

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S PORTFOLIO

**Group: 3**

**Program: 1.2**

**Question No. SBE15/054**

**Senator Leyonhjelm asked the following question at the hearing on 20 October 2015:**

1. What are the benefits and costs, if any, to Australia from having treaties on mutual assistance in criminal matters with other countries?
2. What would be the benefits and costs, if any, to Australia from having such a treaty with Cambodia?
3. What would be the benefits and costs, if any, to Australia from having such a treaty with Taiwan?
4. Has the Government sought such a treaty with Cambodia?
  - a. If so, in what way?
  - b. If not, will the Government seek such a treaty?
    - i. If not, why not?
5. Has the Government sought such a treaty with Taiwan?
  - a. If so, in what way?
  - b. If not, will the Government seek such a treaty?
    - i. If not, why not?

**The answer to the honourable senator's question is as follows:**

1. Mutual assistance is an important tool in obtaining evidence for the investigation and prosecution of crime. It is in Australia's interests to be able to provide and request the widest possible assistance in criminal matters, so that criminals cannot evade justice where evidence of their criminal conduct is located in a foreign jurisdiction.

Mutual assistance to and from Australia is governed by the *Mutual Assistance in Criminal Matters Act 1987* (Cth). Australia can make mutual assistance requests to any foreign country and can receive requests from any foreign country. Countries generally assist on the understanding that they will receive assistance in return when the need arises.

Mutual assistance treaties provide practical arrangements based on mutual obligation enabling Australia to request and provide information and evidence for investigating or prosecuting serious crimes. In the absence of a treaty, there is no obligation on countries to consider a request for assistance from another country.

2. See response to question 1.
3. See response to question 1.
4. Australia's longstanding policy is to keep details of bilateral treaty negotiations and discussions confidential between the parties, in accordance with international practice.

By way of general information, whether Australia engages in any treaty negotiation with a particular country is a matter for the Government. A wide range of factors would be considered, including the benefits to Australia in entering into such a treaty.

5. See response to question 4.