

SPA Policy Brief

The Potential Policy Impacts of Classifying Cartels as FTOs

Earlier this year, SPA Associate Professor **Tricia Bacon**, along with co-author **Daniel Byman** of Georgetown University, published analysis¹ of the Trump administration's decision to designate "certain international cartels" as foreign terrorist organizations, or FTOs. These cartels are behind thousands of annual global deaths, traffic fentanyl, methamphetamine, heroin, cocaine, and other drugs to the United States in vast quantities. But they are not, in fact, terrorist organizations. Cartels certainly share some characteristics with terrorist groups—they spread terror at home and abroad; intimidate judges, politicians, and citizens to protect their dealings; participate in illicit networks; and engage in drug trafficking to fund their activities. The key difference is their objectives. Terrorists seek political change, while criminals want to make money.

These experts argue that, despite the horrific nature of cartel violence, designating them as terrorist groups was redundant and ineffective. More troubling, they warned that an FTO designation will harm U.S. businesses and relations with countries such as Mexico and posed a significant risk of government overreach, a concern which has come to pass.

NO ADDITIONAL LEGAL LEVERAGE OVER THE STATUS QUO

Many cartels already carry the designation of transnational criminal organizations (TCOs) or have been otherwise identified through the Foreign Narcotics Kingpin Designation Act. Americans are already prohibited from engaging in transactions with a TCO, meaning that an FTO designation does not significantly increase legal leverage.

Both the TCO and the Kingpin Act designations—which allow the U.S. government to impose economic penalties on top foreign drug traffickers and their associates—involve asset freezes. In addition, an existing rewards-for-justice program offers up to \$25 million for information leading to the arrest of high-profile organized criminals. Admittedly, the TCO designation does not have quite the same material support clause as an FTO. But much of the cartels' activity is already illegal. Moreover, support for a TCO is punishable by criminal penalties up to 20 years in prison or \$1 million in criminal fines, and violators of the Kingpin Act can face up to 30 years in prison and/or a \$5-10 million fine.



Tricia Bacon

Associate Professor,
Justice, Law & Criminology,
School of Public Affairs
American University

MATERIAL SUPPORT CLAUSE THREATENS U.S. CITIZENS AND BUSINESSES

A product of the Immigration and Nationality Act,² an FTO designation 1) freezes all of a group's assets under the control of U.S. financial institutions, 2) prevents its members from traveling to the United States, 3) allows their deportation, and 4) criminalizes knowingly providing material support for the group, including weapons and money but also the time and the labor of individuals. This clause has allowed the United States to prosecute individuals engaged in otherwise legal support (e.g., planning to travel to Syria to train with the Islamic State).

The FTO material support clause, given its broad and sweeping investigatory and prosecution authorities, is susceptible to overreach and could have adverse consequences. In particular, it could impact relationships between many U.S. companies and legitimate international business partners.

Even before the 2023 Hamas attack on Israel, banks and payment processors such as PayPal avoided doing business in the West Bank, fearing that their services might be used by terrorist groups—and that they would be held liable for any resulting violence. With the new executive order, U.S. businesses (e.g., payment processors) must worry that their, say, Mexican clients might have links to cartels, which are deeply embedded in Mexico's economy. This threat of litigation will make U.S. businesses more cautious, especially about new ventures.

A zealous prosecutor could also use the new material support power to prosecute Americans who purchase drugs—or even avocados—from designated cartels. Their crime would be material support for a terrorist organization. Department officials in past administrations did not tend to take such an expansive view, but this approach is easier to imagine today.

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IMPACTS ON DRUG EPIDEMIC

Making America's drug epidemic a terrorism problem will not solve the drug crisis. Instead, it will dramatically increase the number of Americans prosecuted for drug-related offenses—and lengthen prison sentences for those convicted.

EXACERBATING GEOPOLITICAL STRIFE

The designation will also harm U.S. relations with countries in Latin America. By switching the narrative from crime to terrorism, the implication is that these governments are knowingly harboring terrorists. In fact, the Trump Administration has since accused Venezuela of supporting one of the designated cartels, even though the Intelligence Community assessments indicate otherwise. One might imagine that the FTO designation will enable comprehensive intelligence gathering, but it does not provide this authority. Nor do FTO designations make a group an intelligence priority. In fact, there are several FTOs, such as the largely defunct Tamil Tigers, that the United States does not prioritize in its intelligence collection.

AUTHORITY TO USE MILITARY FORCE

Neither does the FTO designation provide additional authorities to use military force. If an FTO provided more military tools, the Afghan Taliban would have certainly earned this label during the war. But it never was designated as an FTO. Politically, labeling a group “terrorists” may help justify military action and appease U.S. audiences, but an FTO designation alone is insufficient.

INVOCATION OF ALIEN ENEMIES ACT

So if Exec. Order 14157 is an inefficient, redundant, and harmful solution of the cartel problem, why was it crafted in the first place? The text of the order directs the attorney general and secretary of homeland security “to make operational preparations regarding the implementation of any decision I make to invoke the Alien Enemies Act.” The act, passed in 1798, allows the president to detain, relocate, or deport noncitizens from a country considered an enemy of the United States during wartime. Indeed, the Trump Administration has since invoked the

Alien Enemies Act, claiming an “invasion” by cartels and falsely accusing the Venezuelan government of instigating the “invasion.” It was on this legal basis that the administration began deporting accused cartel members to a prison El Salvadore, including an asylum seeker, Kilmar Abrego Garcia, and multiple individuals who have no demonstrated ties to the designated cartels. As Bacon and Byman warned, the misplaced FTO designations have opened the door to abuse.

CONCLUSION AND RECOMMENDATIONS

Importantly, the Trump administration didn't need an FTO designation in order to collect more intelligence on cartels. It simply needed to make them a higher priority in the National Intelligence Priorities Framework, determined by the president. Cartels are indeed national security threats, but conflating them with terrorism is the wrong approach. The Trump administration would have been better served by bolstering the authorities associated with a TCO designation, such as expanding the penalties for support. Even more important is resourcing. By devoting more intelligence assets to cartels, the U.S. can strengthen anti-corruption and anti-bribery programs, increase funding for counter-drug programs in other countries, expand training for allied military and intelligence services, and otherwise prioritize cartels.

FTOS: MYTHS VS. FACTS

Myths	Facts
An FTO designation allows the U.S. to gather additional intelligence on cartels and prosecute.	TCO designation and the Kingpin Act already do this.
An FTO designation permits the use of additional military force.	The designation does not provide this authority.
This policy change will improve U.S.-international relations.	The change will hurt U.S.-international relations, as the designation suggests that foreign governments are knowingly harboring terrorists.

Endnotes

- 1 Bacon, T. & Byman, D. (2025, February 18). The Problem with Designating Cartels as Terrorist Groups. *Foreign Policy*. <https://foreignpolicy.com/2025/02/18/problem-cartels-terrorist-groups/>
- 2 U.S. Department of State Office of the Historian. (1952). The Immigration and Nationality Act of 1952. <https://history.state.gov/milestones/1945-1952/immigration-act>