



**THE HON KAREN ANDREWS MP  
MINISTER FOR HOME AFFAIRS**

Dear Attorney General Garland,

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.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Karen Andrews'.

KAREN ANDREWS

15 / 12 / 2021