

US Declares War on Cartels: Historic Terrorist Designations Reshape Sanctions Compliance Risks

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On February 20, 2025, the U.S. Departments of State and the Treasury designated eight Latin American drug trafficking cartels as [Foreign Terrorist Organizations](#) (FTOs) and [Specially Designated Global Terrorists](#) (SDGTs), in response to President Trump's [Executive Order 14157](#). The designated cartels are Tren de Aragua, Mara Salvatrucha (MS-13), Cartel de Sinaloa, Cartel de Jalisco Nueva Generación, Cartel del Noreste (formerly Los Zetas), La Nueva Familia Michoacana, Cartel de Golfo, and Carteles Unidos.

The move signals a seismic shift in U.S. regulatory risk, particularly for business in Mexico, but also throughout Latin America and globally where these cartels have a presence. Companies that previously relied on traditional sanctions compliance strategies must now navigate the far more challenging legal framework applicable to FTOs.

What's Really New Here?

All of these groups, except Carteles Unidos, were already subject to U.S. sanctions, having been previously listed by Treasury's Office of Foreign Assets Control (OFAC) as Specially Designated Nationals (SDNs). So there was already a broad prohibition in place on direct or indirect transactions or dealings with these organizations or their interests in property, including any entity of which they own 50% or more, to the extent U.S. persons were involved, along with a requirement to block their property within U.S. jurisdiction and file reports of such blocked property with OFAC. The new SDGT designation is another SDN list authority that does not materially change the picture.

However, the designation of these cartels as FTOs introduces profound new legal and compliance consequences for both U.S. and non-U.S. persons. The jurisdictional reach of the FTO statute is much broader than OFAC's sanctions, and the government has tended in the past — and this administration has signaled a particularly strong intent going forward — to pursue an aggressive enforcement strategy against activity involving these cartels. Moreover, unlike in the sanctions context, there is little guidance, no licensing mechanism, and generally no regulatory structure built up around the FTO statute, making compliance more of a challenge, and leading many stakeholders to take a more risk averse posture due to the very high risk and lack of clarity.

It is a crime under the U.S. Antiterrorism Act, 18 U.S.C. § 2339B, to provide material support or resources to designated FTOs, including financial services, tangible or intangible property, equipment, training, and personnel. While medicine and religious materials are excluded from the FTO restrictions, they may be included within the SDN/SDGT restrictions. FTO material support crimes are subject to severe criminal penalties, including large fines

and up to 20 years in prison.

Additionally, the Antiterrorism Act, 18 U.S.C. § 2333, allows victims of acts of international terrorism that were “committed, planned, or authorized” by an FTO to bring civil lawsuits against “any person who aids and abets, by knowingly providing substantial assistance, or who conspires with the person who committed such an act of international terrorism.” This could result in significant financial liability for those that may be entangled with designated cartels, although the applicability of this provision may be in doubt as, despite the FTO designation, it is not clear that these cartels actually engage in “acts of international terrorism.” There are also limitations to sovereign immunity for foreign governments and state-owned entities in this context. While these aiding and abetting and conspiracy theories have been limited to some degree by recent court cases, such as *Taamneh v. Twitter*, 598 U.S. 471 (2023), the liability risks remain significant to the extent terrorist acts occur.

The marginal impact of these FTO designations may not be very significant in Venezuela, where Tren de Aragua is based, because Venezuela is already subject to broad sanctions risk, with the entire government “blocked” by OFAC and many key organizations and individuals on the SDN list. In El Salvador, where MS-13 has been based, the current government has reportedly “decimated” the group through recent law enforcement actions.

So the really critical impacts here are in Mexico. Most of these FTO cartels are based in Mexico, where previously the U.S. sanctions risks were not very high. There have been few OFAC enforcement actions involving Mexico over the years, beyond designations of cartels and their businesses and individual leaders, and related money laundering organizations, on the SDN list, along with prosecutions of cartel leadership and key supporters.

These FTO designations amp up the risks to a new level for normal business in Mexico. [Executive Order 14157](#) itself states that, in certain parts of Mexico, these cartels “function as quasi-governmental entities, controlling nearly all aspects of society.” Similarly, a [resolution](#) introduced in Congress by then-Senator Marco Rubio among others states that “Mexican cartels now control 30 to 35 percent of Mexican territory.” These may be telling indications of how the Trump administration views the pervasiveness of the cartels in Mexico, which may feed into the administration’s enforcement strategy. Accordingly, businesses should consider incorporating this perspective into their compliance approaches.

Impact on Businesses and Compliance

As an initial point, it is important to understand that this FTO risk is not limited to U.S. companies. The FTO statute has broad extraterritorial application, covering not only U.S. nationals or permanent residents anywhere in the world, and any person acting even in part within the United States, but also non-U.S. persons that are “brought into or found in the United States.” U.S. federal courts have generally upheld this nearly limitless extraterritorial jurisdictional scope, on the theory that an FTO designation inherently includes a connection to the United States due to the terrorist threat. So foreign subsidiaries of U.S. companies, joint ventures, and even companies based outside the United States will need to incorporate FTO compliance into their Mexico business strategy.

The key question then is how much due diligence will suffice to get comfortable that your business does not involve FTO cartel-linked activity. Unlike in the OFAC context, there is minimal guidance from the U.S. government about how to comply with the criminal FTO statute. So one can begin with the dual *mens rea* element of the FTO material support crime: the government must prove both that the defendant knew what it was providing, and that it

was providing it to a designated FTO. In theory at least, this is in contrast to sanctions enforcement, which operates on a “strict liability” basis in the civil context, so OFAC does not need to show any knowledge, intent, etc. in order to charge a violation. However, in practice OFAC does tend to reserve enforcement for situations of culpability. In light of the weight of an FTO designation and the high level of risk involved, one should not take too much comfort from this dual knowledge element — one does not want to find oneself seeking to persuade a jury that the business was unaware that it was dealing with a terrorist-designated cartel.

Ultimately, if there are indications of cartel involvement, the government may be able to establish adequate knowledge. Therefore, companies operating in higher-risk areas should incorporate due diligence and training about the FTO law throughout the relevant parts of the business so that any concerns about potential cartel involvement are quickly escalated. In practice, this will often involve similar processes as for pre-existing sanctions compliance and anti-corruption compliance programs. However, because of the breadth of the material support statute, more stringent controls may be needed where significant FTO risks are present.

Whereas U.S. persons may apply for a license from OFAC to engage in otherwise prohibited transactions with an SDGT, such as humanitarian activities, or potentially even extortion or other emergencies, there is no comparable licensing mechanism for FTOs. Therefore, at least for now, the only option appears to be to refrain from the activity in question, even if that may not appear to be feasible under the circumstances while also keeping the business operating normally.

The Road Ahead

FTO and SDGT designations have historically been reserved for organizations like Al-Qaeda and ISIS that were not involved in any significant way in international business activity. This shift to include cartels within the FTO framework marks an historic expansion of U.S. counterterrorism policy, redefining these organizations as national security threats and exposing those who engage with them to the same severe legal, financial, and reputational consequences as traditional terrorist groups.

It appears that the government is backing up this new policy with real muscle. Attorney General Pamela Bondi recently outlined an aggressive strategy for the Department of Justice to focus U.S. law enforcement and prosecutorial resources on the “total elimination” of these cartels. This new strategy came with an explicit shift of resources away from other areas, as we recently explained [here](#), such as Foreign Corrupt Practices Act cases that do not have a connection to cartels or similar criminal organizations. With FBI agents and prosecutors presumably now facing an expectation to make cartel-related cases as part of their key metrics, and a whole-of-government focus on this area, one can expect highly active investigation and enforcement efforts.

Following the Trump administration’s designations, Canada also [listed](#) seven of these cartels as terrorist entities. So stepped-up international cooperation may also play into this. It remains to be seen what the Mexican government’s approach will be.

While there have been many FTO support cases against individuals in the recent past, there have been very few against companies. The landmark case was in 2022, when Lafarge S.A. [pled guilty](#) to conspiring to provide material support to designated FTOs in Syria and paid nearly \$800 million in fines and forfeiture. That case involved payments through intermediaries for things like purchasing supplies, checkpoint clearance, and even

“taxes” based on production volume. This illustrates the diverse types of exposure that can give rise to an FTO crime.

As the administration pursues this unprecedented strategy, companies would be well-advised to be vigilant and proactive in their compliance efforts. With potential criminal penalties, civil liability, and reputational risks on the line, businesses cannot afford to take a wait-and-see approach, and preparedness is now a strategic necessity for those with significant exposure.

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