

DOJ's Focus On Cartels Raises Compliance Risks For US Cos.

By Phillip Bantz

Law360 (June 11, 2025, 9:14 PM EDT) -- U.S. corporations with business interests south of the border are increasingly worried about exposure to terrorism-related criminal charges under the Trump administration for inadvertently working with cartels linked to major business sectors throughout Mexico, from energy and manufacturing to financial services, compliance experts tell Law360.

Confronting a new risk landscape, companies turning to the white collar bar are being advised to closely reexamine their compliance programs and take deep dives into researching the various entities their businesses interact with in Mexico and elsewhere in Latin America.

But determining whether cartels are involved behind the scenes in businesses that appear to be legal can be tricky, experts say.

Unlike terrorist organizations such as the Islamic State group and al-Qaeda, which are ideology-driven and operate in countries that don't do much business with stateside companies, cartels are primarily money-making operations entwined with legitimate businesses in Mexico, which had nearly \$840 billion in trade last year with the U.S., its largest trading partner, according to the Office of the U.S. Trade Representative.

"The cartels are less obvious than terrorist organizations and more pervasive in some areas, which presents new challenges for companies," James Tillen, who leads the international anti-corruption practice at Miller & Chevalier Chtd., told Law360.

President Donald Trump's Jan. 20 executive order authorizing the designation of cartels as foreign terrorist organizations paved the way for the U.S. State Department to announce a month later the designation of eight cartels, including six based in Mexico: *Cártel de Sinaloa*, *Cártel de Jalisco Nueva Generación*, *Cártel del Noreste*, *La Nueva Familia Michoacana*, *Cártel de Golfo* and *Cárteles Unidos*.

Days before the State Department's action, U.S. Attorney General Pam Bondi issued a memo aimed at the "total elimination of cartels and transnational criminal organizations." Bondi suspended requirements that the U.S. Justice Department's National Security Division approve the filing of most terrorism charges and related search warrants and material witness warrants.

The move bypassed a bureaucratic approval process that attorneys say could last months or years. It empowered federal prosecutors throughout the country to pursue, on their own, material support of terrorism charges, which are extraterritorial in nature, meaning the cases are not limited by geographic

scope or jurisdictional boundaries.

"It's a whole new ballgame with the way this is being approached," said Joe Whitley, chair of Womble Bond Dickinson's white collar defense, investigations and regulatory practice and former U.S. attorney for Georgia's Middle and Northern districts.

Bondi's directive, coupled with the cartels being designated terrorist organizations, suddenly made doing business in Mexico far riskier for U.S. companies, which are waiting to see how the new enforcement efforts will unfold. A recent criminal terrorism case in South Texas against a father and son living more than 1,000 miles away in Utah offers some clues, according to experts.

The U.S. Attorney's Office for the Southern District of Texas announced May 30 that James Jensen and his son Maxwell Jensen, owners of Rio Hondo, Texas-based crude oil purchasing company Arroyo Terminals, had been charged with conspiring to support *Cártel de Jalisco Nueva Generación*. Prosecutors say the Jensens smuggled in more than 2,880 shipments of oil and tried to cover their financial tracks.

Prosecutors charged the Jensens as individuals and not their company, but the government seized Arroyo's assets — including four tank barges carrying crude oil and three commercial tanker trucks — and is seeking the forfeiture of other property and crude oil in terminal storage tanks. The government also intends to seek a \$300 million money judgment if the Jensens are convicted.

"What makes Arroyo different is you're seeing a push to not only go after those who allegedly help the cartels transport oil, for example in this case, but also to seize that oil," Bracewell LLP partner Alamdar Hamdani, a former U.S. attorney for the Southern District of Texas, told Law360.

The Trump administration clearly is "laser-focused on dismantling cartels and is using a new tool in the toolbox — going after companies providing material support to terrorism with cartels now designated as foreign terrorist organizations," Hamdani said. "Among many things, it means a shifting risk profile for companies doing business in Mexico."

Attorneys for the Jensens did not respond to interview requests.

Current U.S. Attorney Nicholas Ganjei said in a statement that the Arroyo case "underscores the more aggressive and innovative approach the Southern District of Texas is taking towards combating the scourge of drug cartels," adding that anyone "putting money in the cartel's pocket ... will be held to account."

Ganjei's statement signals "that if you're a corporation doing business in Mexico, the stakes have just gotten higher," Hamdani said.

Material support of terrorism carries a prison sentence of up to 20 years and exposes defendants to civil suits as victims of terrorist acts may be able to sue for treble damages. The publicity associated with these cases also can batter a company's reputation, said Tillen of Miller & Chevalier.

"No one wants to be branded as providing material support to terrorists," he said. "There's more [risk] exposure than there may be under other laws, which is why it's worth double-checking and kicking the tires on your compliance program and seeing whether there are any gaps or vulnerabilities that need to be shored up."

The government brought its first terrorist material support case against a corporation in 2022, when it charged French cement company Lafarge SA and its Syrian subsidiary Lafarge Cement Syria SA with helping IS in a revenue-sharing scheme. Lafarge pled guilty and agreed to nearly \$778 million in financial penalties.

Recent policy changes and directives from the Trump administration have expanded the reach of terrorism enforcement as part of an aggressive focus on eliminating cartels. The moves indicate that a large swath of companies could face material support investigations and, potentially, charges for business activities in Mexico that in the past have drawn little scrutiny, experts said.

Another factor likely to spur a rise in enforcement at the intersection of terrorism and white collar crime is the Justice Department narrowing the scope of enforcement of the Foreign Corrupt Practices Act to focus on cartels, along with matters that affect U.S. national security and competitiveness.

"People are expecting to see more of these cases," said Alexander Kramer, a partner at Crowell & Moring LLP and former chief of the Justice Department's FCPA unit.

While many companies will ramp up efforts to avoid crossing paths with cartels, their executives might still find that despite their best efforts, their businesses have unknowingly been in contact with a cartel designated as a terrorist group, possibly only when the government calls.

"With the increased risk, there becomes an increased need to conduct greater due diligence. But, unfortunately, [behind-the-scenes cartel involvement] isn't obvious," Kramer said.

The difficulty sussing out cartel involvement in legitimate businesses in Mexico will likely result in companies arguing they had no idea they might have been brushing up against cartels as a defense to material support probes or charges. The statute requires the government to prove that a defendant knowingly broke the law.

"That is absolutely going to be a defense," Kramer said.

But in criminal investigations the government has the benefit of hindsight and will be examining "all the areas where perhaps reasonable steps were not taken to identify something that should have been known," he added. "That willful blindness is what any aggressive prosecutor or investigator will be looking for."

--Editing by Brian Baresch and Janice Carter Brown.