

4 February 2016

The Honourable Michael Froman
United States Trade Representative
600 17th Street, NW
Washington, DC 20508
United States of America

Dear Ambassador Froman

I have the honour to confirm the following understanding reached between representatives of the Government of Australia (Australia) and the Government of the United States of America (United States) during negotiation of Chapter 18 (Intellectual Property) of the Trans-Pacific Partnership Agreement (TPP Agreement):

For greater certainty, Article 17.9.7(b) (Patents) of the Australia-United States Free Trade Agreement permits use by the government or third persons authorised by the government for the services of the government, provided that such use is consistent with Article 31 (Other Use Without Authorization of the Right Holder) of the WTO *Agreement on Trade Related Aspects of Intellectual Property Rights* and with sub-subparagraphs (i), (ii) and (iii) of Article 17.9.7(b) (Patents).

I have the further honour to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an agreement between our two Governments, which shall enter into force on the date of entry into force of the TPP Agreement as between Australia and the United States.

Yours sincerely

Andrew Robb

February 4, 2016

The Honorable Andrew Robb
Minister for Trade and Investment
Parliament House
Canberra, Australia

Dear Minister Robb:

I am pleased to acknowledge your letter of February 4, 2016, which reads as follows:

“I have the honour to confirm the following understanding reached between representatives of the Government of Australia (Australia) and the Government of the United States of America (United States) during negotiation of Chapter 18 (Intellectual Property) of the Trans-Pacific Partnership Agreement (TPP Agreement):

For greater certainty, Article 17.9.7(b) of the Australia-United States Free Trade Agreement permits use by the government or third persons authorised by the government for the services of the government, provided that such use is consistent with Article 31 of the TRIPS Agreement and with sub-subparagraphs (i), (ii) and (iii) of Article 17.9.7(b).

I have the further honour to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an agreement between our two Governments, which shall enter into force on the date of entry into force of the TPP Agreement as between Australia and the United States.”

I have the honor to confirm that my Government shares this understanding, and that your letter and this letter in reply shall constitute an agreement between our two Governments, which shall enter into force on the date of entry into force of the TPP Agreement as between the United States and Australia.

Sincerely,

Ambassador Michael B. G. Froman