

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 9087
OFFERED BY MR. DAVIDSON OF OHIO**

At the appropriate place, insert the following:

1 **SEC. ____ . DESIGNATION OF CERTAIN DRUG CARTELS AS**
2 **SPECIAL TRANSNATIONAL CRIMINAL ORGA-**
3 **NIZATION.**

4 (a) DESIGNATION.—

5 (1) IN GENERAL.—The Secretary is authorized
6 to designate an organization as a foreign Special
7 Transnational Criminal Organization in accordance
8 with this subsection if the Secretary finds that—

9 (A) the organization is a foreign organiza-
10 tion;

11 (B) the organization is a self-perpetuating
12 association of individuals who operate
13 transnationally for the purpose of obtaining
14 power, influence, monetary, or commercial
15 gains, wholly or in part by illegal means, while
16 protecting their activities through a pattern of
17 corruption or violence or through a
18 transnational organization structure and the ex-

1 exploitation of transnational commerce or commu-
2 nication mechanisms; and

3 (C) the organization threatens the security
4 of United States nationals or the national secu-
5 rity of the United States.

6 (2) PROCEDURE.—

7 (A) NOTICE.—

8 (i) TO CONGRESSIONAL LEADERS.—

9 Seven days before making a designation
10 under this subsection, the Secretary shall,
11 by classified communication, notify the
12 Speaker and minority leader of the House
13 of Representatives, the President pro tem-
14 pore, majority leader, and minority leader
15 of the Senate, and the members of the rel-
16 evant committees of the House of Rep-
17 resentatives and the Senate, in writing, of
18 the intent to designate an organization
19 under this subsection, together with the
20 findings made under paragraph (1) with
21 respect to that organization, and the fac-
22 tual basis therefor.

23 (ii) PUBLICATION IN FEDERAL REG-
24 ISTER.—The Secretary shall publish the
25 designation in the Federal Register seven

1 days after providing the notification under
2 clause (i).

3 (B) EFFECT OF DESIGNATION.—For pur-
4 poses of section 2339B of title 18, United
5 States Code—

6 (i) an organization designated as a
7 foreign Special Transnational Criminal Or-
8 ganization shall be treated as an organiza-
9 tion subject to such section for purposes of
10 such section; and

11 (ii) a designation under this sub-
12 section shall take effect for such purposes
13 upon publication under subparagraph
14 (A)(ii).

15 (C) FREEZING OF ASSETS.—Upon notifica-
16 tion under paragraph (2)(A)(i), the Secretary of
17 the Treasury may require United States finan-
18 cial institutions possessing or controlling any
19 assets of any foreign organization included in
20 the notification to block all financial trans-
21 actions involving those assets until further di-
22 rective from either the Secretary of the Treas-
23 ury, Act of Congress, or order of court.

24 (3) RECORD.—

1 (A) IN GENERAL.—In making a designa-
2 tion under this subsection, the Secretary shall
3 create an administrative record.

4 (B) CLASSIFIED INFORMATION.—The Sec-
5 retary may consider classified information in
6 making a designation under this subsection.
7 Classified information shall not be subject to
8 disclosure for such time as it remains classified,
9 except that such information may be disclosed
10 to a court ex parte and in camera for purposes
11 of judicial review under subsection (c).

12 (4) PERIOD OF DESIGNATION.—

13 (A) IN GENERAL.—A designation under
14 this subsection shall be effective until revoked
15 under paragraph (5) or (6) or set aside pursu-
16 ant to subsection (c).

17 (B) REVIEW OF DESIGNATION UPON PETI-
18 TION.—

19 (i) IN GENERAL.—The Secretary shall
20 review the designation of a foreign Special
21 Transnational Criminal Organization
22 under the procedures set forth in clauses
23 (iii) and (iv) if the designated organization
24 files a petition for revocation within the pe-
25 tition period described in clause (ii).

1 (ii) PETITION PERIOD.—For purposes
2 of clause (i)—

3 (I) if the designated organization
4 has not previously filed a petition for
5 revocation under this subparagraph,
6 the petition period begins 2 years
7 after the date on which the designa-
8 tion was made; or

9 (II) if the designated organiza-
10 tion has previously filed a petition for
11 revocation under this subparagraph,
12 the petition period begins 2 years
13 after the date of the determination
14 made under clause (iv) on that peti-
15 tion.

16 (iii) PROCEDURES.—Any foreign Spe-
17 cial Transnational Criminal Organization
18 that submits a petition for revocation
19 under this subparagraph must provide evi-
20 dence in that petition that the relevant cir-
21 cumstances described in paragraph (1) are
22 sufficiently different from the cir-
23 cumstances that were the basis for the des-
24 ignation such that a revocation with re-
25 spect to the organization is warranted.

1 (iv) DETERMINATION.—

2 (I) IN GENERAL.—Not later than
3 180 days after receiving a petition for
4 revocation submitted under this sub-
5 paragraph, the Secretary shall make a
6 determination as to such revocation.

7 (II) CLASSIFIED INFORMA-
8 TION.—The Secretary may consider
9 classified information in making a de-
10 termination in response to a petition
11 for revocation. Classified information
12 shall not be subject to disclosure for
13 such time as it remains classified, ex-
14 cept that such information may be
15 disclosed to a court ex parte and in
16 camera for purposes of judicial review
17 under subsection (c).

18 (III) PUBLICATION OF DETER-
19 MINATION.—A determination made by
20 the Secretary under this clause shall
21 be published in the Federal Register.

22 (IV) PROCEDURES.—Any revoca-
23 tion by the Secretary shall be made in
24 accordance with paragraph (6).

25 (C) OTHER REVIEW OF DESIGNATION.—

1 (i) IN GENERAL.—If the Secretary de-
2 termines that a 5-year period has elapsed
3 since the designation without a review hav-
4 ing taken place under subparagraph (B),
5 the Secretary shall review the designation
6 of the foreign Special Transnational Crimi-
7 nal Organization in order to determine
8 whether such designation should be re-
9 voked pursuant to paragraph (6).

10 (ii) PROCEDURES.—If a review does
11 not take place pursuant to subparagraph
12 (B) in response to a petition for revocation
13 that is filed in accordance with that sub-
14 paragraph, then the review shall be con-
15 ducted pursuant to procedures established
16 by the Secretary. The results of such re-
17 view and the applicable procedures shall
18 not be reviewable in any court.

19 (iii) PUBLICATION OF RESULTS OF
20 REVIEW.—The Secretary shall publish any
21 determination made pursuant to this sub-
22 paragraph in the Federal Register.

23 (5) REVOCATION BY ACT OF CONGRESS.—The
24 Congress, by an Act of Congress, may block or re-
25 voke a designation made under paragraph (1).

1 (6) REVOCATION BASED ON CHANGE IN CIR-
2 CUMSTANCES.—

3 (A) IN GENERAL.—The Secretary may re-
4 voke a designation made under paragraph (1)
5 at any time, and shall revoke a designation
6 upon completion of a review conducted pursu-
7 ant to subparagraphs (B) and (C) of paragraph
8 (4) if the Secretary finds that—

9 (i) the circumstances that were the
10 basis for the designation have changed in
11 such a manner as to warrant revocation; or

12 (ii) the national security of the United
13 States warrants a revocation.

14 (B) PROCEDURE.—The procedural require-
15 ments of paragraphs (2) and (3) shall apply to
16 a revocation under this paragraph. Any revoca-
17 tion shall take effect on the date specified in
18 the revocation or upon publication in the Fed-
19 eral Register if no effective date is specified.

20 (7) EFFECT OF REVOCATION.—The revocation
21 of a designation under paragraph (5) or (6) shall
22 not affect any action or proceeding based on conduct
23 occurring prior to the effective date of such revoca-
24 tion.

1 (8) USE OF DESIGNATION IN TRIAL OR HEAR-
2 ING.—If a designation under this subsection has be-
3 come effective under paragraph (2)(B) a defendant
4 in a criminal action or an alien in a removal pro-
5 ceeding shall not be permitted to raise any question
6 concerning the validity of the issuance of such des-
7 ignation as a defense or an objection at any trial or
8 hearing.

9 (b) AMENDMENTS TO A DESIGNATION.—

10 (1) IN GENERAL.—The Secretary may amend a
11 designation under this subsection if the Secretary
12 finds that the organization has changed its name,
13 adopted a new alias, dissolved and then reconsti-
14 tuted itself under a different name or names, or
15 merged with another organization.

16 (2) PROCEDURE.—Amendments made to a des-
17 ignation in accordance with paragraph (1) shall be
18 effective upon publication in the Federal Register.
19 Subparagraphs (B) and (C) of subsection (a)(2)
20 shall apply to an amended designation upon such
21 publication. Paragraphs (2)(A)(i), (4), (5), (6), (7),
22 and (8) of subsection (a) shall also apply to an
23 amended designation.

24 (3) ADMINISTRATIVE RECORD.—The adminis-
25 trative record shall be corrected to include the

1 amendments as well as any additional relevant infor-
2 mation that supports those amendments.

3 (4) CLASSIFIED INFORMATION.—The Secretary
4 may consider classified information in amending a
5 designation in accordance with this subsection. Clas-
6 sified information shall not be subject to disclosure
7 for such time as it remains classified, except that
8 such information may be disclosed to a court ex
9 parte and in camera for purposes of judicial review
10 under subsection (c).

11 (c) JUDICIAL REVIEW OF DESIGNATION.—

12 (1) IN GENERAL.—Not later than 30 days after
13 publication in the Federal Register of a designation,
14 an amended designation, or a determination in re-
15 sponse to a petition for revocation, the designated
16 organization may seek judicial review in the United
17 States Court of Appeals for the District of Columbia
18 Circuit.

19 (2) BASIS OF REVIEW.—Review under this sub-
20 section shall be based solely upon the administrative
21 record, except that the Government may submit, for
22 ex parte and in camera review, classified information
23 used in making the designation, amended designa-
24 tion, or determination in response to a petition for
25 revocation.

1 (3) SCOPE OF REVIEW.—The Court shall hold
2 unlawful and set aside a designation, amended des-
3 ignation, or determination in response to a petition
4 for revocation the court finds to be—

5 (A) arbitrary, capricious, an abuse of dis-
6 cretion, or otherwise not in accordance with
7 law;

8 (B) contrary to constitutional right, power,
9 privilege, or immunity;

10 (C) in excess of statutory jurisdiction, au-
11 thority, or limitation, or short of statutory
12 right;

13 (D) lacking substantial support in the ad-
14 ministrative record taken as a whole or in clas-
15 sified information submitted to the court under
16 paragraph (2); or

17 (E) not in accord with the procedures re-
18 quired by law.

19 (4) JUDICIAL REVIEW INVOKED.—The pend-
20 ency of an action for judicial review of a designation,
21 amended designation, or determination in response
22 to a petition for revocation shall not affect the appli-
23 cation of this section, unless the court issues a final
24 order setting aside the designation, amended des-

1 ignation, or determination in response to a petition
2 for revocation.

3 (d) DEFINITIONS.—As used in this section—

4 (1) the term “classified information” has the
5 meaning given that term in section 1(a) of the Clas-
6 sified Information Procedures Act (18 U.S.C. App.);

7 (2) the term “national security” means the na-
8 tional defense, foreign relations, or economic inter-
9 ests of the United States;

10 (3) the term “foreign organization” includes a
11 group of persons or an organization whose leader-
12 ship is primarily based in a country outside of the
13 United States;

14 (4) the term “relevant committees” means the
15 Committees on the Judiciary, Intelligence, and For-
16 eign Relations of the Senate and the Committees on
17 the Judiciary, Intelligence, and International Rela-
18 tions of the House of Representatives; and

19 (5) the term “Secretary” means the Secretary
20 of State, in consultation with the Secretary of the
21 Treasury and the Attorney General.

22 (e) DESIGNATION.—The Secretary shall designate
23 the following organizations as Special Transnational
24 Criminal Organizations:

25 (1) Sinaloa Cartel.

- 1 (2) Jalisco New Generation Cartel.
- 2 (3) Beltran-Leyva Organization.
- 3 (4) Cartel del Noreste and Los Zetas.
- 4 (5) Guerreros Unidos.
- 5 (6) Gulf Cartel.
- 6 (7) Juarez Cartel and La Linea.
- 7 (8) La Familia Michoacana.
- 8 (9) Los Rojos.

