

COMBATTING THE OPIOID CRISIS: OVERSIGHT OF THE IMPLEMENTATION OF THE STOP ACT

HEARING

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

DECEMBER 10, 2020

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COMBATTING THE OPIOID CRISIS: OVERSIGHT OF THE IMPLEMENTATION OF THE STOP ACT

THURSDAY, DECEMBER 10, 2020

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:03 a.m., in room SD-342, Dirksen Senate Office Building, and via Webex, Hon. Rob Portman, Chairman of the Subcommittee, presiding.

Present: Senators Portman, Hawley, Carper, Hassan, and Rosen.

OPENING STATEMENT OF SENATOR PORTMAN¹

Senator PORTMAN. This hearing will come to order. I see the witnesses virtually before us on a computer screen. I see my colleague Senator Carper is here, and I know we have some other colleagues who have checked in this morning already virtually, and we will be hearing from them.

We are here today to follow up on the implementation of legislation called the Synthetics Trafficking and Overdose Prevention Act (STOP Act). This was a direct result of an investigation by this Committee, a couple of hearings, and some good work that was done to be able to stop this deadly fentanyl from coming into our country.

I want to start by thanking my Ranking Member. Senator Carper, this will be our last hearing together, I am told, as part of the Permanent Subcommittee on Investigations (PSI), and I want you to know that over the past 4 years you and your staff have been productive partners as we have undertaken a number of really important topics and had some success in passing legislation as well.

We have looked at the treatment and care of unaccompanied alien children (UAC) by the Federal Government. We have investigated the security of personal and financial data held by private companies and the Federal Government and have come out with strong recommendations. We have looked at loopholes in our sanctions program exploited by Russian oligarchs. Recently, we have done ground-breaking work on the influence of the Chinese Government here in the United States. This has included a review of the threat to academic freedom caused by having a Confucius Institute on a university campus. But also we have exposed how China has

¹The prepared statement of Senator Portman appears in the Appendix on page 33.

systematically taken U.S. taxpayer-funded research and IP to advance its own military and economic interests through these talent recruitment programs like the Thousand Talents Plan (TTP). We have written good bipartisan legislation that deals with this very serious issue. We have looked at the national security risks associated with the Chinese Government-owned telecom firms licensed by the Federal Communications Commission (FCC) to operate in the United States.

I want to thank you for your continuing bipartisan partnership and continuing the tradition of this Subcommittee, which is to really dig deep into serious issues and get something done on, I would say, even a nonpartisan basis.

Today's hearing is the continuation of our work in this Subcommittee on the Federal Government's efforts to crack down on the fentanyl coming into our country and more broadly to deal with the fentanyl and opioid crisis that has seized our entire country and every State represented in this chamber.

We started with a hearing in May 2017 examining how illicit fentanyl, a synthetic opioid 50 times more powerful than heroin, is being shipped into the United States through the U.S. mail. We found out that, unbelievably, almost all this was coming through the mail system into our communities from China, and it was the number one killer and remains the number one killer.

We conducted a 6-month investigation into the issue and in January 2018, Senator Carper and I issued a bipartisan report and held a hearing that detailed how online drug dealers in China were exploiting a loophole in international mail. That loophole allowed packages to be shipped into the United States with no identifying information or so-called advance electronic data (AED), which we will hear a lot about today, and if and only if the package was shipped through the U.S. Postal Service (USPS), in other words, went through another channel, it had to have this AED, which is very important to law enforcement to be able to stop the fentanyl and other contraband from coming in.

Our report described how during our investigation Subcommittee staff emailed with six websites located in China that advertised fentanyl for sale on the open Internet. When asked, all six of these websites told us they preferred to ship through the international arm of the Postal Service because of this loophole. In fact, one of the websites actually guaranteed delivery of this deadly fentanyl into our communities, but only if the fentanyl was shipped through the Postal Service. Our own Federal Government was complicit in providing this poison to our communities.

These online drug dealers in China preferred the Postal Service for a specific reason. In the aftermath of 9/11, Congress required private express carriers to collect AED on all packages being shipped in the United States. This is the Federal Express (FedExes), the DHLs, and so on. This data on the packages—shipper, recipient, weight, and contents—allows the Customs and Border Protection (CBP) folks to identify and target high-risk packages containing illegal items, including fentanyl. But Congress punted on whether the Postal Service should be required to collect that same data. After 9/11, they said to, DHL, and United Parcel Service (UPS), FedEx, and others, “You have to collect it.” But they said

with regard to the Postal Service, we are going to ask the Treasury Department, Treasury Secretary, and the Postmaster General (PG) to make a decision, to issue a report if the same AED requirements should be imposed on the Postal Service. That never happened.

This left the Postal Service and the mail it carries vulnerable to all kinds of contraband, including this deadly fentanyl. By failing to require the Postal Service to collect AED like private express carriers, Congress created a national security risk in the roughly 500 million international packages entering the United States each year. This vulnerability, of course, was exploited by Chinese online drug dealers to guarantee delivery of illicit fentanyl into the United States through the Postal Service.

Based on the recommendations of our report, in October 2018, our STOP Act, was passed by Congress and signed into law by the President. The STOP Act requires AED on all packages entering the United States starting next year, 3 weeks from now. Remember, this was back in 2018. In October 2018 we passed a law. We said by January 1, 2021, coming up a few weeks from now, you must have 100 percent of AED on packages coming into America, just as is already required by the other carriers.

Spain, France, and Germany have followed our lead and announced that packages shipped to those countries without AED will be delayed or refused and returned to the sender starting on January 1, 2021. In fact, our legislation is consistent with the legislation that the European Union (EU) put out generally, but specifically Spain, France, and Germany have followed our lead and said as of January 1st we cannot accept these packages unless they have AED on them.

This January 1st deadline was based on a generous timeline, again, that gave the Postal Service, CBP, and the State Department over 2 years to prepare. The STOP Act also set other milestones for the three agencies here today. These agencies failed to meet any of the important deadlines set out in the legislation. The law was passed, and set some deadlines. I think they were reasonable. They were well thought out. Not a single important deadline was actually met.

The STOP Act required the Postal Service and CBP to conduct a joint strategic plan for the management of AED by December 23, 2018, 2 years ago. That plan was not submitted to Congress until March 29, 2019. The STOP Act required CBP to finalize regulations regarding how packages would be dealt with that had no AED by October 2019. Those regulations were not even submitted to the Office of Management and Budget (OMB) for review until August 2020. We were told those regulations have now been passed back to Customs and Border Protection with comments, but we still do not know when they will be final. I hope we will learn that today.

The STOP Act required the Postal Service to collect AED on 70 percent of all packages and 100 percent of packages from China by the end of 2018. We are talking about way back in January 2019. Yet in January 2019, the Postal Service had AED only on about 57 percent of packages from all foreign posts, not 70 percent, and only 76 percent of packages from China, not 100 percent.

The State Department also has a role. Through efforts at the Universal Postal Union (UPU), of which the United States is a member, along with all foreign posts, the State Department leads the efforts to collect AED from our foreign partners.

It is true that the rate of international packages with AED has improved over the past few years since the implementation of the STOP Act, and I appreciate that. It has made a big difference, and it has saved a lot of lives. In fact, less fentanyl is now coming into the country because of that.

Three years ago, only 26 percent of international packages shipped through the Postal Service had AED. By January 2020, it was 67 percent. That is a nice improvement. Unfortunately, during coronavirus disease (COVID) that amount has actually dropped off to about 54 percent. We were up to 67 percent; now we are down to 54 percent in October of this year. We were making good progress, and recently we have seen a drop-off. We want to know why.

As noted, on January 1st, the Postal Service and CBP will be required to refuse any international package without AED. This means that because deadlines were not met, a substantial number of packages will be turned away starting on January 1, 2021. I am told there are about 150,000 packages a day expected to be coming in during that time period.

Of concern, some of the countries failing to provide AED on the majority of their packages are some of our closest allies—the United Kingdom, Australia, to name a few. We need to tighten up on them.

The number of seizures of illicit fentanyl in inbound international mail is down, as I said, and that is good news—according to Mr. Cintron’s testimony today, dramatically down. We are very pleased to see that. That means more lives saved, fewer people falling into addiction. Fentanyl is the deadliest of the drugs.

It seems the threat of the STOP Act and the increased ability to target packages containing illegal items have works. However, I understand that seizures of illicit opioids have shifted to the domestic mail stream, mainly in packages coming from locations near the Southwest Border. We have reason to believe that Mexico continues to be a conduit for fentanyl, and, in fact, some of it is actually being produced there now. Partly because of the STOP Act, the way the traffickers send it has been shifting not to come directly into our post boxes here in the United States and to people’s homes, but to go through Mexico. However, I do understand that these packages coming from locations near the Southwest Border are probably being brought across the border first.

I hope we will hear today how the Postal Service and Customs and Border Protection folks are dealing with this new threat, including ensuring the safety of our mail carriers. We have a lot to talk about in today’s hearing. We need to understand why none of the milestones Congress established in the STOP Act were met; we need to understand how the Postal Service and the Customs and Border Protection folks plan to deal with the packages with AED starting 3 weeks from now; and we need to know what efforts the State Department is taking at the Universal Postal Union to encourage other countries to provide AED on its packages.

I appreciate the witnesses being here today, and I look forward to hearing their testimony.

With that, I will turn to our Ranking Member, Senator Carper.

OPENING STATEMENT OF SENATOR CARPER¹

Senator CARPER. Thanks. Thanks, Mr. Chairman. Let me begin my statement by expressing to you, to Staff Director Andy Dockham over there, to the other members of your staff our heartfelt thanks for the opportunity to be your partners. John Kilvington, who is sitting behind my right side here on the bench, has been our Staff Director for all these years and done a wonderful job, and I am grateful to him and to the staff that he leads.

People say to me, not every day, but I came down on the train today from Delaware, and somebody said to me, “Why don’t you work together down in Washington, why don’t you get some things done and work together?” I wish that folks who feel that way had the opportunity to be a fly on the wall at a hearing like this and, frankly, to be at a meeting with our staff, your staff, Mr. Chairman, and ours. If you walked in there, if you did not know who was a Democrat and who was a Republican in terms of the staff, you would not know. It is really beautiful.

One of my favorite testimonies was a fellow named Rob Wallace, who was Assistant Secretary of the Interior. He is in charge of Fish and Wildlife Services. He is in charge of national parks and national wildlife refuges, and at his confirmation hearing he said—he is a Republican from Wyoming. He said these words: “Bipartisan solutions are lasting solutions.” We have worked on good legislation here. We have accomplished, I think, a lot simply through our investigations and the hearings that we have held. Is there work still to be done? Sure there is. But I am enormously proud and grateful for the opportunity to work with you and to wish you, as you are not leaving the Senate. You are moving on to be either the Chair or the Ranking Member of the full Committee, and we look forward to working with you many times in the future, in many instances. Thank you.

Thank you for holding this hearing today and for your ongoing leadership in combatting the opioid crisis that continues to grip our country.

As attention has necessarily shifted to the COVID-19 pandemic that has taken more than 280,000 American lives—think about how many—that sounds like a lot of people, doesn’t it? If you go down to the Vietnam Veteran Memorial down by the Lincoln Memorial, there are the names of 58,000 people I served with in that war, and 280,000 American lives, that is five times the number of names we have on that wall. But 280,000 American lives, and we continue to lose a growing number of Americans to opioid overdoses.

More than 71,000 people died from drug overdoses in 2019. Preliminary reports indicate that we will surpass that total in 2020. Communities in Delaware and Ohio continue to be among the hardest hit in the country, with both States reporting higher rates of overdose deaths than almost any other. Those are not just num-

¹The prepared statement of Senator Carper appears in the Appendix on page 37.

bers. Those are men and women, young people, old people, people who have children, people who have parents, people who have spouses, people who are dead.

When I joined Senator Portman in leading this Subcommittee in January 2017—almost 4 years ago—we started looking into how Americans were getting the drugs that were killing them in record numbers. We found that some of the deadliest—including powerful synthetic opioids like fentanyl—could be purchased easily online. Our staffs, as the Chairman said, actually communicated with drug dealers based in China who offered to ship them fentanyl and other drugs. Private shippers were an option, but the international mail system was preferred.

Since we published a report and held a hearing on our investigative findings in January 2018, almost 3 years ago, significant progress has been made in addressing at least some of the challenges that made the U.S. Postal Service and foreign posts around the world vulnerable to drug smuggling.

Among the most important improvements was the enactment of Senator Portman's STOP Act, which required more information on packages arriving at ports of entry (POEs) in the United States. The Postal Service responded to this new law by successfully pressing posts around the world to increase their collection of what is called advance electronic data from customers seeking to ship items to addresses here in the United States.

Not too long ago, I am told the Postal Service was collecting almost no data on inbound packages. In late 2017, they reported collecting data on roughly 60 percent of packages. Today two-thirds of packages arriving in the United States include advance electronic data.

Interestingly, the country that has been the most forthcoming in providing information on inbound package shipments is China—the main source of the deadly drugs that are still driving overdoses here in the United States. Today more than 80 percent of packages arriving here from China include advance electronic data. By comparison, less than one-quarter of packages from the United Kingdom (U.K.) include these data.

According to a recent report by the Postal Service's Office of Inspector General (OIG), our friends in the U.K. are not alone among advanced countries that are behind in this area. A number of European Union members and other major shippers like Japan and Australia also have a lot of work to do.

Despite that fact, the law is clear. As of January 1, 2021, the Postal Service must start refusing packages without advance electronic data. According to a briefing our staff received just this week, this could mean 130,000 mail pieces a day, or about 4 million pieces of mail a month. Not too long ago, our staff was told that as many as 20 million packages a month could be held up or returned to their sender.

It is not clear yet how bad this problem will turn out to be. But if we do wind up turning back or slowing down a large number of packages next month, I cannot imagine other countries will not retaliate by blocking at least some of the packages that the Postal Service sends abroad.

After 4 years of the Trump administration's failed trade wars and reckless international diplomacy, this is the last thing we need. At a time when Americans are being told to stay home and avoid inessential travel and trips to stores, more mail delays are unacceptable.

I am a strong supporter of the data requirements and tough deadlines that were included in the STOP Act. But what this hearing will show us today is that the administration has fallen down on the job in implementing the act.

I know international negotiations are tough. I am sure some countries have bristled at the suggestion that our State Department and our Postal Service can dictate what information they collect from their customers. But it is hard for me to understand why we are not in a better place than we are right now in obtaining advance electronic data when the Universal Postal Union and European Union requirements are so similar to ours.

Then we have CBP, Customs and Border Protection, an agency that was very direct with our staff in the past about what they perceived as failures by the Postal Service in counterdrug operations. CBP is over a year late in issuing the regulations necessary to implement the STOP Act. Over a year late. I am told those regulations will not be in place by January, and that CBP and the Postal Service are endeavoring only now to figure out what they plan to do when shipments without advance electronic data arrive here.

In my opinion, the Postal Service and—come January 20—the new administration will have been put in an impossible position.

This is all coming at a time when trends with respect to how drugs like fentanyl are getting here are changing. According to CBP, significantly more drugs may be coming through land ports of entry along our Southern Border. At the same time, seizures in the international mail have declined.

What I am hoping to hear from our witnesses today is how we can solve this. Given where the drugs are coming from and where our trading partners are in providing the package data that we are seeking, Congress and the public need to understand—and starting now—how we are going to avoid disruption and delays once the STOP Act goes fully into effect.

Finally, Mr. Chairman, let me say that 4 years after you and I started this work, our staffs started this work, deadly drugs can still easily be found for sale online. Like we did in 2017, my staff went online to search on Google, Microsoft's Bing, and other search engines for fentanyl and other illicit drugs for sale.

As recently as this week, a simple search for "buy fentanyl online no prescription"—a simple search for "buy fentanyl online no prescription"—yielded websites claiming to allow for the purchase and discreet shipping of deadly drugs directly into American homes. Without objection, Mr. Chairman, I would like to enter screenshots of these search results into the record.¹

Senator PORTMAN. Without objection.

Senator CARPER. As we press the State Department, as we press CBP, and the Postal Service to redouble their efforts to comply with the law and block deadly drugs before they arrive in our com-

¹ The charts submitted by Senator Carper appear in the Appendix on page 58.

munities, it is important that we also work with law enforcement and the technology industry to figure out how we can take these drug dealers offline.

With that, Mr. Chairman, I look forward to hearing from our panel. We look forward to hearing from our witnesses. I want to thank again our staffs for the extraordinary work they have done on this front. Thank you.

Senator PORTMAN. Thank you, Senator Carper. Well said, and the point being made again that private express carriers have to have this AED on their packages. For years now, they have required it, and we are not asking the Postal Service to do something that is not already being done by the DHLs, the FedExes, the UPSes, and others. Your point about China is well taken. China is now in the high 80s in terms of compliance, so more than 85 percent of packages from China are subject to AED. I remember some of the hearings we had previously where witnesses said you cannot impose this on countries that are not as developed as we are because they somehow cannot handle it. China has gotten the message, and we want them at 100 percent, which is required under the statute. But there is no excuse for countries not to work with us to provide that AED, particularly when the European Union shares our view and so does the UPU, the international body.

Let us introduce our panel of witnesses here.

Eric Green is the Director of Specialized and Technical Agencies in the Bureau of International Organization Affairs at the U.S. State Department.

Robert Cintron is the Vice President of Logistics at the United States Postal Service. This is the third time Mr. Cintron has testified before this Subcommittee on this topic, and we much appreciate your continued service and attention to this issue, Mr. Cintron.

Thomas Overacker is the Executive Director of Cargo and Conveyance Security in the Office of Field Operations at U.S. Customs and Border Protection in the Department of Homeland Security (DHS).

We have the right people here. We have the State Department, we have the Postal Service, and we have the folks from CBP represented. I spoke to Postmaster General DeJoy about this topic earlier this week, and he is eager to see the results of this hearing as well.

Let us start, if we could, by swearing in the witnesses. Under the rules of the Subcommittee, all witnesses have to be sworn in, so at this time I would ask you all to please stand and raise your right hand. Do you swear that the testimony you are about to give before this Subcommittee is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. GREEN. I do.

Mr. CINTRON. Yes.

Mr. OVERACKER. I do.

Senator PORTMAN. OK. Let the record reflect that the witnesses all answered in the affirmative. All of your written testimony, gentlemen, will be printed in the record, so you do not need to go through all of your written testimony. We would ask that you try to limit your oral testimony to 5 minutes. You will see a clock on

the screen to help you comply with that time limit, and then we will have a chance to get into a dialogue with Senator Carper, myself, and other Senators who have joined us.

Mr. Green, we will hear from you first.

TESTIMONY OF ERIC GREEN,¹ DIRECTOR, OFFICE OF SPECIALIZED AND TECHNICAL AGENCIES, BUREAU OF INTERNATIONAL ORGANIZATION AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. GREEN. Chairman Portman, Ranking Member Carper, Members of the Subcommittee, thank you for the invitation to appear before you today to discuss our ongoing efforts to implement the STOP Act. The STOP Act provisions regarding international postal agreements are straightforward. They call on the Department of State to ensure that all international postal obligations of the United States are consistent with the STOP Act, particularly that act's mandate that all mail shipments be accompanied by advance electronic data beginning in 2021.

I will focus my testimony today on our efforts to achieve this goal, particularly with the Universal Postal Union.

As detailed in this Committee's 2017 Staff Report, efforts to require AED with international mail have been ongoing for many years. In the past decade, the AED issue in the UPU has evolved from a question of "whether" to a question of "when" and "how."

Although there is now a consensus, some countries have favored enacting AED as quickly as possible, while others have been cautious in light of the challenges many countries face in ramping up systems and processes that are needed to meet these requirements.

In that regard, the STOP Act provides an excellent roadmap for prioritizing mail flows on the basis of volume, risk, and the capacity of the sending country.

The Act also recognized the important role of China, and it front-loaded the requirement that China provide AED on an accelerated basis, as the Chairman mentioned. This has reduced the flow of illicit material from China.

From a diplomatic perspective, the China example is a powerful proof of concept to show that it is possible to transfer the required data on a large scale.

We have made progress in the UPU in ensuring that our international treaty commitments complement and enhance our ability to implement the act. We, along with other countries, led the effort to mandate the provision of AED for international shipments containing goods. As a result, as the Chairman referenced, from January 1st, if these mail items do not include advance electronic data, they will not be considered compliant with UPU regulations, and we will have a legal basis under those regulations to return them to the origin postal operator.

Mr. Chairman, the postal sector is experiencing major changes. The rise in email has caused a decrease in traditional letter flows by about 30 percent over the past 10 years. Meanwhile, thanks to ecommerce, parcel traffic has doubled over the same period. Some commentators describe this as a "tsunami of packages." Having the

¹ The prepared statement of Mr. Green appears in the Appendix on page 40.

data to analyze this flow of parcels is now critical for postal authorities everywhere in the world. In short, AED and the accompanying infrastructure is essential both from the standpoint of security and for participation in global commerce today.

Despite this imperative, there is a gap between AED requirements and the capabilities of many countries. As a result, it is likely that during 2021 mail flows from some countries will be disrupted because they are not able to comply with the AED requirements of the STOP Act.

To address the capabilities gap, we and our partners are working with the UPU to provide technical assistance to accelerate progress toward global adoption of AED. In 2019, the Postal Service committed nearly \$18 million to the UPU over the course of 5 years to assist the development of AED capabilities and security initiatives. In addition, the United States has provided assistance to a UPU project which helps countries manage electronic data to help interdict suspicious packages in the global postal supply chain.

Unfortunately, the COVID pandemic has put some of these projects on hold, but as soon as conditions permit, these efforts will resume at full strength.

In conclusion, my colleagues and I at the State Department are proud to be part of a whole-of-government response to the opioid challenge. Guided by the STOP Act, we have leveraged our leadership role in the Universal Postal Union to make exchange of advance electronic data a worldwide standard.

Thank you, and I look forward to your questions.

Senator PORTMAN. Thank you.

Mr. Cintron, we will now hear from you.

**TESTIMONY OF ROBERT CINTRON,¹ VICE PRESIDENT,
LOGISTICS, UNITED STATES POSTAL SERVICE**

Mr. CINTRON. Good morning, Chairman Portman and Ranking Member Carper. Thank you for the opportunity to discuss our success in keeping opioids out of the mail and to highlight challenges as we implement the STOP Act.

My name is Robert Cintron. I am the Vice President, Logistics, for the United States Postal Service. I oversee the national logistics operation, including international logistics.

In 2017 and 2018, I testified to this Subcommittee about customs advance electronic data. These data are provided by to the Postal Service by foreign postal operators (FPOs), and include information such as names, addresses, and descriptions of contents. Once received, AED is passed to CBP for its screening efforts.

Before I turn to AED, I want to describe the dramatic decline in seizures of opioids in inbound international mail. According to the Postal Inspection Service, using fiscal year (FY) 2018 as a baseline, we saw a 71-percent drop in international seizures in 2019. It dropped 93 percent in 2020.

Unfortunately, this international decline is counterbalanced by an increase in domestic seizures. Now over 97 percent of seizures are domestic, and areas near the Southwest Border are a hot spot.

¹ The prepared statement of Mr. Cintron appears in the Appendix on page 44.

On the data front, beginning in 2015 through 2016, the Postal Service increasingly recognized the need for more AED. Through 2017 and 2018, we worked on various efforts, and the STOP Act's passage reinforced this work. It is important to note that even though the STOP Act sets AED mandates on the Postal Service, it is FPOs that collect and transmit the data. Even so, we currently receive AED from 96 countries, and we are in the process of adding others. We work through the State Department at the UPU for international cooperation, and we use commercial contracts with FPOs to reach bilateral or multilateral agreements.

Accordingly, since fiscal year 2017, AED has increased by 41 percentage points. In 6 years, we have gone from almost zero to receiving AED for 67 percent of incoming packages in January 2020. To monitor progress, the Postal Service relies on monthly data. These data are detailed in my written statement. From fiscal year 2017 to January 2020, the AED percentage trend steadily increased. But AED progress reversed as the global pandemic impacted international shipments. Once international mail recovers, we expect AED will resume its upward trajectory.

As mentioned, the STOP Act sets milestones. The most pressing is the December 31st requirement that 100 percent of all inbound international items containing goods must be accompanied by AED, unless the origin country's operator is exempted through remedial measures.

We have made strides in AED compliance, but on January 1st, 21 days from now, it is probable and foreseeable that a portion of international packages will lack AED.

This places us in a difficult position. If inbound shipments are not accompanied by AED, we face the prospect of disrupting inbound mail.

On the other hand, applying alternative procedures may require burdensome and labor-intensive procedures. We are in constant communication with the State Department and CBP about how best to meet the STOP Act requirements. In particular, we look to CBP for guidance on whether it can offer remedial measures. Absent alternatives, noncompliant shipments will be refused.

The amount of disruption will depend on the response by FPOs and their willingness and capacity to provide data once the 100-percent requirement is in place.

In conclusion, I want to highlight the success of pushing opioids out of the international mail. In part, this success is due to the tools created by the STOP Act.

Conversely, I want to caution that the December 31st deadline for 100 percent AED presents challenges. A portion of inbound international packages will not be accompanied by AED, and the Postal Service stands ready to keep these packages out of the U.S. mail stream. Absent alternatives, this will disrupt, to one degree or another, the flow of international mail.

Again, thank you for the opportunity to testify, and I look forward to your questions.

Senator PORTMAN. Thank you, Mr. Cintron.
Now, Mr. Overacker, we will hear from you.

TESTIMONY OF THOMAS F. OVERACKER,¹ EXECUTIVE DIRECTOR, CARGO AND CONVEYANCE SECURITY, OFFICE OF FIELD OPERATIONS, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. OVERACKER. Chairman Portman, Ranking Member Carper, and Members of the Subcommittee, it is my honor to represent the men and women of U.S. Customs and Border Protection and discuss what CBP is doing to implement the STOP Act. The STOP Act requires the U.S. Postal Service to collect and provide CBP advance electronic data from foreign postal operators.

CBP uses AED to assess risk, identify potential violations of law, and to combat the flow of illicit goods into the United States, including fentanyl and other opioids. AED is the backbone of CBP's targeting efforts. Beginning with the Trade Act of 2002, CBP has demonstrated that, with appropriate and timely AED, we can effectively interdict illicit goods, segment risk, and facilitate legitimate trade.

The Postal Service has voluntarily provided AED to CBP since 2014. Beginning in 2015, this included AED from China Post, which CBP has successfully used to target for illicit shipments of fentanyl. This activity reached its peak in fiscal year 2018 when CBP recorded 263 seizures of fentanyl from China in the mail totaling 91.2 pounds. Since then, there has been a significant drop in seizures directly from China. In fiscal year 2019, there were 15 seizures totaling less than one pound; in fiscal year 2020, only four seizures, totaling slightly over one pound. Despite reductions from China, CBP seizures of fentanyl have increased dramatically overall. In fiscal year 2020, at the Nation's land ports of entry, seizures rose from 2,575 pounds in fiscal year 2019 to 3,967 pounds in fiscal year 2020, an increase of 54 percent. Border Patrol seizures of fentanyl between the ports of entry increased from 226 pounds to 809 pounds, an increase of almost 258 percent.

Approximately 93 percent of all fentanyl seizures occur on the Southwest Border. Nevertheless, China continues to present a unique set of challenges. It remains a major source country of chemical precursors, narcotic manufacturing equipment such as pill presses, other controlled substances, fraudulent documents, and counterfeit merchandise. The explosive growth of ecommerce and direct-to-consumer shipping, especially directly from foreign sellers, has resulted in exponential growth in the number of actors in the international supply chain. Driven largely by ecommerce, CBP processes more than 1.4 million shipments from China each day across all modes of transportation.

Data for fiscal year 2020 indicates CBP made more than 26,000 seizures of counterfeit goods nationwide, with an estimated value of \$1.3 billion. Of those seizures, China, along with Hong Kong, accounted for 79 percent of the total volume and 83 percent of the total value of counterfeit merchandise seized. This makes the use of AED all the more important, not just for international mail but for all modes of importation.

As of this morning, the regulation requiring AED for international mail has not yet been published. CBP is confident that it

¹ The prepared statement of Mr. Overacker appears in the Appendix on page 49.

will be published soon. Meanwhile, we are not waiting to implement the remaining requirements of the STOP Act. Together with the Postal Service and the Department of State, CBP has finalized the criteria and methodology for granting waivers from AED for those countries that lack the technology to gather and transmit the data, have low volumes of international mail, and that are deemed low risk. CBP published an interim final rule in August 2020 that implemented the procedure for a \$1 processing fee for inbound express mail service. The Postal Service will collect the fee and remit 50 percent to CBP. We have already received the first payment from the Postal Service, and we will use these funds to enhance our capabilities at our international mail facilities.

CBP, DHS Science and Technology, Director of the Office of National Drug Control Policy (ONDCP), and the U.S. Postal Inspection Service (USPIS) sponsored a contest called “The Opioid Prize Challenge,” offering a \$1.55 million prize to develop a solution that could detect minute quantities of opioids and other specific contraband in the mail stream. The prize winner was announced last December, and CBP has awarded contracts to purchase and deploy this technology as part of an overall strategy to modernize mail processing capabilities, including a multi-million-dollar renovation of our international mail facility at the JFK International Airport.

Implementing the STOP Act is a collaborative effort. The experience that CBP has gained working with the Postal Service, U.S. Postal Inspection Service, and the Department of State has shown that we can effectively operationalize the use of mail AED to mitigate risks and make international mail as secure as all other vendors.

Thank you for the opportunity to testify today. I look forward to your questions.

Senator PORTMAN. Thank you, Mr. Overacker.

I notice we have a couple of colleagues who are interested in participating, so I am going to keep my questions relatively short at the outset here, knowing that I will be coming back for more.

This is an unfortunate situation we find ourselves in, and we are here because, frankly, the agencies represented on the witness stand today did not do what they were required to do under Federal law to protect our communities. We find ourselves in a situation where we could have up to 150,000 packages a day, I am told—and that is consistent with the testimony you all gave—that have to be either turned away or destroyed because we do not have electronic data on those packages, which is absolutely essential, as every witness has said, to be able to stop this deadly fentanyl from coming into our communities, but also to keep other contraband out. It has worked well. You talked about a 54-percent increase just now, Mr. Overacker, in seizures of fentanyl. It sounds like that was even year to year. That is an amazing increase. We have heard from Mr. Cintron how effective it has been to keeping the fentanyl from coming in through the mail system. It has shifted more to transshipment from Mexico and perhaps the precursors going to Mexico and coming in directly. We have had other hearings on this topic, and I will not get into the details, but to say that we understand there has been a shift. But keeping it out of the mail system where it was coming in with such low expense—and that is one of

the issues, that the cost of fentanyl is so low on the streets of America—is a huge success. That has been good. But we have to get this AED now as required by law for everybody.

My first question to Mr. Overacker, let us start with you. The STOP Act required CBP to finalize any regulations regarding the refusal of packages by October 2019. Here we are, December 2020. This date was important so that the Postal Service could prepare for this January 1, 2021, deadline coming up in 3 weeks.

Did Customs and Border Protection finalize the regulations by October 2019 as required by law?

Mr. OVERACKER. Senator Portman, no, we did not.

Senator PORTMAN. Why did you not meet the October 2019 deadline?

Mr. OVERACKER. Senator, I am not going to offer any excuses. I am just going to say that, it took us 13 months to complete the regulation package, and then it went through the interagency review. It was transmitted to OMB in August. We got a passback from OMB in November. It is working through the passback process right now, and it will go back through the Department back to OMB. I am confident, though, that we will get this regulation package completed, and regardless of the regulation package, all the parties involved, whether it is the Postal Service or State Department, agree that we can proceed with implementing the act on January 1st as contemplated.

Senator PORTMAN. You are over a year late already, and you say that you hope these regulations could be finalized soon in your testimony—let me be clear here. There is no good solution thanks to the reality that you do not have the regulations in effect and the reality that we have not been successful in requiring 100 percent AED as required by law.

By the way, this is not just the United States that requires this. Other countries—I mentioned Spain, France, Germany—require it. The EU required it until recently, and they provided a 3-month delay until March 15th, as I understand it. But, we find ourselves in a really difficult situation because the law was not complied with as required.

What is your process now? What do you plan to do with regard to AED and the lack of it coming in on January 1st?

Mr. OVERACKER. A couple things, Senator. First of all, working with the Postal Service, we are still hopeful that those AED numbers will go up on January 1st. Collectively, the three agencies you have in front of us today, we are implementing the strategy through the State Department to notify the parties involved through the UPU that this requirement is still in effect on January 1st. The Postal Service is working to notify through the UPU those postal operators that this is still in effect on January 1st, and we hope that these foreign postal operators will comply.

From an operational perspective with CBP, we have daily meetings with the United States Postal Service where we have worked out preparations that, if necessary, we can and will refuse mail without AED come January 1st.

Senator PORTMAN. Hope is not much of a strategy given the reality of the situation. In Mr. Cintron's testimony, he said that it is probable that all mail will not have AED. It is not probable. It is

absolutely the reality. I hope foreign posts do more between now and 3 weeks from now. Of course we do. I suppose our legislation and the requirement of January 1st will light a fire under some of them. But we know we are going to have a lot of packages without AED, and we need a solution.

Mr. Cintron, is the post office clear on what should happen to packages without AED on January 1st?

Mr. CINTRON. Yes, Senator. Absent any alternatives, the Postal Service is prepared to refuse any of the shipments coming into the country. At our point of entry at the International Service Centers (ISCs), we would scan, and anything that does not have AED we would return back to a ground handler at that point. We are prepared on the 1st.

Senator PORTMAN. OK. You are going to turn away tens of thousands of packages because we did not get our act together as a government.

The Postmaster General talked about one of the issues that you all are interested in, which is how to ensure that as packages come to the United States, that they are in containers that have all been subject to AED. He said that some of these large containers have some packages with AED and some without, and it is a huge logistical challenge to separate those packages. You did not mention that in your testimony, I do not think, but can you address that? Should we be requiring AED to be provided for any inbound package before it is loaded onto a plane? That would avoid confusion when the AED packages are commingled with these non-AED packages. By the way, the EU is requiring that as of March 15th of next year. Can you speak to that?

Mr. CINTRON. Yes. Absolutely, the point of origin would be the best place for us to have that requirement in place for that to occur, which would certainly stop those volumes from even getting to the country.

I might add and expand a little bit that, we have, as was stated, been working with the foreign postal operators right along, and we do expect that there will be improvements from now until then. The focus has really been around the STOP Act and the compliance levels. We fully expect that to occur. But, yes, that would be beneficial if we could stop those shipments prior to coming into the country, and for us protecting and in terms of getting into the mail stream is why we would create those scans prior to entering our facilities to identify.

Senator PORTMAN. Thank you, Mr. Cintron. We will be back with more questions. I want to get to my colleagues. Senator Carper.

Senator CARPER. Thanks, Mr. Chairman. We appreciate Mr. Green, Mr. Cintron, and Mr. Overacker. Thank you for joining us today and for your testimony and your willingness to respond to our questions.

This is a glass half full. The STOP Act set out a very rigorous schedule, rigorous timeline, a lot of interagency cooperation called for between the different agencies that are represented here today in this hearing. In some regards, in some respects, you have done well, but not well enough.

I am especially troubled by the lack of regulations. All of the time that has been provided for CBP to issue regulations, we still do not have them, and that is unacceptable.

One of the things we face, as our Chairman knows, my colleagues know, is—I call it “executive branch Swiss cheese” in this department. We used to have it in the Obama Administration when we had so many folks in acting situations there for a while, and Tom Coburn and I went to work on that and ended up getting Senate-confirmed leaders in about every major leadership spot in CBP. We have gone through, let me see, at least four Secretaries in the Department of Homeland Security in the last 4 years—John Kelly, Elaine Duke, Kirstjen Nielsen, Kevin McAleenan, Chad Wolf—and so much confusion about who is in charge. It is no wonder that we sit here, 3 weeks before the end of this calendar year without having the kind of regulations that are required by law.

Let me ask a question, if I could. This is a question for Mr. Cintron. How has the lack of clarity from CBP on the STOP Act requirements hindered your preparations? What are you doing now to get ready to deal with the thousands of noncompliant packages that you are expected to see daily starting in January? Mr. Cintron.

Mr. CINTRON. Yes, we meet with CBP. On a local level, it is done almost daily, certainly at other levels of the organization, up here at headquarters on almost a weekly basis, with multiple groups of people, whether it is our global folks, the Inspection Service, or our operational folks. I would say that we are very much in alignment, again, in working toward being prepared for January 1st. That is where we stand right now. We stand ready, as I said, to refuse what should not come into the country. We are ready, absent any alternatives, to stop that. But we have been working very collaboratively with Customs and Border Protection and with State.

Senator CARPER. Mr. Cintron, what capacity does the Postal Service have at its international mail centers to hold packages while decisions are being made on what to do with them?

Mr. CINTRON. Again, we would have to add some—we are prepared to add some resource—we scan the mail today. That is how we leverage AED to begin with, so, there is a scanning process that occurs at point of entry. We would add some resource to be able to pull that mail out that does not contain AED. We stand ready to be able to do it. There will be some disruption, but we are absolutely prepared to do it.

Senator CARPER. Has the Postal Service been able to identify what the cost of full compliance with the STOP Act will be?

Mr. CINTRON. I am not sure that we have determined the full cost. There are some costs, but we could provide that after the hearing.

Senator CARPER. I understand the Postal Service has cash on hand of somewhere between \$10 and \$15 billion. The bipartisan group of eight Senators who have been working on a COVID package have included in their draft proposal to forgive a \$10 billion loan made by the Federal Government to the Postal Service and turn that \$10 billion loan into a grant of \$10 billion. I am very hopeful that that will actually be enacted, that it will be part of a final deal. It ought to be. The Postal Service, while not awash

in money, is in actually a better position in terms of cash on hand than I have seen in quite a while. I have been working on Postal Service legislation with Susan Collins and others for probably 15 years.

As I look at the cash on hand, the money that you have available to pay for whatever it costs to do compliance, I think you are in pretty good shape. Would you agree with that or disagree?

Mr. CINTRON. We are prepared to do what we need to do in terms of the financials. Again, we would much need the assistance certainly as it relates to COVID and what could be done here in the short term, as you are well aware, the Postal Service really looking for the long term, our solvency. The legislative reforms that we have been requesting are the things that we would continue to ask the Congress to work on and assist the Postal Service.

Senator CARPER. Mr. Cintron and Mr. Overacker, how do your agencies plan to work together on the ground at international mail centers to determine which shipments received after January 1st need to be sent back and which can be accepted and handled here through enhanced screening and inspections?

Mr. OVERACKER. Senator, if I may, with respect to the lack of AED, the act does contemplate certain remedial efforts that can be made, first being seizure or destruction, controlled delivery or other law enforcement actions. For us, AED is what we use to assess risk. Provided that the volumes are manageable, we think we can mitigate risk by doing enhanced scanning, use of canines, or even physical inspection. But that will be something that on the ground at the international service centers and our international mail facilities for those personnel to determine what is a manageable volume, depending on what the environment is like come January 1st. We will have to make day-to-day decisions on that based on the volume of mail without AED or the volume of mail that is commingled. Those are the issues that we will face, and that is one of the things that throughout our day-to-day conversations that we have had, and when they approach January 1st, we are finalizing those details as to what we can mitigate and what we cannot mitigate, and then we would communicate that to the United States Postal Service. If necessary, then that mail would be refused.

Senator CARPER. When we come back for a second round, I am going to ask you about what you can tell postal customers about delivery delays that they might expect. Thank you.

Senator PORTMAN. Thank you, Senator Carper.

Senator HASSAN, are you prepared to speak now?

Senator HASSAN. Yes, I am. Thank you.

Senator PORTMAN. Great. You are up. Thanks for joining us.

OPENING STATEMENT OF SENATOR HASSAN

Senator HASSAN. Thanks so much, Chairman Portman and Ranking Member Carper. Thank you for holding this critically important hearing on a critically important topic, and I have been grateful to work with both of you on the STOP Act. I want to thank the witnesses for coming before the Subcommittee today, and thank you for the work that you all do to make our country safer.

Mr. Cintron, I want to start with a question to you really concerning what we are seeing in terms of compliance by China. I

have been particularly concerned with the flow of illicit fentanyl from China. Toward that end, I participated in 2019 in a congressional delegation to China where I met with government officials and pressed them to ensure that packages coming to the United States from China had the required advance electronic data necessary to help deter the flow of fentanyl.

I understand that China Post, while it is greatly improving, is still not meeting the STOP Act's requirement to submit advance electronic data for 100 percent of its shipments to the United States. Mr. Cintron, in your view, what is preventing China Post from complying with the STOP Act and providing advance electronic data for 100 percent of its packages coming into the United States? Mr. Cintron?

Mr. CINTRON. Yes. In terms of 100 percent, while—can you hear me OK?

Senator HASSAN. You are breaking up some to me, but I do not know if—

Mr. CINTRON. In terms of the 100 percent, while again that is the requirement, I would say that China is very close to completing it [inaudible—technical difficulties] 3 weeks to go until we hit that timeframe.

Senator HASSAN. Mr. Chair, I am having technical difficulties here, so perhaps you could go to somebody else and we can try to get back—

Senator PORTMAN. Senator Hassan, it is apparently on the Postal Service side of this, so I am going to ask Mr. Cintron if he would talk to his technical people and see if we can improve the signal coming from the Postal Service to us today. In the meantime, Senator Hassan, do you have questions for other—

Mr. CINTRON. Senator, are you able to hear me?

Senator PORTMAN. I can hear you now, but we are going to go on to another witness if Senator Hassan is OK with that, and we will come back to you.

Senator HASSAN. That would be terrific, Mr. Chair. I do have a question for—

Mr. CINTRON. Senator, are you able to hear me?

Senator HASSAN. Mr. Cintron, we are going to move on to another witness with the hope that your technical people can work with ours, because we are having difficulty hearing you and I wanted to—first of all, I think what I will do, if Mr. Green from the State Department—did you hear my question about China?

Mr. GREEN. Yes, I did.

Senator HASSAN. What is the State Department doing to ensure that China complies with the requirements of the STOP Act?

Mr. GREEN. Thank you, Senator. We have dialogues regularly with China. We have a drug intelligence narcotics dialogue. We also have a counternarcotics dialogue on an annual basis with China. In the course of these discussions, we talk about the whole range of issues regarding narcotics and narcotics trafficking, including policies and procedures within both countries, as well as the STOP Act and the requirements for AED.

I would also point out that in 2019, at the urging of the United States, the Chinese authorities scheduled fentanyl analogs within China itself, and according to our information, this has led to a

crackdown on the labs and some of the websites that were a severe problem in the past.

Of course, the precursor chemicals coming from China continue to be a problem, and this is a struggle. It is always going to be a challenge. But we have used diplomatic channels as well as channels through our postal operators to communicate with China about the necessity of meeting the AED requirement.

Senator HASSAN. Thank you. Now let me move on to Mr. Overacker, because I want to follow up on Senator Portman's and Senator Carper's line of questioning here. The President signed the STOP Act into law in October 2018. The legislation, as we have discussed, required Customs and Border Protection to issue regulations to implement the STOP Act by October 2019. Yet CBP did not provide those regulations to the Office of Management and Budget for review until August 2020, almost a year after the deadline.

Mr. Overacker, these implementation delays make us less safe. I was an original cosponsor of the STOP Act, and I would like a clear answer here about why CBP has not made better progress. You said in response to Senator Portman on this, "No excuses." That is fine. But I want to understand why because it is particularly concerning as a Member of Congress with oversight responsibilities to have an agency come forward and say, "We could not get it done." What happened here?

Mr. OVERACKER. Senator, again, I am going to reiterate what I said to Senator Portman, and that is there is no excuse for this. It was our responsibility to get this done. I can tell you this: This is an interagency process that is time-consuming, and it is challenging to get regulations done within a year timeframe under the best of circumstances. We worked to the best of our ability from the CBP perspective to get these to the Department. We worked with the Department on their passback, and we are now working with OMB on their passback.

Again, I make no excuses for this. I accept full responsibility for the fact that we did not meet the deadline.

Senator HASSAN. I wanted the message to be clear that if an agency is having difficulty meeting a deadline with a critical piece of legislation that impacts the safety of our country—and I come from a State that has been particularly hard hit by fentanyl in particular. If there are difficulties, we need to hear from the agency, and we need to be coordinating with the agency to try to provide you the resources that you need, because this is truly unacceptable. I do have other questions for the Postal Service because now the Postal Service, already having been impacted by the pandemic, may, in fact, have to spend more of its time at the height of people needing the post office at its fully capacity, may need to be turning back packages and spending time and effort because CBP did not do its job. That is unacceptable.

I appreciate that you are saying you are not trying to make excuses, but we do need to understand—and I will follow up with you—why this happened, how we facilitate compliance moving forward, and how we make sure CBP complies in the future with the law. I appreciate your directness here, but I am very concerned about it. Thank you.

Mr. Chair, I am being handed a note that our witness from the Postal Service may have better connectivity, but I also see that my time is up, so I am happy to come back if you——

Senator PORTMAN. Let us see if Mr. Cintron can respond to your earlier question.

Senator HASSAN. OK.

Senator PORTMAN. Mr. Cintron, are you with us?

[No response.]

I think we have lost him. Senator Hassan, if you can join us in a few minutes after Senator Rosen has a chance to ask her questions, maybe we can get back to him.

Senator HASSAN. That is fine. Thank you so much, Mr. Chair.

Senator PORTMAN. Hold on. They are back. Mr. Cintron, are you on?

OK. Senator Rosen, why don't you go ahead?

Mr. CINTRON. Yes, I apologize for that. We are back on.

Senator PORTMAN. OK. Mr. Cintron, you are back on. We are going to ask you to respond to the question that Senator Hassan asked you earlier. Again, Senator Hassan, thank you for your support and help with regard to getting this STOP Act implemented, and I agree with you that this is unacceptable. Let us see what we can hear from the Postal Service.

Senator HASSAN. Mr. Cintron, are you there?

Mr. CINTRON. Yes. If this was in regard to the question on China and their—I am. Can you hear me?

Senator HASSAN. Mr. Cintron, the question was—and can you hear me? Now I see you. We have an echo going.

Mr. Chair, I am going to suggest that we continue to work on the technical issues with the post office and move on to Senator Rosen's questions.

Senator PORTMAN. I think that is a good plan.

Senator Rosen, you are up, and thank you for not directing your questions to the Postal Service.

OPENING STATEMENT OF SENATOR ROSEN

Senator ROSEN. Technology is great when it all works, so I guess some days with all of this we have to have a little bit of a sense of humor. I, too, have some questions for the Postal Service, but we will submit those for the record.

I will direct my question to Mr. Green. I think I see you on my screen there. I want to build a little bit on what Senator Hassan was talking about with drugs coming in from China, but I want to talk broadly about the global challenges we have. As you heard today, according to the USPS OIG report, as of March 2020, 135 countries and territories do not yet have the capability to send advance electronic data to the Postal Service, and as such, we do know that they are not going to be able to meet the STOP Act's requirement, and I am a cosponsor of the STOP Act.

Mr. Green, could you describe in a little bit more detail how the State Department is going to approach this challenging task not just in encouraging other countries to set up uniform systems so they can partner with us, but how do we partner with them and help them solve their challenges? Because if we stop it there, it will not get here. It seems to me it would be in our interest to help sup-

port these countries as best we could, 135 of them, to stop the packages from coming to our home towns.

Mr. GREEN. Thank you, Senator. This question is really key from a standpoint of security but also global commerce. I think the main incentive for these countries is economic. In order to participate actively in ecommerce for their small businesses, the consumers to really take advantage of these opportunities, they need to get on board and require—and use the electronic data in order to facilitate their interactions with customs services, with other postal services.

Concretely, we are working with the UPU. The UPU has a mission for setting standards, including on AED, which we have talked about previously. But it also has a development mission in order to raise the technical capacities of postal services all over the world. Working through the UPU, the Postal Service has provided the UPU with nearly \$18 million to help them do training seminars both on a bilateral and a regional basis with a variety of postal operators throughout the world.

In addition, our Bureau of Narcotics and Law Enforcement is also doing a program with the UPU to help foreign postal services and customs authorities to intercept suspect packages within the mail flow. Among the UPU initiatives that I would point to is the development of a mobile app. What we are talking about here is allowing these countries to leapfrog the technology, so they are moving from a paper-and-pen system, filling out customs forms, and they are going to move immediately to a mobile app where the customer can enter the data about the package, the address, the contents, and the price, and then match that with the bar code that their postal service provides them. Then that data will be used throughout the global postal supply chain to overcome a lot of these problems that we have been talking about.

The UPU now is piloting this app in about 15 countries in the very near future, and I think this will be of great assistance to a lot of these postal services. We have to remember in some of the developing countries, you still have post offices that may not have access to the Internet or electricity. But what we have seen in development is that the mobile phone is a real multiplier for helping overcome some of these technical challenges.

Senator ROSEN. Thank you. I am not sure that Mr. Cintron is back, so I will follow up on what you said, because you said there are countries that may not have electricity or Internet, and I love the idea of an app. I think that is a great way to go. But, of course, those post offices still may have to go to a larger post office somewhere else as a bridge before it gets to us.

Could you speak how you decide or maybe prioritize which countries to assist first, where you are putting these efforts and technologies and how we can find those—I guess maybe it is the common points that we think they are coming in. First, how are you hitting that?

Mr. GREEN. I can get back to you with the precise criteria that the UPU is using to target countries, but I know that they have been—they have tried to be really comprehensive and provide training and seminars to all countries, because this is a universal requirement.

I would also note that within the STOP Act there is also a prioritization in that the STOP Act provides the possibility for countries to be exempt from the AED requirement if they are low-volume countries in terms of the mail they are sending to us, if they are considered low risk, and also if they are considered to have a low capacity in terms of the technology. Some will be eligible for a temporary exemption from the AED requirement, but we are working vigorously to get everyone up to the AED standard of 100 percent that the Chairman referred to.

Senator ROSEN. Thank you very much. I will yield back. I will submit my other questions for the record. Like I said, I love the creativity thinking of how an app can get to everyone. Most people around the world, a lot of them do have phones, and we have to use everything, every tool in the toolbox to stop the drugs and other things from coming here.

Thank you.

Senator PORTMAN. Thank you, Senator Rosen. I apologize that we do not have a connection to the Postal Service. We are still working on that.

By the way, you talk about technology. I could not agree with you more, and we have a situation now where China as an example is providing AED on between 85 and 90 percent of its packages. I remember in the hearing we had I was told that countries like China could not figure out how to do it technologically. Of course, my comment was, "I think they have computers in China and a lot of technology." We need to get them to 100 percent. But this is doable, and I think your point is a good one.

Let us get down to brass tacks here. How can we maximize AED, which is necessary to protect our country, not fentanyl but so many other dangerous items that come in, other contraband. We need this AED. Everybody has testified to that today. How can we maximize that without having a significant disruption of commerce, particularly packages coming from other countries to U.S. consumers and businesses?

One thing we talked about today is that in the STOP Act we were careful to put into place a waiver. If a country lacks capacity, is low risk and low volume in terms of packages, there would be a waiver for a short period of time provided. It sounds like you are going to take advantage of the waiver that we have provided in the law on January 1st.

Mr. Overacker, can you tell us how much of the volume would be affected by this? What percentage of the volume, how many packages? How has CBP determined which countries it plans to provide waivers to?

Mr. OVERACKER. Thank you, Senator. With respect to granting of waivers to countries, we essentially started with the list of 192 members of the UPU, and we looked at those countries in consultation with the Department of State, which of those countries would be considered countries that did not have the technical capacity or who were not at that time capable of transmitting data through the UPU servers for AED to be transmitted via the Postal Service to us. We identified that universe.

We also identified based on other criteria those countries which we thought would pose items of risk, so whether it is risk for nar-

cotics smuggling or the like. Those countries we would not grant a waiver to.

We also looked at the most developed countries and who those are, the ones that, regardless of where their status is right now, that should be transmitting data to us. With that, we have arrived at a preliminary list of countries that we believe would be eligible for waivers——

Senator PORTMAN. How many countries?

Mr. OVERACKER. I believe at this time the number is 136, and, Senator, before you say, “Wow, 136, we are giving away the farm,” we are not giving away the farm. That number represents countries of low volume that probably will not really significantly impact the volumes that we see. But those are the countries that would meet the criteria described in the act, that they lack the technical capability, they are low volume, and they are low risk.

The remaining countries, which is over 50, I believe, they are still going to account—according to the Postal Service and what they tell us, because we rely on them for the volume data. We know what we see. But they are the actual keepers of the final data. We are still talking about—even with the waivers, we are not going to significantly impact the overall volume. The largest countries still account for over 80 to 85 percent of the total volume, and those largest countries would not be granted waivers under these criteria as described by the act.

Senator PORTMAN. You are talking about 15 to 20 percent of the packages would be covered by these relatively small countries, it sounds like, with low volume where you feel like there is a low risk as well and where they lack capacity.

Mr. OVERACKER. Yes, Senator.

Senator PORTMAN. The other 80 to 85 percent of packages would be required to have AED or the packages would be dealt with.

Your waiver authority under our law is for 1 year, and then you have to report back to us. I hope you will exercise your discretion there and have the waiver go for a shorter period of time in many cases where you can get these countries, even low-volume, low-risk countries, to comply with the AED standards. Can you respond to that?

Mr. OVERACKER. Yes, Senator, I can. With respect to the waivers and the notification of the waivers, coordinating with the Department of State and the U.S. Postal Service, collectively, we are prepared to begin notifying those countries that will receive a waiver. In those notifications we state unequivocally that this is a temporary waiver that will be reconsidered. But we also state that even for those countries that are transmitting data right now may receive a waiver. When I say “transmitting data right now,” still low volume, that we expect them to maintain their current transmission rate, and that we will monitor that rate continuously to ensure—and that they need to work to get to 100 percent compliance, that a waiver is not simply, “Oh, we do not have to worry about this anymore.” We will communicate them in the notifications that they still must work to get to 100 percent.

Senator PORTMAN. You are required to report back to us within that year. I would hope that you would have a stipulation that if

they are not making progress toward more AED, then the waiver is gone.

Mr. OVERACKER. Absolutely.

Senator PORTMAN. That is not unreasonable. We would love to have your report to us as to how you are implementing that. I think that makes a lot of sense.

The second sort of brass tacks question is: How about the AED that is coming in from high-volume countries or higher-risk countries? You said that is a significant part of it, probably 80 to 85 percent of the volume. You talked earlier about the ability to do enhanced scanning, sniffing dogs and so on. The EU has provided an initial grace period through March 15, 2021, even though their requirement, again, was to do it by the first of the year. But they have said that only if the risk can be mitigated, as I understand it. What other mitigation techniques could you use to ensure that we are not opening ourselves up to more dangerous substances?

Mr. OVERACKER. Senator, the act specifically states that we could seize, destroy, do controlled deliveries, or other law enforcement actions. For us, the first thing that we would do for mitigating risk, if we do have something absent AED and if we are not going to refuse it, we would use enhanced scanning, we would use a canine, we would do a physical inspection if the volumes allow us to do that.

The other thing that we could do—and this has to do with sort of our approach to enforcement in general—is work with those countries, the ones that have the greatest challenges with respect to getting the data, but work with them on assessing what is the risk of the mail from the country. This is something that we do all the time with partners, whether it is through our Customs-Trade Partnership Against Terrorism or other techniques where, if we can validate some sense of internal control that they have over packages that are leaving their country so that we have a comfort level that they are low risk, then we might be able to segment that out temporarily as a way of addressing inordinately high volumes of mail without AED.

Senator PORTMAN. How about the idea we talked to Mr. Cintron about earlier of requiring inbound mail to have AED? In other words as the mail is prepared by the foreign post, that the AED must be on those packages so that you do not have this issue of mingling of AED packages and non-AED packages? Is that something that you believe that you can require and enforce under current law?

Mr. OVERACKER. Senator, is that addressed to me or is that addressed to—

Senator PORTMAN. That is addressed to you, but if Mr. Cintron can join us, that would be great, too.

Mr. OVERACKER. Senator, let me say that—I mean, you are really hitting upon something that could be very helpful operationally, and that is, if we could get assurances from these foreign postal operators, and even if it is absent AED, that they can segment out in the receptacles which receptacles do not have AED and that certain—which receptacles do have 100 percent AED, operationally that would really help us really do what we need to do on the ground to segment the risk.

Senator PORTMAN. Do you have the authority to do that, to require that?

Mr. OVERACKER. I do not believe that we have the authority to do that, but I do believe that through a voluntary process and engagement with the State Department—

Senator PORTMAN. Mr. Cintron, any comments? My time is expiring, so any thoughts you have, Mr. Cintron, can you join us? We cannot hear you. You may be on mute.

Mr. CINTRON. Can you hear me now, Senator?

Senator PORTMAN. Yes, we can. We can hear you again.

Mr. CINTRON. All right. I apologize for the technical difficulties. Obviously, we do not have the authority. We would, again, be asking the State, maybe the Transportation Security Administration (TSA) might be the appropriate area where that would be significantly beneficial to be able to stop it before it actually gets to the country, and I think that would be well worth our pursuing that avenue.

Senator PORTMAN. Thank you. Senator Carper.

Senator CARPER. Thanks. Thanks, Mr. Chairman.

I was trying to ask a question when my time expired a bit earlier in the hearing, a question of Mr. Cintron and Mr. Overacker. The question I did not get to for both of you is: Given the large number of packages that are projected to arrive without AED each day starting in January, what can you tell postal customers about delivery delays that they should expect? Mr. Overacker and Mr. Cintron.

Mr. CINTRON. Yes, I will try and answer that question. We certainly from a communication perspective our global teams are in constant communication not only with foreign postal operators but also with our customers, internationally. I think everybody is well aware of the act. It has kind of been part of our strategy from the global team, really to make sure that there is significant communication around the STOP Act and the requirements. Again, we are very confident that we are going to have a lot of people that are going to become compliant as we get closer to this date in 3 weeks. But we will continue those communication links to the customer so there is clarity around the requirement and the potential for delays. Again, as normal, absent those alternatives and guidance from CBP, it will be refused. But, otherwise, as we have discussed, some of these items, we will stay very close to the customer base.

Senator CARPER. Thank you. The next question would be for Mr. Overacker. Are you concerned that drug dealers and others will find a way to smuggle illegal items through those countries who are given a waiver? Is that a concern?

Mr. OVERACKER. Yes, Senator, it should be a concern, only because anytime you squeeze a balloon in one place, it is going to pop in the other. Let us be honest. The drug-trafficking organizations and others will try to exploit whatever weakness there is. The intent of the waiver, though, is to take that into account, and that is where through our risk assessment, looking at which countries pose the greatest risk.

Just as with everything we do within CBP, whether we are implementing some sort of new enforcement action for a trade remedy or something like that, we are always looking for how it affects the

overall environment, looking for transshipment. If we see trends of where there is a shift or change in volumes or anything like that, that would be an indication to us that we would want to scrutinize that directly.

Senator CARPER. Thank you. This will be a question for the entire panel. Mr. Cintron's testimony discusses how drug dealers have shifted strategies and may now be turning away from international mail. More drugs it seems are coming across our southern land border and are being found in the domestic mail.

Given this, what can you tell us about how effective AED is in catching drugs and other prohibited items? This is for the entire panel.

Mr. OVERACKER. Senator, if I may go first—

Senator CARPER. You may.

Mr. OVERACKER. I am glad you mentioned the Southern Border because that is where we see the most illicit drugs coming into the country, not just fentanyl but all illicit drugs. That is the primary vector. On the Southern Border, we are talking about drugs being smuggled in both privately owned vehicles, sometimes commercial vehicles, and even by pedestrians.

Over these last 3 years, CBP has initiated a major strategy to enhance our screening capabilities on the Southern Border. With the assistance of Congress, we received \$570 million for new AII equipment on the Southern Border. We have issued an RFP and are granting contracts for new scanning equipment that will raise our scanning rates on the Southern Border in the commercial environment from our current rates of 17 to 40 percent—or to 70 percent, and in the POV environment from roughly 2 percent to 40 percent. That is our major strategy, to try to harden our ports of entry to prevent the fentanyl from crossing on the Southern Border.

Senator CARPER. You did not mention how that new wall down there is affecting all of this.

Mr. OVERACKER. Senator, what I would say is that we should have a comprehensive approach to border management, which includes technology, hardening the ports of entry, and if appropriate and where appropriate, physical barriers between the ports of entry.

Senator CARPER. Thank you.

I have a friend, you ask him how he is doing, he says, "Compared to what?" Back shortly after 9/11, I understand that FedEx, UPS, and DHL began requiring AED and implemented that within a year after 9/11. That is about 18 or 19 years ago. I understand that the difference in the mix of customers is quite different between largely—not entirely but largely business customers that FedEx, UPS, and DHL deal with. But it has been 19 years since they implemented literally to 100 percent the kind of safeguards that we are asking for the Postal Service with help from CBP to implement now. Nine years.

Why the dramatic difference between the two? I can understand a couple of years, but 19 years? Anybody? Anybody there?

Mr. OVERACKER. Senator, I see my colleague from the Postal Service—I am not sure if he is able to answer.

Senator CARPER. Excuse me. I misspoke. I said 8 or 9 years. It has been 18 or 19 years.

Mr. OVERACKER. The 18-or 19-year timeframe you are referring to is, of course, the Trade Act of 2002 where we implemented advance electronic data requirements for other modes of transportation, in particular sea cargo, but we also implemented it for air, rail, truck cargo. Of course, the express consignment operators also have participated in the air cargo advance screen program that we implemented, first on a voluntary basis in 2010 and then codified in 2018.

I would suggest that all of these vectors have their own unique challenges, and control over the movement of the goods, whoever has that control is the person that has the best capability to actually provide data.

Senator CARPER. Mr. Chairman, I am channeling my father this morning, and we can all remember things that our parents said to us growing up. One of the things I always remember my dad saying to us is, "If a job is worth doing, it is worth doing well." He said it probably every other day. But he drilled it into me, and I like to focus on doing things well.

I also understand—I do not like to assign blame to folks without saying, "What can we do to help?" To say we are pleased with the progress that has been made, we are not. Clearly, we are not. I cannot imagine that you are either. Is it better? Are we doing better than before? Yes. But we need to do a heck of a lot better. We also need to realize—it has been alluded to—that this is a little bit like squeezing a balloon. You squeeze it in one place to stop drugs coming in through the Postal Service, illegal drugs coming through the Postal Service. Squeeze the balloon, and they will find another way to get in.

I guess this is for Mr. Overacker as much as anybody. But as we move even closer to that 100 percent number and the bad guys are still seeking to send fentanyl and other dangerous illegal drugs in, what will the Congress need to do—this Committee and what will the Congress need to be doing in order to react to that change in behavior?

Mr. OVERACKER. Senator, I want to thank you and all of Congress for the generosity they have shown us with respect to what we are getting in our ports of entry for nonintrusive inspection (NII) equipment. You have also been generous with us in our abilities to deploy more canine teams to our ports of entry. We now have 453 fully trained canine teams. You have been generous to us for other equipment such as Gemini detectors. We now have 400 of those deployed, and we will be deploying—we will get up to 550 this year.

Also, through your generosity, we have been able to implement our mail modernization strategy, and also all of the things we are doing with our laboratory and scientific services where we now have field operating labs at nine locations, and we are projected to have three more. This is a capability that really gets us right on the ground where we need scientists to help us when we detect fentanyl or other opioids so that we can immediately segment those out. Thank you, Senator.

Senator CARPER. Thank you for that response.

Mr. Chairman, thanks very much. My sons, your children are grown, they are out of school. In college and other grades in school K to 12, people are going to get an A, B, C, D, F. Or they can get an incomplete. If I were assigning a grade to the effort we are hearing about and discussing here today, I would give it an incomplete. We need to be hitting the A mark. We are improved, but there is a heck of a lot more to do.

I will close with this thought. I have been 20 years on this Committee, and almost every time I ask a panel, when we are trying to deal with an issue like this or a problem like this, we all know we need to be successful, I always like to ask, "What should we be doing in our role?" I hear over and over again in the hearings from A to Z, oversight, we need to do oversight. This is an oversight Committee. This is like the Oversight Subcommittee of the Oversight Committee, and I am pleased that we are exercising our responsibilities, and it is important that even when you move to take over the leadership either as our Chairman or Ranking Member on the full Committee, you keep your eye on this and make sure that the rest of us do as well.

Senator PORTMAN. Thank you, Senator Carper.

I am going to comment on Senator Carper's incomplete grade in a moment, but I see Senator Hawley has joined us now. Senator Hawley, are you prepared to ask questions?

OPENING STATEMENT OF SENATOR HAWLEY

Senator HAWLEY. Yes, I am.

Senator PORTMAN. Great. You have 5 minutes, and thank you for joining us.

Senator HAWLEY. Thank you, Mr. Chairman.

Mr. Cintron, let me start with you. I want to start about something that you write in your testimony about the decline of seizures of fentanyl and synthetic opioids in the inbound international mail but we are seeing an increase in seizures of the same types of drugs in domestic mail. Can you tell us a little bit more about that trend that you have identified and what we should make of that?

Senator PORTMAN. Mr. Cintron, I think you are on mute again. Can you try to unmute yourself?

Mr. CINTRON. I apologize. Can you hear me?

Senator HAWLEY. Yes.

Mr. CINTRON. OK. My apologies again.

What I would prefer to do is provide that information at the conclusion of the hearing. It has law enforcement-type sensitive data around that information, but the Inspection Service could clearly provide feedback on that.

Senator HAWLEY. Very good. We will give you a question for the record. What I am trying to get at here is whether or not we are playing Whac-a-Mole and we are not really making any progress in illicit drug distribution if we are shifting from international mail to domestic mail. Can you comment on that broadly?

Mr. CINTRON. Yes, and I believe, we have kind of discussed it a little bit in the hearing here. It is like a balloon, right? You squeeze it at one and it comes out the other. I think that, the one thing I have learned over the last several years is the collaboration of all the agencies working together so that you identify whether it is the

use of AED on international when it is coming in or other types of information that are utilized collectively through the agencies, we can understand and see what is happening in other places and how it is coming into the country.

Senator HAWLEY. Very good.

Mr. Green, if I could shift to you for a moment, let us talk a little bit about the Universal Postal Union. I understand that you discussed this a little bit in the hearing thus far. In your testimony, you touched on the added challenges that the pandemic has created by preventing the Universal Postal Union from adopting in-person trainings that help countries adopt AED.

Can you elaborate further on how the pandemic has impacted the adoption of AED either here in the United States or globally?

Mr. GREEN. Yes, thank you, Senator. When I was testifying, I was specifically referring to the training and seminars that the UPU has been doing for individual countries and for groups of countries to familiarize them with the AED requirements, and we have done a lot of these remotely, but we all know that there is a big difference doing something, via Zoom and having a trainer doing in-person, hands-on work with people learning about equipment, answering questions in real time. I imagine that has degraded the ability of these remote countries to really take up the AED challenges as quickly as we had hoped they would have been able to do throughout 2020. As I mentioned, we can get more details to you on precisely how COVID has impacted the training rhythm.

I think my colleague from the Postal Service can speak to this—the pandemic has really put strain on postal services all over the world. The interruption of air traffic has really limited and challenged their ability to move their product. These guys are essential workers, but they are dealing with all of the challenges that we are familiar with in trying to continue to provide their service in these times. Adding a new requirement such as AED I am sure has stretched many of these foreign postal operators.

Senator HAWLEY. Just in my brief time remaining here, Mr. Green, I want to ask a question about China. I know that Senator Hassan explored some of this, and I would like to delve into this a bit more. I am concerned about the degree, and long have been, to which China has been responsible for allowing fentanyl to enter the United States. Tell me more about what you know about our relationship with China on this in particular. Is China working with us? Particularly, when it comes to the UPU are they living up to their promises and obligations?

Mr. GREEN. Thank you. In terms of the AED requirements, I think as my colleagues have mentioned, they are doing quite well. They were front-loaded by the STOP Act to provide this information earlier. As I mentioned, we have a full range of interactions with the Chinese Government on drug control issues, and I think the Drug Enforcement Administration (DEA) is really the lead agency talking about the operational work that they do with China. But we do have a dialogue with them on these policy issues, on scheduling issues in the international treaties that deal with drug control. China, I think, has been helpful with scheduling some of

these fentanyl analogs so that they are scheduled not only in China and the United States but globally.

But I really think DEA would be the best source of information on the day-to-day interaction on drug control cooperation.

Senator HAWLEY. Very good.

I see that my time has expired, Mr. Chairman. I will have some additional questions on this subject and others for all of the witnesses.

Thank you all for being here.

Thank you, Mr. Chairman.

Senator PORTMAN. Thank you, Senator Hawley. Great questions, and your insight about the overall volume of illegal drugs coming into this country I think is consistent with what we have heard today, which is that we have made real progress in the mail and trying to keep the drugs out of the mail, but as a result, we have seen increased seizures at the border.

One thing that I think is true is that the cost of fentanyl on the street was so low. In my own State, law enforcement would tell me it is lower when you compare it to things like marijuana, as an example, and having the ability for it to come directly from China by the mail exacerbated that. Having it be transshipped and all of the ways in which Mexico is eventually sending it up here, you probably have a higher price on the street, which helps in terms of the demand side. But ultimately this is a demand question, and it can only be solved that way. In the meantime, we have to do what we can on the supply side, and that is why we had to stop this fentanyl from streaming in directly in the mail from China, which was what was happening and continues to happen to a certain extent, but it has been reduced dramatically, and that is the good news today.

The bad news is that we have learned today that our agencies and departments just did not do their work as they were required to do under the law, and, therefore, we find ourselves in this tough situation at year end with so many packages that are not going to have AED. We heard earlier that there is a waiver process and probably 15 to 20 percent of those roughly 150,000 packages a day could be dealt with through the waiver. We also heard about some mitigation efforts that Customs and Border Protection could take.

I would ask you, Mr. Green, we are not the only country that requires AED on all packages starting January 1st, are we?

Mr. GREEN. That is correct, Senator. As you mentioned, the European Union is implementing this standard as well, and the UPU has mandated really that it is an international standard. Obviously, many countries are going to fall short meeting that, but we also through the UPU have gotten concrete authorization to turn away packages that are not compliant with this requirement. That not only ensures that there is a standard out there, but there are also remedies, and we can take action against countries that are not living up to that standard.

Senator PORTMAN. Can you describe the actions that France, Spain, and Germany are planning to take?

Mr. GREEN. I think they are roughly parallel to ours. As you mentioned, they are going to be starting later in 2021—

Senator PORTMAN. I think those three countries, with all due respect, Mr. Green, are actually going to go ahead, they say, and refuse packages and not follow the EU guidelines. Anyway, we will talk more about that perhaps after the hearing. But the point is there are some countries like France, Spain, and Germany that are taking this very seriously.

I do have a chart here showing the compliance that we have had with AED and the big picture here, which we talked about today, is that between the time at which we passed the legislation and started to implement it and really January of this year, we had about a 157-percent increase in compliance. That is the good news. As we know, there has been a reduction in the fentanyl coming through the mail as a result, and that is good news. It has saved lives. Certainly, as we talked about earlier, it has at least shifted the way it is transshipped.

Unfortunately, since January, that has gone down some, so now we are only at 107 percent of where we were at the start of this rather than 157 percent, and we have talked about why the COVID-19 situation has affected that. I understand that. On the other hand, we have to redouble our efforts now and do so.

As I close out, let me again thank Ranking Member Carper and the Members of the Subcommittee and all of our witnesses here today. We are struggling right now, and the context of this hearing is that we not only have a COVID-19 crisis, we once again are facing an increase in overdose deaths, an increase in addiction. Sadly, some of the figures that were talked about earlier of 70,000-plus Americans dying every year appears to be on track to be exceeded this year. Again, fentanyl is the single deadliest of those drugs, often mixed with psycho-stimulants like crystal meth, cocaine, or others. But it is not just about fentanyl. It is about meth. It is about other drugs that we know are coming in through the mail. Some of those drugs like Ecstasy and other drugs, including Tramadol, which is a cutting agent for fentanyl and heroin, are coming in through the mail as well. This is poison coming right into our communities, so we have to do better.

I am encouraged by the increase. I am glad that 90 percent of those seizures are now domestic because that means we have made some progress. But we cannot let up now.

I want to thank our law enforcement and our Border Patrol organizations for their efforts on the front lines. The men and women who are doing it every day deserve our respect and our appreciation, but we have to do better. We are going to continue to work with you on this between now and 3 weeks from now because we think that there is a way to increase compliance and by the same token not have a substantial disruption in commerce.

With that, the hearing record will remain open for 15 days for any additional comments or questions any Subcommittee Member may have.

Senator Carper, any—

Senator CARPER. Just one last quick word, if I could. This past Monday was December 7th. A lot of us think of that as Pearl Harbor Day. It is also Delaware Day, and it is the day 233 years ago that Delaware became the first State to ratify the Constitution. In that Constitution, it called for the creation of what became the

Postal Service. You may recall that our first Postmaster General was none other than Ben Franklin.

The Preamble to the Constitution begins with these words: "In order to form a more perfect union."

"In order to form a more perfect union."

The idea is everything we do, we know we can do better. I think arguably we are doing better with respect to the issues that are before us today. But this is an all-hands-on-deck moment. All-hands-on-deck moment. It requires the best efforts of every one of us.

For those who participated in this hearing and those who work with you that are working hard to get us to where we need to be, thank you. But, everything we do, we know we can do better. With the number of lives that are on the line here that have been lost and that are still at risk, we must do better.

Thanks so much.

Senator PORTMAN. Thank you, Senator Carper. Again, thank you to our witnesses. We look forward to continuing to work with you over the next few weeks to help address this January 1st deadline.

With that, the hearing is adjourned.

[Whereupon, at 11:51 a.m., the Subcommittee was adjourned.]

A P P E N D I X

Statement of Chairman Rob Portman
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
Combating the Opioid Crisis:
Oversight of the Implementation of the STOP Act
December 10, 2020

This hearing will come to order.

We are here today to follow-up on the implementation of legislation called the STOP Act that was a direct result of an investigation by this Subcommittee.

But first, I want to take a few minutes to thank my Ranking Member, Senator Carper, since this will be our last hearing together at the Permanent Subcommittee on Investigations.

Over the past four years, Senator Carper – and his staff – have been productive partners as we've taken on important issues facing our country, including the treatment and care of unaccompanied alien children by the federal government; the security of personal and financial data held by both private companies and the federal government; and loopholes in our sanctions program exploited by Russian oligarchs.

We have also examined the influence the Chinese government has here in the United States. This included a review of the threat to academic freedom caused by having a Confucius Institute on a university campus. We also exposed how China steals U.S taxpayer funded research and IP to advance its own military and economic interests through talent recruitment programs, like the Thousand Talents Plan. And we looked at the national security risks associated with Chinese government owned telecom firms licensed by the FCC to operate in the United States.

Thank you Senator Carper for your partnership in continuing the bipartisan tradition of this Subcommittee.

Today's hearing is the continuation of this Subcommittee's work on the federal government's efforts to combat the opioid crisis.

We started with a hearing in May of 2017 examining how illicit fentanyl, a synthetic opioid 50 times deadlier than heroin, can be shipped into the United States through the U.S. mail.

We conducted a six month investigation into the issue. In January 2018, Senator Carper and I issued a bipartisan report and held a hearing that detailed how online

drug dealers in China were exploiting a loophole in international mail. That loophole allowed packages to be shipped into the United States with no identifying information or “advance electronic data,” or AED.

Our report described how Subcommittee staff emailed with six websites located in China that advertised fentanyl for sale on the open internet. When asked, all six of the websites told us they preferred to ship through the international arm of the Postal Service. In fact, one of the websites guaranteed delivery if the fentanyl was shipped through the Postal Service.

These online drug dealers in China preferred the Postal Service for a specific reason.

In the aftermath of 9/11, Congress required private express carriers to collect AED on all packages being shipped into the United States. This data on the package’s shipper, recipient, weight, and contents allows the Customs and Border Protection to identify and target high-risk packages containing illegal items, like illicit fentanyl.

But Congress punted on whether the Postal Service should also be required to collect the same data. Congress instead asked the Treasury Secretary and the Postmaster General to decide if the same AED requirements should be imposed on the Postal Service. But that determination was never made.

This left the Postal Service—and the mail it carries—vulnerable.

By failing to require the Postal Service to collect AED like private express carriers, Congress created a national security risk in the over 500 million international packages entering the United States each year. This vulnerability was exploited by Chinese online drug dealers to guarantee delivery of illicit fentanyl to the United States through the Postal Service.

Based on the recommendation of our report, in October of 2018, the Synthetics Trafficking and Overdose Prevention Act or STOP Act was passed by Congress and signed into law. The STOP Act requires AED on all packages entering the United States starting next year. Spain, France, and Germany have followed our lead and announced that packages shipped to those countries without AED will be delayed or refused and returned to the sender starting on January 1, 2021.

This January 1, 2021 deadline was based on a generous timeline that gave the Postal Service, CBP, and the State Department over two years to prepare.

The STOP Act also set other milestones for the three agencies here today. These agencies failed to meet any of the important deadlines set out in the Act.

The STOP Act required the Postal Service and CBP to prepare a Joint Strategic Plan for the management of AED by December 23, 2018. The plan was not submitted to Congress until March 29, 2019.

The STOP Act required CBP to finalize regulations regarding how packages would be dealt with that had no AED by October 2019. Those regulations weren't even submitted to OMB for review until August 2020.

And the STOP Act required the Postal Service to collect AED on 70 percent of all packages and 100 percent of packages from China by the end of 2018. For January 2019, the Postal Service only had AED on 57 percent of package from all foreign posts and 76 percent of packages from China.

The State Department through efforts at the Universal Postal Union, which the United States is a member along with all foreign posts, should be leading the efforts to collect AED from our foreign partners.

While the rate of international packages with AED has improved, it still is not enough. Three years ago, only 26 percent of international packages shipped through the Postal Service had AED. By January 2020, 67 percent of packages had AED. Unfortunately, during the COVID-19 pandemic, that number has dropped to off to 54 percent.

As noted, on January 1 the Postal Service and CBP will be required to refuse any international package without AED. This means that because deadlines aren't met, a substantial number of packages will be turned away starting on January 1, 2021.

Of concern, some of the countries failing to provide AED on the majority of their packages are some of our closest allies: the United Kingdom and Australia to name a few.

The number of seizures of illicit fentanyl in inbound international mail is down. That is good news. According to Mr. Cintron's testimony today, the number is dramatically down. It seems the threat of the STOP Act and the increased ability to target packages containing illegal items have worked. However, I understand that seizures of illicit opioids have shifted to the domestic mail stream, mainly in packages coming from locations near the Southwest border. I hope to hear today how the Postal Service and CBP are dealing with this new threat.

So, we have a lot to talk about at today's hearing.

We need to understand why none of the milestones Congress established in the STOP Act were met.

We need to know how the Postal Service and CBP plan to begin refusing packages at the beginning of next year.

And we need to know what efforts the State Department is taking at the Universal Postal Union to encourage other countries to provide AED on its packages.

I appreciate the witnesses being here today and I look forward to your testimony. I know turn to the Ranking Member, Senator Carper.

Opening Statement of Ranking Member Tom Carper
“Combating the Opioid Crisis: Oversight of the Implementation of the STOP Act”
December 10, 2020

Thank you, Mr. Chairman, for holding this hearing today and for your ongoing leadership in combatting the opioid crisis that continues to grip our country.

As attention has necessarily shifted to the COVID-19 pandemic that has taken more than 280,000 American lives, we continue to lose a growing number of Americans to opioid overdoses.

More than 71,000 people died from drug overdoses in 2019. Preliminary reports indicate that we’ll surpass that total in 2020. Communities in Delaware and Ohio continue to be among the hardest hit in the country, with both states reporting higher rates of overdose deaths than almost any other.

When I joined Senator Portman in leading this Subcommittee in January 2017, we started looking into how Americans were getting the drugs that were killing them in record numbers. We found that some of the deadliest—including powerful synthetic opioids like fentanyl—could be purchased easily online. Our staffs actually communicated with drug dealers based in China who offered to ship them fentanyl and other drugs. Private shippers were an option, but the international mail system was preferred.

Since we published a report and held a hearing on our investigative findings in January 2018, significant progress has been made in addressing at least some of the challenges that made the U.S Postal Service and foreign posts around the world vulnerable to drug smuggling. Among the most important improvements was the enactment of Senator Portman’s STOP Act, which required more information on packages arriving at ports of entry in the United States. The Postal Service responded to this new law by successfully pressing posts around the world to increase their collection of what’s called “Advance Electronic Data”—often called “AED”—from customers seeking to ship items to addresses here.

Not too long ago, I’m told the Postal Service was collecting almost no data on inbound packages. In late 2017, they reported collecting data on roughly 40 percent of packages. Today, two-thirds of packages arriving in the United States include Advance Electronic Data.

Interestingly, the country that has been most forthcoming in providing information on inbound package shipments is China—the main source of the deadly drugs that are still driving overdoses in the United States. Today, more than 80 percent of packages arriving here from China include Advance Electronic Data. By comparison, less than one quarter of packages from the United Kingdom include these data.

According to a recent report by the Postal Service's Office of Inspector General, our friends in the U.K. are not alone among advanced countries that are behind in this area. A number of European Union members and other major shippers like Japan and Australia also have a lot of work to do.

Despite that fact, the law is clear. As of January 1, 2021, the Postal Service must start refusing packages without Advance Electronic Data. According to a briefing our staff received this week, this could mean 130,000 mail pieces a day, or about 4 million every month. Not too long ago, our staff was told that as many as 20 million packages a month could be held up or returned to their sender.

So it's not clear yet how bad this problem will turn out to be. But if we do wind up turning back or slowing down a large number of packages next month, I can't imagine other countries won't retaliate by blocking at least some of the packages the Postal Service sends abroad.

After four years of the Trump Administration's failed trade wars and reckless international diplomacy, this is the last thing we need. And at a time when Americans are being told to stay home and avoid inessential travel and trips to stores, more mail delays are unacceptable.

I'm a strong supporter of the data requirements and tough deadlines that were included in the STOP Act. But what this hearing will show us today is that the administration has fallen down on the job in implementing the Act.

I know international negotiations are tough. I'm sure some countries have bristled at the suggestion that our State Department and our Postal Service can dictate what information they collect from their customers. But it's hard for me to understand why we aren't in a better place than we are right now in obtaining Advance Electronic Data when the Universal Postal Union and E.U. requirements are so similar to ours.

And then we have CBP, an agency that was very direct with our staff in the past about what they perceived as failures by the Postal Service to cooperate in counter-drug operations. CBP is over a year late in issuing the regulations necessary to implement the STOP Act. I'm told those regulations won't be in place by January, and that CBP and the Postal Service are endeavoring only now to figure out what they plan to do when shipments without Advance Electronic Data arrive here.

In my opinion, the Postal Service—and come January 20—the new administration will have been put in an impossible position.

This is all coming at a time when trends with respect to how drugs like fentanyl are getting here are changing. According to CBP, significantly more drugs may be coming through land ports of entry along our southern border. At the same time, seizures in the international mail have declined.

So what I'm hoping to hear from our witnesses today is how we can solve this. Given where the drugs are coming from and where our trading partners are in providing the package data we're

seeking, Congress and the public need to understand—starting now—how we’re going to avoid disruption and delays once the STOP Act goes fully into effect.

Finally, Mr. Chairman, I want to note that—nearly four years after you and I started this work—deadly drugs can still easily be found for sale online. Like we did in 2017, my staff went online to search on Google, Microsoft’s Bing, and other search engines for fentanyl and other illicit drugs for sale.

As recently as this week, a simple search for “buy fentanyl online no prescription” yielded websites claiming to allow for the purchase and discreet shipping of deadly drugs directly into American homes. Without objection, Mr. Chairman, I’d like to enter screenshots of these search results into the record.

So as we press the State Department, CBP, and the Postal Service to redouble their efforts to comply with the law and block deadly drugs before they arrive in our communities, it’s important that we also work with law enforcement and the technology industry to figure out how we can take these drug dealers offline.

My thanks again, Mr. Chairman. I look forward to hearing from our panel.

Testimony of Eric Green
Director, Office of Specialized and Technical Agencies
U.S. Department of State, Bureau of International Organization Affairs
Senate Committee on Homeland Security and Governmental Affairs
Permanent Subcommittee on Investigations
December 10, 2020

Chairman Portman, Ranking Member Carper, members of the Subcommittee, thank you for the invitation to appear before you today to discuss our ongoing efforts to implement the STOP Act. The STOP Act is helping our country secure the international mail system against the threat of illicit shipments while continuing to ensure the international postal system facilitates commerce and people-to-people connections.

The Department of State has statutory responsibility for the formulation, coordination, and oversight of foreign policy related to international postal services. The Universal Postal Union (UPU), the principal international venue where the Department discharges its responsibilities related to postal affairs, is an intergovernmental organization with a membership that comprises nearly all of the world's countries. It is the first multilateral body the United States joined and the conference that led to its establishment was an initiative of the Lincoln Administration. The UPU's mission entails guaranteeing the free circulation of postal items over "a single postal territory composed of interconnected networks." The UPU is essentially a compact between the world's nations that their postal services will deliver one another's mail according to common rules and on the basis of reciprocity.

In support of the STOP Act's mandate that all mail shipments be accompanied by advance electronic data (AED) beginning in 2021, the Act calls on the Department of State to work to ensure that all international obligations of the United States are consistent with the provisions of the Act. In light of this mandate, I will focus my testimony today on our diplomatic engagement to do that, particularly with the UPU.

As detailed in this Committee's 2017 Staff Report, "Combatting the opioid crisis: exploiting vulnerabilities in international mail," efforts to require AED with international mail have been on-going for many years. In the past ten years, the AED issue in the Union has evolved from a question of "whether" to a question of "when" and "how." The technologically-advanced members of the UPU have favored adopting AED as quickly as possible while others have been cautious in light of the challenges many countries face in ramping up the systems and processes that are needed to meet these requirements.

In that regard, the STOP Act provides an excellent roadmap for prioritizing mail flows on the basis of volume, risk and the capacity of the sending country. The Act also recognized the important role of China and front-loaded the requirement that China provide AED from January 1, 2019. My fellow witnesses can address the positive effects of this requirement on illicit trafficking; from a diplomatic perspective, the China example is a powerful proof-of-concept to show that it is possible to establish systems and procedures to transfer the required data on a large scale.

Since the Act's passage, we have made important progress in the UPU in ensuring that our international treaty commitments complement and enhance the ability of USPS and CBP to carry out their responsibilities under the Act. The UPU Convention (Article 19.1.1) gives countries the authority to refuse admission to "[i]tems not fulfilling the conditions laid down in the Convention and the Regulations." In recent years, we have worked to ensure the UPU regulations include provisions relating to AED. Work to accomplish this has made notable progress in recent years. For example:

- The April 2019 session of the Postal Operations Council (POC) of the UPU promulgated new regulations to require all foreign posts (FPOs) to provide AED on UPU products containing goods, including parcels and small packets. These regulations, Convention Regulation Article 17-216 (requiring provision of AED on UPU Parcels) and Convention Regulation Article 17-107 (requiring provision of AED on small packets containing goods), will come into force on January 1, 2021.
- The October 2019 POC session clarified (in UPU document POC C 2 2020.1–Doc 2a) how postal items missing AED data required per the UPU regulations were considered as being “non-compliant” and, corresponding to national policy, could be deemed to be non-admissible into the countries requiring AED.

These developments were critical. They provide postal operators worldwide with further authority under UPU regulations to require shipments of goods to be accompanied by AED. Operationally, it has also provided foreign post authorities with further legal justification to seek funding to build and deploy their AED capability. Moreover, if mail items containing goods do not include AED, they will not be compliant with explicit UPU Convention Regulations and may be returned to origin if deemed inadmissible.

There are of course other provisions in the UPU Acts regarding how AED requirements should be implemented. But we are convinced that our implementation plans, which my colleagues from U.S. Customs and Border Protection and the Postal Service will elaborate in more detail, respect those stipulations. They take into account the capacity of the global postal network and its available infrastructure, as the UPU Acts contemplate, as well as whether the data can be provided by all concerned parties in the international postal transport chain. I would also note that we are not alone in imposing AED requirements that take effect next year. The European Union has also done so, and countries including Spain, Germany and France have also warned that non-compliant items may be delayed or refused if they lack the required data.

It should be pointed out that the adoption of AED requirements in the international postal system coincides with other major changes in the sector. The rise of electronic communications has caused a steady decrease in traditional letter flows by about 30 percent over the past 10 years. Meanwhile, the growth of ecommerce has caused the volume of parcel traffic to double over the same period.¹ This rise in ecommerce has led to what some commentators describe as a

¹ facts.usps.com/table-facts/ Accessed 11/30/2020. Figures are for the U.S.; data for international letter and package traffic follows the same pattern.

“tsunami of packages,”² although over the past year as a result of the pandemic, lack of air transportation, and higher terminal dues for small packets there has been some retrenchment.

Having the data to analyze this flow of parcels is now critical for all postal authorities in the world, to improve cargo security, modernize customs operations and simplify communications throughout the supply chain. In short, AED and the accompanying infrastructure is essential for participation in modern-day global commerce.

Despite the security and business imperatives of adopting AED, there remains a gap between AED requirements and the capabilities of many countries to meet them, particularly countries in the developing world. As a result, it is likely that during 2021 mail flows from some countries will be disrupted because they are not able to comply with the AED requirements in the STOP Act.

In order to address the capacity challenges, we and our partners are working with the UPU to provide technical assistance to accelerate progress towards global adoption of AED. In late 2019, the UPU rolled out a mobile phone application that creates a paperless customs declaration and transmits the AED to relevant entities in the postal supply chain including to the destination country’s authorities in conformity with their national laws. The postal authorities of 15 countries and territories are currently using the app, thereby allowing their residents to register items through this system. The UPU Quality Service Fund is providing resources to enable developing countries to link up to this application.

The UPU has worked with several other international organizations to coordinate outreach and training to all countries to prepare for the AED requirements. The UPU has partnered with the World Customs Organization (WCO), the International Air Transport Association, and the International Civil Aviation Organization among others on AED initiatives, and has also intensified its cooperation with INTERPOL, International Narcotics Control Board (INCB) and the United Nations Office on Drugs and Crime (UNODC).

The UPU has conducted regional workshops with WCO on AED and contraband in the Asia and Arab region (2017), Caribbean and Latin America region (2018), and the Central and West Africa region (2019). National pilot workshops and on-site visits and trainings (Armenia, Indonesia, Vietnam, India, Kazakhstan, South Africa, and Moldova) were also carried out over the course of these years.

The United States has supported efforts to improve countries’ capacity to handle and transmit AED. In 2019, the Postal Service committed \$17 million over five years to the UPU to assist the development of AED capabilities and security initiatives, as part of the historic agreement in Geneva last year that provided us with the ability to self-declare our terminal dues rates for small packets. The United States, through the Department of State’s Bureau for International Narcotics and Law Enforcement Affairs (INL), has also provided assistance to the

² “The Clock is ticking on advance electronic data for trade and ecommerce in LDCs” by Alexander Thern-Svanberg and Javier Garcia in “Trade for Development News,” August 19, 2020.
<https://trade4devnews.enhancedif.org/en/op-ed/clock-ticking-electronic-advance-data-trade-and-ecommerce-ldcs>

UPU to expand its Security and Customs Related Electronic Data Exchange (SECUREX) Project (an AED capacity-building initiative) to another 15 countries. SECUREX enables Post-Customs data exchanges and is relied upon to help identify and interdict suspicious packages and assist law enforcement efforts to counter trafficking of illicit substances through the global postal supply chain.

The COVID pandemic has prevented the UPU from providing in-person training to assist postal operators in meeting the new AED requirements. As soon as conditions permit, these efforts will resume. In addition, postal services worldwide have been considered essential, but they are scrambling to deal with disruptions to airline traffic that transports international mail shipments.

In conclusion, my colleagues and I at the State Department are proud to be part of a whole-of-government response to the opioid challenge. In line with the STOP Act, we have leveraged our leadership role in the Universal Postal Union and our bilateral relationships to increase the percentage of incoming shipments of goods with AED and we have accelerated international efforts to make the exchange of AED a worldwide standard.

Thank you, and I look forward to your questions.



**Statement of Robert Cintron
Vice President, Logistics
United States Postal Service
Before the Permanent Subcommittee on Investigations of the
Homeland Security and Governmental Affairs Committee
United States Senate
December 10, 2020**

Good morning, Chairman Portman, Ranking Member Carper, and members of the Subcommittee. Thank you, Chairman Portman, for the opportunity to update Congress on our progress in implementing the STOP Act. My testimony, and the testimony of my fellow panelists, will describe real success in our shared goal of keeping opioids out of the U.S. Mail, but I also want to highlight some of the challenges we will face as we continue to implement the provisions of the STOP Act.

My name is Robert Cintron, and I am the Vice President, Logistics, for the United States Postal Service. I became the Vice President, Logistics, in August 2019, and in this position, I oversee the Postal Service's Surface Logistics, Air Logistics, International Logistics, Systems Integration Support, Logistics Modeling and Analytics, and the Headquarters National Operations Control Center. Previously, and when I last testified before you, I served as the Vice President for Network Operations, where I was responsible for the Postal Service's national distribution network, including international operations. For international mail, Network Operations was responsible for the mail once it arrives at one of our International Service Centers (ISCs) and after it is cleared by U.S. Customs and Border Protection (CBP), up until it has been sorted and transported and is ready to be sent out for delivery.

In May 2017 and in January 2018, I testified before this Subcommittee about our efforts to combat opioids in the mail, highlighting advancements in the collection and receipt of customs advance electronic data (AED). These data are provided by foreign postal operators to the Postal Service and include fields such as the item identifier, sender's full name and address, recipient's full name and address, stated content description, unit of measure and quantity, weight, declared value, and date of mailing. As the Postal Service receives AED, it is passed along to CBP to aid its screening efforts.

In October 2018, Congress passed, and the President signed, the STOP Act. That law set numerical milestones and requirements for the collection of AED for incoming shipments from abroad, which could then be used by CBP to better interdict and stop the flow of illicit mail, including deadly opioid drugs.

Success in Driving Opioids Out of the Mail

Before I describe in more detail our efforts to increase AED, I first want to highlight genuine success toward our shared goal—stemming opioids in the mail. While CBP can best testify to the specifics, since 2018, we have seen a dramatic decline in the number of seizures of

suspected fentanyl or synthetic opioids in inbound international mail. Increased efforts to inspect and screen more potential targets undoubtedly contributed to this decline.

According to United States Postal Inspection Service data, if we use Fiscal Year 2018 as a baseline, we saw a 71 percent drop in international seizures in 2019, followed by a 93 percent drop in 2020. As the Postal Service, CBP, and others have increased our efforts, illicit drug producers and smugglers have seemingly responded by shifting out of international mail.

The decline in international seizures, however, has been countered with a significant increase in seizures of opioids from the domestic mail. In Fiscal Year 2020, the Inspection Service achieved a new record in the number of synthetic opioid seizures, while the total weight seized more than doubled from Fiscal Year 2019. Now, over 97 percent of the seizures come from the domestic mail stream. Many of these seizures are originating in jurisdictions near the Southwest Border and the Postal Inspection Service is deploying resources accordingly. This shift may suggest synthetic opioids are increasingly entering the country through means other than international mail before being distributed through the domestic Postal Service network, the express consignment carriers, or traditional drug distribution networks.

While we recognize that the decrease of opioids in the international mail system is a welcome development, we also recognize that we must continue our efforts, along with our law enforcement partners, to keep and build on these gains. We also recognize that the fight against fentanyl and synthetic opioids is far from over, though it appears that international mail is less frequently the delivery vehicle of choice for the trafficking of illicit drugs to the United States.

The Growth in AED

While CBP is better situated to describe counter-narcotics efforts, I can provide the context for AED and its status. Beginning in 2015 and through 2016, the Postal Service increasingly recognized the need for greater AED to accompany packages entering the United States and transiting our network. In May 2017, the United States and a number of other industrialized countries improved technical capabilities to provide AED, and in early summer 2017, the Postal Service improved its methodology for calculating AED percentages to reflect more accurately the types of mail being received. We made internal improvements to allow for a more rigorous methodology for accounting for all received volume at the ISCs.

Passage of the STOP Act in late 2018 reinforced the importance of these efforts. Working with CBP, and the State Department we have:

- Introduced and published requirements for international expedited mail items (known as EMS) to be accompanied by AED;
- Published formal notifications shared with all Universal Postal Union (UPU) member country operators regarding the requirements of the STOP Act for letter post and parcels;
- Collaborated on methodologies to identify foreign country postal operators that would

- be eligible for exemptions based on their risk, volume, and capacity profile; and
- Developed draft communications regarding STOP Act requirements for exempt operators, as well as airlines and ground handlers that are contractors for the foreign postal operators, which are planned to be distributed later this month;

Since the start of Fiscal Year (FY) 2017, these robust joint efforts achieved a 41 percent increase in AED collected on packages inbound to the United States and a 19 percent increase in USPS capture of CBP holds since January 2018. In six years, we have gone from collecting almost zero AED, to receiving AED for 67 percent of incoming packages in January 2020, when that number peaked prior to disruptions brought on by COVID-19.

Securing Cooperation from Foreign Postal Operators.

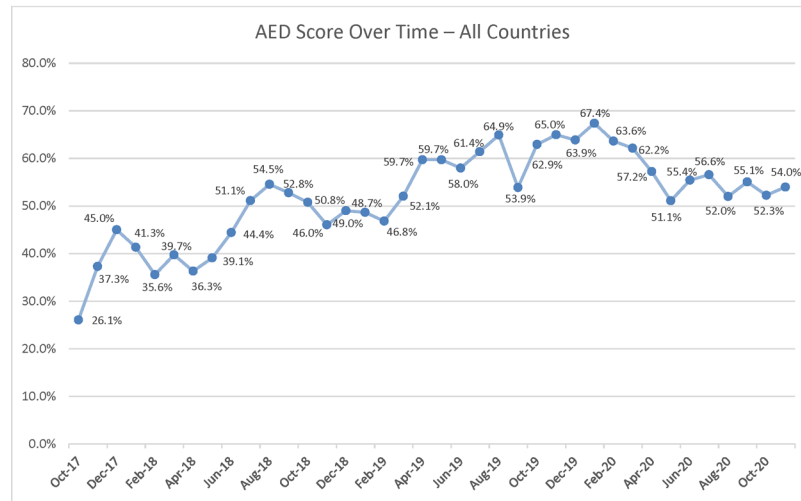
As mentioned previously, it is important to note that the Postal Service must rely on foreign postal operators (FPOs) to collect and transmit AED for their U.S.-bound international packages. Though the STOP Act sets requirements on the Postal Service for the percentages of AED accompanying inbound packages, these data must be collected and transmitted by the FPO, a process the Postal Service does not control. Even so, the Postal Service currently receives AED from 96 designated postal operators, and we are in the process of acquiring data from other nations, working on two mutually reinforcing paths to secure greater AED compliance.

First, the Postal Service works closely with the Department of State, which has the responsibility for representing the United States Government in the UPU. This 192-member international organization is charged with facilitating the exchange of mail among member countries through treaty agreements. At the UPU, United States initiatives are focused on advancing AED requirements. Recently, as a result of the compromise on self-declared rates for small packets, the Postal Service is now making investments of roughly \$18 million over the next five years for postal security and the provision of advance electronic data. We expect these investments will provide returns in the form of enhanced capacity among FPOs, particularly in developing countries.

The second avenue to increase AED is through bilateral and multilateral commercial contracts. In particular, the Postal Service works directly with postal operators to execute bilateral agreements, or alternatively, works with groups of foreign postal operators in multilateral settings and agreements. As a result of the introduction of self-declared rates for small packets, which became effective on July 1, 2020, the Postal Service took the opportunity to introduce more robust contract clauses in key bilateral and multilateral agreements with major trading partners. These provisions not only raised awareness of upcoming mandates for the production of AED, but also served to create binding commitments to promote compliance. These agreements now cover a substantial portion of our inbound mail flows. In addition to the commercial contracts, the Postal Service has also collaborated with postal operators to execute data sharing agreements, which are a key prerequisite for the exchange of electronic data. Such data sharing agreements are now in effect with over 135 foreign postal operators. The Postal Service also uses forums created through multilateral arrangements, such as the UPU, as well as the International Post Corporation and the Kahala Posts Group, to build awareness of requirements and construct tracking tools to measure performance.

Status of AED Compliance

As mentioned previously, the AED percentage for all inbound international packages peaked at 67 percent in January 2020. To track AED, the Postal Service relies on monthly data, and a historical graph of these data is as follows:



It should be noted that, prior to January 2020, the all-country AED percentage trend was steadily increasing. After the beginning of 2020, however, international mail was severely disrupted by the global COVID-19 pandemic, and as international mail volume dropped to historic lows, the progress in AED acquisition reversed course. We expect once international mail begins to recover, the AED score will resume its upward trajectory. Moreover, our most recent report in October shows that China Post is closing the gap and is nearly fully achieving the prescribed level of AED. This is a major accomplishment, and likely due to cooperative efforts over the course of several years.

Challenges Ahead

As previously mentioned, the STOP Act sets certain milestones and requirements that the Postal Service must achieve. The most pressing is the requirement that, by December 31, 2020—21 days from now—100 percent of all inbound international items containing goods must be accompanied by AED, unless the origin country's operator is exempted from the requirements, though other available remedial measures may serve as options to address noncompliant shipments.

As my preceding testimony makes clear, while we have made strides in acquiring greater AED compliance, on January 1st, it is probable and foreseeable that a portion of international packages will not be accompanied by AED.

This places the Postal Service in a difficult position. If inbound shipments containing goods are not accompanied by AED, we face the prospect of disrupting inbound mail volumes by refusing and returning shipments to origin. This could also affect letter and flat volumes from countries whose operators combine all shapes into single receptacles. On the other hand, applying alternative procedures may require burdensome and labor intensive procedures for both CBP and the Postal Service. We are in constant communication with the State Department and CBP to determine the best path forward that meet the requirements of the STOP Act, while at the same holding the disruption of the exchange of international mail to a minimum. We look in particular to CBP for guidance on whether it can offer remedial measures that could be applied to inbound shipments containing goods that are not accompanied by AED. Absent alternatives, noncompliant shipments will be refused.

Of course, the amount of disruption depends greatly on the response by foreign postal operators and their willingness and capacity to provide the data once the 100 percent requirement is in place. For this reason, the Postal Service and CBP are planning communications to air carriers and ground handlers for the purpose of informing them of the requirements and urging them, as the major choke point for inbound volumes, to take steps to prevent noncompliant shipments from being entered into the United States.

Conclusion

In conclusion, I want to highlight the described success in our national goal of keeping opioids out of international mail. As the Postal Service, CBP, and others have increased our efforts, illicit drug producers and smugglers have seemingly responded by shifting out of international mail, and this success is due, in part, to the tools created by the STOP Act. The Postal Service—and its partners at CBP and the State Department—continue to work to fully implement the provisions of the STOP Act. Even so, I want to caution that the looming December 31 deadline for 100 percent AED compliance from foreign postal operators presents challenges. A portion of inbound international packages will not be accompanied by AED, and the Postal Service stands ready to keep these packages out of the U.S. mail stream. **Absent alternatives, this will disrupt—to one degree or another—the flow of international mail.**

Again, I want to thank you for the opportunity to testify, and I look forward to your questions.

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TESTIMONY OF

Thomas F. Overacker
Executive Director
Cargo and Conveyance Security
Office of Field Operations
U.S. Customs and Border Protection

BEFORE

U.S. Senate
Committee on Homeland Security and Governmental Affairs
Permanent Subcommittee on Investigations

ON

“Combating the Opioid Crisis: Oversight of Implementation of the STOP Act”

December 10, 2020
Washington, D.C.

Chairman Portman, Ranking Member Carper, and Members of the Committee, it is my honor to appear before you today to discuss U.S. Customs and Border Protection's (CBP's) implementation of the *Synthetics Trafficking & Overdose Prevention Act* of 2018, or STOP Act, to combat the flow of illicit narcotics entering the United States through international mail facilities (IMFs).

CBP recognizes that America's economic prosperity depends on the continued flow of legitimate international trade as well as people, capital, information, and technology. Congress has tasked CBP and the U.S. Postal Service (USPS) with stopping the flow of illicit drugs into the United States through IMFs. The STOP Act requires CBP and USPS to collect advance electronic data (AED) from foreign postal services. CBP uses AED to assess risk, to identify potential violations of law, and to combat the flow of illicit goods into the United States through international mail.

The explosive growth of global e-commerce and direct-to-consumer shipping, even directly from foreign sellers, has resulted in exponential growth in the number of actors in international supply chains. According to USPS data, the volume of mail processed in IMFs peaked in 2017, and foreign sellers exploited the situation by increasing the amount of opioids—particularly fentanyl from China—shipped to the United States. Since then, CBP has persistently revised existing protocols, expanded interagency cooperation, updated technology, and changed staffing methodologies to enhance targeting, enforcement, and interdiction of narcotics in the international mail environment.

The Ongoing Opioid Crisis and Other Mail Threats

Overall, CBP fentanyl seizures increased dramatically nationwide, jumping from 2,801 pounds in FY 2019 to 4,776 pounds in FY 2020. In FY 2019, the Office of Field Operations (OFO) seized 2,575 pounds of fentanyl nationwide and 2,406 pounds at Southwest land border ports of entry (POE), which equated to 93 percent of all fentanyl seized by OFO that year. In FY 2020, OFO seized 3,967 pounds of fentanyl nationwide, including 3,719 pounds—or almost 94 percent of all fentanyl—at the Southwest land border. Border Patrol seizures of fentanyl between the ports of entry also increased dramatically, from 226 pounds in FY 2019 to 809 pounds in FY 2020.¹

During FY 2020, fentanyl seizures in IMFs decreased from 392 to 229, while the total volume seized increased slightly, from 24.13 pounds to 24.67 pounds for the same time period. Seizures in express cargo during FY 2020 increased over the previous year, from 35 to 39 incidents and from approximately 120 pounds total to approximately 163 pounds.

Meanwhile, efforts to import other opioids, opioid-related pain medications, and other drugs through the mail continue. In FY 2018, CBP seized a total of 1,133 pounds of MDMA, more commonly known as ecstasy or molly. It is a synthetic drug classified as a stimulant but with hallucinogenic properties. Of that amount, 1,037 pounds was seized at IMFs. For FY 2019, CBP seized 2,220 pounds of MDMA, with 2,011 pounds shipped via international mail. In FY 2020,

¹ U.S. Customs and Border Protection, CBP Enforcement Statistics (Nov. 24, 2020), <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

1,770 of the 2,120 pounds were seized in IMFs. In FY 2019 and FY 2020, CBP has also seized substantial quantities of Tramadol, which addicts often seek as a cheaper, easier opioid alternative. Drug trafficking organizations (DTOs) use Tramadol as a cutting agent for heroin and fentanyl. As is always the case with illicit drugs, users generally have no idea what they are really consuming. This fact presents a serious health risk for drug users.²

China continues to present a unique set of challenges. It is a major source country for not only narcotics, narcotic manufacturing equipment such as pill presses, and other controlled substances, but fraudulent documents and counterfeit merchandise as well. On average, CBP processes approximately 1.4 million shipments from China each day, and shipments from China account for more counterfeit goods than from any other country. Preliminary data for FY 2020, indicates CBP made more than 26,000 seizures of counterfeit goods nationwide, with an estimated manufacturer's suggested retail price (MSRP) value exceeding \$1.3 billion. Of those seizures, 79 percent of the counterfeit merchandise originated in China and Hong Kong and represented 83 percent of the MSRP value. In FY 2019, China and Hong Kong accounted for 83 percent of the total volume and 92 percent of the total value of all counterfeit merchandise seized by CBP.

Since the beginning of the COVID-19 pandemic, CBP has seized more than 12 million counterfeit face masks, more than 170,000 unapproved COVID-19 test kits, and thousands of medicinal products lacking FDA approval. Approximately 60 percent of these goods were from China and Hong Kong.

STOP Act Implementation

The September 2018 *CBP Strategy to Combat Opioids* is an action plan that encompasses four goals: (1) enhancing collaboration and information-sharing; (2) producing actionable intelligence; (3) targeting the opioid supply chain; and (4) protecting CBP personnel from exposure to opioids. All four goals are pertinent to CBP's implementation of the STOP Act.

AED

While USPS has acquired and provided AED to CBP on a voluntary basis since 2013, prior to the STOP Act, USPS did not require AED for the vast majority of mail entering the United States. Traffickers based in foreign countries were shipping drugs directly through USPS and other methods as a way to circumvent U.S. customs laws and federal criminal law. However, pursuant to the STOP Act, on or after December 31, 2020, USPS will be required to provide AED for all international mail shipments.

The implementing regulations that will establish the specific AED requirements have been submitted to the Office of Management and Budget for interagency review under Executive Order 12866, and we are engaging actively in that process. The regulation seeks to establish AED collection comparable to the information CBP already requires for non-mail cargo shipments, and it will enable CBP to apply some of the same long-established targeting and

² NIH, National Institute on Drug Abuse, "MDMA (Ecstasy) Abuse Research Report: What is MDMA?" April 9, 2020 (Nov. 30, 2020), <https://www.drugabuse.gov/publications/research-reports/mdma-ecstasy-abuse/what-mdma>.

intelligence-driven techniques we have used in other trade and travel pathways as part of our multi-layered, risk-based approach.

Waivers

With the deadline on the near horizon, CBP and its partners are refining the guidelines and defining the process to apply for waivers, establishing the appropriate remedial measures for certain mail volumes, and defining the risk assessment methodology for foreign postal operators. Once this is completed, CBP and USPS will work with the Universal Postal Union (UPU) to distribute the guidance to member countries.

Currently, more than 50 countries provide some form of AED to USPS and CBP. However, many challenges remain when it comes to the automation capabilities of each country. Along with the guidelines, CBP and USPS are developing and outlining the process for waivers for those countries that lack the technology to gather and transmit the data, have low volumes of international mail, and are deemed low risk. Thus far, CBP has not granted any waivers for the AED requirement. Waivers will be temporary, and will be granted based on volume, capacity, and risk factors.

On January 1, 2021, even in situations where waivers are granted, UPU-member country operators are expected to continue transmitting AED at current or historical levels, but CBP, USPS, and our federal partners in the United States will continue to monitor progress toward compliance with the AED requirement as well as compliance with U.S. customs laws.

Express Mail Fee

The STOP Act required CBP and USPS to collect the necessary data and begin collecting a \$1 processing fee, subject to an annual adjustment by the Secretary of the Treasury in consultation with the Postmaster General, on inbound express mail service items sent to the United States through the international postal network as of January 1, 2020. CBP published an interim final rule on August 4, 2020, in the Federal Register that implemented the procedure by which USPS will remit to CBP, on a quarterly basis, 50 percent of the payments from this new \$1 processing fee. The money collected in this fee assessment will be divided evenly between CBP and USPS. CBP has received the first payment from USPS, and CBP intends to use this money for IMF enhancement.

Interagency Collaboration

Implementation of the STOP Act involves a number of U.S and international agencies, including postal services, diplomatic services, law enforcement, and investigative agencies. In the United States, CBP is working closely with USPS and the U.S. Postal Inspection Service (USPIS), the U.S. Department of State, U.S. Immigration and Customs Enforcement (ICE)-Homeland Security Investigations (HSI), the U.S. Food and Drug Administration (FDA), and the Drug Enforcement Administration (DEA). Internationally, CBP and our partners are working with postal officials and the international postal network to develop or increase AED capacity and to obtain bilateral agreements.

On January 18, 2019, the CBP Commissioner and the USPS Postmaster General sent a letter to Mr. Aili Liu, president of the China Post Group, requesting China Post's cooperation with the requirement to provide 100 percent AED. Similar correspondence was sent to the heads of postal services in Hong Kong and Macau. The State Department's Bureau of International Organization Affairs has been working to ensure coordination and communication of the requirements at the international level.

CBP enhanced its partnership with the FDA with an April 2019 Letter of Intent to maximize inspection and detection capabilities in mail facilities and increase collaboration for information-sharing on opioid interdiction. In October 2020, pursuant to the *SUPPORT for Patients and Communities Act*, CBP and FDA completed a memorandum of understanding that implements the goals laid out in the Letter of Intent. This expands operational collaboration and information-sharing specifically in the IMF environment and unleashes decades of experience between our agencies in interdicting illegal parcels. In recognition of their role as the chief investigative arm of the U.S. Department of Homeland Security in the IMF environment, ICE-HSI was also added as a signatory.

In September 2019, the Acting CBP Commissioner and the Director of the Office of National Drug Control Policy (ONDCP) travelled to China, initiating a series of regular meetings between the CBP attaché in Beijing and the China Ministry of Public Security (MPS). CBP now regularly shares targeting information with the MPS and the General Administration of China Customs. These international engagements successfully encouraged China to enact policy changes to include adding fentanyl analogues to the country's list of controlled substances, effective May 1, 2019. DEA predicted this change in Chinese policy and the increased monitoring of high-risk shipments from China likely contributed to the apparent shift in fentanyl production to other countries such as India and Mexico.³

On September 25, 2019, the Trump administration successfully concluded an agreement to remain part of the UPU. Under the agreement, starting in January 2021, high-volume importers of mail and packages will be allowed to begin imposing "self-declared rates" for delivering foreign origin small packets. These fees will be phased in over five years, but high volume operators trading with the United States began applying their full self-declared new rates beginning July 2020, as the United States did with them.

Actionable Intelligence

When USPS receives AED, it provides the AED to CBP. CBP's National Targeting Center (NTC) is a key component of our comprehensive border security and management strategy. The NTC emphasizes partnerships, both cultivating new ones and maintaining existing relationships. It provides real-time actionable information to strategic foreign and domestic partners through such programs as the Container Security Initiative, Immigration Advisory Program/Joint Security Program, International Targeting Center, and other NTC-staffed designated liaison

³ Drug Enforcement Administration, "Fentanyl Flow to the United States," January 2020 (Nov. 30, 2020), https://www.dea.gov/sites/default/files/2020-03/DEA_GOV_DIR-008-20%20Fentanyl%20Flow%20in%20the%20United%20States_0.pdf

locations abroad. These programs effectively enhance global domain awareness and targeting capabilities while enabling the interdiction of travel and cargo threats at their origin. The NTC coordinates mitigation efforts across agencies and foreign partners to interdict high-risk shipments and uses risk-based strategies to identify transnational criminal organizations (TCOs) and DTOs.

The NTC uses tools such as the Automated Targeting System (ATS) and subject matter expertise to analyze, assess, and segment risk at every state of the trade and travel life cycles. It uses classified law-enforcement, commercial, and open-source information in innovative ways to identify high-risk travelers and shipments at the earliest point possible and coordinates with CBP staff as well as interagency and foreign partners to take appropriate action.

Targeted Enforcement

Because of the sheer volume of international mail, CBP cannot inspect every piece of mail or every package. Instead, we use a risk-based approach, relying heavily on our strategies to identify high-risk envelopes, packages, and parcels. Once a high-risk shipment is identified, CBP notifies USPS to pull the item for inspection. Over the past few years, CBP and USPS have collaborated using AED to target import mail for inspection. CBP and USPS continue to address and resolve problems with inventorying and locating targeted mail so it can be inspected.

All International Service Centers (ISCs) are equipped with acceptance systems that alert clerks of receptacles that contain holds. “Hold” items selected by CBP for additional inspection can now be identified by manually scanning item barcodes or by processing receptacle contents on automated equipment. At the inception of AED targeting, also known as “customs holds”, the process was largely manual. As the process evolved, automated mail processing equipment was modified to efficiently identify and secure hold items. USPS engineering staff continue to pursue new technology to improve efficiency and the capture rate of holds.

Customs-hold performance has averaged 94 percent over the past 12 months. In January 2020, prior to the impact of COVID-19, USPS reached a high point by capturing 96 percent of all actionable holds CBP targeted.

Technology and IMF Modernization

In FY 2020, CBP spent more than \$5 million to renovate the John F. Kennedy International Airport IMF, one of nine IMFs in the United States and its territories. A majority of international mail enters the United States at the JFK IMF, which, until FY 2020, had not been updated in about 30 years.

CBP is making critical infrastructure and technology investments at the other IMFs as well to fulfill its international mail processing modernization mission. CBP is working to procure new and advanced mail sorting technology and equipment that is expected to be fully integrated with third party Non-Intrusive Inspection (NII) equipment to (1) increase the volume and speed of mail inspected by optimizing processes, resources, and technologies; (2) improve the rate at which CBP is able to detect, hold, and seize suspicious mail; and (3) support new enforcement capabilities that increase mail-processing efficiency and security.

When CBP first identified the trend of high-potency but low-weight air shipments of fentanyl from China in FY 2017 and FY 2018, the Department of Homeland Security, Science and Technology Directorate (DHS S&T), CBP, ONDCP, and USPIS sponsored a contest called “The Opioid Challenge,” offering a \$1.55 million prize to motivate the private sector to develop a rapid non-intrusive inspection (NII) solution that could detect minute quantities of opioids and other specific contraband in the mail stream at the “speed of commerce.” CBP has awarded contracts for the purchase and deployment of the technology directly resulting from this challenge. The contest produced technology that combines emergent NII equipment with algorithms to detect illicit items. In December 2019, Integrated Defense & Security Systems (IDSS) was announced as the grand-prize winner and received \$500,000 for its Detect 1000 technology, an image-based solution that identifies anomalies in X-ray images based on the scanned item’s features and physical properties and detects illicit substances through the packaging. This technology not only saves time and reduces the risk of exposure for CBP personnel, it provides methodology for CBP to anticipate trends in the development of fentanyl analogues and enables us to be proactive—rather than reactive—when new analogues emerge.

CBP and our partner agencies not only prioritized major investments in detection equipment, but staffed chemists at ports of entry to allow for on-site analysis of seized substances and increased sharing of actionable intelligence. In FY 2019, scientists from CBP’s Laboratories and Scientific Services conducted both a laboratory-controlled and field-evaluated test of fentanyl test strips for the presumptive identification of fentanyl and fentanyl analogues. The results of the evaluation proved the accuracy and reproducibility of the test to be greater than 95 percent.

CBP staff have pioneered the use of other cutting-edge technology as well. The Thermo-Fischer Gemini scanner can analyze a substance while it is still in the packaging. The Gemini, which comes with a library of data on opioids and other drugs, “learns” the signature of specific substances by identifying spectral signatures of compounds similar to those in the library. Trained analysts can then add those signatures to the library. The Gemini scans through clear packaging using an attached laser light probe. This technology helped CBP recognize that producers in China were making dozens of fentanyl analogs using slight variations in an attempt to avoid detection. Using onsite laboratory services, we were able to quickly identify new analogs and disseminate the signature throughout CBP.

Canine Detection

All OFO canines and canine handlers, such as those used in IMFs and express consignment carrier facilities (ECCFs), have completed a comprehensive fentanyl odor-recognition test to validate the canines’ ability to detect fentanyl and its analogues. Existing canine teams added the detection of fentanyl and its analogues to their repertoire, and all new canines are trained to detect fentanyl. OFO currently has 453 canine teams, with 10 teams assigned to ECCFs. IMFs have access to 58 canine teams shared with other areas of the ports of entry. Of the 15 canine teams mandated by Congress to be assigned to IMFs, eight are still awaiting training due to COVID-19-related delays.

Personnel Safety

The safety of the men and women who work at CBP has always been and will continue to be a top priority for CBP. Inspecting mail that could contain highly potent opioids such as fentanyl and Tramadol presents serious health and safety concerns for CBP. We are investing in new narcotic-detection technology to keep our people safe. CBP provides appropriate test kits, protective equipment, and training for the men and women working on the front lines of border security, including those in IMFs and ECCFs. We have invested in thousands of doses of naloxone (Narcan®) for use in the event that our personnel, our canines, or members of the public are exposed to opioids. CBP and other federal agencies created a video, “Fentanyl: the Real Deal”—available publicly on YouTube—that is included in our mandatory training for all new and current CBP employees. In FY 2019, we procured the equipment and necessary training to enhance our decontamination capabilities to provide 100 percent on-site mitigation and to clean our testing equipment.

Challenges Ahead

While overall compliance with the AED requirement has improved significantly, many countries are far from meeting even a minimal threshold. Notwithstanding the technical assistance that the United States has provided through the State Department’s Bureau of International Narcotics and Law Enforcement Affairs and the UPU’s own efforts, drawing in part on funding provided by USPS under last year’s Geneva agreement, some countries are at zero percent or in the single digits when it comes to AED compliance. As a result, there is the distinct possibility of serious disruptions in mail flow to the United States in 2021. In order to minimize the impact of these disruptions, CBP is working with USPS on mitigation strategies.

At IMFs, CBP routinely intercepts counterfeit and unapproved medications, and we have seen an increase in counterfeit advanced lifesaving drugs ranging from common medications for blood pressure or cholesterol to cutting-edge cancer medications. Individuals trying to contain medical-treatment costs mistakenly believe that they are ordering from legitimate pharmacies, while, in reality, those orders can be filled anywhere in the world and may or may not contain the active pharmaceutical ingredients in legitimate medications, or, worse yet, may be laced with harmful or deadly substances. CBP works regularly with the FDA and the pharmaceutical industry to identify these dangerous counterfeits and prevent them from getting into the hands of Americans.

Lastly, TCOs and DTOs will continue to change their methodologies and techniques in an effort to stay one step ahead of law enforcement. We know from experience that when we successfully deter a smuggling activity in one place or form, it will re-emerge elsewhere or in a different form. These criminal, drug-smuggling organizations relentlessly pursue other smuggling avenues in hopes of increasing their chances of success. Now that China has reclassified fentanyl and has vowed to combat the problem at their end, we are seeing a shift from China to India and Mexico.⁴

⁴ Ibid.

U.S. law enforcement, including HSI, DEA, and CBP, have noted that Mexico-based TCOs are possibly synthesizing fentanyl analogues domestically with the intent to smuggle them across the border.⁵ We have already seen evidence that these organizations are producing fentanyl analogues by modifying the molecular structure of fentanyl as part of their ongoing attempts to skirt existing laws and regulations.⁶ CBP anticipates criminal organizations will continue to create new synthetic opioids and fentanyl analogues, called fentalogs, which have similar effects as fentanyl. As they are identified, they must be classified as regulated substances for enforcement purposes, and this requires extensive international effort and coordination involving multiple agencies here and abroad. DEA predicts that fentanyl suppliers will continue to experiment with other new synthetic opioids in an attempt to circumvent new regulations imposed by the United States and China.⁷ As the international illicit-drug market continues to change and evolve, so too must CBP.

Conclusion

CBP continues to work closely with its national and international partners to address the opioid crisis on multiple levels. This layered approach reduces our dependence on any one point of contact or program to stop the flow of narcotics and extends our zone of security outward, ensuring our physical border is neither the first nor the last line of defense, but instead one of many. Through a series of administrative and enforcement actions, CBP has improved its sources and information-collection methodology related to foreign sellers and trade violations. We will continue to use this information as well as AED to strengthen our ability to identify and interdict not only narcotics, but also other illicit and unsafe products that would harm Americans.

CBP and its partner agencies must continue to take decisive actions to address the opioid crisis in this country, and we will continue to address it from both domestic and international approaches, using all tools at our disposal.

Thank you for the opportunity to testify today. I look forward to your questions.

⁵ Ibid.

⁶ Ibid.

⁷ Drug Enforcement Administration, "2019 National Drug Threat Assessment," (December 2019), https://www.dea.gov/sites/default/files/2020-01/2019-NDTA-final-01-14-2020_Low_Web-DIR-007-20_2019.pdf.

December 8, 2020 Search Conducted on Google:
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Chris Netram
 Vice President,
 Tax and Domestic Economic Policy

December 9, 2020

The Honorable Rob Portman
 Chairman
 Committee on Homeland Security
 and Government Affairs
 Permanent Subcommittee on
 Investigations
 United States Senate
 Washington, DC 20510

The Honorable Thomas R. Carper
 Ranking Member
 Committee on Homeland Security
 and Government Affairs
 Permanent Subcommittee on
 Investigations
 United States Senate
 Washington, DC 20510

Dear Chairman Portman and Ranking Member Carper:

On behalf of the National Association of Manufacturers (NAM) and the millions of men and women who make things in America, I thank you for holding today's hearing, "Combating the Opioid Crisis: Oversight of the Implementation of the STOP Act," and am pleased to submit these comments for the record. We further applaud your leadership in passing the Synthetics Trafficking and Overdose Prevention (STOP) Act of 2018 and broadly working to stop the importation of dangerous illicit goods from entering our country.

This Subcommittee played a crucial role in the enactment of the STOP Act by Congress. Importantly, this legislation required the Postal Service, for the first time, to collect Advanced Electronic Data (AED) so that U.S. Customs and Border Protection (CBP) can identify packages coming from China and elsewhere that could include illegal and dangerous substances, including fentanyl. We applaud the Subcommittee's focus on advancing real solutions to curb the opioid crisis and protect Americans.

Just as fentanyl flows into the United States from Chinese drug traffickers, so too are dangerous counterfeits and other products that do not meet applicable safety standards finding their way to U.S. consumers through Chinese channels. That is why the STOP Act required 100% of packages to be accompanied by AED.

Indeed, the need to stop the importation of opioids and other dangerous goods is of such high importance that, just this past October, leadership from the Food and Drug Administration (FDA), CBP, and the Immigration and Customs Enforcement, Homeland Security Investigations (ICE-HSI) signed a Memorandum of Understanding (MOU) to stop harmful products that pose a threat to public health and attempt to enter the U.S. through International Mail Facilities (IMFs).¹ The MOU recognizes that this partnership is critical not only to allow the Department of

¹ Press Release, U.S. Customs & Border Patrol, FDA, Homeland Security Agencies Take Additional Action to Prevent Import of Illegal and Harmful Medical Products Through International Mail Facilities (Oct. 30, 2020), <https://www.cbp.gov/newsroom/national-media-release/fda-homeland-security-agencies-take-additional-action-prevent-import#:~:text=FDA%2C%20Homeland%20Security%20Agencies%20Take%20Additional%20Action%20to,International%20Mail%20Facilities%20Release%20Date%3A%20October%2030%2C%202020>.

Homeland Security to “partner with the FDA in joint operations at the IMFs to target illicit opioids, including fentanyl and other unapproved or unlawful drugs, medical devices and dietary supplements regulated under the Federal Food, Drug, and Cosmetic Act,” but also “in our [continuing efforts](#) to intercept fraudulent, counterfeit or illegitimate COVID-19 products that may pose risks to public health.”² The press release announcing this MOU is attached for your reference.

The sale of dangerous counterfeits and unregulated goods is not a new problem; it has harmed manufacturers, American workers and consumers for years. The problem, however, is getting worse, and the COVID-19 pandemic has shown just how dangerous inaction can be. As part of the nation’s critical response effort, manufacturers have been supplying health care workers and other Americans on the front lines of this crisis with vital goods, including personal protective equipment, hospital beds, ventilators, hand sanitizers, cleaning supplies and other critical health care and safety products. Counterfeiters have exploited the crisis to peddle fake tests, dangerous vaccines and ineffective protective gear. These counterfeits are harming American citizens and hindering manufacturers’ efforts to protect their workers and communities.

The prevalence of counterfeits in the COVID-19 response has brought new urgency to this long-simmering issue, and the NAM is leading the charge against fake and counterfeit goods. In July, the NAM released a white paper that details how fake products harm manufacturers, consumers and public health and provides specific policy solutions that Congress and the administration should adopt to address the issue.³ The regulatory issues below complement and advance the Subcommittee’s focus on postal matters and the STOP Act, and, if addressed, will go a long way towards stemming the tide of fake goods entering the United States.

The NAM’s white paper contains dozens of recommended legislative and regulatory actions to address the issue of counterfeit goods. These items include the need for agencies to implement and monitor key matters that have already been approved that may merit Committee oversight. For example, Congress should ensure full implementation and enforcement of the STOP Act by CBP, including requirements for the U.S. Postal Service to collect AED for 100% of packages to track counterfeits. In doing so, Congress should use its oversight authority to ensure CBP enforces current law and treats all importers the same, including shipments from foreign posts. The STOP Act addresses illicit imports by requiring AED on packages imported from foreign postal networks.⁴ Yet, to date, CBP has failed to comply with multiple benchmarks set forth by Congress, which has allowed counterfeiters to continue to get their dangerous products into the U.S. market. Congress should address these specific shortcomings:

- CBP has yet to issue regulations that were due a year ago to enforce the STOP Act.⁵
- CBP has not presented any evidence that the USPS complies with initial STOP Act requirements and receives AED on 100% of packages imported from China and 70% of packages imported worldwide as of December 31, 2018.⁶

² *Id.*

³ NAT’L ASS’N OF MANUFACTURERS, COUNTERING COUNTERFEITS: THE REAL THREAT OF FAKE PRODUCTS (2020), https://www.nam.org/wp-content/uploads/2020/07/CounteringCounterfeits_vF_.pdf.

⁴ STOP Act of 2018, Pub. L. 115-272, title VIII, section 8003 (October 24, 2018).

⁵ U.S. POSTAL SERVICE OFFICE OF INSPECTOR GENERAL, IMPLEMENTING ADVANCE ELECTRONIC DATA: CHALLENGES AND OPPORTUNITIES 6 (Sept. 30, 2020), <https://www.uspsolg.gov/sites/default/files/document-library-files/2020/RISC-WP-20-010.pdf> (citing Synthetics Trafficking and Overdose Prevention (STOP) Act of 2018, S.3057, 115th Cong., 2D sess., §9(b)).

⁶ 19 U.S.C §1415 (a)(3)(K)(v)(I) - (a)(3)(K)(vi)(I).

- CBP has not provided any evidence that the USPS can submit AED on 100% of packages imported worldwide as of January 1, 2021, and will turn away any non-compliant packages, even though it will subject the USPS to potential civil penalties, as confirmed by the USPS Inspector General.⁷

In addition, Congress should work with the State Department and the U.S. Ambassador to the United Nations to ensure that low terminal dues for foreign countries do not continue to allow counterfeiters to cheaply ship goods to consumers through the U.S. Postal Service.⁸ To this end, Congress should closely monitor the global implementation of the September 2019 agreement by parties to the Universal Postal Union to allow countries to self-declare postal rates and work with the White House on further actions to take if that implementation is insufficient.

Thank you for your commitment to protecting Americans from the importation of all dangerous illicit goods and for the opportunity to provide these comments. We look forward to working with you as we continue to address the needs of the American people.

Sincerely,



Chris Netram
Vice President, Tax & Domestic Economic Policy

⁷ USPS IG Report, *supra* n. 42, at 3.

⁸ "Terminal dues is the system that posts use to pay one another for international deliveries of letters and small packages. The global terminal dues system, updated every four years by the Universal Postal Union (UPU), does not fully reflect actual domestic processing and delivery costs." U.S. POSTAL SERVICE OFFICE OF INSPECTOR GENERAL, TERMINAL DUES IN THE AGE OF E-COMMERCE (Dec. 14, 2015), <https://www.uspsoig.gov/sites/default/files/document-library-files/2015/RARC-WP-16-003.pdf>.

FDA, Homeland Security Agencies Take Additional Action to Prevent Import of Illegal and Harmful Medical Products Through International Mail Facilities

Release Date:

October 30, 2020

Recently, leadership from the U.S. Food and Drug Administration, the U.S. Customs and Border Protection (CBP), and the U.S. Immigration and Customs Enforcement, Homeland Security Investigations (ICE-HSI) signed a Memorandum of Understanding (MOU) to stop harmful products that pose a threat to public health and attempt to enter the U.S. through International Mail Facilities (IMFs). The MOU will maximize inspection and detection capabilities in order to prevent this illegal activity.

As a core part of this collaborative effort, CBP and ICE-HSI will continue to partner with the FDA in joint operations at the IMFs to target illicit opioids, including fentanyl and other unapproved or unlawful drugs, medical devices and dietary supplements regulated under the Federal Food, Drug, and Cosmetic Act. This partnership is also critical in our [continuing efforts](#) to intercept fraudulent, counterfeit or illegitimate COVID-19 products that may pose risks to public health. Additionally, the agencies will work to coordinate ongoing activities through collaborative information sharing, shared facilities, and future coordinated operations.

"Americans must have confidence that the products they receive are reliable and fully comply with U.S. laws," said FDA Commissioner Stephen M. Hahn, M.D. "The collaborative efforts we've announced will enable more resourceful, effective, and efficient oversight to prevent illegal and potentially harmful products from entering the United States—thereby aiding our essential mission to protect the health and safety of the American people. We remain committed to using all tools and authorities available and leveraging our strong relationship with our federal partners to help stop the illegal flow of counterfeit and unapproved medical products into our country."

"International mail and express consignment are major conduits for drug smugglers. This has become more challenging for law enforcement as volumes have skyrocketed, and because of e-commerce and rapid shipping logistics," said CBP Acting Commissioner Mark A. Morgan. "This partnership with FDA and ICE will ensure a whole-of-government approach that will provide additional resources and tools to disrupt these dangerous drugs from reaching our communities."

"FDA and CBP are key partners in our mission to protect against counterfeit goods that could cause harm," said Senior Official Performing the Duties of the Director Tony H.

Pham, "ICE HSI special agents investigate and enforce violations of federal trademark, copyright and patent law and work to dismantle counterfeit operations and hold individuals involved in them accountable – mitigating risks to legitimate business and ensuring public safety."

The FDA and CBP signed a letter of intent [in April 2019](#), to maximize inspection and detection capabilities at the IMFs. As outlined in the letter of intent and in the recently signed MOU, the FDA, CBP, and ICE-HSI will expand the types of information and how that information is shared among the agencies to quickly and effectively identify trends in incoming violative packages. This collaboration involves sharing of both general and specific data points, which can be used to target impending product entries and to inform future enforcement strategies. An additional focus of this effort will be coordinating shared space as well as increased scientific presence at high-volume IMF locations, helping to facilitate and support real-time entry decisions and increased data sharing.

Since April 2016, when the FDA implemented its administrative destruction authority at all nine IMFs, the agency has destroyed more than 12.9 million capsules/tablets/pieces – weighing over 41.2 tons. The destruction of almost 13 million violative drug units by the FDA represents a key component of the agency's public health mission, as these potentially dangerous drugs were destined for over 31,000 U.S. consumers. New authorities and resources provided by Congress under the [Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment \(SUPPORT\) for Patients and Communities Act](#) have enabled the FDA to create a more efficient destruction process for violative drugs containing certain active pharmaceutical ingredients (APIs), and to expand its presence at IMF locations nationwide, which has resulted in more rapid, on-site scientific support, increased staffing and improved work facilities. In fiscal year (FY) 2019, the FDA screened approximately 25,200 parcels containing more than 41,000 products at its IMF facilities. The agency subsequently refused to admit more than 35,000 of those products and nearly half (over 17,000 products) were identified as violative drugs and destroyed using FDA's administrative destruction authority. So far in FY 2020, the FDA has screened approximately 27,500 mail parcels, containing almost 43,000 FDA-regulated products. Of these products, more than 34,000 were refused admission and more than 24,000 were violative drug products that have been destroyed.

<https://www.cbp.gov/newsroom/national-media-release/fda-homeland-security-agencies-take-additional-action-prevent-import#:~:text=FDA%2C%20Homeland%20Security%20Agencies%20Take%20Additional%20Action%20to,International%20Mail%20Facilities%20Release%20Date%3A%20October%2030%2C%202020>