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Media Background on the North American Leaders' Summit

WASHINGTON-- The Washington Office on Latin America (WOLA) will follow President Obama's visit to Guadalajara, Mexico on August 9-10 for the North American Leaders' Summit and will be available to provide analysis on the trip.

WOLA believes that the Summit is an opportunity for President Obama, President Calderon and Prime Minister Harper to address the security challenges in Mexico in the context of long-term reforms to Mexico's police and judicial institutions.

Combating transnational threats such as organized crime and illegal drugs were defined as priority areas by the leaders of Canada, the United States and Mexico in the framework of the Security and Prosperity Partnership of North America (SPP). As the leaders meet in Guadalajara, key parts of this discussion will likely focus on Mexico's efforts to combat drug trafficking and drug-related violence.

In a news conference held at the last North American Summit in Quebec, Canada on August 21, 2007, both President Bush and President Calderón called the US security assistance package that was being negotiated, culminating in the October 2007 announcement of the Merida Initiative, the development of a common strategy to deal with the common problem of drug-trafficking and violence along the U.S.-Mexico border. Calderón particularly emphasized that the United States must also do its part, stating that "I am calling upon my neighbor in order to act in a coordinated way, because it's a situation we both have to face. It's a problem that affects [the] two countries, and only together will we be able to solve it."ⁱ

Some background on key issues:

1. Human rights in the context of counter drug operations

Human rights complaints against the Mexican military have increased close to six fold since President Calderon took office in 2006. According to Mexico's National Commission on Human Rights (CNDH), complaints against the Mexican military have increased from 182 in 2006 to 1,230 in 2008, including abuses such as arbitrary and illegal detention, sexual abuse, and torture. These violations could lead the US Congress to withhold close to \$100 million in counter narcotics assistance contemplated in the first two years of funding under the Merida Initiative. The Department of State was getting ready this week to issue its report to Congress on the human rights requirements included in the Merida Initiative which justified the release of this money. This plan was put on hold after Senator Leahy, the chairman of the Senate Appropriations foreign operations subcommittee, issued a statement affirming that "those requirements have not been met, so it is premature to send the report to Congress."ⁱⁱ WOLA, as well as numerous other human rights group, believe the money should be withheld because the Mexican government has failed to meaningfully advance the investigation, prosecution or sanction of human rights violations, particularly abuses committed by members of the Mexican military against civilians.ⁱⁱⁱ

President Obama and Prime Minister Harper should express concern over the serious human rights violations that have taken place recently in the context of counter drug operations.

2. Mexico's capacity to investigate and prosecute criminals

The ability to identify, prosecute, and punish drug traffickers is a key element in containing the drug trade. There have been over 12,500 drug-related killings in Mexico since December 2006. As staggering as these numbers are, it is noteworthy that the majority of these murders may never be solved. The Mexican Citizen Institute for Research on Insecurity (INCESI) found that initial investigations are begun for only 13% of the reported crimes and in only 5% of these crimes are the alleged perpetrators brought before a judge.^{iv} The same institute estimates that of every 100 investigations, only 4 cases result in sentencing the person responsible. Media reports indicate that Mexico has detained over 60,000 suspects allegedly linked to drug trafficking activities during the Calderon Administration, but the Mexican Attorney General's office was unable to provide information on how many of these detainees remain in custody or whether they had been charged with crimes.^v

The persistence of corruption and impunity within Mexico's criminal justice system perpetuates drug trafficking and the violence that comes with it and leads to human rights abuses. Mexico will not overcome the threats of the cartels until it can ensure efficient investigations and the adequate collection of evidence.

The Obama Administration should continue to support Mexico's efforts to overhaul its judiciary system. Given the extent of the judicial reforms being undertaken, which entail a transformation from an inquisitorial to an adversarial system based on oral trials, the Mexican government has established an eight year transition period. US support for these reform efforts could include: updating law school curricula and text books to include instructions on the accusatory system; providing technical assistance/peer exchanges/training for Mexican judges, attorneys and prosecutors on the accusatory system; enhancing programs to strengthen Mexico's public prosecutors in the areas of evidence handling and chain of custody and for equipment and training for expert services; expanding victim and witness protection and restitution programs and providing security for judges and prosecutors handling high-profile cases.

3. Police reform efforts

A lack of accountability and corruption in the Mexican police forces continues to plague the public security system. The Calderon administration has adopted several measures to vet Mexico's police forces and establish centers that carry out annual reviews of police performance utilizing a series of evaluations. However, according to the Office of Control and Confidence within the Public Security Ministry (*Secretaría de Seguridad Pública*, SSP), which evaluated 56,065 officers in 2008 – approximately 15% of the police in Mexico – almost half, 49.4%, did not pass the exam.^{vi}

Future funding for Mexico under the Obama Administration should explore ways for the United States to support and strengthen Mexico's efforts to evaluate police performance at the federal, state, and local levels. The United States recently took a step in this direction by providing \$3 million, through the Merida Initiative, to assist Mexico in making its national police registry fully operational. This is important because without a complete national police registry and an established consultation mechanism, there is no way to verify the service record, educational background, places of employment, etc. of the police (federal, state, and local), impeding thorough background checks and vetting processes. This is essential to ensure that police officers sanctioned or removed from one entity because of corruption or abuse, are not simply rehired by another.

Subsequent funding to Mexico under the Merida Initiative should focus on supporting its efforts to strengthen and reform the country's civilian law enforcement and judicial institutions. To date, of the

\$1.12 billion dollars provided to Mexico through the Merida Initiative, only 13%, that is, \$148.5 million are specifically designated to support judicial reform, rule of law, institutional strengthening and anti-corruption activities. In contrast, \$481.5 million- almost half of the assistance- has been provided for helicopters and surveillance plans for Mexico's military.

4. Drug consumption in the US

One of the most important things the United States can do to help Mexico cope with drug-related violence is to reduce US demand for drugs, especially through proven strategies such as treatment for heavy users. During his July 2009 visit to Mexico, the new head of the Office of National Drug Control Policy (ONDCP), Gil Kerlikowske, stated that the drug-related violence in Mexico and Latin America is fueled by US demand for drugs and he highlighted the need to place more emphasis on prevention and treatment programs in the United States.^{vii} While these and other statements suggest that important policy changes may be on the way, substantial reductions in the size of the illicit drug market should not be expected any time soon. Therefore, the key to a more effective policy is to realize that drug-related problems cannot be eliminated, but they can certainly be managed better than the US has done to date. *As the debate on drug policy moves forward, the Obama Administration should adopt a harm reduction approach, which seeks to minimize the harms associated with illicit drug production, distribution, and abuse, and the harms generated by policies meant to control drugs.*

5. Military caliber weapons trafficking

A June 2009 report by the Government Accountability Office on US efforts to combat arms trafficking to Mexico found that "while it is impossible to know how many firearms are illegally smuggled into Mexico in a given year, about 87 percent of firearms seized by Mexican authorities and traced in the last 5 years originated in the United States."^{viii} It is positive that for the first time, the National Southwest Border Counternarcotics Strategy includes a chapter on combating illicit arms trafficking to Mexico. However, lax laws and regulations governing the firearms industry at the local, state, and federal levels, and the weak or ineffective enforcement of these laws continue to facilitate gun trafficking into Mexico.

The Obama Administration should ensure a strict enforcement by the ATF of the existing ban on the importation of semiautomatic assault weapons and step up efforts by the ATF to identify and sanction Federal Firearms License holders who are the sources of many of the weapons trafficked into Mexico.

Other important actions to stem the flow of trafficked arms into Mexico include more cooperation between US agencies who work on arms sales and trafficking issues, legislative measures to expand mandatory background checks for personal gun sales, particularly sales made at gun shows, and the implementation of an effective federal assault weapons ban.

6. Crisis in Honduras

The North American Leaders' Summit is an opportunity for the three heads of State to address the constitutional crisis in Honduras. All three leaders have condemned the coup and we encourage them to express their continuing support for the restoration of constitutional order in the country and for a peaceful negotiated solution to the conflict through the San Jose Accords. To date, at least 5 people have been killed in conjunction with events related to the June 28th coup, one victim as young as 19 years old.^{ix} Many others have been forcibly detained, including journalists, and allegations of censorship and harassment against the press continue to emerge.

The three leaders should reiterate their opposition to the coup, their support for the San Jose Accords and express an unambiguous, united message strongly condemning acts of violence in the country and repression against peaceful demonstrators.

ⁱ Transcript, Remarks by President Bush, Prime Minister Harper of Canada, and President Calderon of Mexico in a Joint Press Availability, White House Press Office, Montebello, Canada, August 21, 2007.

<http://www.state.gov/p/wha/rls/rm/07/q3/91333.htm>

ⁱⁱ Comments Of Senator Patrick Leahy (D-Vt.), Chairman, Senate Appropriations Subcommittee on State Department And Foreign Operations on The Provisions In Law That He Authored Concerning The Merida Initiative, August 5, 2009. <http://leahy.senate.gov/press/200908/080509c.html>

ⁱⁱⁱ WOLA, LAWG, Centro Prodh, Fundar, Tlachinollan, “Mexican and U.S. Human Rights Organizations Call on the U.S. Government to Withhold Merida Initiative Funding for Mexico,” July 16, 2009,

http://www.wola.org/index.php?option=com_content&task=viewp&id=951&Itemid=2

^{iv} *Instituto Ciudadano de Estudios sobre la Inseguridad*, “Fifth National Survey on Insecurity”, 2007.

<http://www.icesi.org.mx/documentos/encuestas/encuestasNacionales/ENSI-5.pdf>

^v The Washington Post, “Mexican Drug Fight Nets 60,000 Suspects, 2-Year Battle Also Raises Rights Questions,” May 1, 2009. <http://www.washingtonpost.com/wp-dyn/content/article/2009/04/30/AR2009043003897.html>

^{vi} Pregunta No. 6, Partido Acción Nacional, *Respuestas a las preguntas formuladas en relación con el Segundo Informe de Gobierno*. http://www.senado.gob.mx/sgsp/gaceta/60/3/2008-11-27-1/assets/documentos/Respuestas_50preguntas.pdf

^{vii} El Universal, “Si reducimos el consumo, también bajará la violencia: Gil Kerlikowske,” July 28, 2009.

http://www.eluniversal.com.mx/nacion/vi_170129.html

^{viii} “US Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges,” US Government Accountability Office, GAO-09-709, June 2009.

^{ix} AFP, “Ousted Honduran president pushes for Costa Rica plan” August 4, 2009.

<http://www.google.com/hostednews/afp/article/ALeqM5gA2VT1NZDC09lbKUljczFEefoBJg>