

**QUESTION TAKEN ON NOTICE – LEGAL AND CONSTITUTIONAL AFFAIRS  
REFERENCES COMMITTEE**

**INQUIRY INTO AUSTRALIA'S AGREEMENT WITH MALAYSIA IN RELATION TO  
ASYLUM SEEKERS: 23 SEPTEMBER 2011**

**IMMIGRATION AND CITIZENSHIP PORTFOLIO**

**(QON 26)**

Senator Cash (L&CA) asked:

[Regarding caning] I refer to the reported comments of UNHCR regional representative Richard Towle who said the agency was always uncomfortable with the idea of a convention state sending people to another country that did not have the capacity, expertise or experience to deal with refugees. Given these comments upon what basis does the Government say it has the full support of the UNHCR?

*Answer:*

UNHCR was closely consulted on the Arrangement and Operational Guidelines and provided constructive comments, which were taken into account by Australia and Malaysia in finalising the Arrangement. UNHCR will undertake assessment of transferees in Malaysia and refer those found to be refugees to resettlement countries.

UNHCR has indicated that it recognises the efforts both parties have made to ensure the Arrangement will be implemented in accordance with human rights standards and in accordance with important protections provided in the Arrangement. UNHCR has also indicated that the Arrangement is workable.

This view was confirmed by Richard Towle as recently as 2 September in an interview on ABC Radio's AM program. Mr Towle was asked: "So really what you are saying is that the government was on the right track with Malaysia?"

He responded: "Absolutely. The kind of things that Australia was trying to do in Malaysia were on the right track and were being watched closely by other countries. It was innovative. We were starting to see dividends in Malaysia itself. There have been one or two very substantial improvements in the protection framework in Malaysia."

The Australian Government is committed to supporting UNHCR to improve conditions for displaced populations in Malaysia. During negotiation of the Arrangement, the Government discussed with UNHCR implementation a range of support activities aimed at improving conditions for asylum seekers and refugees more generally in Malaysia while they await a durable solution.