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Illicit Fentanyl, China's Role, and U.S. Foreign Policy Options

Addressing illicit fentanyl in the context of the ongoing opioid crisis is a major domestic and foreign policy issue for the Trump Administration and Congress. According to U.S. estimates, foreign-sourced fentanyl and fentanyl-related compounds (analogues) killed more Americans in 2017 than all other illicit drugs. In addressing the international dimensions of the fentanyl problem, policymakers have faced challenges in stopping inflows of fentanyl and fentanyl-related drugs, particularly from China. They continue to question whether existing U.S. foreign policy tools to combat illicit drugs are sufficient.

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 pursuant to the *Controlled Substances Act of 1970* (P.L. 91-513). In recent years, fentanyl has reemerged as a major international drug control problem as overdose deaths from its abuse have continued to rise.

Fentanyl analogues belong to the same class of substances as fentanyl, similar in chemical makeup and effect but not necessarily illicitly produced and trafficked. Some are internationally controlled and approved for medical use (e.g., sufentanil, alfentanil, and remifentanil). Others are newer creations, drawn from the scientific and patent literature, and designed to circumvent current international and domestic drug control laws. Since 2012, several dozen unregulated fentanyl analogues have reportedly entered the illicit opioid market, including more than 30 in North America alone. Controlling these newer compounds remains a challenge for the international community.

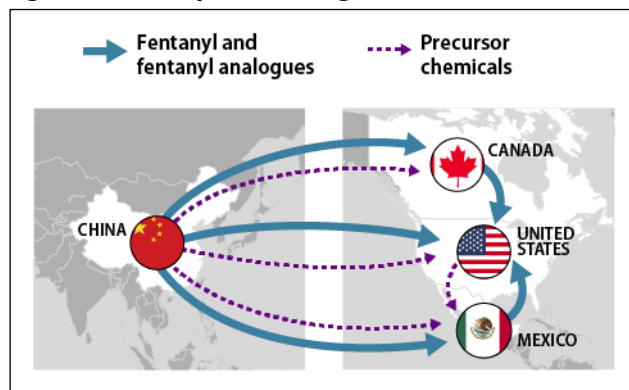
Since 2016, the U.N. has agreed to place eight additional fentanyl analogues under control, including, in 2018, carfentanil, a veterinary drug that is 10,000 times more potent than morphine. Also in 2018, the U.N. agreed to place two common chemicals (known as precursor chemicals) used to produce fentanyl under international control: N-phenethyl-4-piperidone (NPP) and 4-anilino-N-phenethyl-4-piperidone (ANPP).

Sources and Trafficking Pathways

Legally manufactured fentanyl pharmaceutical products may be illicitly diverted through theft and fraudulent prescriptions. Fentanyl may also be illicitly produced in clandestine laboratories. While not a new phenomenon, the illicit production and trafficking of fentanyl and fentanyl analogues in recent years has been associated with a sharp rise in U.S. opioid-related overdose fatalities, as well as fatalities in Canada and Europe.

According to the U.S. Drug Enforcement Administration (DEA), most illicit fentanyl and fentanyl analogues that reach U.S. users is produced in China. The precursor chemicals NPP and ANPP are also primarily produced in China.

Figure 1. Fentanyl Trafficking Flows



Source: DEA, *National Drug Threat Assessment*, 2017.

Based on U.S. seizure data, illegally produced fentanyl in powder form is often mailed from China in parcel packages. These small, high-purity parcels arrive in the United States, Canada, and Mexico, where the fentanyl is mixed with heroin (or other illicit drugs, including cocaine and methamphetamine) or pressed into pills (some purporting to be name-brand pharmaceutical opioid preparations). They are often purposely mislabeled and sent through multiple freight forwarders. Further complicating law enforcement detection, traffickers exploit features of the darkweb and cryptocurrencies to procure and purchase fentanyl and fentanyl analogues anonymously online. U.S. authorities have reported that illicitly manufactured fentanyl is also produced in Mexico and the Dominican Republic.

U.S. Foreign Policy Approaches

Foreign policy approaches to stemming the flow of foreign illicit fentanyl into the United States have focused on bilateral engagement, particularly with China, Mexico, and Canada, and multilateral cooperation with the United Nations, the Universal Postal Union, and other major stakeholders. Bilateral efforts have included fostering law enforcement cooperation and information exchange, engaging in high-level political dialogue, and, in the case of Mexico, providing foreign assistance on counterdrug matters. Multilateral efforts have focused on scheduling more fentanyl analogues and precursors for international drug control. In 2017, the United States also issued an INTERPOL purple notice to the international law enforcement community on fentanyl trafficking concealment methods.

Case Study: U.S.-China Cooperation

To address the problem of illicit fentanyl from China, the U.S. government has pushed China to impose domestic controls on fentanyl analogues, indicted Chinese fentanyl manufacturers and distributors, negotiated for more advance tracking information on packages from China, and sought greater cooperation from China in the sharing of bank records. Even as the overall U.S.-China relationship has grown more contentious, the Administration has credited engagement with China for progress on many of these fronts. A DEA office in Beijing facilitates working-level cooperation with the Narcotics Control Bureau (NCB) of China's Ministry of Public Security. DEA is working to staff new offices in the Chinese cities of Guangzhou and Shanghai in order to engage provincial officials. Fentanyl is also on the agenda of several U.S.-China dialogues, including the Bilateral Drug Intelligence Working Group, which last met in November 2018.

Responding in part to requests from the United States, China has so far imposed domestic controls on 170 new psychoactive substances, including 25 fentanyl analogues, and also controlled two fentanyl precursor chemicals, NPP and ANPP. In January 2018 Senate testimony, a DEA official said U.S. seizure data showed China's implementation of controls had "an immediate effect on the availability of these drugs in the United States."

When President Trump and China's President Xi Jinping met on December 1, 2018 on the sidelines of the G-20 meeting in Buenos Aires, Xi agreed to control the entire fentanyl class of chemicals. The move would prohibit trade in all known and all potential future variations of fentanyl. A White House statement described Xi's pledge as "a wonderful humanitarian gesture." China's statement said the country would start the process of adjusting related laws and regulations, although it did not provide a timetable for that process. Chinese government agencies involved in drug scheduling include the Ministry of Public Security, the National Narcotic Control Commission, the National Health Commission, and the State Administration for Market Regulation.

In October 2017, the Justice Department announced the indictment of two alleged Chinese fentanyl manufacturers and distributors (Xiaobing Yan and Jian Zhang). In an April 2018 superseding indictment, the Justice Department charged four more Chinese nationals with laundering funds on behalf of Zhang's network. The Treasury Department also designated Zhang and his network with targeted economic sanctions, pursuant to the Foreign Narcotics Kingpin Designation Act (P.L. 106-120). In August 2018, the Justice Department indicted two more alleged Chinese fentanyl manufacturers and distributors (Fujing Zheng and his father, Guanghua Zheng). The Justice Department credited China with investigative assistance in all the cases. All those charged all remain at large.

Under an agreement with the U.S. Postal Service (USPS), China's postal service, China Post, provides USPS with advanced electronic data (AED) on parcels mailed to the United States. In May 2018 testimony, a U.S. Customs and Border Protection (CBP) official said the proportion of parcels for which China is providing AED is now "over 98 percent," helping CBP target high risk shipments for inspection.

public health, domestic border security, law enforcement, and postal service controls (including availability of advanced electronic data). Several resolutions (S.Res. 10, S.Res. 83, and H.Res. 268) addressed the issue's foreign policy dimensions. Recent congressional hearings have also addressed the international dimensions of the fentanyl problem. As Congress seeks to address foreign sources of fentanyl, key considerations may include the following:

Whether more could be done to schedule fentanyl analogues and other emerging synthetic opioids for international drug control. Although U.S. officials describe recent U.N. scheduling actions as policy successes, the current international drug control system has long been criticized as slow and outdated. Some observers have advocated variously for reforming the U.N. drug control regime and developing novel approaches to national chemical scheduling systems.

Whether a cooperative approach to dealing with foreign sources and transit countries of fentanyl is effective. The U.S. approach has generally emphasized cooperation and diplomacy with foreign countries on fentanyl matters. Other options include applying more coercive or punitive measures, such as designating countries like China as a "major drug transit or major illicit drug producing country," pursuant to Section 481 of the Foreign Assistance Act of 1961 (P.L. 87-195), as amended. On the other hand, such publicly antagonistic approaches could undermine recent advances in bilateral cooperation on drug matters.

Whether more information on international fentanyl flows could inform foreign cooperation. In 2017, U.S. engagement with Mexico and Canada resulted in the first ever Trilateral Assessment on Opioid Trafficking. Although described by U.S. officials as a valuable baseline, some observers suggest that critical gaps may remain—including information on how the illicit fentanyl market is evolving and where future fentanyl production may emerge. To this end, Congress may seek to amend reporting requirements associated with the International Narcotics Control Strategy Report, an annual public report with country assessments prepared by the State Department for Congress.

Whether current foreign policy and counternarcotics tools and resources are sufficient. Targeting the foreign supply of U.S.-destined illicit drugs has long been a pillar of U.S. counternarcotics strategy. Today's fentanyl problem, however, appears to be challenging the current policy toolbox with its rapid introduction of designer analogues, and the emergence of newer trafficking networks and online marketing and payment methods. Although the Administration has not requested additional foreign policy-related authorities to address fentanyl trafficking, policymakers may continue to evaluate whether U.S. resources are sufficient or allocated effectively.

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Policy Considerations for Congress

In the 115th Congress, multiple bills sought to address fentanyl and opioid-related concerns in the context of

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