

Illicit Fentanyl and China's Role

Addressing illicit fentanyl in the context of the ongoing opioid crisis is both a domestic and foreign policy issue for the 117th Congress. According to U.S. estimates, synthetic opioids, including predominantly foreign-sourced fentanyl and fentanyl-related compounds (analogues), killed more Americans in the past 12 months than any other type of opioid. In addressing the international dimensions of the problem, policymakers have faced challenges in stopping fentanyl, fentanyl-related substances, and emerging synthetic opioids from entering the United States. In recent years, counternarcotics attention has focused on reducing fentanyl flows from China.

Background

Fentanyl is a potent synthetic opioid that has been used medically as a painkiller and an anesthetic since it was first synthesized in 1959. Due to fentanyl's potential for abuse and addiction, the United Nations (U.N.) placed it under strict international control in 1964. In the United States, it is regulated by the Drug Enforcement Administration (DEA), pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended (21 U.S.C. 801 et seq.).

In recent years, fentanyl and its analogues have emerged as a major international drug control problem. Overdose deaths from their abuse have continued to rise, and a growing number of fentanyl analogues appear marketed for nonmedical, often unregulated use. In September 2020, the International Narcotics Control Board reported the existence of 144 fentanyl-related substances with no currently known legitimate uses. The U.N. Office on Drugs and Crime estimates that laboratories could potentially synthesize thousands of other fentanyl analogues. As of December 2020, fentanyl and 26 fentanyl analogues are scheduled for international control pursuant to the U.N. Single Convention on Narcotic Drugs.

In 2018, U.N. member states agreed to place two common chemicals used to produce fentanyl (fentanyl "precursor chemicals") under international control: N-phenethyl-4-piperidone (NPP) and 4-anilino-N-phenethyl-4-piperidone (ANPP). Since then, traffickers have shifted to producing other fentanyl precursors, such as 4-AP, which have not been internationally regulated.

Sources and Trafficking Pathways

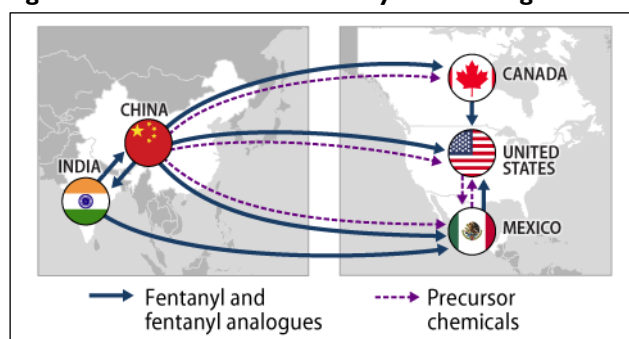
While not a new phenomenon, the illicit production and trafficking of fentanyl and fentanyl analogues in recent years have been associated with rising numbers of U.S. opioid-related overdose fatalities, as well as fatalities in Canada and Europe. Clandestine laboratories may engage in illicit production of fentanyl, fentanyl analogues, and precursors. Otherwise legitimate companies may produce unregulated analogues and precursors. Also, legally

manufactured fentanyl pharmaceutical products may be illicitly diverted through theft and fraudulent prescriptions.

China has been a major source of U.S.-bound fentanyl and, more recently, precursors and production equipment (**Figure 1**). In January 2020, DEA assessed that although China remained the "primary source" of all fentanyl-related substances trafficked into the United States, other sources of fentanyl were emerging. Based on U.S. seizure data, fentanyl and fentanyl analogues were often mailed from China in parcel packages. These small (typically less than 1 kilogram in weight), high-purity (often testing above 90% purity) parcels would arrive in the United States, Canada, and Mexico, where they would be mixed with heroin (or other illicit drugs, including cocaine and methamphetamine) or pressed into pills (some purporting to be name-brand pharmaceutical opioid preparations). In December 2020 testimony, the U.S. Postal Service (USPS) reported two consecutive years of "dramatic" declines in the number of seizures of suspected fentanyl or synthetic opioids in inbound international mail. At the same hearing, U.S. Customs and Border Protection (CBP) noted that despite an "apparent shift in fentanyl production to other countries such as India and Mexico," China remains a "major source country" for a variety of controlled substances and drug-related manufacturing equipment, including pill presses.

Arrangements to procure fentanyl, fentanyl analogues, and related precursors are typically conducted online. Producers advertise products on the clear web through public websites, social media accounts, and password-protected marketplaces. Further complicating law enforcement detection, traffickers often exploit features of the dark web and cryptocurrencies to procure and purchase fentanyl and fentanyl analogues anonymously.

Figure 1. China-Sourced Fentanyl Trafficking Flows



Source: DEA (2020).

Addressing China's Role

To address the problem of illicit fentanyl from China, the U.S. government has pressed China to impose domestic controls on fentanyl analogues and precursors, indicted and

sanctioned Chinese fentanyl manufacturers and distributors, and negotiated for more advance tracking information on packages from China. Even as the overall U.S.-China relationship has grown more contentious, those efforts and others appear to have yielded progress.

In 2019, China imposed domestic controls on the entire fentanyl class of chemicals, including all known and all potential future variations of fentanyl. It said it did so, in part, “to respond to the U.S. side’s concern.” China first announced its intention to pursue class scheduling in December 2018, following a meeting between then-President Donald J. Trump and China’s President Xi Jinping on the sidelines of a G-20 meeting in Buenos Aires. On May 1, 2019, China added all fentanyl-related substances not already scheduled to its “Supplementary List of Controlled Narcotic Drugs and Psychotropic Substances with Non-Medical Use.” According to the State Department’s 2020 International Narcotics Control Strategy Report (INSCR), China’s class scheduling of fentanyl “led to pronounced shifts in fentanyl and fentanyl analogue flows to the United States.” The INSCR cited CBP data showing seizures of fentanyl directly shipped from China dropped from over 116 kilograms in FY2017 to less than 200 grams in FY2019.

Justice and Treasury Departments efforts may have increased pressure on Chinese fentanyl traffickers. In October 2017, the Justice Department announced that it had designated two Chinese nationals, Yan Xiaobing and Zhang Jian, as Consolidated Priority Organization Targets (CPOTs), making them the first fentanyl manufacturers and distributors of any nationality to be so designated. The term refers to “‘command and control’ elements of the most prolific international drug trafficking and money laundering organizations.” In April 2018, the Treasury Department designated Zhang as a significant foreign narcotic trafficker pursuant to the Foreign Narcotics Kingpin Designation Act (P.L. 106-120), the first time the department designated an accused fentanyl trafficker of any nationality under the act. The Treasury Department later identified three more Chinese nationals—Yan Xiaobing, Zheng Fujing, and Zhang Taotao—and Zheng’s drug trafficking organizations as significant foreign narcotics traffickers pursuant to the act. All are accused of fentanyl trafficking. The U.S. government has also teamed up with Chinese officials to jointly investigate fentanyl traffickers. In November 2019, a joint U.S.-China investigation resulted in a Chinese court sentencing nine defendants for trafficking fentanyl to the United States. The investigation originated with a 2017 tip from the U.S. Department of Homeland Security.

Intelligence sharing may have helped curb fentanyl flows. According to CBP in December 2020 testimony, the agency now “regularly shares targeting information” with China’s Ministry of Public Security and the General Administration of China Customs. In addition, pursuant to a bilateral agreement, China’s postal service, China Post, provides USPS with advanced electronic data (AED) on parcels mailed to the United States. The data help CBP target high-risk shipments for inspection. In testimony at the same December 2020 hearing, USPS stated that China Post was “nearly fully achieving the prescribed level of AED.” USPS

described that as “a major accomplishment, and likely due to cooperative efforts over the course of several years.”

Some U.S. objectives with respect to China remain unmet. China has not taken action to control additional fentanyl precursors, following China’s listing of two fentanyl precursors, NPP and 4-ANPP, as controlled substances in February 2018. According to the 2020 INSCR, after China controlled NPP and 4-ANPP, “Chinese traffickers shifted to sending not yet controlled chemicals to Mexico (such as 4-AP).” In addition, China has not so far approved DEA requests to open offices in the Chinese cities of Guangzhou and Shanghai, and Chinese nationals indicted in the United States on fentanyl trafficking charges remain at large.

U.S. Foreign Policy Responses

Targeting the foreign supply of U.S.-destined illicit drugs has long been a pillar of U.S. counternarcotics strategy. Foreign policy approaches to stemming the flow of illicit fentanyl into the United States have focused on bilateral engagement, including with China, and multilateral cooperation with the United Nations and other stakeholders on such goals as scheduling more fentanyl analogues and precursors for international drug control. Today’s synthetic opioid problem poses particular challenges for the current counternarcotics policy toolbox, including the rapid pace at which new designer analogues and precursor chemicals appear, as well as the emergence of newer trafficking networks and online marketing and payment methods.

The 116th Congress saw multiple bills seeking to address fentanyl and opioid-related concerns in the context of public health, domestic border security, law enforcement, and postal service controls, as well as foreign policy. Incorporated into the National Defense Authorization Act for FY2020 (P.L. 116-92), the Fentanyl Sanctions Act enhanced the President’s ability to impose sanctions on synthetic opioids traffickers based in China and other foreign countries. The Temporary Reauthorization and Study of the Emergency Scheduling of Fentanyl Analogues Act (P.L. 116-114) requires the U.S. Government Accountability Office (GAO) to study and report on the impacts of class-wide scheduling of fentanyl-related substances, including the impact controls on China’s supply of fentanyl substances to the United States.

Congressional Outlook

As the 117th Congress considers policy options to address fentanyl flows from China, issues may include the effects of the Coronavirus Disease 2019 (COVID-19) pandemic on trafficking flows and bilateral cooperation; the effectiveness of the Fentanyl Sanctions Act; and whether additional foreign policy tools, including bilateral and multilateral information sharing, are needed to address emerging trends in synthetic opioid production and trafficking.

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