

FOUR MOBS: YET MORE BIZARRE THINKING BEHIND ADMINISTRATION'S TRANSNATIONAL CRIME PROGRAM

Robert Chesney took a look at the Executive Order associated with the Administration's roll-out of its Transnational Crime Organization program yesterday, which basically blocks the property of a group considered to be a TCO (note, in some places the Admin uses the acronym TOC; I agree with Chesney that TCO makes more sense and so will use that instead now).

As I guessed yesterday, the EO basically institutes a "material support for TCO" concept, directly parallel to the terrorist one.

Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any overseas branch, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) the persons listed in the Annex to this order and

(ii) any person determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State:

(A) to be a foreign person that constitutes a significant transnational criminal organization;

(B) to have materially assisted,

sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property and interests in property are blocked pursuant to this order; or

(C) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) I hereby determine that the making of donations of the types of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by subsection (a) of this section.

(c) The prohibitions in subsection (a) of this section include, but are not limited to:

(i) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(ii) the receipt of any contribution or provision of funds, goods, or services from any such person.

(d) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective

date of this order.

The E0 also clarifies something that was not clear from yesterday's dog and pony show rolling this out: the Administration has listed four organizations that will, at this point, be considered TCOs:

1. THE BROTHERS' CIRCLE (f.k.a. FAMILY OF ELEVEN; f.k.a. THE TWENTY)
2. CAMORRA
3. YAKUZA (a.k.a. BORYOKUDAN; a.k.a. GOKUDO)
4. LOS ZETAS

Now, like Chesney, I have a few questions about this list. Like Chesney, I want to know why only Los Zetas is listed. Are we really playing favorites among Mexico's drug cartels? Chesney thinks it might be a reaction to Los Zetas' murder of an ICE agent earlier this year. But the choice also has curious implications for the Operation Fast and Furious program, in which ATF agents dealt guns used by Los Zetas members. Is this just a way to give ATF a way to validate the concept behind that failed program?

But there may be another reason. I suggested yesterday that Wells Fargo, which last year entered into a Deferred Prosecution Agreement for the money laundering it did for Mexican cartels in 2005, ought to be on the list of TCOs, too. The one cartel I know of that is definitely tied to that money laundering, however, is Sinaloa. So by leaving Sinaloa off the list, you leave of the necessity of freezing the funds of TBTF banks.

I'm even more mystified by the inclusion of the Yakuza—Japan's mob—on the list. Japan has long tolerated the Yakuza even while making claims they'd crack down. Did we consult with them before we put the Yakuza on the list?

More curiously, the Yakuza played a key role in the response to this spring's Japanese earthquakes (this is akin to the role that some

terrorist organizations had in Pakistan's flood and earthquake response, as well as Hezbollah's general role in Shiite Lebanese welfare). This post provides a good description of the Yakuza's role and their reasons for providing such humanitarian aid. Some highlights:

In truth, the measure of a yakuza boss is not how honourable he is, it's how much cash he brings in, a fact that might help explain the mobsters' motives for providing aid. A senior member of one organised crime group in eastern Japan acknowledges this. He says: "It's usually about money. Earthquakes and disasters are one of the few times that yakuza can do what they're supposed to do: help other people. We can do it because we're not bound by red tape. It's as simple as putting up the money, ordering the soldiers to buy supplies, put them on trucks, and carry them to areas where they're needed. Certainly some members are looking at this as a chance to gain goodwill and local support when the reconstruction begins. In my case, I just want to give back to the community where I was born. That's the spirit of the yakuza. That's the ideal. Other people have other motives."

Whatever their mixed motives, right now the yakuza are apparently helping the weak and the suffering, bringing warm blankets to those who are cold, feeding the hungry and getting water to the thirsty. The Sumiyoshi-kai and the Inagawa-kai in total have sent over 200 tons of supplies to devastated areas according to police sources and raised several million dollars from their own members to facilitate the aid. The Matsuba-kai, the Kyokuto-kai (both in Tokyo), and even smaller groups like the Aizukotestu-kai (in Kyoto) are all chipping in.

[snip]

One member of the Sumiyoshi-kai group I spoke to, a full-time gangster in the Saitama prefecture specialising in extortion, explains the efforts simply:

“In times like this, the usual societal divisions are meaningless. There aren’t yakuza and civilians or foreigners and Japanese. We’re all Japanese now. We all live here. Down the road, there is money to be made, for sure.

“Right now, it’s about saving lives and helping each other out. Ninety-five per cent of all yakuza are human garbage. Maybe 5 per cent uphold the rules. Right now we’re all doing our best. It’s one of the few times we can be better than we normally are.”

Even a senior police officer from Ibaraki agrees, speaking under conditions of anonymity. “I have to hand it to the yakuza. They have been on the ground from day one providing aid where others don’t or cannot do it. Laws can be like a two-edged sword and sometimes they hamper relief efforts. Sometimes, outlaws are faster than the law. This is one of those times.”

Now, it doesn’t appear that the Yakuza used foreign aid to pay for this humanitarian support. That is, it doesn’t seem like western money effectively went to the Yakuza, meaning it could be contrived as material support for a TCO.

Nevertheless, there are sure to be a whole host of ways in which American businesses might end up funding the Yakuza. We’ll quickly find those businesses to be in the position that Chiquita got in, though without the cover story that they paid terrorists to protect their employees.

And then, ultimately, there’s the process by

which mobs get picked as TCOs. The current list almost seems like a test of concept—an attempt to throw several different kinds of mobs on the list, to see how the new legal toy works in practice.

But remember it's the Secretary of Treasury deciding, with no transparency, who is and who is not on the list. You know—the same guy insisting that banks never be held to account for their crime, even while he enables them to become more powerful.

Again, don't get me wrong. Transnational gangs are a big problem. But this is a gigantic slippery slope that none of us really get to see even as we're already sliding down it.

And it still doesn't protect us from the banksters looting our own economy.