



May 13, 2021

Quintin Clarke  
Cargo and Conveyance Security, Office of Field Operations  
U.S. Custom and Border Patrol

RE: AED for International Mail Shipments (Docket No.: USCBP-2021-0009)

Dear Mr. Clarke,

On behalf of the Center for Data Innovation ([datainnovation.org](http://datainnovation.org)), we are pleased to submit comments in response to the U.S. Customs and Border Protection (CBP) request for comments on the Interim Final Rule on the submission of advance electronic data (AED) on international mail shipments.<sup>1</sup>

The Center for Data Innovation is the leading think tank studying the intersection of data, technology, and public policy. With staff in Washington, D.C., and Brussels, the Center formulates and promotes pragmatic public policies designed to maximize the benefits of data-driven innovation in the public and private sectors. It educates policymakers and the public about the opportunities and challenges associated with data, as well as important data-related technology trends. The Center is a non-profit, non-partisan research institute affiliated with the Information Technology and Innovation Foundation.

The Center for Data Innovation calls on CBP and USPS to enforce the requirement that 100 percent of mail from all countries be AED compliant. However, because USPS has expressed concern that immediate refusal and return of inbound shipments containing goods not accompanied by AED will disrupt inbound mail, CBP should consider seeking a Congressional extension to December 2021 for full AED compliance and make clear that it will not seek further extensions.

Sincerely,

Sujai Shivakumar  
Associate Director, Center for Data Innovation  
[sshivakumar@datainnovation.org](mailto:sshivakumar@datainnovation.org)

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<sup>1</sup> "Mandatory Advance Electronic Information for International Mail Shipments," Federal Register, March 15, 2021, <https://www.federalregister.gov/documents/2021/03/15/2021-04373/mandatory-advance-electronic-information-for-international-mail-shipments>.



## BETTER DATA ON INTERNATIONAL MAIL PACKAGES COULD REDUCE ILLEGAL DRUGS AND COUNTERFEITS

The surge in international postal shipments related to the growth of e-commerce is making it harder for U.S. enforcement agencies to detect and stop mail parcels containing illegal and unsafe products from entering the country. Better data on these international packages would help inspectors identify and block dangerous products such as fentanyl from being mailed directly to U.S. consumers. The United States should take the lead in modernizing agency operations as well as international postal guidelines, including the universal use of advanced electronic data systems, to stop the shipment of drugs and counterfeits through international mail parcels.

Most mail shipments of illegal goods come from China. The U.S. Drug Enforcement Agency reports that “China remains the primary source of fentanyl and fentanyl-related substances trafficked through international mail and express consignment operations environment, as well as the main source for all fentanyl-related substances trafficked into the United States.” The U.S. Chamber of Commerce estimates that China is the source of 86 percent of the world’s counterfeit goods, much of it shipped directly to customers in the United States.<sup>2</sup> Combined with the increase in the sheer quantity of packages being shipped directly from China and other countries, U.S. Customs and Border Protection Agency (CBP) reports that its inspection facilities are under strain.

Responding to the opioid problem, Congress in 2017 passed the Synthetics Trafficking and Overdose Prevention (STOP) Act to keep fentanyl and other opiates from being shipped to U.S. consumers through international mail packages. The STOP Act requires the U.S. Postal Service (USPS) and CBP to set up a system of advanced electronic data (AED) tracking on postal packages and shipments from foreign countries.

AED refers to electronic information about the shipper, the recipient, and the contents of a cross-border postal package. Analytics based on AED can predict which parcels may hold illegal materials. With this information, CBP can better target and identify risky mail shipments, disrupting the supply chain of illegal opioids, other dangerous goods, and counterfeits. For example, in a pilot test of using AED targeting at JFK airport, CBP increased its seizure rate per inspection from 9.3 percent to 16.3 percent.<sup>3</sup>

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<sup>2</sup> Global Intellectual Property Center. 2016. *Measuring the Magnitude of Global Counterfeit*. Washington DC: U.S. Chamber of Commerce.

<sup>3</sup> Federal Mandatory Advance Electronic Information for International Mail Shipments, 86 Fed. Reg. 14245 (March 15, 2021).



CBP already imposes AED requirements on all international packages arriving through private couriers like UPS and FedEx. Until recently, however, federal law obligated USPS to accept inbound international mail, regardless of the package information provided before a shipment arrives in the United States. Moreover, under current laws and regulations, USPS claims that it is limited in its ability to open a package without a federal search warrant, making it difficult for the Postal Service to identify and track some packages suspected of containing illicit material. Indeed, USPS has called on Congress to clarify that this protection should only cover letters and not packages in the international mail.

The STOP Act and succeeding agency rules provide a timetable for the full adoption and use of AED for postal deliveries. By the end of 2018, USPS was to obtain AED from all mail packages originating from China and 70 percent of packages from all other countries. By the end of 2020, USPS was to require AED for 100 percent of mail. And beginning in March 2021, the STOP Act required USPS to refuse mail shipments that do not include AED, unless a “remedial action” is identified. CBP notes that “such action may include destruction, seizure, controlled delivery, other law enforcement action for mail without AED, or correction of the failure to provide AED.”<sup>4</sup>

Tracking compliance, USPS reports that 67 percent of inbound packages from all countries had AED as of December 2019, although this number fell to 54 percent as of October 2020 as foreign postal services were affected by the COVID-19 pandemic.<sup>5</sup> USPS data from October 2020 also shows that China Post is nearly achieving the prescribed level of AED compliance. In December 2020 Senate testimony, USPS acknowledged that it is behind on full implementation of AED.<sup>6</sup> Full AED adoption will allow for earlier and more precise identification of at-risk shipments. In turn, this information will allow for better targeting of CBP inspections, improving overall effectiveness in preventing prohibited mail items from entering the commerce of the United States.

Recent agency actions are now accelerating this process. On March 15, 2021, Homeland Security Secretary Alejandro Mayorkas signed an interim rule that requires USPS to speed up the transmission of AED information to CBP about incoming international mail.<sup>7</sup> For example, USPS must electronically transmit information ahead of time to CBP regarding the origin, destination, and dispatch number of international mail packages, as well as the

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<sup>4</sup> Ibid.

<sup>5</sup> 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.

<sup>6</sup> Ibid.

<sup>7</sup> Federal Mandatory Advance Electronic Information for International Mail Shipments, 86 Fed. Reg. 14245 (March 15, 2021).



scheduled time of departure of the transporting conveyance and the scheduled time of arrival in the United States, among other details.

### **THE NEED FOR UNIVERSAL COMPLIANCE**

However, the interim rule also allows for CBP and USPS to bypass with the pending requirement to refuse mail shipments that are not AED-compliant by March 2021. The rule creates country-specific exceptions for countries with “low mail volume, that are considered low-risk, or lack the capacity to collect and transmit AED.”

This exception keeps open a major vulnerability in the global postal system. Already, waivers granted by the Universal Postal Union (UPU)—the United Nations agency that coordinates postage rates and reciprocal mail handling arrangements across national postal systems—exempt some less developed countries (LDC) from complying with AED requirements. This means that even though China Post is near AED compliant, criminal organizations located in China and other countries that mail counterfeit goods and illegal drugs to U.S. customers can simply reroute their parcels through countries that UPU allows to bypass AED requirements.

To address this gap, CBP and USPS should enforce the requirement that 100 percent of mail from all countries be AED compliant. However, because USPS has expressed concern that refusing and returning inbound shipments containing goods not accompanied by AED will disrupt inbound mail, CBP should consider seeking a Congressional extension to December 2021 for full AED compliance and make clear that it will not seek further extensions. In addition, CBP should work with the State Department to simultaneously push the UPU to end its system of waivers and instead work to modernize the postal systems of exempt LDCs so they can become AED compliant. Indeed, the 2018 STOP Act calls on the Secretary of State to open negotiations with UPU to harmonize postal rules with U.S. laws.

Opiates, illegal drugs, and counterfeit products delivered through the international postal system, daily cause harm to Americans and American businesses, and the United States should push for both domestic and international policy changes that would allow government agencies to make better use of analytics to identify and stop these threats.