



Office of the Attorney General  
Washington, D. C. 20530

Dear Minister Andrews,

I have the honor to refer to your letter dated December 15, 2021, regarding the Agreement between the Government of the United States of America and the Government of Australia on Access to Electronic Data for the Purpose of Countering Serious Crime ("the Agreement"), signed today, which reads as follows:

*I have the honour to refer to the Agreement between the Government of Australia and the Government of the United States of America on Access to Electronic Data for the Purpose of Countering Serious Crime ("the Agreement"), signed today, and to propose that Article 9(4) of the Agreement be interpreted and applied according to the following understandings.*

*Australia declares that its essential interests under the Agreement may be implicated by the introduction of data received pursuant to Legal Process, as defined by the Agreement, as evidence in the prosecution's case in the United States for an offence for which the death penalty is sought. Accordingly, in the event that authorities in the United States receive such data and intend to introduce such data as evidence in the prosecution's case for an offence for which the death penalty is sought, the Designated Authority of the United States is required to obtain permission from the Designated Authority of Australia prior to any use of the data in a manner that is or could be contrary to those essential interests, as described in Article 9(4).*

*If the above is acceptable to your Government, I have the honour to propose that this letter and your affirmative letter in reply would constitute an understanding between our two Governments as to the interpretation and application of the Agreement, which would be operative on the date of entry into force of the Agreement.*

On behalf of the Government of the United States of America, I am pleased to convey that your proposal is acceptable. Your letter and this reply constitute an understanding of our two Governments as to the interpretation and application of the Agreement, which would be operative on the date of entry into force of the Agreement.

Sincerely,

Merrick B. Garland  
Attorney General

12/15/2021