

**INTERNATIONAL E-COMMERCE SUPPLY CHAIN
MEMORANDUM OF AGREEMENT
BETWEEN
U.S. DEPARTMENT OF COMMERCE
AND
U.S. DEPARTMENT OF HOMELAND SECURITY**

I. PARTIES

This Memorandum of Agreement (MOA, or Agreement) establishes a partnership between the U.S. Department of Commerce (DOC) and the U.S. Department of Homeland Security (DHS), collectively referred to herein as “the Parties.”

II. AUTHORITIES

1. 15 U.S.C. § 1512, which authorizes the Department of Commerce to foster, promote, and develop the foreign and domestic commerce of the United States; and
2. 6 U.S.C. § 709, which directs the Under Secretary of Homeland Security for Strategy, Policy and Plans to lead, conduct, and coordinate Department-wide policy development and implementation and strategic planning, including as it pertains to trade and cargo security policy.

III. PURPOSE

The rapid growth of cross-border electronic commerce (e-commerce) is of increasing importance to private and public sector stakeholders seeking new opportunities in the digital marketplace. DHS and DOC will partner together to leverage resources, expertise, and authorities as appropriate to address the challenges of the global digital marketplace, to support U.S. businesses, to promote robust compliance with U.S. customs and trade laws, and to improve the national economy by promoting a competitive, sustainable e-commerce based supply chain infrastructure.

IV. RESPONSIBILITIES OF THE PARTIES

1. The objective of the partnership is to:
 - a. undertake the Joint Activities proposed in Section VI and
 - b. implement the Joint E-commerce Strategic Agenda (set forth at Annex I)to advance the flow of legitimate e-commerce trade in goods and services.
2. In pursuing this objective, the Parties will endeavor to:

- a. Promote multi-agency coordination and activities to seek to develop and implement systemic policies in support of a viable, integrated, legitimate e-commerce-based supply chain infrastructure.
- b. Promote public-private dialogue and consensus on the Parties' e-commerce related homeland security and commerce priorities, policies, and programs.
- c. Leverage each agency's relationships with industry stakeholders, where appropriate, to promote compliance with U.S. trade laws in the e-commerce environment.
- d. Identify and seek to address international cross-border capacity and operating constraints and other factors relating to e-commerce.
- e. Attempt to measure e-commerce-based supply chain and goods movement that can be used in economic analyses to inform regulatory and policy decisions.
- f. Explore opportunities to share, as appropriate, relevant statistical trade data through existing information sharing mechanisms to facilitate analysis of the cross border flow of goods and services.

VI. JOINT ACTIVITIES

The Parties agree to undertake the following Joint Activities under the terms of this Agreement, as funding and resources are available to support such activities:

1. Establish points of contact specific to e-commerce within DOC and DHS to collaborate and coordinate on U.S. Government efforts to create comprehensive strategies, policies, and measures relating to e-commerce.
2. Meet jointly with U.S. Government officials and government officials of U.S. trading partner countries, including through the World Customs Organization's (WCO's) E-Commerce Working Group and its Sub-Working Groups, to discuss ways to improve and streamline cross-border processes as they pertain to e-commerce. These may include, as appropriate, regulatory and programmatic changes, data and information exchange, opportunities to collaborate on enforcement with counterpart countries related to supply chains of illegitimate or illicit e-commerce derived goods and the underlying transnational criminal organizations, and other activities to enhance cross-border movement of legitimate goods and to facilitate supply chain efficiency.
3. Host outreach events for e-commerce stakeholders including e-commerce platforms; micro, small, medium, and large enterprises that rely upon these platforms; and financial and technological entities that support these platforms, to highlight best practices in legitimate e-commerce trade flows, to promote compliance with U.S. trade laws in the e-commerce environment, and to gather information and perspectives on issues under

consideration in various trade fora. To the extent practicable, hold events in the United States and abroad to achieve balanced participation and perspectives on international issues of importance.

4. Work together with other U.S. Government agencies to jointly develop and support innovative provisions in U.S. bilateral and multilateral free trade agreement negotiations that facilitate and promote a legitimate e-commerce supply chain, including provisions related to automating customs clearance processes, enhancing customs to customs cooperation, preserving intellectual property and enforcing laws that protect intellectual property rights, protecting public health and safety, and supporting international trade in e-commerce services that serve as the foundation for the e-commerce supply chain.
5. Establish quarterly meetings or conference calls to discuss DOC and DHS priorities relating to e-commerce.

VII. PERIOD OF AGREEMENT

The term of this Agreement will commence upon full execution of the final signatures of the Parties, and shall remain in effect for five years from the date of execution or until such time as the Agreement is terminated by either side or by mutual agreement.

VIII. MODIFICATION

This Agreement, or subsequent annexes, may only be modified by mutual agreement of the signatories or their successors. Such modifications shall be in writing and will take effect upon execution by the Parties.

IX. OTHER PROVISIONS.

1. **Severability.** Nothing in this Agreement or any related annex is intended to conflict with current statutes, regulations, orders, or directives of DHS, DOC, or any DHS or DOC components, or any other Federal agency or entity. If a provision of this Agreement, or any annex, is inconsistent with such authority, then that provision will be invalid to the extent of such inconsistency, but the remainder of that provision and all other provisions, terms, and conditions of this Agreement and any related annexes will remain in full force and effect.
2. **Rights and Benefits.** Nothing in this Agreement is intended to diminish or otherwise affect the authority of any agency to carry out its statutory, regulatory or other official functions, nor does it create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies or officers, State agencies or officers carrying out programs authorized under Federal law, or any other person.
3. **Agreement Does Not Involve Funding.** This Agreement, in and of itself, does not result in the transfer of funds or other financial obligations between the Parties. No

provision of this Agreement shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. Funding arrangements, if any, shall be the subject of separate agreements that will be subject to the availability of funds.

XX. CONTACT INFORMATION

For the purposes of exchanging information and coordinating activities under this Agreement, the respective points of contacts for the Parties are as follows:

For DOC: Director, Office of Supply Chain, Professional and Business Services
Director, Supply Chain Team
International Trade Specialist, Omnichannel Distribution

For DHS: Deputy Assistant Secretary Trade and Transport Policy, DHS Office of Strategy, Policy and Plans
Director for Trade Policy, DHS Office of Strategy, Policy and Plans
Branch Chief, E-Commerce and Small Business, Office of Trade, U.S. Customs and Border Protection
Deputy Assistant Director, Homeland Security Investigations, U.S. Immigration and Customs Enforcement

SIGNATURES

Michael Dougherty, Assistant Secretary for Border, Immigration and Trade Policy, and Senior Official Performing the Duties of the Under Secretary for Strategy, Policy, and Plans
United States Department of Homeland Security

Anne Driscoll, Acting Assistant Secretary for Industry and Analysis
United States Department of Commerce

ANNEX I

U.S. DEPARTMENT OF COMMERCE - U.S. DEPARTMENT OF HOMELAND SECURITY

JOINT E-COMMERCE STRATEGIC AGENDA

U.S. Department of Commerce (DOC)

The rapidly changing nature of e-commerce and its effect on numerous industries demands that the Department of Commerce adapt to the environment in order to better serve U.S. businesses and provide services that reduce international barriers, improve competition, and allow policy to keep pace with international markets.

To ensure the continued growth and development of international e-commerce supply chains, and the retail and distributions systems that enable U.S. businesses to get their goods to consumers around the world, DOC has identified the following goals:

- **Organizational Management:** DOC will ensure clearer communication within the Department and other Federal agencies to better collaborate on e-commerce issues through the three flows of ecommerce:
 - i. data and information;
 - ii. finance and payment services; and,
 - iii. the services involved in the physical flow of goods.
- **Commercial Counselling:** Assist U.S. businesses in growing their international e-commerce operations and help SMEs to better understand policies and procedures that impact e-commerce and distribution of goods.
- **Advocacy:** Promote and highlight the interests of the private sector on e-commerce issues raised in trade negotiations and bilateral discussions.
- **Overcoming Trade Barriers:** Work with partners within the U.S. Government, the private sector, as well as the governments of international trading partners to identify, reduce and eliminate tariff and non-tariff barriers to trade and promote the growth of a more competitive international e-commerce market.

DOC seeks to accomplish the following items:

- Establish an e-commerce team within ITA's Office of the Deputy Assistance Secretary for Services that will create an effective cross-ITA collaborative network to address key e-commerce issues related to technology, operations and trade promotion. The team will create effective tools that align with sectoral priorities to address trade-related problems that U.S. companies face in technology, retail sales, and distribution. The team will generate timely and actionable market intelligence to develop forward-looking strategies

to address trends in the international market, and allow for efficient allocation of resources in targeted areas that provide the greatest benefit to U.S. businesses.

- Work with the Advisory Committee on Supply Chain Competitiveness' (ACSCC) subcommittee on Trade and Innovation as appropriate, to gather key insights in e-commerce trade. ITA will work with appropriate DOC units and other appropriate agencies to address and implement appropriate recommendations given to the Secretary by the ACSCC on issues that hamper the growth of e-commerce or limit the competitiveness of the U.S. e-commerce industry.
- Coordinate with private sector and appropriate Federal agencies regarding the development of industry leading practices and advocate for the reduction of barriers for businesses engaged in international e-commerce through G2G trade discussions and agreements including in APEC, WTO, commercial dialogues, trade facilitation agreements, and bi-lateral and multilateral trade agreements.
- Identify and reach out to appropriate companies to join ITA's Strategic Partnership Program in order to develop closer ties to the e-commerce business community and provide greater insight into business needs for trade policy development.

U.S. Department of Homeland Security

Recognizing the rapid expansion of the digital marketplace and the potential for U.S. businesses to participate in global trade through e-commerce, DHS aims to pursue the enhanced facilitation of the movement of goods bought and sold through e-commerce while ensuring robust supply chain security and compliance with all relevant laws.

To ensure security while facilitating the movement of physical goods resulting from e-commerce, DHS embraces the following broad goals:

- **Remove Barriers:** DHS will identify and remove or mitigate legitimate barriers to e-commerce, especially those that impede Micro, Small and Medium Enterprises' (MSME) ability to comply with customs laws and regulations while remaining mindful of the Department's law enforcement mission and priorities.
- **Harmonize Data Requirements:** Identify processes, procedures, and regulatory regimes that need to be revisited so that no trading entity has an unfair advantage over another.
- **Leverage Data:** DHS will seek to harmonize, to the greatest extent practicable, our advance electronic data requirements for export and import manifest and entry – so that e-commerce players have a level playing field.
- **Expand Partnerships:** Embrace and adapt trusted trader concepts to support MSMEs, facilitating low risk shipments for e-traders in much the same way large Trusted Traders experience now; and provide leverage to ensure the free flow of data cross border and curb overly broad data localization requirements.

- **Focus Enforcement:** Use a multi-layered, risk-based targeting enforcement regime to facilitate e-commerce while focusing targeting efforts to achieve the greatest benefit.

DHS seeks to accomplish the following items:

- Develop a position on the *de minimis* threshold increase that reflects Customs and Border Protection (CBP) reprogramming requirements, as well as changes to DHS's and other partner government agencies' risk analysis processes for shipments no longer subject to customs duties. DHS aims to ensure that risk measures applied to low value goods do not unnecessarily burden trade, as Congress intended. DHS continues engagement through bilateral and multilateral channels like the World Customs Organization, World Trade Organization, and via U.S. trade agreements to encourage consistent treatment for low value goods with our trading partners.
- DHS will work with the Commercial Customs Operation Advisory Committee, other agencies, and foreign partners to explore scalable trusted trader programs suited to more types of MSMEs engaged in e-commerce.
- DHS will continue work with the Universal Postal Union, industry, U.S. and foreign postal authorities, global customs authorities, and global aviation security authorities on the process and infrastructure for targeting in the postal environment. DHS will identify the scope of items that require additional advance information and the protocols for using that information once collected. DHS will develop customs enforcement and duty collection processes on international inbound postal shipments.
- DHS aims to explore new methods of criminal exploitation of e-commerce, including financing methods and trade-based money laundering schemes. DHS will seek to leverage relationships with industry stakeholders including digital platforms, financial and technological entities that support these platforms, and MSMEs that sell products through these platforms; to facilitate dialogue and partnership between industry and government to address criminal exploitation of e-commerce: to promote robust compliance with U.S. trade laws in the digital environment: and to enhance industry information sharing with government that supports law enforcement investigations.
- DHS will continue to evaluate and expand advance electronic data requirements at export and import, leveraging manifest, entry, and pre-departure data.
- DHS will engage with industry, the interagency, the public, and in international and multilateral fora, like the World Customs Organization, to develop an approach to e-commerce that is responsive to the demands of the digital marketplace and aims to facilitate the flow of legitimate goods in this environment.