



## China Primer: Illicit Fentanyl and China's Role

Addressing illicit fentanyl in the context of the ongoing opioid crisis in the United States is a domestic and foreign policy issue for the 117<sup>th</sup> Congress. In addressing the international dimensions of the problem, policymakers have endeavored to stop foreign-sourced fentanyl, fentanyl-related substances (i.e., analogues and precursor chemicals), and emerging synthetic opioids from entering the United States. U.S. counternarcotics policy has included a focus on reducing fentanyl and fentanyl precursor flows from the People's Republic of China (PRC, or China). Despite some early successes, cooperation with the PRC appears to have waned in recent years, consistent with an overall deterioration in U.S.-China relations.

### Background

Fentanyl is a potent synthetic opioid 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 international control in 1964. In the United States, fentanyl 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.).

Fentanyl and its analogues have emerged as a major international drug control problem. Overdose deaths from their abuse have continued to rise in the United States, and a growing number of fentanyl analogues appear marketed for nonmedical, often unregulated use. As of November 2021, the International Narcotics Control Board—an independent expert body that monitors government compliance with international drug control treaties—reported the existence of more than 150 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 June 2022, more than 30 fentanyl-related substances, including precursors, are scheduled for international control pursuant to the U.N. Single Convention on Narcotic Drugs of 1961, as amended, and the U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

In 2017, U.N. member states agreed to list two fentanyl precursor chemicals on Table I of the 1988 Convention, subjecting them for the first time to international controls: N-phenethyl-4-piperidone (NPP) and 4-anilino-N-phenethyl-4-piperidone (ANPP). (In February 2018, consistent with the U.N. decision, the PRC implemented corresponding domestic controls.) In March 2022, U.N. member states decided to add three more fentanyl precursors under international control: 4-anilinopiperidine (4-AP), 1-(tert-butoxycarbonyl)-4-phenylaminopiperidine (boc-4-AP), and N-phenyl-N-(piperidin-4-yl) propionamide (norfentanyl).

### 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. Clandestine laboratories may engage in illicit production of fentanyl, fentanyl analogues, and precursors. Legitimate companies may produce unregulated analogues and precursors, while legally manufactured fentanyl pharmaceutical products may be diverted through theft and fraudulent prescriptions.

In the years immediately prior to 2019, China was the primary source of U.S.-bound illicit fentanyl, fentanyl precursors, and production equipment. Fentanyl and fentanyl-related substances were trafficked directly from the PRC to the United States through international mail and express consignment operations. Trafficking patterns have changed since the PRC imposed class-wide controls over all fentanyl-related substances, effective May 2019. Today, Mexican transnational criminal organizations (TCOs) are largely responsible for the production of U.S.-consumed illicit fentanyl, using PRC-sourced primary materials, including precursor chemicals that are legal to produce and export in China. According to DEA assessments cited by the U.S.-China Economic and Security Review Commission, Chinese traffickers and money launderers appear to have increased cooperation with Mexican cartels.

In February 2022, the U.S. Commission on Combating Synthetic Opioid Trafficking, established pursuant to Section 7221 of the National Defense Authorization Act for Fiscal Year 2020 (P.L. 116-92), concluded that the PRC's chemical and pharmaceutical sectors have "outpaced the government's efforts to regulate them, creating opportunities for unscrupulous vendors to export chemicals needed in their illegal manufacture." Moreover, the commission found that traffickers' exploitation of existing global logistics and trade networks (e.g., postal, courier, and commercial cargo systems), as well as widely used online marketing and communication platforms, including those with encryption capabilities, challenge law enforcement detection of fentanyl-related flows. The U.S. Department of the Treasury's Financial Crimes Enforcement Network has reported that traffickers also exploit features of the dark web and cryptocurrencies to procure and purchase fentanyl-related substances.

### Addressing China's Role

U.S. foreign policy efforts to stem the flow of illicit fentanyl-related substances into the United States have focused on bilateral engagement and multilateral cooperation with entities including the United Nations and other stakeholders on such goals as scheduling more fentanyl analogues and precursors for drug control. Such efforts fit within broader goals of targeting the foreign

supply of U.S.-destined illicit drugs, which has long been a pillar of U.S. counternarcotics strategy and features centrally in the Biden-Harris Administration's April 2022 *National Drug Control Strategy* (the *Strategy*).

With respect to the PRC, the 2022 *National Drug Control Strategy* prioritizes increased collaboration “on shared drug priorities” and continued engagement “to reduce diversion of uncontrolled precursor chemicals.” The *Strategy* further identifies increasing real-time law enforcement information sharing about precursor trafficking incidents from China or India to North America as a measurable objective of its supply reduction goals. The *Strategy* specifies that, by 2025, it seeks to increase incident reporting by 125%, from a 2020 baseline of 6 incident reports (i.e., up to 14 reports).

### Early Successes

U.S.-PRC cooperation on fentanyl has yielded successes:

- In December 2018, on the sidelines of a G-20 meeting in Argentina, the PRC announced its intention to pursue class-wide scheduling of all fentanyl-class substances; it said it did so, in part, “to respond to the U.S. side’s concern.” The PRC followed through on its commitment in May 2019, when it added all fentanyl-related substances not already scheduled to its “Supplementary List of Controlled Narcotic Drugs and Psychotropic Substances with Non-Medical Use.”
- In November 2019, a joint U.S.-China investigation resulted in a PRC court sentencing nine defendants for trafficking fentanyl to the United States; the investigation reportedly originated with a 2017 tip from the U.S. Department of Homeland Security.
- According to 2020 congressional testimony from a U.S. Customs and Border Protection (CBP) official, the agency “regularly shares targeting information” with the PRC’s Ministry of Public Security (MPS) and the General Administration of China Customs. Pursuant to a bilateral agreement, China’s postal service, China Post, provides the U.S. Postal Service (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 2020 hearing, a USPS official described AED sharing as “a major accomplishment, and likely due to cooperative efforts over the course of several years.”
- The PRC approved the U.S. Drug Enforcement Administration’s (DEA’s) request to open additional offices in the country. DEA presently maintains offices in Beijing, Shanghai, Guangzhou, and Hong Kong. All but the Guangzhou office are operational.

### Ongoing Challenges

The rising tensions in the U.S.-China relationship may challenge efforts to sustain progress on illicit fentanyl. The Biden administration’s counternarcotics policy focuses on addressing the diversion of legal chemicals for the manufacture of illicit drugs. PRC officials have expressed frustration that their efforts to cooperate with the United States on drug matters have not led to progress in other areas of the relationship, such as trade.

U.S. actions (e.g., unilateral sanctions) have compounded their frustrations. The U.S. Department of the Treasury’s Office of Foreign Assets Control has designated more than 20 mainland China or Hong Kong-based persons in relation to fentanyl trafficking. The effectiveness of such sanctions targeting individuals and entities associated with fentanyl-related operations remains unclear. The PRC protested the addition of the MPS’s Institute of Forensic Science and others to the Department of Commerce’s Entity List in May 2020, asserting in September 2021 that the action has “seriously affected China’s examination and identification of fentanyl substances and hindered the operation of its fentanyl monitoring system” and “greatly affected China’s goodwill to help” the United States on counternarcotics.

Some U.S. objectives for cooperation with China on addressing illicit fentanyl supply remain unmet. To date, the PRC has not reported taking action to control additional fentanyl precursors, including 4-AP, boc-4-AP, and norfentanyl. Coronavirus Disease 2019 (COVID-19) pandemic-related restrictions on travel and in-person meetings reportedly have prevented formal U.S.-PRC engagement through the Bilateral Drug Intelligence Working Group and the Counter Narcotics Working Group. Some PRC nationals indicted in the United States on fentanyl trafficking charges remain at large; the PRC at times resists cooperating with U.S. authorities to bring indicted individuals to justice on the grounds that the substance of the allegations do not constitute violations of PRC law. With respect to financial crime, the U.S. State Department’s 2021 International Narcotics Control Strategy Report (INCSR) reports that the PRC “has not cooperated sufficiently on financial investigations and does not provide adequate responses to requests for information.”

### Congressional Outlook

The 117<sup>th</sup> Congress has monitored developments and proposed legislation addressing China’s role in illicit fentanyl trafficking. The U.S. Commission on Combating Synthetic Opioid Trafficking has proposed policy recommendations to support PRC oversight and enforcement over its chemical and pharmaceutical industries. Relevant bills in the 117<sup>th</sup> Congress include H.R. 4521 and its companion S. 1260, which contain reporting requirements regarding U.S. government efforts to address illicit fentanyl-related cooperation with the PRC. Additional issues for the 117<sup>th</sup> Congress may include implementation of the President’s *National Drug Control Strategy*; the effects of COVID-19 on trafficking flows and bilateral cooperation; and whether additional foreign policy tools, such information sharing, are needed to address emerging trends in synthetic opioid production and trafficking. Congress may also consider how U.S.-China relations affect narcotics control outcomes, including sanctions on PRC-based entities for nonnarcotics-related purposes.

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