



International Narcotics Trafficking Sanctions: An Overview

Overview

The Office of Foreign Assets Control (OFAC) within the U.S. Department of the Treasury administers and enforces economic sanctions that target foreign entities and persons for their activities related to terrorism, narcotics trafficking, and other threats to the national security, foreign policy, or economy of the United States. Two of OFAC’s sanctions programs specifically address drug trafficking. Then-President Bill Clinton ordered the first in 1995 to target the drug trafficking threat emerging from Colombia. Congress enacted the second in 1999 to expand the scope of drug trafficking sanctions globally. As of June 2018, OFAC lists 1,209 unique drug trafficking-related individuals and 1,170 entities for sanction (excluding aliases and removals).

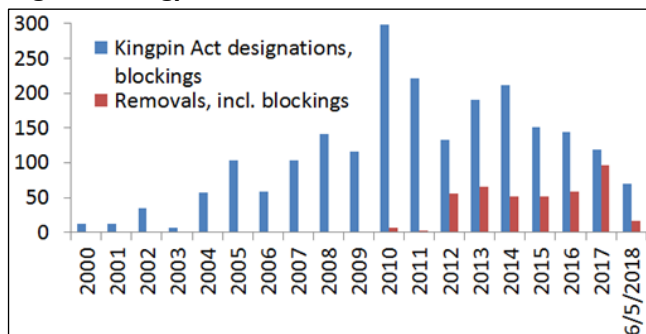
Executive Order 12978

On October 21, 1995, the President signed Executive Order (E.O.) 12978, “Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers.” E.O. 12978 sought to combat drug trafficking by targeting traffickers’ illicit wealth. Based on authorities in the National Emergencies Act (50 U.S.C. 1601 et seq.) and the International Emergency Economic Powers Act (IEEPA; 50 U.S.C. 1701 et seq.), this sanctions program allows the President to freeze U.S.-based assets of “significant foreign narcotics traffickers centered in Colombia.”

Foreign Narcotics Kingpin Designation Act

On December 3, 1999, the Foreign Narcotics Kingpin Designation Act was signed into law (Title III of P.L. 106-120, as amended; 21 U.S.C. 1901 et seq.). The Kingpin Act sought to expand E.O. 12978 to apply globally, freezing U.S.-based assets of significant foreign narcotics traffickers, their organizations, and those who support them. The act also authorizes the State Department to make designated foreign individuals ineligible for U.S. entry, pursuant to the Immigration and Nationality Act. As the drug trade evolved beyond Colombia, the Kingpin Act has become the primary authority for applying U.S. sanctions to combat international drug trafficking.

Figure 1. Kingpin Act Trends: 2000-June 5, 2018



Source: U.S. Department of the Treasury.

E.O. 12978 and the Kingpin Act, Compared

Although implementation of the two sanctions programs remains distinct, E.O. 12978 and the Kingpin Act are designed to achieve the same purpose: to target traffickers who play a significant role in international narcotics trafficking, those who materially assist or support their trafficking activities, and persons or entities owned, controlled, or acting on behalf of traffickers. Both sanctions programs do this by (1) publicly designating individuals and entities; (2) blocking their property and interests in property under U.S. jurisdiction; (3) prohibiting U.S. persons from entering into transactions related to the property or interests in property of those designated; and (4) enforcing violations with civil and/or criminal penalties.

Besides the key difference in geographical scope of the two programs, they differ most with respect to the severity of civil and criminal penalties associated with each. For enforcement of E.O. 12978, the maximum civil penalty per violation is prescribed by IEEPA, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note): in mid-2018, the greater of \$295,141 or an amount that is twice that of the underlying transaction. Under IEEPA, maximum criminal penalties include fines up to \$1 million and imprisonment for up to 20 years.

In contrast, the Kingpin Act prescribes higher penalties. As adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, the maximum civil penalty is \$1,466,485 per violation, as of mid-2018. Under the Kingpin Act, maximum criminal penalties for corporate officers can reach up to \$5 million and 30 years’ imprisonment and for corporations up to \$10 million. Others may face fines pursuant to Title 18 U.S. Code and up to 10 years in prison. In comparison to E.O. 12978, the Kingpin Act also requires Treasury to consult with more departments and agencies when deciding to make new designations. In addition, the scope of authorized or exempt transactions described in the implementing regulations for each of the two sanctions programs differ slightly (31 C.F.R. Part 536 for E.O. 12978 and Part 598 for the Kingpin Act).

Developments in 2018

Since January 1, 2018, OFAC has designated 69 individuals and entities pursuant to the Kingpin Act and none pursuant to E.O. 12978. Notable Kingpin Act designations in 2018 include the following:

- **Colombians linked to La Oficina de Envigado.** On February 14, OFAC continued its pressure against La Oficina, a Medellin-based criminal organization involved in narcotics trafficking, money laundering, extortion, and murder for hire, by designating several Colombians linked to the group.

- **Mexican drug trafficking targets.** On March 6, OFAC designated additional individuals and entities linked to the Sinaloa-based Ruelas Torres Drug Trafficking Organization (DTO), involved in the manufacture and distribution of heroin to the United States. Additional sanctions designations on April 6 targeted individuals linked to the Cartel de Jalisco Nueva Generación (CJNG) and Los Cuinis DTO.
- **Chinese fentanyl trafficker and financial associates.** On April 27, OFAC applied sanctions against a Chinese fentanyl trafficking network. This network allegedly contributed to American opioid-related deaths. The designated individuals have also been indicted in U.S. criminal court.
- **Former Venezuelan official.** On May 7, OFAC continued to target former and current Venezuelan officials purportedly involved in the drug trade by designating Pedro Luis Martin Olivares, a former Chief of Financial Intelligence for Venezuela's National Directorate of Intelligence and Prevention Services.
- **Colombian DTO and emerald mining fronts.** On June 5, OFAC identified the Rincon Castillo DTO, its leader, and several individuals and entities associated with the DTO's violent cocaine trafficking and money laundering operations through the emerald mining industry and other seemingly legitimate enterprises.

To date in calendar year 2018, OFAC has also removed 17 individuals and entities previously designated pursuant to the Kingpin Act, including lifting sanctions off the Colombian soccer team Envigado Futbol Club.

Kingpin Act: Relationship to Other Sanctions

To date, seven individuals and five entities (Kurdistan Workers' Party, Revolutionary Armed Forces of Colombia, Shining Path [Peru], United Self-Defense Forces of Colombia, and Los Zetas [Mexico]) are designated under the Kingpin Act as well as for their activities related to international terrorism, transnational crime, or a country-specific sanctions program.

The ability to designate an individual or entity under more than one sanctions program has raised questions in Congress about when multiple designations are warranted in some cases and why Treasury may decide not to double-list other individuals and entities. In the 115th Congress, for example, H.R. 5035 seeks the designation of Hezbollah, already designated under four U.S. sanctions programs, as a significant foreign narcotics trafficker, pursuant to the Kingpin Act.

In practice, the executive branch exercises some discretion with respect to which sanctions program may be used to target an individual or entity. In some circumstances, Treasury may decide to designate an individual or entity pursuant to multiple programs in order to expand the scope of prohibited activity or to update known facts about a designated person or entity. In other circumstances, Treasury may find multiple designations duplicative.

trafficking sanctions, remain a congressional foreign policy concern and a subject of hearings in the 115th Congress. As Congress continues its oversight of drug trafficking deterrence, key questions may include the following:

What role for sanctions in the current opioids crisis? In light of the U.S. opioid overdose epidemic, recent Kingpin Act designations have targeted Mexican heroin and Chinese fentanyl traffickers. Such actions may raise the possibility of further use of sanctions to address the opioids crisis, as well as congressional scrutiny over the role of financial sanctions in broader U.S. counterdrug strategy.

Do sanctions targeting illicit drug trafficking work?

OFAC prepared an "impact report" in 2007 to describe the effectiveness of sanctions to target narcotics traffickers under E.O. 12978. The Kingpin Act also requires annual classified reports to the intelligence committees that detail the status of sanctions imposed. But questions of effectiveness remain regarding whether the sanctions programs can deter potential traffickers and remove the financial motivation that drives criminals to engage in drug trafficking. The House Foreign Affairs Committee raised this issue in a November 2017 hearing on the Kingpin Act, and Congress may consider further oversight measures.

Can unilateral sanctions be leveraged internationally?

E.O. 12978 and the Kingpin Act block assets and prohibit transactions within U.S. jurisdiction, but designated traffickers may continue to operate beyond OFAC's reach. Foreign governments could be encouraged to take comparable domestic actions. While cooperation on sanctions implementation has historically been robust in some countries, such as Colombia, results have been mixed elsewhere.

Can sanctions effectively address narco-states?

Drug traffickers often bribe officials to facilitate their illicit activities. Yet, OFAC rarely designates current public office holders for sanction. Moreover, the Kingpin Act explicitly prohibits the designation of foreign states for sanction. OFAC has yet to test whether this prohibition applies to national or subnational elements of a state.

Are there unintended consequences and downstream effects of sanctions? Targeted economic sanctions, such as those aimed at drug traffickers, are intended to minimize collateral harm. Yet, some designations have been associated with significant economic losses and unemployment (when large companies are liquidated in the process) and upticks in drug trafficking-related violence (when, in combination with law enforcement action, DTOs are dismantled and competing groups vie for abandoned territory). Policymakers may question how calculations of harm are balanced with the perceived benefits of sanctions designations.

Liana W. Rosen, Specialist in International Crime and Narcotics

Foreign Policy Questions for Congress

The application and implementation of unilateral economic sanctions, including oversight of the OFAC's narcotics

IF10909

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.