

# United States Senate

WASHINGTON, DC 20510

September 15, 2016

The Honorable John F. Kerry  
Secretary  
U.S. Department of State  
2201 C Street, N.W.  
Washington, DC 20520

Dear Secretary Kerry:

We write to express our concern about the possible risks present in international mail. As e-commerce grows, some foreign companies are taking advantage of potential weaknesses in international mail security standards to break U.S. customs laws and regulations by shipping goods that threaten the jobs, health, and safety of Americans. We believe this issue deserves greater attention within the larger foreign policy agenda of the United States, and we would like your commitment to engage with other nations directly to work to prevent bad actors from using international mail to evade U.S. law.

Unlike packages entering the U.S. through private carriers, such as United Parcel Service (UPS) or FedEx, U.S. Customs and Border Protection (CBP) does not receive electronic customs data for the vast majority of non-letter class mail entering the U.S. through foreign postal services.<sup>1</sup> Electronic customs data allows CBP to identify and focus screening time and resources on those items when they arrive. The ability of a carrier to provide electronic data to CBP also allows CBP to require the submission of select data elements prior to arrival. These data elements, known as advance data, better enable CBP to ensure cargo safety, prevent smuggling, and conduct commercial risk assessment targeting. Access to electronic customs data for international mail has been highlighted recently by several Senate Committees as a key component in enabling CBP to more effectively enforce U.S. customs and trade laws and stop illicit goods from crossing our borders.

The Senate Committee on Homeland Security and Governmental Affairs (HSGAC) convened a roundtable on April 19, 2016, to examine international mail security. As highlighted by the Committee's roundtable, deadly synthetic drugs, including fentanyl, are affecting communities across the U.S., and the raw chemical elements reportedly are being covertly imported to the U.S. with relative ease through international mail. During the roundtable, participants—including officials representing CBP and the Drug Enforcement Administration (DEA)—emphasized that advance data is a critical tool for screening inbound packages and mail and is vital in their effort to prevent dangerous drugs from entering the United States through the mail.

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<sup>1</sup> *Preventing Drug Trafficking through International Mail: Roundtable convened by the S. Comm. On Homeland Sec. and Governmental Affairs*, 114<sup>th</sup> Cong. (Apr. 19, 2016). (Statement of Todd Owen, Executive Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection, U.S. Department of Homeland Security).

The Senate Committee on the Judiciary held a hearing on synthetic drugs on June 7, 2016. Witnesses emphasized the role that international mail plays in the transportation of these deadly substances into our communities. DEA Acting Administrator Chuck Rosenberg testified, “Synthetic cannabinoids and synthetic cathinones are almost entirely manufactured in China. They are then imported into the United States through mail services.”<sup>2</sup> Moreover, the threat posed by the presence of these substances is growing exponentially. According to the DEA, substances identified by forensic laboratories as synthetic cannabinoids increased from 23 reports in 2009 to 37,500 reports in 2014. A similar rise in synthetic cathinones has occurred as well, increasing from 29 reports in 2009 to over 14,000 reports in 2014.

The importance of electronic data goes beyond the critical task of preventing illicit drugs from entering the U.S. As highlighted in a Senate Committee on Finance hearing on June 15, 2016, counterfeit products are also a growing problem for the United States. Data from CBP and Immigration and Customs Enforcement (ICE), show that over the last decade, seizures of counterfeit products by these agencies have nearly doubled from approximately 15,000 seizures in fiscal year 2006 to over 28,000 in fiscal year 2015; fiscal year 2015 seizures represent approximately \$1.4 billion of goods.<sup>3</sup> The percentage of counterfeit seizures occurring in the mail environment has also increased dramatically. From fiscal year 2014 to fiscal year 2015, the number of seizures of counterfeit products in the international mail environment has increased 48 percent. With an estimated 340 million pieces of international mail entering the U.S. in 2016, there are legitimate concerns that CBP simply does not have the resources to adequately screen non-letter class mail entering the U.S. from foreign postal services; the agency would benefit greatly from having electronic data to accurately track the bad actors and collect the proper customs duties on goods entering the U.S.

We understand that the State Department recognizes the importance of electronic data collection and information sharing. As discussed at the recent HSGAC roundtable, Joseph Murphy, Chief of the International Postal Policy Unit in the Office of Specialized and Technical Agencies within the Department of State, said that the State Department has been working to make advance data sharing a part of international mail standards. Additionally, Julia Frifield, Assistant Secretary of State for Legislative Affairs, wrote that “the Department’s activities in this regard center on the Universal Postal Union (UPU), where efforts are underway to strengthen security measures on international mail,” including advance data standards.<sup>4</sup> While we appreciate these efforts, and recognize that there have been advances in security standards within the UPU, a global requirement for advance data sharing remains far from reality while the threat posed by international mail to the American people is felt today.

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<sup>2</sup> *Deadly Synthetic Drugs: The Need to Stay Ahead of the Poison Peddlers: Hearing before the S. Comm. On the Judiciary*, 114<sup>th</sup> Cong. (Jun.7, 2016).

<sup>3</sup> U.S. Department of Homeland Security, *Intellectual Property Rights Seizure Statistics Fiscal Year 2015*, (2016), available at <https://www.cbp.gov/sites/default/files/assets/documents/2016-Apr/FY%202015%20IPR%20Stats%20Presentation.pdf>.

<sup>4</sup> Letter from Julia Frifield, Assistant Sec’y, Bureau of Legislative Affairs, to Ron Johnson, Chairman, S. Comm. On Homeland Sec. and Governmental Affairs (Apr. 18, 2016) (on file with the comm.).

The United States should be a strong leader in international organizations, such as the UPU, on efforts to improve security, but working within the UPU alone is not sufficient to ensure we have all the necessary tools to screen items entering the U.S. adequately and in a timely manner. We urge you to think beyond the global standards in the UPU and make stronger electronic customs data requirements a larger priority of U.S. international policy and engage directly with individual countries. CBP Commissioner R. Gil Kerlikowske said in a May 11, 2016, hearing before the Senate Committee on Finance that past success in preventing synthetic drug chemicals from entering the U.S. has come from the State Department's direct interaction with the Chinese government.<sup>5</sup>

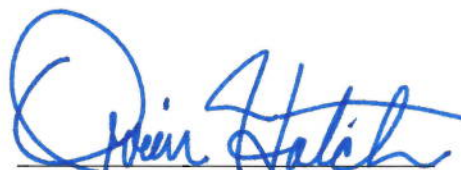
The State Department should focus its efforts on the countries that are the largest producers and exporters of illicit goods. Numerous Federal agencies, including the DEA and CBP, agree that illicit goods, including deadly chemicals and counterfeit goods, are primarily produced in and exported from a small number of countries, including China and India.

We ask that you create a plan to work directly with those countries that CBP deems to be the most significant risk so that U.S. agencies are better able to review electronic and advance customs data for non-letter class mail and packages coming into the U.S. from these countries. We respectfully request that you outline such a plan to the Homeland Security and Governmental Affairs Committee, the Senate Committee on Finance, and the Senate Committee on the Judiciary as soon as possible.

Sincerely,



Ron Johnson  
Chairman  
Senate Committee on Homeland Security  
And Governmental Affairs



Orrin Hatch  
Chairman  
Senate Committee on Finance



Chuck Grassley  
Chairman  
Senate Committee on the Judiciary



Michael B. Enzi  
United States Senator

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<sup>5</sup> *Oversight of the U.S. Customs and Border Protection Agency: Hearing before the S. Comm. On Fin., 114<sup>th</sup> Cong. (Jun. 15, 2016).* (In response to a question by Senator Rob Portman (R-OH)).



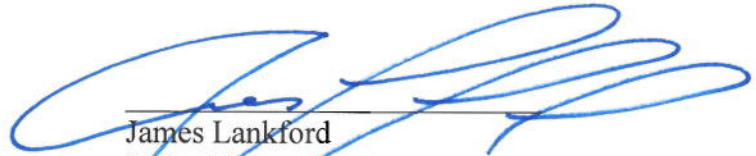
Johnny Isakson  
United States Senator



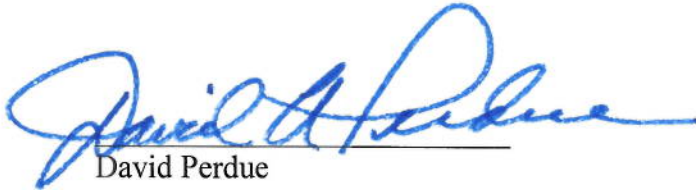
Michael S. Lee  
United States Senator



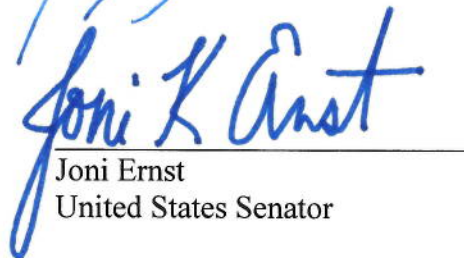
Kelly Ayotte  
United States Senator



James Lankford  
United States Senator



David Perdue  
United States Senator



Joni Ernst  
United States Senator