

**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 33)**

Senator Cash asked (in writing):

[Regarding the Agreement being not legally binding] Why do neither the Agreement or the Operational Guidelines stipulate a course of action should either party fail to [agree] upon the specified standards, nor do they outline avenues for seeking recourse if transferees are subject to treatment which violates the arrangement. Why has such limited consideration been given to these vital questions?

*Answer:*

Clause 13.1 of the Arrangement provides for the establishment of a Joint Committee to oversight day-to-day transfer arrangements and the welfare of transferees. The Arrangement (clause 13) also contemplates the establishment of an Advisory Committee to deal with broader issues arising out of the implementation of the Arrangement. Any issues, should they arise, would be handled through these bodies.

The Arrangement was negotiated in good faith and freely entered into by Malaysia. Australia and Malaysia enjoy a strong bilateral relationship based on mutual respect. The Government is satisfied that Malaysia will honour the provisions of the Arrangement.