- First sale to offer areas within the former 1.4 nautical mile buffer zone in the Central Gulf of Mexico



Federal Register Notice January 22, 2015 (80 FR 3251)

The following OPDs and Lease Maps (dated October 1, 2014) have been revised to reflect the “Transboundary Three Statute Mile Line”:

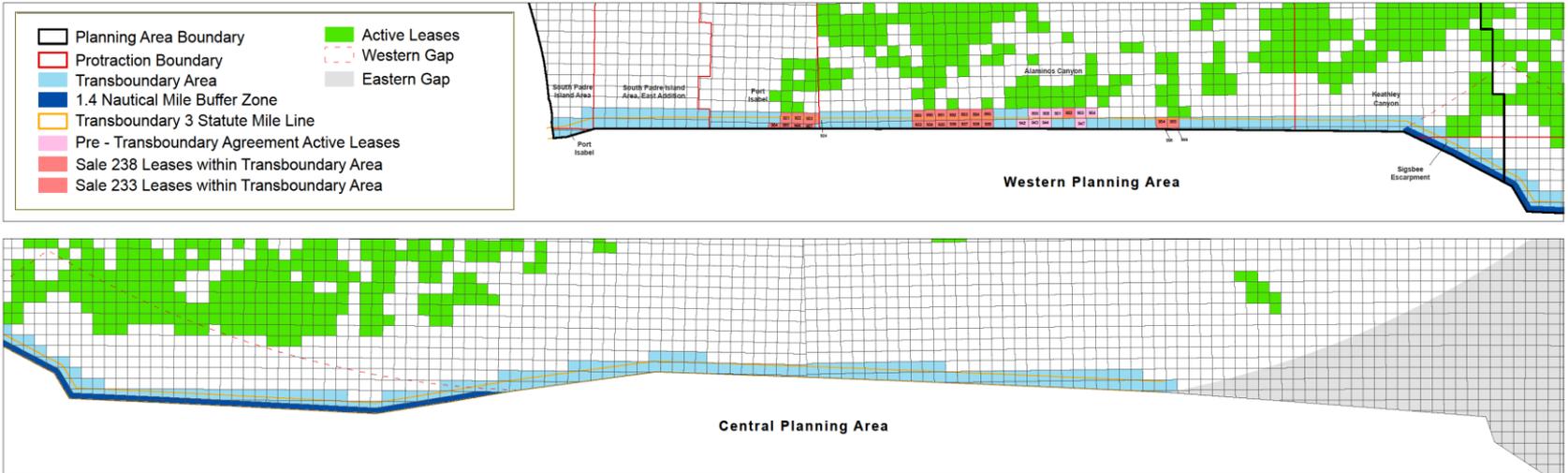
- NG14-06 (Port Isabel)—10/01/2014
 - NG15-04 (Alaminos Canyon)—10/01/2014
 - NG15-05 (Keathley Canyon)—10/01/2014
 - NG15-08 (Sigsbee Escarpment)—10/01/2014
 - NG15-09 (Amery Terrace)—10/01/2014
 - NG16-07 (Lund South)—10/01/2014
 - TX1 (South Padre Island Area)—10/01/2014
 - TX1A (South Padre Island Area, East Addition)—10/01/2014
- Determines the blocks subject to the Agreement
- Triggers Article 4 notification obligations for the United States related to certain activities within its jurisdiction.



BOEM
BUREAU OF OCEAN ENERGY MANAGEMENT

United States Department of the Interior
Bureau of Ocean Energy Management
Gulf of Mexico OCS Region

Transboundary Area of the Western and Central Planning Areas



- On December 21, 2013, Mexico passed historic constitutional reforms, opening Mexico's energy industry (oil and gas, and electricity) to the participation of the private sector.
- Prior to the reform, all oil and gas exploration and production was conducted by Pemex only.



On August 12, 2014, a package of legislation to implement the constitutional reform became effective in Mexico (9 new laws and amendments to 12 existing ones):

- Hydrocarbons Law
- Hydrocarbon Revenues Law
- PEMEX Law
- Electric Industry Law
- Federal Electricity Commission Law
- Geothermal Energy Law
- Law of the Energy Regulatory Bodies
- Law creating the National Agency of Industrial Security and Environmental Protection of the Hydrocarbon Sector; and
- Law of the Mexican Oil Fund for Stabilization and Development





Directs national energy policy

Defines E&P areas to be offered and type of contract

Grants “entitlements,” including under Round Zero

Defines commercial terms of contracts

Issues gas processing and oil refining permits



Conducts tenders and enters into contracts on behalf of the State

Regulates exploration and production operations

Maintains seismic and geological databases



Determines the economic and fiscal terms of each E&P contract



Regulates and supervises health, safety and environment for E&P operations and facilities





Agency for Industrial Safety and Environmental Protection (ASEA)

ASEA is an agency of SEMARNAT and officially began to function on March 2, 2015

Regulates and monitors industrial safety, operational safety and protection of the environment for the facilities and activities of the hydrocarbon sector

Includes activities of dismantling and abandonment of facilities



Key Mexican Officials



Lourdes Melgar Palacios was appointed in 2014 as Undersecretary of Hydrocarbons of SENER, where she previously held the position of Undersecretary of Electricity. Between 1993 and 2007, she held several diplomatic positions, including Minister of the Permanent Mission of Mexico to the OECD. From 1998 to 2002, she was Director General of International Affairs at SENER. In addition to acting as an independent consultant in energy related subjects, Melgar was Founding Director of the Center for Sustainability and Businesses of the EGADE Business School at ITESM. She is also a National Researcher at CONACYT and has been a visiting fellow at the Woodrow Wilson International Center for Scholars and the Center for International Energy and Environmental Policy at the University of Texas at Austin.



Juan Carlos Zepeda Molina is President Commissioner of the National Hydrocarbons Commission. His career in the hydrocarbons industry includes the Ministry of Finance and SENER. At SENER, he was Head of the Exploration and Production Department and was member of the Board of Directors of PEMEX subsidiaries for Exploration and Production, Refining and Gas. In 2009, he was appointed President Commissioner of the National Hydrocarbons Commission. Zepeda holds a BA in Economics from ITAM, an MSc in Economics and Finance from the University of Warwick, and an MSc and PhD in Economics from the University of Georgetown.



Carlos de Régules is Director General of the Agency for Safety, Energy and the Environment (ASEA). He was previously Subdirector of PEMEX's Strategic and Operational Planning division. With a background in Chemical Engineering and a Master's in Environmental Engineering and Management from MINES ParisTech, Mr de Régules will be in charge of laying the agency's groundwork to become an effective regulator among the country's oil and gas industry players.



- Agreement is a significant step forward in U.S.-Mexico cooperation in energy production
- Coincides with Mexico's energy reform and plans for deepwater offerings pursuant to "Round Zero" and "Round One".
- Allows for joint U.S.-Mexico exploration, development and production of oil and gas reservoirs in the Gulf of Mexico;
- Paves the way for additional energy and environmental partnerships



Robert L. Sebastian
Special Assistant
Office of Strategic Resources
Bureau of Ocean Energy Management
504-736-2761
robert.sebastian@boem.gov

