TO APPLY COUNTERINSURGENCY TACTICS UNDER A COORDINATED AND TARGETED STRATEGY TO COMBAT THE TERRORIST INSURGENCY IN MEXICO WAGED BY TRANSNATIONAL CRIMINAL ORGANIZATIONS, AND FOR OTHER PURPOSES; AND TO WITHHOLD TWENTY PERCENT OF UNITED STATES ASSESSED AND VOLUNTARY CONTRIBUTIONS TO THE ORGANIZATION OF AMERICAN STATES (OAS) FOR EVERY PERMANENT COUNCIL MEETING THAT TAKES PLACE WHERE ARTICLE 20 OF THE INTER-AMERICAN CHARTER IS NOT INVOKED WITH REGARD TO VENEZUELA'S RECENT CONSTITUTIONAL REFORMS, AND FOR OTHER PURPOSES

MARKUP

BEFORE THE

SUBCOMMITTEE ON
THE WESTERN HEMISPHERE

OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

ON

H.R. 3401 and H.R. 2542

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THURSDAY, DECEMBER 15, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE WESTERN HEMISPHERE,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 11 o'clock a.m., in room 2172 Rayburn House Office Building, Hon. Connie Mack (chairman of the subcommittee) presiding.

Mr. MACK. The subcommittee will come to order. We meet today to mark up two bills. Without objection, all members are able to insert remarks on today's measures into the record, should they choose to do so.

Pursuant to notice, for purposes of a markup, I call up H.R. 3401, the Enhanced Border Security Act.

Mr. GATELY. H.R. 3401, to apply counterinsurgency tactics under a coordinated and targeted strategy to combat the terrorist insurgency in Mexico——

[H.R. 3401 follows:]

I

112TH CONGRESS
1ST SESSION

H. R. 3401

To apply counterinsurgency tactics under a coordinated and targeted strategy to combat the terrorist insurgency in Mexico waged by transnational criminal organizations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 2011

Mr. MACK introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Homeland Security and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To apply counterinsurgency tactics under a coordinated and targeted strategy to combat the terrorist insurgency in Mexico waged by transnational criminal organizations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enhanced Border Security Act".

SEC. 2. STATEMENT OF PURPOSE.

It is the purpose of this Act to protect United States citizens from external threats by establishing and applying appropriate counterinsurgency tactics under a coordinated and targeted strategy to combat the terrorist insurgency in Mexico waged by transnational criminal organizations by utilizing cross-agency capabilities to—

(1) secure the United States-Mexico border through a secure border area;

(2) curtail the ability of such organizations to finance their operations with United States funds in cities throughout the United States; and

(3) increase the ability of the Government of Mexico to—

(A) reduce violence;

(B) diminish corruption;

(C) improve cooperation between military and law enforcement;

(D) stabilize communities; and

(E) fortify functioning government institutions.

SEC. 3. FINDINGS.

Congress finds the following:

(1) Mexican drug cartels have evolved into transnational criminal organizations and diversified and expanded their illicit activities, including human

1 smuggling, trafficking in stolen oil, weapons smug-
2 gling, extortion, kidnapping, and cybercrime.
3 (2) Mexican drug cartels have increased their
4 profits through various illicit activities and have be-
5 come more resilient and dangerous organizations.
6 Rough estimates of stolen oil proceeds range be-
7 tween $2 billion and $4 billion each year. According
8 to the United Nations Office on Drugs and Crime
9 (UNODC), approximately $6.6 billion annually is
10 generated from human smuggling from Latin Amer-
11 ica to the United States.
12 (3) A July 2011 White House report found that
13 transnational criminal organizations have expanded
14 and matured, threatening the security of citizens
15 and the stability of governments throughout the re-
16 gion, with direct security implications for the United
17 States.
18 (4) An August 2011 Department of Justice Na-
19 tional Drug Threat Assessment found that Mexican-
20 based transnational criminal organizations were op-
21 erating in more than 1,000 United States cities dur-
22 ing 2009 and 2010.
23 (5) On October 11, 2011, a foiled terrorist as-
24 sassination plot of the Saudi Arabian Ambassador
25 by members of the Iranian Islamic Revolutionary

Guard Corps demonstrated the internationally recognized threat posed by Mexican drug cartel members at the United States-Mexico border.

(6) The Mérida Initiative, led by the Department of State, has failed to address the evolution of the drug trafficking organizations into transnational criminal organizations, the diversification of their illicit activities, and the systematic implementation of insurgency tactics that undermines the Mexican state and seeks to control the political space.

(7) The Mérida Initiative has faced implementation challenges and programmatic delays. A July 2010 Government Accountability Office report highlighted Mérida Initiative delays associated with equipment deliveries as well as a lack of clear benchmarks for programmatic success.

(8) The utilization of counterinsurgency tactics will focus on isolating Mexican transnational criminal organizations from their sources of power, such as drugs, money, human resources, and weapons, while addressing both military and non-military conditions and border conditions sustaining the insurgency, including corruption, infighting, financing, and human support.

(9) The end goal of the coordinated and targeted strategy is to protect United States citizens from external threats through the empowering of a friendly and competent government that operates within international laws and regulations and is able to secure itself from internal threats.

SEC. 4. DEFINITIONS.

In this Act:

(1) TERRORIST INSURGENCY.—The term "terrorist insurgency" means the protracted use of irregular warfare, including extreme displays of public violence utilized by transnational criminal organizations to influence public opinion and to undermine government control and rule of law in order to increase the control and influence of the organizations.

(2) TRANSNATIONAL CRIMINAL ORGANIZATION OR ORGANIZATION.—The term "transnational criminal organization" or "organization" means a self-perpetuating association of individuals who—

(A) operate transnationally for the purpose of obtaining power, influence, monetary gain, or commercial gain wholly or in part by illegal means; and

(B) protect their activities—

(i) through a pattern of corruption or violence; or

(ii) through a transnational organizational structure and the exploitation of transnational commerce or communication mechanisms.

SEC. 5. COUNTERINSURGENCY STRATEGY AND CONDITIONALITY.

(a) COUNTERINSURGENCY STRATEGY.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, with the concurrence of the Secretary of Defense, the Secretary of Homeland Security, the Attorney General, the Secretary of the Treasury, and the Director of National Intelligence, shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a counterinsurgency strategy that—

(1) defines and outlines the transnational criminal organizations in Mexico, their leaders, goals, objectives, evolution, key elements, and areas of influence;

(2) provides an assessment of the terrain, population, ports, financial centers, and income-generating activities utilized by transnational criminal organizations;

1 (3) assesses the capabilities of Mexico's federal
2 law enforcement, military forces, state and local gov-
3 ernment institutions, and other critical elements,
4 such as nongovernmental organizations that may or-
5 ganize to counter the threat posed by transnational
6 criminal organizations;
7 (4) describes operations of, or on behalf of,
8 transnational criminal organizations within the
9 United States, including information on trafficking
10 activities, financial networks, and safe havens;
11 (5) describes operations of transnational crimi-
12 nal organizations at the United States-Mexico bor-
13 der, the Mexico-Guatemala border, and other inter-
14 national borders, including operations relating to
15 contraband, human support networks, financial sup-
16 port, and technological advancements;
17 (6) utilizes information obtained under para-
18 graphs (1) through (5) to coordinate with relevant
19 United States agencies to address the operations of
20 transnational criminal organizations within the
21 United States, at the United States-Mexico border,
22 and within Mexico to isolate such organizations from
23 their sources of power in order to successfully com-
24 bat the terrorist insurgency in Mexico;
25 (7) includes—

1 (A) within the United States, a plan to
2 combat the operations, financial networks, and
3 money laundering techniques of transnational
4 criminal organizations, including—
5 (i) a dramatic increase of the number
6 of Mexican and Central American drug
7 traffickers on the Specially Designated Na-
8 tionals list;
9 (ii) a report by the Office of Foreign
10 Assets Control of the Department of the
11 Treasury detailing the progress of desig-
12 nating Mexican and Central American indi-
13 viduals and entities supporting such orga-
14 nization on the Specially Designated Na-
15 tionals list, as well as providing sugges-
16 tions to help identify areas to further im-
17 pact the financial networks of such organi-
18 zations;
19 (iii) increasing cooperation between
20 the Department of Justice and State and
21 local agencies responsible for firearms law
22 enforcement; and
23 (iv) development of a thorough, strict,
24 and standardized accounting procedure for
25 keeping track of Federal grant assistance

1 provided to State and local law enforce-
2 ment agencies for border security pur-
3 poses;
4 (B) at the United States-Mexico border, in
5 coordination with the Government of Mexico
6 and the Department of Homeland Security, a
7 plan to address resources, technology, and in-
8 frastructure required to create a secure border
9 area that establishes border security as a top
10 priority of the Government of the United
11 States, including—
12 (i) doubling the number of Border Pa-
13 trol agents over the number in existence as
14 of the date of the enactment of this Act,
15 or as determined by the Secretary of
16 Homeland Security, in a comprehensive re-
17 port on the best use of resources, tech-
18 nology, and infrastructure to secure the
19 border;
20 (ii) development of a plan to build ad-
21 ditional infrastructure to support Border
22 Patrol activities along the border that
23 would enhance security in hard-to-enforce
24 areas, such as roads and tactical double

1 layered fencing as determined by the Sec-
2 retary of Homeland Security;
3 (iii) determining technology required
4 to support Border Patrol activities in re-
5 ducing unlawful movement of goods and
6 people at the border, including cameras,
7 radars, sensors, and unmanned aerial vehi-
8 cles;
9 (iv) a report by the Attorney General
10 that provides a policy that standardizes the
11 threshold for prosecution of border-related
12 offenses by the United States Attorney's
13 Office;
14 (v) a plan to develop a joint United
15 States-Mexico program to increase intel-
16 ligence gathering utilizing classified tech-
17 nologies; and
18 (vi) increased use of Border Patrol
19 Special Response Teams that concentrate
20 on high-priority threats, including weapons
21 and bulk cash smuggling, and high-po-
22 tency, high-cash-value drugs along the bor-
23 der; and

1 (C) within Mexico, in coordination with the
2 Government of Mexico, the development of a
3 multi-agency action plan, including—
4 (i) development of strong rule-of-law
5 institutions to provide security for people
6 and businesses in Mexico by—
7 (I) increasing coordination
8 among military and law enforcement
9 agencies focused on establishing and
10 expanding secure areas around key
11 population centers;
12 (II) increasing knowledge of best
13 practices for combating such organiza-
14 tions, incorporating United States
15 military and law enforcement lessons
16 learned, worldwide counterinsurgency
17 experts in training programs, and as
18 appropriate, training carried out by
19 international law enforcement acad-
20 emies; and
21 (III) securing the environment,
22 as recommended in separate reports
23 by the Secretary of Defense and the
24 Director of National Intelligence;

1 (ii) diminish support for transnational
2 criminal organizations by—
3 (I) instituting programs to
4 strengthen governance and rule of
5 law, such as promoting a culture of
6 lawfulness and providing incentives to
7 United States businesses operating in
8 Mexico that promote and support cul-
9 ture of lawfulness efforts;
10 (II) developing safe communities
11 for families and youth by enhancing
12 and recreating successful youth pro-
13 grams and anti-drug coalitions, en-
14 hancing public education regarding
15 the activities of such organizations,
16 and promoting economic development;
17 and
18 (III) promoting the creation and
19 enhancement of the institutions of
20 good local governance; and
21 (iii) neutralize transnational criminal
22 organizations by—
23 (I) re-evaluating threats within
24 Mexican regions in order to assign a
25 specialized task force to key regions

1 designed to concentrate on high-pri-
2 ority targets and separate such orga-
3 nizations from their sources of sup-
4 port;
5 (II) requesting the support of
6 United States military advisors to as-
7 sist the Mexican regional task forces;
8 and
9 (III) supporting Mexican federal
10 law enforcement operations that pro-
11 vide services to the population while
12 gathering raw intelligence and pro-
13 viding such intelligence to regional
14 task forces; and
15 (8) includes a report on Mexican and Central
16 American extradition requests and extraditions car-
17 ried out.
18 (b) UPDATES.—
19 (1) OFFICE OF FOREIGN ASSETS CONTROL.—
20 The Office of Foreign Assets Control of the Depart-
21 ment of the Treasury shall submit to the congres-
22 sional committees specified in subsection (a) updates
23 on a quarterly basis of the information required to
24 be included in the counterinsurgency strategy under
25 subsection (a)(7)(A)(ii).

(2) SECRETARY OF STATE.—The Secretary of States shall submit to the congressional committees specified in subsection (a) updates on a quarterly basis of the information required to be included in the counterinsurgency strategy under subsection (a)(8).

(c) WITHHOLDING OF FUNDS.—Notwithstanding any other provision of law, if the Secretary of State does not submit the counterinsurgency strategy required under subsection (a) in accordance with such subsection, then 20 percent of the amounts otherwise made available to the Department of State for fiscal year 2012 shall be withheld from obligation and expenditure until such time as the strategy is submitted in accordance with such subsection.

SEC. 6. FUNDING FOR DEVELOPMENT AND IMPLEMENTATION OF COUNTERINSURGENCY STRATEGY.

Notwithstanding any other provision of law, funds made available to the Department of State for the Merida Initiative are authorized to be made available to develop and implement the counterinsurgency strategy required under section 5(a).

○

Mr. MACK. Without objection, the bill is considered as read and is open for amendment at any point. Before turning to the ranking member, I recognize myself briefly for opening remarks.

The Enhanced Border Security Act draws our attention to a serious problem that requires immediate action. I have held two hearings in this subcommittee on the topic of Mexico and have yet to see an increase in U.S. agency coordination or a substantial shift in approach. I drafted this legislation to ensure that action is taken to secure our border, stop transnational criminal activity in the United States, and secure the role of the state in Mexico.

A terrorist insurgency is being waged along our southern border—the operations across Mexico and Central America—as well as in over 1,000 U.S. cities. Many of the 40,000 people killed since 2006 have died brutal, public deaths. The term "terrorist insurgency" may be strong, but it is based upon unchallenged facts.

President Calderon identified recent activities perpetrated by drug traffickers—the Zetas—as "an act of terrorism." Last week he outlined insurgent tactics taking place in Mexico stating, "Crime now also constitutes an open threat to democracy. The glaring interference of criminals in the electoral process is a new and worrying development."

The U.S. State Department has also publicly verified that terrorists and insurgent tactics are being employed in Mexico. Drug traffickers and criminal organizations have combined efforts to work across borders, unravel government structures, and make large profits from diverse, illegal activity. The near-term result: Schools, media, and candidates all controlled by criminal organizations. In other words: Total anarchy.

Let me reiterate. These transnational criminal organizations are engaged in a protracted use of irregular warfare and extreme violence to influence public opinion and to undermine government control in order to increase their own control. This is a terrorist insurgency.

Meanwhile, the State Department is leading the charge of U.S.-Mexico security policy through the Merida Initiative, and they are failing. Merida has not and will not be able to address the pending terror we face. Mexican transnational criminal organizations have evolved to reflect traditional insurgence in the way that they, one, rely on external support and cross-border sanctuaries; two, require access to money to feed their ability to operate; and, three, control the hearts and minds in their territory.

Therefore, we need a strategy that uses appropriate counterinsurgency tactics. First, secure the border through personnel, technology, and infrastructure. Second, stop criminal access to U.S. financial institutions. And, third, work with Mexico through integrated, counterinsurgency tactics to undermine the control of these criminal organizations.

This is exactly what H.R. 3401 is calling for. Recent reports show success in integrating military counterinsurgency tactics with limited resources to bolster local law enforcement and curb drug-related criminal activities within a dangerous U.S. city.

H.R. 3401, the Enhanced Border Security Act, is forcing the State Department to incorporate lessons learned and the expertise of all appropriate U.S. agencies to construct a strategy based on

relevant counterinsurgency tactics to counter these illegal groups in Mexico, at the U.S. border, and within the United States.

I urge all of my colleagues to work with me in taking the first steps toward developing a strategy that can succeed through the passage of the Enhanced Border Security Act.

I am now pleased to recognize the ranking member to speak on the measure.

Mr. ENGEL. Thank you very much, Mr. Chairman. Let me say that I agree with you that Mexicans are terrorized. If I were living in a place where gun battles were leaving scores of people dead, and previously safe streets were now hideouts for thugs and criminals, I would feel a sense of terror, too.

I know you honestly care about the people in Mexico and are frustrated by how long it takes to stop the violence. So am I. But I must respectfully disagree, because there is a difference between acts which can cause terror and terrorist acts. And I think this is not simply a semantic distinction, and let me tell you why: Because if we get the cause of a disease wrong, our treatment will be wrong as well.

Terrorism, by definition, occurs when someone uses violence to achieve a political goal. The narco criminals in Mexico have no political names. They are brutal outlaws who want money, but they don't want to throw out the government and take over. Nor do they hate the United States. Like many other terrorists, in a twisted sort of way, they probably like us. We buy their drugs and supply their weapons.

So when the bill say there is a terrorist insurgency in Mexico, I have to respectfully disagree. Even though the bill redefines these terms to fit its counterinsurgency strategy, the plain meaning of the words can't be changed. We can say an apple is an orange, but it is still an apple. And we can say what is happening in Mexico is terrorism, but it is still narco crime—brutal, horrible, and murderous, I agree, but still cartel-driven narco crime.

Mr. Chairman, I agree with you that the sad situation in Mexico has gone on too long and that the Mexican people, not to mention U.S. citizens in the border states, deserve to live their lives in peace. Plan Colombia was in place for a decade until its success started taking hold, and we have only started winding it down now.

But we on this subcommittee—and you know this—in a bipartisan fashion have worked hard to promote the Merida Initiative. We have completed the period where the program delivered big dollar hardware, and we are now moving to what is called Merida 2.0, where we will focus more on training support for the judiciary and accountability.

While the violence is still abundant in Mexico, the program is moving forward. It is not that we can't learn lessons from Afghanistan, Iraq, Colombia, or elsewhere, especially how to better integrate intelligence to speed up response times and how to improve accountability for human rights abuses.

But I fear that this bill does something even more unfortunate. The Merida Initiative was built on a foundation of cooperation. It came from a bilateral process where the strategy and tactics were jointly created by Mexico and the United States. And something

more important, even more important, came from the Merida Initiative.

The distrust and prickliness which once pervaded the relationship between the U.S. and Mexico has been replaced by trust and cooperation. Obviously, it is a very good thing, and we have even seen this cooperation flow into other areas, including at the United Nations where Mexico and the United States have been working together more closely than ever before.

So, Mr. Chairman, I feel this bill returns to the era where Congress dictates policy and expects Mexico to tow the line. I don't think it will be successful with that kind of attitude. I don't think it works that way. If we think that we need to switch to a counterinsurgency strategy, I think what we should do instead is roll up our sleeves, because it is going to take a lot of work to convince our partners in Mexico and at the State Department.

Now, I have consulted with the Mexicans about this, and they feel as I do. Now, obviously, we can do what we want. We don't have to consult. But I think it is important to consult with a country like Mexico, because obviously what we are doing, what you want to see, what I want to see, what we all want to see on this committee is we want to see an end to the narco violence.

We want to see more cooperation between the U.S. and Mexico, and we are not going to get if we try to ram it down their throats. We are only going to get it if we sit down together and figure out what the best strategy is.

So I just don't think that this is the right direction. I think we need to work with our friends and allies, not force them. Let us convince our partners, not dictate. It is a worthy debate. And I know, Mr. Chairman, because you and I have discussed many, many things, your heart is certainly in the right place. But I respectfully disagree with the direction.

So I thank you, and I yield back my time.

Mr. MACK. I want to thank the ranking member, Mr. Engel, who we have got a great working relationship, and I appreciate your comments.

I now recognize the gentleman from Texas for 5 minutes.

Mr. MCCAUL. Thank you, Mr. Chairman. I want to thank you for introducing this legislation. I am proud to be an original co-sponsor, because it really tells the situation like it is. This bill is not designed to hurt Mexico, but rather help Mexico. I believe that the drug cartels are acting within the Federal definition of "terrorism," which basically says "to intimidate a civilian population or government by extortion, kidnapping, or assassination."

That is precisely—precisely what the drug cartels do. They extort. They extorted teachers, a school, for money just last month. They decapitate people on a daily basis. They burn people alive. They throw people in acid baths. If that is not intimidation, if that is not terrorizing a civilian population, I don't know what is.

And just recently we had Mexico's President Calderon saying in the headlines that the drug gangs threaten democracy. And in his words, not mine, he says that crime this—"These drug cartels represent a threat to the viability of the Mexican state and national democracy." That is a threat to the state. That is coercion and intimidation of a government, against a government.

And in Mr. Calderon's words he says, "The glaring interference of criminals in the electoral process is a new and worrying development. No political party should remain silent about it. It is a threat that affects everyone, and we must all, without hesitation, move to stop it." A threat to the electoral process. No political party should remain silent.

This is a threat to the state. It is a threat to the Mexican state. It is a threat to the civilian population in Mexico. And this bill, Mr. Chairman, which you have introduced and I strongly support, I think goes right to the heart of the problem.

And since 2005, we know that 50,000 people—50,000 Mexican people—have been killed brutally at the hands of these drug cartels. More than the American deaths in Iraq and Afghanistan combined. And yet we are going to sit back and say that this is—these are just businessmen operating with mergers and acquisitions. They are just driven by profit.

They are driven by profit, but they are also driven by evil and they terrorize the Mexican people, and they terrorize the state of Mexico. They are a direct threat, as Mr. Calderon said, to the democracy and the electoral process in Mexico. I don't think we can stand back blindly and not call it what it is.

So, again, thank you for this bill—calling, defining the acts of the drug cartels precisely what they are, acts of terrorism. And with that, I yield back.

Mr. MACK. I thank the gentleman, and I would now like to recognize the gentlelady Ms. Schmidt for 5 minutes.

Ms. SCHMIDT. Thank you so much, Mr. Chairman, and thank you, Ranking Member, for this attention to this very important issue. And it is an issue of national security.

As has been stated, the drug trafficking organization is out of control. Savage assaults, robberies, kidnappings, in addition to brutal and sadistic murders are occurring almost on a daily basis. According to the Mexican Government's own statistics, more than 34,500 murders have occurred in Mexico in the 4-year span between 2007 and 2010.

Grupo Reforma, a Mexican media outlet, reported that 6,500 killings took place in Mexico in 2009 as a direct result of criminal drug activity. In 2010, they did a whole lot better with 11,500 killings occurring in Mexico as a direct result of drug trafficking activity.

According to Grupo Reforma, the number of drug trafficking murders that has occurred in Mexico between January 11 of this year and August 11 is over 8,600. As we can see, the trend continues to go up. Why has this occurred? I think it is because the question lies not in just the proliferation of the DTOs, but also in the TCOs or transnational criminal organizations.

Our effort so far to combat this has been through the Merida Initiative. Over $1.5 billion in equipment and training for Mexico and Central America has gone to date, and yet I don't think it is working.

The problem with the administration's new proposal, the Beyond Merida, is that it fails to recognize that today's drug cartels, being transnational criminal organizations, whose crimes now not only include robbery and kidnapping but human trafficking, money

laundering, and murder. And as a result, the administration's new proposal, while containing some laudable objections, is incomplete and missing the important component of counterinsurgency strategy.

Mr. Chairman, I applaud your efforts to address this missing component. H.R. 3401, the Enhanced Border Security Act, if passed, would strengthen our border with Mexico and target Mexican TCOs doing business and committing crime within the United States. It would provide the counterinsurgency strategy currently missing in our efforts to combat these Mexico TCOs, and I am very proud to support this legislation.

I thank you, and I yield back.

Mr. MACK. I thank the gentlelady. And hearing no amendments, the question now occurs on adoption of the bill.

Mr. ENGEL. Mr. Chairman?

Mr. MACK. Yes, sir.

Mr. ENGEL. I am wondering if I could just make another brief statement about this bill. Let me move to strike the last word.

Mr. MACK. The gentleman is recognized.

Mr. ENGEL. Thank you, Mr. Chairman. I just wanted to quote from Bill Brownfield, whom we all have tremendous respect for, because what I see this bill doing, it essentially tears up the Merida Initiative and kind of moves in a different direction. And I am still of the belief that the Merida Initiative is the best way to continue to move forward.

So I just want to just very briefly quote Secretary Brownfield, who is the Assistant Secretary, Bureau of National Narcotics and Law Enforcement Affairs. And he said, very briefly, "There is no doubt in my mind, ladies and gentlemen, that the United States is better and safer today thanks to our support for the Merida Initiative."

And then he went on to say at our hearing, "Mr. Chairman, the Merida Initiative was not engraved in stone. It is a living strategy that is modified, adjusted, and corrected, as circumstances change on the ground and we learn lessons." Some of those lessons came from the United States Congress and came from some members in this chamber.

And then he went on to say, "Mr. Chairman, there were two lessons we did not have to learn, because we already knew them. The first is that Merida is a cooperative agreement between the U.S. and Mexico, with the Government of Mexico in charge of all activities within their territory. If we do not work together with the Mexican Government, then we accomplish little for either the American or the Mexican people."

I just wanted to mention it, because I really do believe that we can achieve what you want to achieve and what I want to achieve and what we all here want to achieve, all of us, working within the Merida Initiative. And I don't believe that this bill is necessary.

And then, finally, I want to just say, in terms of procedure, we don't have a quorum here. But I won't——

Mr. MACK. We do have a quorum.

Mr. ENGEL. Okay. But I was going to say, but I won't object. But I don't have to object, because members are here. Okay.

Mr. MACK. I thank the gentleman. And let me just also note that Mexico also says that Merida is not enough, that it is too slow and not effective.

Hearing no amendments, the question now occurs on the adoption of the bill. All those in favor say aye.

All those opposed say no.

In the opinion of the chair, the ayes have it. The bill is agreed to. And without objection, the motion to reconsider is laid on the table. Without objection, the bill will be reported favorably to the full committee, and the staff is directed to make any technical and conforming changes.

I now call up H.R. 2542, to hold the Organization of American States, the OAS, accountable.

[H.R. 2542 follows:]

I

112TH CONGRESS
1ST SESSION

H. R. 2542

To withhold twenty percent of United States assessed and voluntary contributions to the Organization of American States (OAS) for every permanent council meeting that takes place where Article 20 of the Inter-American Charter is not invoked with regard to Venezuela's recent constitutional reforms, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2011

Mr. MACK (for himself, Mr. DIAZ-BALART, and Mr. SIRES) introduced the following bill; which was referred to the Committee on Foreign Affairs

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A BILL

To withhold twenty percent of United States assessed and voluntary contributions to the Organization of American States (OAS) for every permanent council meeting that takes place where Article 20 of the Inter-American Charter is not invoked with regard to Venezuela's recent constitutional reforms, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress finds the following:

5 (1) Article 3 of the Inter-American Democratic
6 Charter of the Organization of American States

(OAS) states that, "Essential elements of representative democracy include, inter alia, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government.".

(2) Article 4 of the Inter-American Democratic Charter states that "Transparency in government activities, probity, responsible public administration on the part of governments, respect for social rights, and freedom of expression and of the press are essential components of the exercise of democracy. The constitutional subordination of all state institutions to the legally constituted civilian authority and respect for the rule of law on the part of all institutions and sectors of society are equally essential to democracy.".

(3) Article 20 of the Inter-American Democratic Charter states that "In the event of an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a

member state, any member state or the Secretary General may request the immediate convocation of the Permanent Council to undertake a collective assessment of the situation and to take such decisions as it deems appropriate. The Permanent Council, depending on the situation, may undertake the necessary diplomatic initiatives, including good offices, to foster the restoration of democracy.''.

(4) In December 2010, Venezuela's President, Hugo Chavez, in coordination with a pliant legislature, passed a package of laws, including the Enabling Act or Enabling Law, which fundamentally altered the Venezuelan Constitution.

(5) As a result of the legislation, essential freedoms are impaired, including the freedom of speech through restrictions on the internet and television, a breakdown in strong, independent, and pluralistic political parties through electoral reform that expels from parliament politicians who change parties, vote against certain legislation, or align with ideologically opposed ideas or people, separation of powers and subordination of the state to the people through the removal of the municipal and regional governments' constitutional mandate, and fundamentally altering the ability of the people to govern themselves, in ad-

dition to the president's ability to rule by decree for eighteen months in nine broad areas such as social, economic, territorial, and national security, and respect for social rights through changes to the education sector by controlling curriculum and ideology in universities.

(6) The package of laws, including the Enabling Act, therefore violate essential elements of the exercise of democracy as stated in Articles 3 and 4 of the Inter-American Democratic Charter.

(7) Secretary General Jose Miguel Insulza stated in an interview with Associated Press that he believed the Enabling Act in Venezuela was "anti-democratic, unconstitutional and a violation of the Inter-American Charter,".

(8) Assistant Secretary of State for the Western Hemisphere, Arturo Valenzuela, reiterated the description of the Enabling Law as "undemocratic".

(9) The most recent Worldwide Threat Assessment by the Director of National Intelligence found that "at the end of the legislature's lame duck term, Chavez and his allies passed legislation that gives more resources to his loyal community councils, allowing Chavez to claim that he is both bolstering

1 participatory democracy and creating new means of
2 funneling resources to supporters.".
3 (10) According to the Inter-American Demo-
4 cratic Charter, invocation of Article 20 may be made
5 by the Secretary General or any member state of the
6 Organization of the American States in the event of
7 an unconstitutional alteration of the constitutional
8 regime that seriously impairs the democratic order
9 in a member state.
10 (11) Also, according to the Inter-American
11 Democratic Charter, invocation of Article 20 sig-
12 nifies the calling of the Permanent Council to deter-
13 mine next steps, through diplomatic initiatives, to
14 foster the restoration of democracy in a member
15 state. If such initiatives fail to restore democracy,
16 Article 21 is employed to call a special session of the
17 General Assembly in order to take the decision to
18 suspend such member state from the exercise of its
19 right to participate in the OAS by an affirmative
20 vote of two-thirds of the member states in accord-
21 ance with the Charter of the OAS. The suspension
22 shall take effect immediately.

1 **SEC. 2. INVOCATION OF ARTICLE 20 OF THE INTER-AMER-**
2 **ICAN DEMOCRATIC CHARTER.**

3 (a) WITHHOLDING OF CONTRIBUTIONS.—For every
4 Permanent Council meeting of the Organization of Amer-
5 ican States (OAS) that, beginning after the date of the
6 enactment of this Act, meets without the invocation of Ar-
7 ticle 20 of the Inter-American Democratic Charter and the
8 ensuing discussion with regard to Venezuela's violation of
9 such Charter, as guaranteed in such Charter, the Sec-
10 retary of State shall withhold 20 percent of assessed and
11 voluntary United States contributions to the OAS for the
12 fiscal year in which each such meeting begins (or, if 20
13 percent is not available for withholding in such fiscal year,
14 the Secretary shall withhold the highest percentage pos-
15 sible in such fiscal year and the remaining percentage in
16 the subsequent fiscal year).

17 (b) RESUMPTION OF CONTRIBUTIONS.—The Sec-
18 retary of State shall resume making assessed and vol-
19 untary United States contributions to the OAS upon the
20 invocation of Article 20 and the discussion of Venezuela's
21 violation of the Inter-American Democratic Charter at a
22 meeting of the Permanent Council.

23 (c) DEFICIT REDUCTION.—Amounts withheld pursu-
24 ant to subsection (a) shall be applied to reduce the Federal

1 budget deficit, or, for any fiscal year for which there is

2 no Federal budget deficit, to reduce the Federal debt.

○

Mr. MACK. I recognize myself for opening remarks. I want to first make this clear from the start: H.R. 2542 does not defund the OAS. H.R. 2542 requires only that the OAS uphold its international commitments in order to receive U.S. taxpayer dollars. Under this legislation, every time the OAS has an opportunity to uphold freedom and democracy by enforcing its democratic charter, and decides not to, the U.S. will save approximately $11 million. If no action is taken to address individual member states' gross noncompliance with the OAS democratic charter, the United States will have saved $57 million by the end of 2012.

Like many of my colleagues, I prefer to have a functional and effective organization that upholds its commitments to democracy throughout our important region. However, the OAS has proven unable or unwilling to do so. The OAS should not continue to receive increased funding each year when it continuously fails to do its job.

A meeting was held yesterday at the OAS to discuss this specific issue—the fact that there is a clause in the democratic charter, Article 20, designated to hold nations accountable for their anti-democratic actions. The consensus within the OAS is that Article 20 is not functioning. Prior to yesterday's meeting, the consensus was also that there was no need to amend the democratic charter.

This is why H.R. 2542 is necessary. The OAS is unable to take concrete actions to fix its flaws without outside pressure. Within the past year, the OAS has failed to stand with the people of Venezuela and Nicaragua, while 2 years ago it was hypocritically punishing Honduras, within days of that country's decision to stand on the side of freedom.

Yesterday in Venezuela, Chavez again displayed his control of the judiciary system, forcing a judge to remain under arrest for another 2 years just because the judge dared defy him in a routine ruing. And there is absolutely no excuse for a statement by Secretary General Insulza supporting the Nicaraguan dictator Daniel Ortega's shame election as a "step forward—step toward—step forward for democracy."

While the OAS later withdrew the statement, the harm was already done. I shudder to think how much harm the OAS can cause during the Venezuela elections next year. The American taxpayer should not be expected to contribute almost 60 percent of the budget for an organization that works against the interests and fundamental principles of freedom and democracy.

This legislation is necessary to force needed changes within the Organization of American States. If the OAS finds that it is unable to make itself effective, there remains no reason for its continued existence.

I am now pleased to recognize the ranking member for him to speak on this measure. Mr. Engel is recognized.

Mr. ENGEL. Thank you, Mr. Chairman. And let me first state the obvious, that you and I both know we agree on so many things. We both want to see more pressure brought on Hugo Chavez's authoritarian government. We both want to expand freedom in the hemisphere. We both want to expand prosperity in the Americas. And we both want to fight the narco criminals' brutality. It is bringing devastation from the southern U.S. and Mexico all the way down through Central America and the Caribbean and into the Andean region.

But we both know that there will come a day when another tragedy will strike somewhere in the Americas. There will be another hurricane like the ones which have periodically devastated Central America or another earthquake like the one which struck Haiti. When that happens, I think we would both expect the OAS's Permanent Council to meet. Under this bill, if the Permanent Council meets to discuss how to deal with the tragedy in Haiti, but does not take up how Venezuela is violating the Inter-American Democratic Charter, we will withhold 20 percent of our contributions to the OAS.

And if we take this a step further, after 9/11 the OAS Permanent Council met to condemn the terrorist attacks on the United States after 9/11 and passed a resolution to call upon governments to "use all necessary and available means to pursue, capture, and punish those responsible for these attacks."

Mr. Chairman, I know you don't possibly mean this, but if the bill became law and the OAS Permanent Council condemned the attacks of 9/11 without calling for democracy in Venezuela, we would have to withhold 20 percent of their funding. So if we were ever attacked again, as we were on 9/11, and the OAS Permanent Council met to show that the hemisphere stands with the United States, but they didn't condemn Venezuela, we would have to withhold their funds. And that certainly doesn't make any sense to me.

I continue to believe that the OAS, with all its problems, with all its flaws, is the best thing we have going, best thing we have to ensure democracy in the western hemisphere, best thing we have to ensure that the United States has a voice in the western hemisphere within an international organization.

If we don't have the OAS, if the OAS were to go away tomorrow, what would we replace it with? Unisur, where the United States is really not a participant? Or this new group which excludes both the United States and Canada? I just think that punishing the OAS, hurting the OAS, is like cutting off our nose to spite our face. I don't think that it makes any sense whatsoever.

The things that we think need to be strengthened at the OAS we should work with other countries to strengthen it. And I am the last one to make excuses for some of the things that have happened in the OAS. I think that there has been a coddling for too long of Chavez and some of the other governments that you know and I know, and we agree, are not the wave of the future but quite the opposite for the hemisphere.

But I think, you know, the State Department Authorization Act, which the full committee took up 5 months ago, cut funding for

OAS, cut it out. And I think that that was a very foolish thing to do. I think it is a counterproductive thing to do, and I think it is a thing that hurts U.S. interests. I think it hurts the interests, frankly, of the entire hemisphere.

But I think especially it hurts U.S. interests, because we have influence at the OAS, and we have the ability to try to get other governments to see it our way or to agree with us. I think if you defund it, if you blow it up—and I understand that this language doesn't specifically do that, but it is in line with what we did as a full committee 5 months ago during the State Department authorization. It is hostile to the OAS.

I don't have the hostility to the OAS. I think the OAS has been a very useful body, has been a positive body. They have made mistakes, and I disagree with it, and we should call them out when we disagree. But I think it serves the best interests of the entire western hemisphere and the best interests of the United States.

And so I just don't think doing something like this is productive. I think it is counterproductive, and I think the examples I gave in terms of if they have a resolution that has nothing to do with Venezuela, and they don't take up how Venezuela is violating the Inter-American Democratic Charter, we would have to withhold 20 percent of our contributions to the OAS.

I think that is like killing a fly with a sledgehammer, and I respectfully have to oppose this bill.

Thank you.

Mr. MACK. Again, I thank the gentleman, and now would like to recognize the gentleman from Texas for 5 minutes.

Mr. MCCAUL. Thank you, Mr. Chairman. Let me say that I support this bill, because it stands up to the dictatorship of Hugo Chavez and stands with freedom and democracy in Venezuela. This bill would withhold 20 percent of the United States' contributions to the OAS if they don't start implementing Article 20 of the Inter-American Charter to encourage democracy in Venezuela.

Article 20 states that when an OAS member is acting in an anti-democratic way, the Secretary General may request the immediate assembly of the Permanent Council to enact diplomatic measures. That is what must be done, at the very least, in the case of Venezuela.

Hugo Chavez has nationalized private industry, restricted freedoms of the press, neutralized the independence of the judicial branch. He has blocked political opponents by accusing them of crimes or putting them in jail. His government aids and abets the terrorist organization FARC, and in yesterday's Washington Times it reported that Venezuelan diplomats in Mexico have been working with Iranian officials to launch a cyber attack against the United States.

If this isn't the definition of an anti-democratic regime, I don't know what is. And if this isn't the time for the OAS to act, I don't know when that time would be. We are on the side of right here, and we must act now to ensure that democracy isn't further stifled here in our hemisphere.

So I urge my colleagues to support this legislation and send a message to these anti-democratic regimes that they will not be coddled by the OAS.

With that, I yield back.

Mr. MACK. And I thank the gentleman, and now I would like to recognize the gentlelady Ms. Schmidt for 5 minutes.

Ms. SCHMIDT. Thank you so much, Mr. Chairman, for bringing up this very important issue. You know, Article 3 of the OAS democratic charter outlines respect for fundamental freedoms, including independent branches of government, and Chavez has violated this. Chavez's laws last year to restrict the legislature and efforts to control the judicial system are clear violations of the charter.

Former Assistant Secretary of State Venezuela and Secretary General Miguel Insulza has recognized Venezuela's violation of the OAS democratic charter. Even President Obama said that Chavez "is subverting the will of the Venezuelan people."

The State Department has requested almost $60 million for OAS for Fiscal Year '12—an organization that will not even discuss its own members' violations of the charter. Sometimes you have to speak with a loud voice and say, "Enough is enough."

Sixty million dollars for a broken, ineffective organization I believe is wasting our precious taxpayer dollars, and it is for that reason, Mr. Chairman, that I am going to vote yes on this very important initiative.

Mr. MACK. Thank you very much. Anyone else wish to speak on this?

Mr. ENGEL. Mr. Chairman, I move to strike the last word.

Mr. MACK. The gentleman is recognized.

Mr. ENGEL. Thank you, Mr. Chairman. Again, I want to make a point that I made before. I think all members would agree that the OAS is not a perfect institution. Neither are we. But, frankly, the OAS is much better than the alternatives.

I find it very hard to understand that precisely when Hugo Chavez—and you know and I know I am no fan of Hugo Chavez, and you and I feel the same way about him. But I find it hard to understand that precisely when Chavez is setting up an alternative organization in the Americas called the CELAC, which excludes the United States but includes Cuba, we are considering a bill to undercut the OAS, where the U.S. is a member and has influence and where Cuba is excluded.

Even more, this bill would withhold funding for all parts of the OAS, including the Inter-American Court of Human Rights, which recently ruled against Chavez that opposition leader Leopoldo Lopez must be permitted to run for President, and the Inter-American Commission on Human Rights, which has criticized Chavez almost as much as we have.

As I said, the OAS is not perfect, but I agree with former Ambassador Jaime Daremblum, a recent Republican witness at a full committee hearing, that we need a strengthen, reformed OAS, not an undermined, weakened one.

In fact, contrary to what we see today, opposition to gutting the OAS is by bipartisan, and other leading Republicans have spoken out against destroying the OAS, too.

Ambassador Bill Middendorf, a member of the Board of Trustees of the Heritage Foundation and the International Republican Institute said, and I am quoting him, "I think it would be a tragedy if we just announced that we are getting rid of the OAS. I think there

would be a lot of room for mischief from foreign countries, particularly China, which has already bought up everything down there anyway."

It is funny that he mentions China, because President Hu Jintao just sent a message to Chavez congratulating him on the founding of the CELAC. And we are further reminded by Ray Walser, a Heritage Foundation expert, who has testified in this committee many times that "putting a dagger through the heart of the OAS" is exactly what Hugo Chavez wants. According to Walser, that is why Chavez is pushing the CELAC as an alternative to the OAS, because it will be "a permanent platform for anti-Americanism."

So if you are following this, I believe we are actually doing Chavez's bidding today. Chavez wants the OAS killed, and we are here to do it for him. So let me just say you know who else says no, that we shouldn't be doing this? The Venezuelan opposition to Chavez.

In a recent letter to this committee, Venezuela's United Democratic Opposition wrote, "Venezuela's democracy is in peril. In such a difficult context, the OAS is a key international organization. The cause of freedom and hemispheric security requires, more than ever, appropriate funding and support to the OAS from the United States and all its member states."

So the Venezuelan opposition, which wants to topple Chavez, says that we are doing the wrong thing here. So, Mr. Chairman, I agree that the OAS should speak out more when democracy is imperiled, especially in Venezuela. I agree with you. But let us not throw the baby out with the bath water. Let us not hand Chavez a victory by undercutting the OAS.

Rather, let us work to improve the OAS by coordinating more closely with countries in the region and improving our diplomacy, but not by destroying the OAS simply because it is imperfect; not trying to starve it of funds because we don't like some of the things that are happening.

So again, Mr. Chairman, I thank you for letting me speak again, but I am going to vote no on this bill. And I yield back.

Mr. MACK. I thank the gentleman. Are there any amendments to this measure? The gentleman from Miami, Mr. Rivera.

Mr. RIVERA. Thank you, Mr. Chairman. I have an amendment at the desk.

Mr. MACK. The clerk will report the amendment.

Mr. GATELY. Amendment to H.R. 2542 offered by Mr. Rivera of Florida. In Section 1——

[The amendment offered by Mr. Rivera follows:]

AMENDMENT TO H.R. 2542

OFFERED BY MR. RIVERA OF FLORIDA

In section 1, add at the end the following:

1 (12) In October 2009, Nicaragua's Ortega-sup-
2 ported, Sandinista-controlled Supreme Court over-
3 turned the Nicaraguan Constitution's ban on con-
4 secutive presidential terms. According to Article 191
5 of the Constitution, this action is outside the Su-
6 preme Court's realm of authority. In addition, Arti-
7 cle 147 of the Nicaraguan Constitution explicitly
8 prohibits presidents from serving consecutive terms
9 and running for reelection.
10 (13) Nicaragua's Supreme Electoral Council,
11 which has jurisdiction over all elections in the coun-
12 try, did not operate in a transparent and impartial
13 manner during the 2011 presidential elections. Ac-
14 cording to the Department of State, the Council
15 failed to accredit certain credible domestic organiza-
16 tions as observers, such as the non-partisan
17 Hagamos Democracia. On election day, some of
18 those observers who were granted accreditation were
19 still denied access to voting centers. For example,

1 OAS observers were prevented from entering at least
2 20 percent of the polling stations.
3 (14) The 2011 Nicaraguan presidential elec-
4 tions were neither free nor fair. According to elec-
5 tion observers such as the European Union and
6 OAS, voters faced difficulties in obtaining the proper
7 identification needed to cast their vote and certain
8 precincts opened late. In addition, the Supreme
9 Electoral Council rejected or stalled the credentials
10 of poll monitors hailing from the opposition party,
11 allowing Sandinista supporters to monitor stations
12 and count the ballots.

In section 2, insert "and Nicaragua's" after "Venezuela's" each place it appears.

Mr. MACK. Without objection, the amendment is considered as read. I am pleased to recognize Mr. Rivera to explain his amendment.

Mr. RIVERA. Thank you very much, Mr. Chairman. And first of all, I wanted to say I very strongly support your efforts with this bill. And I actually believe the bill will strengthen the OAS and it will send the right message that the OAS member states and the OAS in general needs to adhere to its charter, or otherwise face consequences, and that U.S. funds are not unlimited.

And they should know that we believe money needs to be spent wisely. Our duty is to the American taxpayer, first and foremost, not necessarily to any other country that may not like our discipline or our attempts to find fiscal discipline. So this should be a wakeup call to the OAS, and particularly those countries that are part of the issue of not adhering to the charter, such as Venezuela.

This amendment will add Nicaragua to that list of countries, because Nicaragua recently has taken some very undemocratic actions. Its recent elections are a pure example of taking undemocratic actions. They have been violating their own constitution. Even in the implementation of those elections, there were many election violations and irregularities found in Nicaragua.

So this amendment will add Nicaragua to the bill, with Venezuela, and make sure that the OAS charter is adhered to. And, if not, with the case of Nicaragua, along with Venezuela, OAS would lose the funding. So that is the amendment, Mr. Chairman.

Mr. MACK. And I thank the gentleman from Miami.

Unless there are other members who wish to strike the last word and speak briefly——

Mr. ENGEL. Yes, Mr. Chairman.

Mr. MACK. Yes, the gentleman is recognized.

Mr. ENGEL. Thank you. I move to strike the last word. Thank you. Mr. Chairman, the gentleman from Florida is correct. The elections in Nicaragua were severely flawed. There was fraud in the balloting, and election observers were not permitted to do their job. However, here is where I disagree with the gentleman. I believe that the OAS did do its job as observers in Nicaragua and did it reasonably well.

Prior to our recent hearing on Nicaragua, the head of the OAS election observer mission, Dante Caputo, briefed members about its observer mission in Nicaragua. He reported that there was substantial interference in the work of the OAS observers on the part of local voting board officials. In the OAS case, such interference even hindered a plan to conduct a quick count and perform other statistical analysis of the voting data.

Mr. Caputo was clear about these violations by the Nicaraguan Government. He pulled no punches in describing how his observers were blocked from carrying out their roles. Because they were unable to carry and fulfill their duties and observe the election, the OAS told the world they would not certify the election in Nicaragua, essentially confirming the fraud which took place.

As the gentleman from Florida may know, the Government of Nicaragua then attacked the OAS for holding that their election was poorly run and marked by election law violations.

So, Mr. Chairman, I understand, and frankly agree with the gentleman from Florida—by the way, from Florida by way of New York, he used to be my constituent—that it might be good for the OAS Permanent Council to meet on this matter. I agree with the gentleman from Florida it would be good for the OAS Permanent Council to meet on this matter.

But I think the world was informed by the OAS of the problems in this election, of the troubles in this election. The OAS was unwilling to certify the election, and that sent a clear signal about the fraud in the Nicaraguan election. But yet if we pass this bill, as amended by Mr. Rivera's amendment, we would withhold funding from the OAS election observer teams, the very ones which were critical of the Nicaraguan elections.

So it really doesn't make much sense to me. I don't understand why we are doing this. I think that it was very clear, by what the OAS people said, that the elections in Nicaragua were fraudulent and flawed, and they said it. So I don't know why we are trying to hurt them. I don't understand it.

So I urge my colleagues to vote no on the amendment, and I yield back the balance of my time.

Mr. MACK. And I thank the gentleman. Does anyone else wish—seek time?

Mr. SMITH. Mr. Chairman?

Mr. MACK. Yes, sir. The gentleman is recognized.

Mr. SMITH. I thank the chair. Let me just say briefly that I will be voting for the chairman's bill and for the amendment offered by my good friend Mr. Rivera. It is a conditional yes. I mean, the hope is that the OAS will finally, at long last, step up to its responsibilities to ensure democracy.

You know, the Chavez dictatorship is enabled, perhaps unwittingly, because there are people within the OAS who care deeply about democracy and freedom and human rights But when there is no strong statement, when there is no invocation, as there ought to be, as Condoleezza Rice tried to do just a few years ago when she was Secretary of State, that kind of passivity, that kind of indifference enables dictatorship.

And for the people of Venezuela who suffer under the cruelty of Chavez, when his money is used to purchase votes throughout all of the Americas, especially as elections come around, and his money is dropped in one place after another to enable other dictatorships to move forward, we have a very serious problem here.

So I think the chairman—you know, we all know it is not likely that this legislation, at least right now, will become law, given the White House's view and given the difficulty of mustering 60 votes in the U.S. Senate for anything. I think this is a very important message center, and I applaud the chairman for being so tenacious in combating the dictatorship of Hugo Chavez and the other members of this committee. I know Eliot Engel cares deeply about it, but has a difference as to the modality that ought to be followed.

And I think including Nicaragua—I will never forget back in the early 1980s visiting with Commandante Daniel Ortega, who was violating human rights with such impunity. Four of us went down and met with him. Three of us who drank the water he gave us got sick, parenthetically. Who knows if it was because of that. The

one who didn't drink it did not get sick. But what he has done, his legacy of human rights violations, and then, you know, his most recent—which the Rivera amendment speaks to as to why he wants that included.

So it is a conditional yes. You know, I think the OAS can serve a very valuable purpose, but it has to step up to the plate. It can't sit idly by. It can't be indifferent to what Chavez is doing.

And, again, I think the chairman Connie Mack has said in this legislation, very clearly, it is a conditional—you know, we want them to be functional. We don't want them to go the way of the United Nations, where dictatorships routinely flaunt the process and enable the worst violators of human rights.

And in this case, after Fidel Castro, it has to be Hugo Chavez who does terrible things to his own people. He is a cancer. He is a cancer on the people of Venezuela. He hurts people. He destroys people, he destroys institutions, and then he spreads, you know, that cancer throughout all of the Americas.

The OAS can be a bulwark against that cancer. It has failed to do so. Hopefully, your message that you send with this legislation will enable them to find a stronger voice against this dictatorship.

I yield to Mr. Rivera.

Mr. RIVERA. Thank you so much. Just a quick comment, and I very much appreciate the comments by my friend Mr. Engel. My amendment tries not so much to speak to the OAS's observer missions to Nicaragua, which I am sure they did a very good job, but my amendment speaks to the content and the substance of the bill, which is the lack of adherence to Article 3 of the OAS and with respect to the organization's actions or lack of action vis-à-vis Nicaragua and the recent elections as it pertains to Article 3, not so much the observer mission during the election.

And I yield back.

Mr. MACK. Anyone else seek time?

[No response.]

The question is on agreeing to the amendment offered by Mr. Rivera. All those in favor say aye.

All those opposed say no.

In the opinion of the chair, the ayes have it, and the amendment is agreed to.

Hearing no other amendments, the question now occurs on adopting the bill as amended. All those in favor say aye.

All those opposed say no.

In the opinion of the chair, the ayes have it. The bill, as amended, is agreed to. And without objection, the motion to reconsider is laid on the table.

Mr. GALLEGLY. Mr. Chairman, can we have a rollcall vote on that, please?

Mr. MACK. A rollcall vote having been requested, the clerk will call the roll.

Mr. GATELY. Mr. Mack.

Mr. MACK. Yes.

Mr. GATELY. Mr. Mack votes aye.

Mr. McCaul.

Mr. MCCAUL. Aye.

Mr. GATELY. Mr. McCaul votes aye.

Ms. Schmidt.
Ms. SCHMIDT. Aye.
Mr. GATELY. Ms. Schmidt votes aye.
Mr. Rivera.
Mr. RIVERA. Aye.
Mr. GATELY. Mr. Rivera votes aye.
Mr. Smith.
Mr. SMITH. Yes.
Mr. GATELY. Mr. Smith votes aye.
Mr. Gallegly.
Mr. GALLEGLY. Aye.
Mr. GATELY. Mr. Gallegly votes aye.
Mr. Engel.
Mr. ENGEL. No.
Mr. GATELY. Mr. Engel votes no.
Mr. Sires.
[No response.]
Mr. Faleomavaega.
[No response.]
Mr. Payne.
[No response.]
Mr. MACK. Have all members been recorded?
Mr. GATELY. Yes.
Mr. MACK. The clerk will report the vote.
Mr. GATELY. We have six ayes and one no.
Mr. MACK. The ayes have it, and the question is agreed to.

Without objection, the bill will be reported favorably to the full committee in the form of a single amendment in the nature of a substitute, incorporating the amendment adopted here today. And the staff is directed to make any technical and conforming changes.

That concludes our business. And without objection, the subcommittee stands adjourned.

[Whereupon, at 12 o'clock p.m., the subcommittee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

SUBCOMMITTEE MARKUP NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-0128

Subcommittee on the Western Hemisphere
Connie Mack (R-FL), Chairman

December 9, 2011

You are respectfully requested to attend an OPEN meeting of the Committee on Foreign Affairs, Subcommittee on the Western Hemisphere, to be held in **Room 2172 of the Rayburn House Office Building (and available live, via the WEBCAST link on the Committee website at http://www.hcfa.house.gov):**

DATE: Thursday, December 15, 2011

TIME: 11:00 a.m.

MARKUP OF: H.R. 3401, To apply counterinsurgency tactics under a coordinated and targeted strategy to combat the terrorist insurgency in Mexico waged by transnational criminal organizations, and for other purposes; and

H.R. 2542, To withhold twenty percent of United States assessed and voluntary contributions to the Organization of American States (OAS) for every permanent council meeting that takes place where Article 20 of the Inter-American Charter is not invoked with regard to Venezuela's recent constitutional reforms, and for other purposes.

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE MARKUP

MINUTES OF SUBCOMMITTEE ON *the Western Hemisphere* MARKUP

Day *Thursday* **Date** *12/15/11* **Room** *2172*

Starting Time *11:00 am* **Ending Time** *12:00 pm*

Recesses *N/A* (____to ____) (____to ____) (____to ____) (____to ____) (____to ____) (____to ____)

Presiding Member(s)

Rep. Connie Mack

Check all of the following that apply:

Open Session ☑
Executive (closed) Session ☐
Televised ☑
Electronically Recorded (taped) ☐
Stenographic Record ☑

BILLS FOR MARKUP: *(Include bill number(s) and title(s) of legislation.)*

H.R. 3401, To apply counterinsurgency tactics under a coordinated and targeted strategy to combat the terrorist insurgency in Mexico waged by transnational criminal organizations, and for other purposes.

H.R. 2542, To withhold twenty percent of United States assessed and voluntary contributions to the Organization of American States (OAS) for every permanent council meeting that takes place where Article 20 of the Inter-American Charter is not invoked with regard to Venezuela's recent constitutional reforms, and for other purposes.

COMMITTEE MEMBERS PRESENT:

Reps. Mack, McCaul, Schmidt, Rivera, Smith, Gallegly, and Engel

NON-COMMITTEE MEMBERS PRESENT:

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*

Rep. Mack

ACTIONS TAKEN DURING THE MARKUP: *(Attach copies of legislation and amendments.)*

The Chair called up H.R. 3401 for consideration by the Subcommittee. H.R. 3401 was agreed to by voice vote and was ordered favorably reported to the Full Committee by unanimous consent. The Chair called up H.R. 2542 for consideration by the Subcommittee. An amendment offered by Mr. Rivera, Rivera 015, was agreed to by voice vote. H.R. 2542, as amended, was agreed to by a roll call vote of 6 ayes - 1 no, and was ordered favorably reported to the Full Committee by unanimous consent.

RECORDED VOTES TAKEN (FOR MARKUP): *(Attach final vote tally sheet listing each member.)*

Subject	Yeas	Nays	Present	Not Voting
H.R. 2542	*6*	*1*		*2*

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED *12:00 pm*

Subcommittee Staff Director

Subcommittee on the Western Hemisphere

Member Attendance

☑ Connie Mack, R-FL, Chairman

☑ Michael T. McCaul, R-TX

☑ Jean Schmidt, R-OH

☑ David Rivera, R-FL

☑ Christopher H. Smith, R-NJ

☑ Elton Gallegly, R-CA

☑ Eliot L. Engel, R-NY, Ranking Member

☐ Albio Sires, R-NJ

☐ Eni F. H. Faleomavaega, D-AS

☐ Donald M. Payne, D-NJ

Opening Statement
Chairman Connie Mack
Western Hemisphere Subcommittee
Markup of H.R. 3401 and H.R. 2542
December 15, 2011

H.R. 3401, the Enhanced Border Security Act, to apply counterinsurgency tactics under a coordinated and targeted strategy to combat the terrorist insurgency in Mexico waged by transnational criminal organizations, and for other purposes

The Enhanced Border Security Act draws our attention to a serious problem that requires immediate action. I have held two hearings in this subcommittee on the topic of Mexico, and have yet to see an increase in U.S agency coordination or a substantial shift in approach.

I drafted this legislation to ensure that action is taken to secure our border, stop transnational criminal activity in the United States, and secure the role of the state in Mexico.

A terrorist insurgency is being waged along our southern border, with operations across Mexico and Central America as well as in over 1,000 U.S. cities. Many of the 40,000 people killed since 2006 have died brutal, public deaths.

The term "terrorist insurgency" may be strong, but it is based on unchallenged facts. President Calderon identified recent activity perpetrated by drug traffickers, the Zetas as "an act of terrorism." Last week he outlined insurgent tactics taking place in Mexico, stating that (and I quote) "crime now also constitutes an open threat to democracy. The glaring interference of criminals in the electoral process is a new and worrying development."(End quote)

The U.S. State Department has also publically verified that terrorist and insurgent tactics are being employed in Mexico.

Drug traffickers and criminal organizations have combined efforts to work across borders, unravel government structures, and make large profits from diverse illegal activity: The near term result- schools, media, and candidates all controlled by criminal organizations… In other words, total anarchy.

Let me reiterate: These transnational criminal organizations are engaged in the protracted use of irregular warfare and extreme violence to influence public opinion and to undermine government control in order to increase their own control.

This is a terrorist insurgency.

Meanwhile, the State Department is leading the charge of U.S./Mexico security policy through the Merida Initiative. And they are failing. Merida has not and will not be able to address the pending terror we face.

Mexican transnational criminal organizations have evolved to reflect traditional insurgents in the way that they:

1. Rely on external support and cross-border sanctuaries
2. Require access to money to feed their ability to operate and
3. Control the hearts and minds in their territory

Therefore, we need a strategy that uses appropriate counterinsurgency tactics to:

1. secure the border through personnel, technology and infrastructure,
2. stop criminal access to U.S. financial institutions, and
3. work with Mexico, through integrated counterinsurgency tactics, to undermine the control of these criminal organizations.

This is exactly what H.R. 3401 is calling for.

Recent reports show success in integrating military counter insurgency tactics, with limited resources, to bolster local law enforcement and curb drug related criminal activity within a dangerous U.S. city.

H.R. 3401, the Enhanced Border Security Act, is forcing the State Department to incorporate lessons learned, and the expertise of all appropriate U.S. agencies, to construct a strategy based on relevant counterinsurgency tactics to counter these illegal groups in Mexico, at the U.S. border, and within the United States.

I urge all of my colleagues to work with me in taking the first step toward developing a strategy that can succeed through the passage of the Enhanced Border Security Act

Opening Statement
Chairman Connie Mack
Western Hemisphere Subcommittee
Markup of H.R. 3401 and H.R. 2542
December 15, 2011

H.R. 2542, to withhold twenty percent of United States assessed and voluntary contributions to the Organization of American States (OAS) for every permanent council meeting that takes place where Article 20 of the Inter-American Charter is not invoked with regard to Venezuela's recent constitutional reforms, and for other purposes

I want to make this clear from the start – H.R. 2542 does not defund the Organization of American States. H.R. 2542 requires only that the OAS uphold its international commitments in order to receive U.S. taxpayer dollars.

Under this legislation, every time the OAS has an opportunity to uphold freedom and democracy by enforcing its Democratic Charter, and decides not to – the U.S. will save approximately $11 million. If no action is taken to address individual Member States' gross noncompliance with the OAS Democratic Charter – the United States will have saved $57 million by the end of 2012.

Like many of my colleagues, I prefer to have a functional and effective organization that upholds its commitments to democracy throughout our important region. However, the OAS has proven unable or unwilling to do so. The OAS should not continue to receive increased funding each year when it continuously fails to do its job.

A meeting was held yesterday at the OAS to discuss this specific issue – the fact that there is a clause in the Democratic Charter – Article 20 – designed to hold nations accountable for their anti-democratic actions.

The consensus within in the OAS is that Article 20 is not functioning. Prior to yesterday's meeting, the consensus was also that there was no need to amend the Democratic Charter. This is why H.R. 2542 is necessary; the OAS is unable to take concrete actions to fix its flaws without outside pressure.

Within the past year the OAS has failed to stand with the people of Venezuela and Nicaragua, while two years ago it was hypocritically punishing Honduras within days of that country's decision to stand on the side of freedom.

Yesterday in Venezuela, Chavez again displayed his control of the judicial system – forcing a judge to remain under arrest for another two years – just because the judge dared defy him in a routine ruling.

And there is absolutely no excuse for a statement by Secretary General Insulza supporting the Nicaraguan dictator Daniel Ortega's sham election as a "step forward for democracy."

While the OAS later withdrew the statement, the harm was already done. I shudder to think how much harm the OAS can cause during the Venezuelan elections next year.

The American taxpayer should not be expected to contribute almost 60% of the budget for an organization that works against the interests and fundamental principles of freedom and democracy.

This legislation is necessary to force needed changes within the Organization of American States. If the OAS finds that it is unable to make itself effective, there remains no reason for its continued existence.

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