



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

Dear Attorney General Garland,

I have the honour to refer to your letter dated 15 December 2021, regarding 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, which reads as follows:

I have the honor to refer to 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, and to propose that the Agreement be applied according to the following understandings.

The United States commits to inform Australia if it intends to invoke the Agreement to target data for the purpose of obtaining evidence or information to support or justify the detention of a current detainee held under law-of-war detention at Guantanamo Bay, Cuba, or a person nominated for, or designated for, such detention at Guantanamo, or for the purpose of obtaining evidence for use in a proceeding before a military commission at Guantanamo.

In addition, the United States commits to inform Australia if the United States Department of Defense intends to use data known by relevant Department personnel to have been obtained pursuant to Legal Process, as defined by the Agreement, as evidence in the prosecution’s case in military commission proceedings at Guantanamo, as information to be used against a detainee in reviews of such detention at Guantanamo, as evidence in support of the United States’ case in any legal proceedings challenging the Department’s authority to detain a current or nominated Guantanamo detainee, or as intelligence in support of military detention operations where the target of the operations has been nominated for, or designated for, detention at Guantanamo.

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

On behalf of the Government of Australia, 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 application of the Agreement, which would be operative on the date of entry into force of the Agreement.

Sincerely,



KAREN ANDREWS

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