

**Written Statement of  
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**Before the**

**Senate Committee on Finance**

**“Breaking the Methamphetamine Supply Chain: Meeting Challenges at the Border”**

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**Introduction**

Chairman Baucus, Ranking Member Grassley, and distinguished members of the Senate Committee on Finance, thank you for the opportunity to appear today regarding the challenges that the Drug Enforcement Administration (DEA) and our law enforcement partners face in breaking the methamphetamine supply chain. Today, I would like to discuss the methamphetamine situation, both domestically and internationally, and the role that DEA plays in enforcing the Combat Methamphetamine Epidemic Act. Over the past year much has been done to address the illicit production and distribution of methamphetamine and the flow of chemicals used to manufacture this insidious drug. The DEA continues to work through our law enforcement partnerships across the country and around the world to aggressively identify, dismantle, and prosecute drug organizations responsible for trafficking in methamphetamine, its precursor chemicals, and their illicit proceeds.

**Situational Overview**

Since passage of various state legislative measures and the Combat Methamphetamine Epidemic Act (CMEA) (Title VII of the USA PATRIOT Improvement and Reauthorization Act of 2005, P.L. 109-177), DEA has seen a significant decline in the number of clandestine methamphetamine laboratories across the United States. The Administration’s *2006 Synthetic Drug Control Strategy – A Focus on Methamphetamine and Prescription Drug Abuse* set forth several goals for the reduction of synthetic drug use. One of the specific goals was to reduce the number of domestic methamphetamine labs by 25 percent over the next three years, with 2005 as the base year. We have already met and exceeded this goal. In 2006, there was a reduction of 41% percent over the previous year. Barring some unforeseen change, we expect to see a continued reduction through 2007. More importantly, the reduction in the number of toxic labs has resulted in fewer children being exposed to the hazards posed by these

labs, reduced the number of toxic waste sites caused by these labs, and allowed law enforcement in most areas of the country to devote precious resources elsewhere.

DEA continues to work with its international partners and the International Narcotics Control Board (INCB) to identify, trace, and share information regarding suspect shipments of precursor chemicals used in the illicit manufacture of methamphetamine. Encouraging countries to share information relative to international licit chemical shipments has been both challenging and rewarding. DEA has been working shoulder-to-shoulder with the Government of Mexico to address the illicit manufacture of methamphetamine and trafficking of methamphetamine into the United States. DEA has also been providing extensive training to Mexican law enforcement and regulatory personnel, as well as personnel from several other countries.

Despite these successes, we must remain focused on our efforts and not let up. Although recent QWEST data suggests a downward trend in methamphetamine use and the prevalence of annual methamphetamine use among 8<sup>th</sup>, 10<sup>th</sup>, and 12<sup>th</sup> graders (according to the Monitoring the Future annual survey) indicates a decline since 2002, the National Drug Intelligence Center's National Drug Threat Survey for 2007 shows that 35.0 percent of state and local law enforcement agencies in the United States report that methamphetamine is the greatest drug threat in their area. This is second only to cocaine at 40.1 percent. Methamphetamine availability, as well as demand for treatment, continues to be a concern. We will continue to work on all fronts to counter this threat and strive to keep methamphetamine abuse on a downward trend.

Over the past year, DEA has been actively engaged in implementing all of the provisions of the CMEA. In that effort, DEA and our state and local counterparts have discovered areas of the Act that could be improved to assist in identifying the diversion of chemicals from retail outlets. Specifically, there is a lack of connectivity, both intra-state, as well as inter-state, with the logbooks that retail outlets are required to maintain in accordance with the Act. It has also been difficult to identify and ensure that the sellers of pseudoephedrine and ephedrine products have self-certified with the DEA as required under the Act. Despite an extensive public awareness campaign, DEA believes that there are still a significant number of sellers of these products who have not self-certified and there is no mechanism to identify those that are not self-certified.

### **Controlling the Distribution of Precursor Chemicals**

Methamphetamine is different from other illicit drugs of abuse because production of the drug requires almost no specialized skill or training and its recipes are readily available on the Internet. The precursor chemicals associated with this drug have also been historically relatively easy to obtain and inexpensive to purchase. These factors have contributed to methamphetamine's rapid sweep across our nation. In March 2006, reacting to the devastating impact that the illicit manufacture of methamphetamine was having on our nation, Congress enacted the CMEA. Among other things, the Act established a system to monitor and regulate the importation, production, and retail sales of non-prescription ephedrine, pseudoephedrine, and phenylpropanolamine products-

common ingredients found in over-the-counter cough, cold, and allergy products. These chemicals and drugs were included in the CMEA because they are key precursors used in the illicit manufacture of methamphetamine or amphetamine. This legislation provided law enforcement and regulators with invaluable tools used to contain the production of methamphetamine.

As a result of the CMEA, the ability of pseudoephedrine to be sold on the spot market was effectively taken away. These transactions, which were not regulated under prior law, are now treated as new imports or exports and, therefore, subject to 15-day advance notification during which the DEA verifies the legitimacy of each transaction. In addition, the Department of Justice now has the authority to establish production and import quotas for ephedrine, pseudoephedrine, and phenylpropanolamine. These quotas will allow for greater control of precursors that are imported into the United States and help prevent their diversion into the illicit market.

Retail provisions of the CMEA became effective in September 2006 and include self-certification, employee training, product packaging and placement requirements, sales logbooks, and daily and 30-day sales/purchase limits. In order to purchase products containing ephedrine, pseudoephedrine, and phenylpropanolamine, an individual must now show identification and sign a logbook at sales locations. Law enforcement is able to monitor these logbooks in order to identify any person purchasing more than 9 grams within a 30-day period. The CMEA also created a national database of self-certification records available to state and local law enforcement agencies to document those retail sales locations that have complied with the requirements of this law. As a result of the implementation of the CMEA (and similar predecessor laws passed by the states), there has been a 41%-percent decrease in the number of methamphetamine laboratories in 2006 from the previous year.

Additional CMEA provisions include: requiring DEA to conduct an assessment of the annual need of ephedrine, pseudoephedrine, and phenylpropanolamine; establishing production and import limits; requiring DEA be notified of transfers following importation or exportation of methamphetamine precursor chemicals; and removing previously established sales thresholds, among others.

### **CMEA Implementation**

Upon passage of the CMEA in March of 2006, DEA initiated the process of drafting regulations to implement the provisions of the Act. On September 26, 2006, an Interim Final Rule was published in the Federal Register to incorporate the statutory retail sales provisions of CMEA into implementing regulations of the Controlled Substances Act.

All retail sellers of regulated ephedrine, pseudoephedrine, and phenylpropanolamine products were required to “self-certify” with DEA by September 30, 2006. As of August 28, 2007, there are more than 76,000 self-certified sellers of non-

prescription ephedrine, pseudoephedrine, and phenylpropanolamine products nationwide. A break-down by business activity is listed below:

<b>Business Type</b>	<b>Number</b>
All Other General Merchandise Store	755
Convenience Store	7,294
Discount Department Store	2,922
Gas Station with Convenience Store	10,090
Grocery Store	6,657
Mobile Vendor	1
Other Health and Personal Care Store	297
Pharmacy and Drug Store	44,993
Specialty Food Store	26
Warehouse Clubs and Superstores	3,005
<b>TOTAL</b>	<b>76,040</b>

Prior to the passage of the CMEA there was no known listing of all businesses selling pseudoephedrine, ephedrine, and phenylpropanolamine products, although the Consumer Healthcare Products Association (CHPA) has estimated that there are approximately 750,000 retail establishments nationwide that sell over-the-counter medicines. To ensure that businesses were in compliance with the provisions of the CMEA, DEA has taken several steps to inform the regulated industry of the retail requirements under CMEA:

- In mid-August 2006, DEA posted on its website [www.deadiversion.usdoj.gov](http://www.deadiversion.usdoj.gov) the required CMEA training materials, and a question and answer guidance section.
- An online process to self-certify regulated sellers was initiated on September 20, 2006.
- On September 29, 2006, DEA published a two-thirds page advertisement in the *USA Today* newspaper notifying affected industry of the new requirements under CMEA.
- Between October 4-25, 2006, the Department of Justice and DEA participated in weekly conference calls with five industry associations regarding CMEA issues. The industry associations included:
  - American Council on Regulatory Compliance (ACRC)
  - Food Marketing Institute (FMI)
  - National Association of Chain Drug Stores (NACDS)
  - National Association of Convenience Stores (NACS)
  - National Grocers Association (NGA)

- A DEA Chemical Industry Conference was held October 31, 2006 - November 1, 2006 to provide information to the affected industry regarding the requirements of CMEA, among other matters.
- In February 2007, DEA mailed 26,000 letters to pharmacies that had not self-certified. These pharmacies were identified through a comparison of the CSA registrant database with the CMEA self-certification database. An additional 16,000 pharmacies were self-certified as a result of this effort.
- On May 16, 2007, DEA mailed letters to 1,600 DEA-registered chemical distributors requesting non-pharmacy customer information to identify and notify locations that had not yet self-certified. DEA only received responses from approximately 400 (25%) of the distributors. Many of these distributors indicated that they no longer sold pseudoephedrine or ephedrine products. The list of businesses purchasing methamphetamine precursor chemicals that was provided by the remaining distributors was compared with the self-certification database. DEA was able to determine that approximately 8,300 of the possible 12,375 customers of these distributors who were receiving products containing these chemicals were not self-certified as required under CMEA. DEA is planning another mass-mailing for September 2007 to those companies identified as not being self-certified through this project. (DEA has concluded, from this exercise, that there could be as many as 30,000 additional sellers of pseudoephedrine and ephedrine products yet to self-certify as required under CMEA.

In addition to these efforts to educate industry, Diversion personnel assigned to all DEA divisions were trained regarding the retail provisions of the CMEA during the week of October 2, 2006.

CMEA also requires DEA to establish national, annual licit import quotas for pseudoephedrine, ephedrine, and phenylpropanolamine. In April 2006, DEA began the process of determining what this quota should be by commissioning IMS Health to conduct an independent assessment of legitimate annual need for pseudoephedrine and ephedrine products in the United States. On July 10, 2007, DEA used the results of this assessment to publish (in the Federal Register) an Interim Final Rule with Request for Comment. This Interim Final Rule, when finalized, will implement the quota provisions envisioned by Congress when it passed CMEA. In order to be sure DEA is prepared to implement this Final Rule, DEA has been obtaining 2008 import applications which will be adjudicated after DEA publishes a final rule in the Federal Register that will establish the 2008 assessment of Annual Needs for each of the List I chemicals.

In addition to the rulemakings noted above, DEA has also finalized or is in the process of finalizing the following CMEA-related rulemakings:

- Notice of Transfers following Importation or Exportation
- Import and Production Quotas for Certain List I Chemicals

- Fee for Self-Certification for Regulated Sellers of Scheduled Listed Chemical Products
- Record Requirements for Chemical Distributors
- Elimination of Exemption for Chemical Mixtures containing the List I Chemicals Ephedrine and/or Pseudoephedrine
- Registration Requirements for List I Chemicals
- Information on Foreign chain of Distribution for Certain List I Chemicals
- Removal of Thresholds for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine

### **Current Issues with CMEA**

Despite successes resulting from the passage of the CMEA and related state-level legislation, some issues have arisen as a result of CMEA requirements. Though law enforcement can view the required logbooks, paper logbooks are difficult to effectively review and analyze. Electronic logbooks, though not required under CMEA, are easier to review but generally there is no connectivity between them within any given state, and certainly not on an inter-state basis. Due to this lack of connectivity, law enforcement has reported several cases of “smurfing.” (“Smurfing” is defined as an individual or group of individuals traveling to multiple stores and purchasing quantities of pseudoephedrine or ephedrine products at or under the legal limit per store.) Since there is no requirement for retail sellers of these products to have interconnectivity with their logbooks, individuals can circumvent the maximum sales limits under CMEA. Some states are attempting to establish connectivity between stores; however, these efforts are generally limited to only intra-state connectivity. Furthermore, even though there are several trial logbook interconnectivity programs being tested by different store chains, there is currently a lack of compatibility among these systems. Any future expansion of such monitoring programs will require an established standard format or program in order to effectively monitor the data on an intra or even inter-state basis.

Identifying existing businesses and future businesses that do not self-certify has and will continue to be a challenge for the DEA. Through its efforts, as identified above, DEA has made a concerted effort to inform the appropriate businesses of their responsibility to self-certify if they intend to sell products containing pseudoephedrine, ephedrine, or phenylpropanolamine. Unfortunately, DEA believes that there are still numerous businesses that are currently selling products that contain these chemicals and are not self-certified. The CMEA does not prohibit a DEA-registered distributor from selling these types of products to retail outlets that have not self-certified, and because the retail outlets do not have to be DEA registrants, DEA has no mechanism to identify the universe of retail outlets who have not self-certified and yet continue to sell these products.

## **Domestic Methamphetamine Situation**

While both state and federal legislation have made a significant impact in reducing the number of clandestine laboratories in the United States, the abuse of the drug continues. Recently, the National Association of Counties released a survey on methamphetamine abuse. Their survey found that more teens, women, and minorities are abusing the drug. The findings of the survey also reflected a growing concern among law enforcement officials about meth abuse spreading to a wider range of people. Methamphetamine distribution and consumption continues to pose a serious challenge.

To address this challenge, DEA continues to regularly host meetings of the Methamphetamine Task Force as established by the 2006 Department of Justice Appropriations Act. The Task Force meets to review the federal government's policies with respect to the production and trafficking of methamphetamine and its precursor chemical initiatives, and to make recommendations on how best to address these issues.

In addition, DEA is in the process of constructing a state-of-the-art clandestine laboratory training facility in Quantico, Virginia. Construction for this facility began in August 2007 and is anticipated to be completed during the summer of 2008. Once completed, DEA will be able to enhance the training of state and local officers and foreign law enforcement officials on the latest safety techniques and methods in detecting and investigating clandestine methamphetamine labs.

Also, beginning in November 2006, DEA published a national listing of addresses in which methamphetamine labs or chemical dumpsites had been found. This listing is located on DEA's website [www.dea.gov](http://www.dea.gov). The registry has provided owners and renters with notice that a property may once have been used to produce methamphetamine and that there may be potential toxic hazards within the property. As of August 2007, there were 11,200 listings with more than 250,000 hits on this website from individuals interested in the information provided by this registry.

While we still face these challenges, we have made some important progress. The significant reduction in domestic clandestine lab seizures has resulted in several other positive side effects. First and foremost, the decrease in the number of lab incidents has resulted in a significant decrease in the number of children exposed to the hazards posed by clandestine methamphetamine labs [3,663 incidents in 2003 compared to 319 in 2007 (as of August 28, 2007)]. Due to the reduction in the number of clandestine lab incidents federal, state and local agencies have been able to redirect their law enforcement efforts towards other important matters rather than overseeing the lengthy process of removing the gross contaminants found at lab sites.

DEA continues to work with its state and local counterparts to identify, investigate, and dismantle organizations involved in the manufacture and distribution of methamphetamine. DEA's longstanding relationships with its counterparts bring together the expertise of individual investigators and agencies that serves as a force multiplier. Specifically, DEA is using the lab expertise of its Clandestine Laboratory Enforcement

Teams to identify and target Mexican methamphetamine trafficking organizations. The teams trace precursor chemicals and seize finished methamphetamine from these organizations, both in the United States and Mexico.

In addition, DEA, in concert with Internal Revenue Service-Criminal Investigation, the Department of Homeland Security Immigration and Customs Enforcement (ICE), continue to attack the financial infrastructure of drug trafficking organizations. Drug money is the driving force behind all illicit drug operations. DEA's financial enforcement program encourages ICE participation to accomplish our mission. Denying these organizations the very money they seek will help prevent the next cycle of illicit drugs from targeting our consumer market.

### **International Methamphetamine Situation**

As DEA has previously stated, most of the methamphetamine consumed in the United States is produced by Mexico-based and California-based Mexican traffickers. These drug trafficking organizations control "super labs" (a laboratory capable of producing 10 pounds or more of methamphetamine within a single production cycle) They also have distribution networks throughout the United States, as well as access to drug transportation routes used to smuggle the methamphetamine from Mexico into the United States. Current drug lab and seizure data suggest that the majority of the methamphetamine used in the United States comes from these larger labs, which we believe are increasingly operating in Mexico.

As the Committee is aware from my previous testimony before this Committee on September 12, 2006, Mexico has independently implemented controls on pseudoephedrine in cooperation with industry. These controls include: 1) limiting retail sales to pharmacies; 2) limiting sale quantities; and 3) distributors voluntarily agreeing to limit sales to customers with appropriate government registrations (pharmacies) and with legitimate commercial needs.

I am pleased to inform the Committee that, since I last testified, Mexico has re-evaluated their legitimate national needs for pseudoephedrine and ephedrine resulting in a significant reduction to their import quotas. Mexico projected their 2006 imports of pseudoephedrine to be 70 metric tons; for 2007 Mexico reduced their import quota to 40 metric tons (actual imports as of August 30, 2007 were 12 metric tons with 5 additional metric tons pending); and for 2008, Mexico's quota for imports of pseudoephedrine has been set at zero.

In addition to these activities, the DEA works internationally though a variety of existing international efforts.

### ***Project Prism***

***Project Prism*** is an international initiative aimed at assisting governments in developing and implementing operating procedures to control and more effectively monitor trade in amphetamine-type stimulants (ATS) precursors to prevent their



diversion. There are currently 95 countries and 5 international organizations participating in this initiative.

Since March 2004, *Project Prism* has used pre-export notifications to monitor shipments of ephedrine, pseudoephedrine, pharmaceutical preparations containing ephedrine or pseudoephedrine, phenyl-2-propanone, and 3,4-methylenedioxyphenyl-2-propanone. On July 9-12, 2007, DEA, under the auspices of the INCB, hosted a Project Prism Task Force meeting in Washington, DC. Through these on-going meetings the objective has been to develop and enhance systems for voluntary cooperation in data collection and the exchange in law enforcement channels of information on pharmaceutical preparations containing ephedrine and pseudoephedrine, as well as bulk precursor chemicals. All task force members and the invited observers from India and Germany were in attendance. The primary topic of discussion was an operation called “Crystal Flow,” as well as other discussions taking place concerning the regional ATS production and precursor chemical trafficking. The United Nations Office of Drug Control also presented information regarding an on-going project in Southeast Asia on safrole-rich oils, which are oils used in the manufacturing process for the illegal drug MDMA (Ecstasy).

### ***Operation Crystal Flow***

In June 2006, the Project Prism Task Force agreed to launch *Operation Crystal Flow*, a time-bound voluntary operation focusing on the trade of ephedrine, pseudoephedrine, ephedra, and pharmaceutical preparations containing those chemicals, to the extent possible, to the Americas, Africa and West Asia. The operation took place over a six-month period, from January 1 through June 30, 2007. There were 65 participating countries. Of those, 43 were recipient countries and 22 were exporting countries.

During the six-month operational period for *Operation Crystal Flow*, the authorities of 22 countries/territories provided information to the INCB Secretariat on 1,399 shipments of those materials in international trade destined to 119 countries/territories. Of that, 35 notifications were made to task force members due to suspicions that the consignments had some illegitimacy. Of those 35 notices, 18 of the shipments were either declared “as going to” or “likely to be destined for” Mexico. Further, these shipments were either suspended, stopped, released after further verifications, seized, or referred for further enforcement action (controlled delivery). The quantities from the notifications totaled in excess of 53 tons of these chemicals that were stopped, suspended, or seized. This amount was capable of producing approximately 48 tons of methamphetamine.

Analysis of the data has clearly identified a trend for trafficking organizations to target and exploit regions, specifically the African continent and certain West Asian (Middle Eastern) nations, for transiting of these precursor chemicals. The African countries identified in this operation were from six cases involving the Democratic Republic of the Congo (DRC), one case involving Ghana, one case involving Mozambique, one case involving Somalia, one case involving Nigeria, one case

involving Burundi, and one case involving Sudan. Also, identified were cases involving Syria, Iran, Iraq, and the United Arab Emirates.

Intelligence information suggests that Mexico and Colombia-based operatives have made a concerted effort to establish contacts in Africa, and elsewhere, for the purpose of obtaining precursor chemicals, ostensibly destined for the Americas and in particular Mexico. There are other DEA investigations of a similar nature that are outside of the task force's operation, which indicate that traffickers are obtaining or attempting to obtain precursor chemicals in the form of pharmaceutical preparations.

### ***DEA /DHS Long Beach Port Project***

Cooperation between the DEA and our law enforcement partners at DHS is of particular importance in investigating the importation of precursor chemicals into the United States. In September 2006, DEA initiated a joint program with Customs and Border Protection (CBP) identified as the "Long Beach Port Project." This project was designed to further combat the diversion of precursor chemicals from source countries destined for Mexico that transit the Long Beach Port. Through this project, DEA and CBP target suspected illegitimate shipments of precursor chemicals. As of July 17, 2007, this initiative has led to the seizure of approximately 77,660 kilograms of ephedra, 4,714 kilograms of pseudoephedrine, 841 kilograms of dimethcathinone (a schedule I controlled substance analog), 1,300 kilograms of phenylpropanolamine, 14,350 kilograms of red phosphorous, and 5,000 liters of methylamine, anhydrous. These results are very encouraging and, together with CBP and ICE, we are now examining other areas where the program could be instituted to track the importation of precursor chemicals.

### ***International Training***

DEA still takes a very aggressive role in training our foreign drug law enforcement counterparts with respect to methamphetamine investigations. These on-going international programs are designed to provide the latest safety techniques and the latest techniques in detecting and investigating clandestine methamphetamine labs. In 2007, DEA provided or sponsored chemical training to more than 590 foreign partners from Mexico, Africa, El Salvador, Guatemala, Nicaragua, Dominican Republic, Indonesia, Thailand, Afghanistan, Cambodia, Vietnam, China, Singapore, Canada, and The Philippines. This training consisted of courses such as Chemical Diversion Investigations, Clandestine Laboratory Training, and Precursor Chemicals and Chemical Control. These courses are designed to provide the fundamentals needed to conduct basis investigations and the importance of working together on an international level.

### **Conclusion**

DEA continues to aggressively attack the methamphetamine problem by targeting large-scale drug trafficking organizations and depriving them of their ill-gotten gains. DEA routinely seeks to establish new cooperative relationships and enhance existing ones with our foreign and domestic counterparts. These relationships, and the exchange

of information relative to methamphetamine production and chemical shipments, are critical towards combating methamphetamine trafficking in the United States.

Thank you for the opportunity to appear before you today to discuss this important issue. I will be happy to answer any questions that you may have.