

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

**Group: 3**

**Program: 1.2**

**Question No. SBE15/055**

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

1. What are the benefits and costs, if any, to Australia from having an extradition treaty with another country, as opposed to simply listing the other country in our extradition regulations?
2. What would be the benefits and costs, if any, to Australia from having such a treaty with Cambodia, rather than simply maintaining the current listing of Cambodia in our extradition regulations?
3. 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?
4. What are the benefits and costs, if any, to Australia, from having an extradition treaty with another country, or listing the other country in our extradition regulations, compared to a situation with no such treaty or listing?
5. What are the benefits and costs, if any, to Australia, from having an extradition treaty with Taiwan, or listing Taiwan in our extradition regulations, compared to the current situation where no such treaty or listing exists?
6. Has the Government sought such a treaty with Taiwan, or sought to list Taiwan in our extradition regulations?
  - a. If so, in what way?
  - b. If not, will the Government do so?
    - i. If not, why not?

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

1. It is in Australia's interests that criminals cannot evade justice simply by crossing borders. This requires a responsive, streamlined extradition system that effectively combats crime while providing appropriate safeguards.

The *Extradition Act 1988* (the Act) sets out a number of requirements that must be met before Australia can make or accept an extradition request. Those requirements may be supplemented by requirements contained in a multilateral or bilateral treaty.

Australia can only accept extradition requests from a country that is declared an 'extradition country' under the Act. These include countries with which Australia has a bilateral extradition treaty, or a relationship underpinned by an agreement such as the London Scheme for Extradition within the Commonwealth. Australia is also party to a number of multilateral conventions with extradition obligations.

Australia is able to declare a country an 'extradition country' without a treaty. A bilateral treaty provides practical arrangements for cooperation and imposes mutual obligations. In

addition, while Australia can make an extradition request to any country, in the absence of a treaty whether the request will be accepted depends on the domestic laws of that country.

2. See response to question 1.
3. 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.

4. See response to question 1.
5. See response to question 1.
6. See response to question 3.