



Designating Mexican Drug Cartels as Foreign Terrorists: Policy Implications

December 6, 2019

In a November 26 [interview](#), President Donald Trump revealed his intention to designate Mexico's [drug trafficking organizations](#) (DTOs, commonly referred to as "cartels") as [foreign terrorist organizations](#) (FTOs). His comments follow recent incidents that exemplify how Mexican DTOs use [violence](#) to control their criminal domains. Earlier in November, after members of an extended family of U.S.-Mexican citizens were killed in [Sonora](#), President Trump [tweeted](#): "This is the time for Mexico, with the help of the United States, to wage WAR on the drug cartels...." In October, Mexican security forces launched an unsuccessful [operation](#) to capture Ovidio Guzmán López, a son of the imprisoned [drug lord](#) Joaquín "El Chapo" Guzmán. While Guzmán López was briefly detained, the Sinaloa Cartel responded with overwhelming [firepower](#) that brought chaos to the city of Culiacan and ultimately forced the Mexican government to release Guzmán López.

Whether DTO violence meets the criteria for [terrorist activity](#) or [terrorism](#), terms defined in U.S. law, was debated during the [Obama Administration](#) and continues to be raised by some [Members of Congress](#). President Trump's comments have reinvigorated this [debate](#) and drawn [consternation](#) from Mexico. Mexican President Andrés Manuel López Obrador, who took office last December, is under [pressure](#) to adopt a security strategy that can successfully deal with the DTOs and reduce drug trafficking-related violence. He has [rejected](#) the call for a "war" on DTOs, which he asserts would increase the number of civilian casualties. He and Foreign Minister Marcelo Ebrard [oppose](#) any U.S. [intervention](#) that could be construed as a violation of Mexican sovereignty. López Obrador and Ebrard did [discuss](#) bilateral efforts against arms trafficking that has fueled DTO-related violence when they met Attorney General William Barr on December 5.

Mexico's DTOs

Mexican [DTOs](#) use extreme violence to control illicit markets. They deter those who interfere in their criminal enterprises with [tactics](#) that include kidnapping, torture, murder, [narco-messaging](#), and intimidation. Drawing attention to their use of violence as a potential terrorist tactic, Mexican DTOs have shot down an army [helicopter](#), outgunned Mexican authorities, and murdered [journalists](#), public officials, and political [candidates](#).

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U.S. federal law enforcement agencies identify the “most prolific international drug trafficking and money laundering organizations” in a Consolidated Priority Organization Target (CPOT) list. While the CPOT list is not public, the 2018 [National Drug Threat Assessment](#) identifies six cartels as the most significant Mexican criminal organizations operating in the United States. These and almost a dozen more are also designated as significant foreign narcotics traffickers (kingpins), pursuant to the Foreign Narcotics Kingpin Designation Act (Title VIII, P.L. 106-120). Many more are sanctioned as [derivative](#) kingpin designations.

While some FTOs or “[specially designated global terrorists](#)” (SDGTs) are also designated as kingpins, due to their involvement in drug trafficking as a means of terrorist financing, no Mexican kingpin is double-listed. One Mexican DTO, Los Zetas, is double-listed as a kingpin and a “transnational criminal organization,” pursuant to [E.O. 13581](#). Some [experts](#) assert that even if Mexican cartels engage in political violence, they are motivated by profit rather than ideology—a [distinction](#) that theoretically, if not legally, separates the purpose of their violence from terrorist groups.

FTO Designation and Implications

With the imposition of an FTO designation, the United States seeks to limit the organization’s financial, property, and travel interests—restrictions already in place against sanctioned kingpins and their associates.

Table I. FTO and Kingpin Designations in Comparison: FAQs

	FTOs	Kingpins
Who makes the designation?	The Secretary of State	The President and Treasury Secretary
What are among the consequences of a designation?	<p>Asset Freeze. The Treasury Secretary may require U.S. financial institutions to block transactions involving assets of an FTO</p> <p>Alien Inadmissibility. FTO members, supporters, trainees, and immediate family (if the activity causing the alien to be inadmissible occurred within the last five years) are barred from U.S. entry</p> <p>Penalties. Fines and/or imprisonment for knowingly providing material support or resources to FTOs (up to life if a death results); civil penalties for financial institutions (the greater of \$50,000 per violation or twice the amount that should have been frozen)</p>	<p>Asset Freeze. Kingpin-owned or -controlled property and interests in property within U.S. jurisdiction are blocked, including assets of any foreign person or entity designated by Treasury for materially assisting or supporting a kingpin</p> <p>Alien Inadmissibility. Drug traffickers (including aiders, abettors, assistants, conspirators, and colluders) and immediate family (if they received financial or other benefits from the illicit activity within the last five years) are barred from U.S. entry</p> <p>Penalties. Fines (up to \$10 million for corporate violators) and/or imprisonment (up to 30 years for corporate officers); civil penalties up to \$1.5 million per violation</p>
What is the role of Congress in reversing a designation?	An FTO designation may be blocked or revoked by an act of Congress	None

Sources: CRS summary based on 8 U.S.C. §1182, §1189; 21 U.S.C. §1901 et seq.; and corresponding regulations.

Should the Trump Administration move to designate one or more Mexican DTOs as FTOs, the action could have wide-ranging implications for U.S.-Mexico [bilateral relations](#). Observers have pointed to possible costs to Mexico’s tourism industry, insurance [premiums](#) on U.S. businesses operating in Mexico, and the prospect of Mexican [asylees](#) claiming that they are being threatened by terrorists.

Congress may play a significant role in this policy debate. In the 116th Congress, proposed legislation (H.R. 1700) calls for the FTO designation of several DTOs. Alternatively, an act of Congress could overturn an undesirable FTO designation. In evaluating the implications of any legislative action on this issue, including a designation's impact on U.S.-Mexico relations, Congress may seek further clarity on several questions:

- Who could be prosecuted for providing **material support** to terrorists if Mexican DTOs are designated as FTOs, including U.S. gun sellers, low-level drug dealers, and drug users?
- What additional counterterrorism resources could be leveraged against Mexican DTOs if they are designated as FTOs, including military capabilities/funding and charges of narcoterrorism, pursuant to [21 U.S.C. §960a](#)?
- What alternative options exist for designating Mexican DTOs as terrorists, including as SDGTs?

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