



Updated February 20, 2024

China Primer: Illicit Fentanyl and China's Role

In addressing the international dimension of the opioid crisis in the United States, policymakers have sought to stop foreign-sourced fentanyl, fentanyl-related substances (i.e., analogues), and chemical inputs (e.g., precursors) from entering the United States. Beginning in the mid-2010s, U.S. authorities identified the People's Republic of China (PRC, or China) as a primary source of U.S.-bound illicit fentanyl and fentanyl analogues. The PRC's imposition of class-wide controls over all fentanyl-related substances in 2019 changed trafficking patterns. Direct flows of such substances from China to the United States appeared largely to cease. Today, the focus of China-related U.S. counternarcotics policy has shifted to preventing PRC-sourced fentanyl precursors and associated equipment, along with other synthetic drugs that may be mixed with fentanyl substances, from entering the U.S.-bound fentanyl supply chain. The U.S. government also seeks to target illicit fentanyl-related financial flows linked to China. A November 2023 summit in California between President Joseph R. Biden, Jr. and China's leader, Xi Jinping, renewed cooperation on drug control issues after more than three years of stasis.

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 international control in 1964. Domestically, 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.). The U.S. Centers for Disease Control and Prevention estimate that synthetic opioids (primarily fentanyl-related substances) may have resulted in more than 78,000 U.S. overdose deaths between September 2022 and August 2023. Traffickers appear to be marketing a growing number of fentanyl analogues for nonmedical, often unregulated, use.

As of November 2023, the International Narcotics Control Board (INCB)—an independent expert body that monitors governments' compliance with U.N. drug control conventions—reported the existence of 153 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 May 2023, more than 30 fentanyl-related substances, including precursors, are subject to international control ("scheduled") 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.

U.N. member states first subjected fentanyl precursors to international control in 2017, agreeing to list the precursors *N*-Phenethyl-4-piperidone (NPP) and 4-Anilino-*N*-phenethylpiperidine (ANPP) on Table I of the 1988

Convention. In 2018, consistent with the U.N. decision, the PRC implemented corresponding domestic controls. In 2022, U.N. member states subjected three additional fentanyl precursors to international control: *N*-Phenyl-4-piperidinamine (4-AP), *tert*-Butyl 4-(phenylamino)piperidine-1-carboxylate (1-boc-4-AP), and norfentanyl. In June 2023, the PRC government said it was "in the process of scheduling" three additional fentanyl precursors—presumably those the U.N. scheduled in 2022—but the PRC has provided no further information.

Sources and Trafficking Pathways

DEA alleges that PRC-based chemical companies advertise and sell online fentanyl precursor chemicals, including some that are not internationally controlled and are correspondingly legal to export out of China. PRC firms also sell other synthetic drugs of concern, including xylazine and nitazenes. PRC companies ship such items to Mexico or directly to the United States, including via the U.S. Postal Service and express consignment services, "carefully packaged to deceive customs inspectors." According to DEA, customers, often associated with Mexico-based transnational criminal organizations (TCOs), may pay for the chemicals and drugs in cryptocurrencies, making it harder for DEA "to follow the money." They also pay using U.S. and PRC payment services or bank transfers. DEA alleges that the TCOs use largely PRC-sourced chemicals to synthesize fentanyl substances in clandestine laboratories, and often mix xylazine and nitazenes into fentanyl-related products, making the substances "even deadlier," before distributing them across North America.

The 2022 report of the U.S. Commission on Combating Synthetic Opioid Trafficking (established pursuant to §7221 of 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." The U.S. Department of the Treasury assesses that Mexico-based cartels are increasingly working with PRC money laundering organizations.

Addressing China's Role

The Biden Administration's 2022 *National Drug Control Strategy* prioritizes increased collaboration with the PRC "on shared drug priorities" and continued engagement "to reduce diversion of uncontrolled precursor chemicals." In February 2023 Senate testimony, Assistant Secretary of State for International Narcotics and Law Enforcement Affairs Todd Robinson noted that the United States has "encouraged the PRC to improve information-sharing on global chemical flows, strengthen enforcement of customs manifesting agreements, and implement know-your-customer standards to restrict the sale of precursor chemicals to only customers with legitimate needs." In July

2023, the United States launched a Global Coalition to Address Synthetic Drug Threats, including fentanyl.

The U.S. government has taken several unilateral actions to address China's role in fentanyl and precursor trafficking.

- The U.S. Department of the Treasury's Office of Foreign Assets Control has so far sanctioned more than 65 mainland China- or Hong Kong-based persons for illicit fentanyl, xylazine, or nitazenes trafficking. The sanctions block assets under U.S. jurisdiction, prohibit U.S. persons from engaging in financial transactions with those designated, and ban such traffickers from entry into the United States.
- In June 2023, the Department of Justice (DOJ) indicted three PRC-based companies and their employees for fentanyl-related crimes. In September 2023, DOJ indicted eight more PRC chemical companies and 12 of their executives for crimes related to fentanyl, other synthetic opioids, methamphetamines, and their precursor chemicals.
- In September 2023, President Biden added China to the U.S. list of the world's major illicit drug-transit or drug-producing countries, citing the PRC's role in the production of precursor chemicals used to produce illicit drugs significantly affecting the United States.

U.S.-PRC cooperation on fentanyl has yielded some successes. In May 2019, the PRC added all fentanyl-related substances not already scheduled to its "Supplementary List of Controlled Narcotic Drugs and Psychotropic Substances with Non-Medical Use." In 2019 and 2021, joint U.S.-China investigations resulted in PRC courts sentencing defendants for trafficking fentanyl to the United States and Canada. In 2020, the U.S. Postal Service reported that China Post was "nearly fully achieving" the requirement, pursuant to the Synthetics Trafficking and Overdose Prevention (STOP) Act of 2018 (Title VIII, Subtitle A of P.L. 115-271), that 100% of its U.S.-destination packages be accompanied by customs advance electronic data (AED).

Bilateral counternarcotics cooperation appeared to stall beginning in 2020. The PRC government blamed U.S. actions unrelated to counternarcotics. It pointed to the U.S. Department of Commerce (DOC)'s June 2020 addition to its Entity List of an institute under the PRC's Ministry of Public Security (MPS), the Institute of Forensic Science, which subjected the institute to export controls. DOC alleged the institute was "implicated in human rights abuses" in the PRC's Xinjiang Uyghur Autonomous Region. The PRC formally suspended bilateral counternarcotics cooperation in August 2022, in response to then-House Speaker Nancy Pelosi's visit to Taiwan.

At their November 2023 summit, President Biden and Communist Party of China General Secretary Xi agreed to resume counternarcotics cooperation and to launch a counternarcotics working group. In parallel, DOC removed the MPS institute from the Entity List. The White House reported that the PRC shut down some PRC-based suppliers of synthetic drugs and precursors and blocked their international payment accounts. After a pause of three

years, the PRC also resumed submitting real-time incidents of suspicious shipments of fentanyl-related substances and other new psychoactive substances to the INCB. (The White House says the PRC submitted 145 such incidents in November 2023 alone.) After the summit, the PRC National Narcotics Control Commission (NNCC), housed within MPS, warned PRC actors that they may be subject to law enforcement actions from other countries for sales and trafficking of substances not currently subject to controls in China. The notice cautioned PRC actors specifically about sales to the United States and Mexico, including sales of pill presses. An appendix identified all 51 U.S.-listed precursors. In late January 2024, a senior Biden Administration official reported that the United States was "starting to see reductions in seizures of precursors at some U.S. airports already."

The working group met for the first time in Beijing on January 30, 2024. White House Deputy Homeland Security Advisor Jen Daskal led the U.S. delegation. Her PRC counterpart was State Councilor Wang Xiaohong, who serves concurrently as Minister of Public Security and head of the NNCC. Per the White House, "The two sides emphasized the need to coordinate on law enforcement actions; address the misuse of precursor chemicals, pill presses, and related equipment to manufacture illicit drugs; target the illicit financing of transnational criminal organization networks; and engage in multilateral fora."

Secretary of Homeland Security Alejandro N. Mayorkas and State Councilor Wang met in Vienna on February 18, 2024. According to a U.S. readout, with regard to illicit synthetic drugs, the two committed to "continued law enforcement cooperation, technical bilateral exchanges between scientists and other experts, scheduling of precursor chemicals, and furthering multilateral cooperation." The PRC readout quoted Wang as also calling on the United States to "correct the mistake of listing China as a 'major drug source country.'"

Related Legislation in the 118th Congress

The National Defense Authorization Act for FY2024 (P.L. 118-31), requires a determination of whether the PRC government "assisted in or approved of the transportation of pill presses, fentanyl products, or fentanyl precursors to one or more Mexican drug cartels" (Sec. 1311). It also states that it is the sense of Congress that PRC and Mexican organizations that traffic or finance trafficking in illicit fentanyl should be "among the highest priorities" for the Office of the Director of National Intelligence (Sec. 7325). Pending legislation includes the Senate-passed FEND Off Fentanyl Act (H.R. 815), the House-passed Stop Chinese Fentanyl Act of 2023 (H.R. 3203), the Strengthening Sanctions on Fentanyl Traffickers Act of 2023 (S. 2059), the Stop Fentanyl Money Laundering Act of 2023 (H.R. 3244), and the Project Precursor Act (H.R. 3205). The Senate's Department of State, Foreign Operations, and Related Programs Appropriations Acts for 2024 (S. 2438) would also include provisions related to fentanyl and China.

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