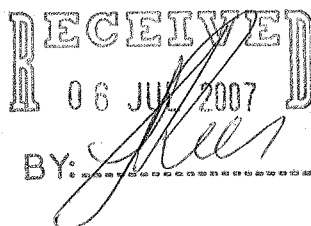


Submission 2  
TT 13 June 2007



Australian Government  
Attorney-General's Department

International  
Crime Cooperation Division

3 July 2007

Mr James Rees  
Committee Secretary  
Joint Standing Committee on Treaties  
Department of House of Representatives  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600

Dear Mr Rees

**Public hearing into treaties tabled on 27 March, 9 May and 13 June 2007**

I refer to the recent public hearing conducted by the Joint Standing Committee on Treaties on Monday 18 June 2007. This Department gave evidence in relation to the Treaty between Australia and Thailand on Mutual Assistance in Criminal Matters, and the Protocol between Australia and Hong Kong Special Administrative Region of the People's Republic of China Amending the Agreement for the Surrender of Accused and Convicted Persons. I am writing to provide additional information on matters raised by the Committee at the hearing.

The Chair of the Committee, Doctor Southcott, asked whether Australia had ever refused a request for mutual assistance in criminal matters on the basis of the death penalty (proof *Hansard*, TR 31-32). We have not been able to identify any cases in which a request for mutual assistance has been formally refused on this basis since March 1997 (when the death penalty grounds of refusal were incorporated in the *Mutual Assistance in Criminal Matters Act 1987*). Available records indicate that seven mutual assistance requests have been formally refused by Australia since that date, but it is not clear from the material readily available to us whether any of those requests involved death penalty issues.

Senator Trood asked whether there had been any occasions when a request for mutual assistance between Australia and Thailand had been declined (proof *Hansard*, TR 33). According to our records, there have been no cases in which Australia has formally refused a request from Thailand for assistance, or in which Thailand has formally refused a request from Australia.

Senator McGauran asked about the number of Australian Federal Police (AFP) officers currently posted to Bangkok (proof *Hansard*, TR 34). According to the AFP there are five officers currently posted to Bangkok.

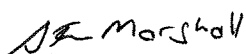
Senator Trood asked whether China has extradition treaties with other countries, and whether such treaties apply 'no evidence' arrangements (proof *Hansard*, TR 36-37). The information available to this Department indicates that as at 2006 China had concluded 25 bilateral extradition treaties with other countries since it concluded its first such treaty with Thailand in August 1993. We understand 19 of those treaties adopt the 'no evidence' standard, comprising treaties with Azerbaijan, Belarus, Brazil, Bulgaria, Kazakhstan, Kyrgyzstan, Laos, Lithuania, Mongolia, Peru, Philippines, Romania, Russia, South Korea, Spain, Tunis, Ukraine, United Arab Emirates and Uzbekistan.

Dr Southcott asked about which courts in Australia are responsible for hearing extradition proceedings (proof *Hansard*, TR 37). Hearings to determine whether persons sought are eligible for surrender are conducted before State or Territory magistrates under section 19 of the *Extradition Act 1988*. Section 21 of the Extradition Act provides expressly for review of a magistrate's order by the Federal Court or by the Supreme Court of the State or Territory.

There was one further matter arising from my evidence which I should clarify. In my opening statement on the Protocol between Australia and Hong Kong, I advised the Committee that 'Australia currently has 35 bilateral extradition treaties, only four of which require *prima facie* evidence for the making of an extradition request' (proof *Hansard*, TR 35). This statement was incorrect – of the 35 modern bilateral extradition treaties to which Australia is a party, only four of those treaties require the production of *any* evidence (the others are all 'no evidence' treaties). Two of the four treaties (with Hong Kong and Israel) require evidence to a *prima facie* standard, and the remaining two (with the United States and the Republic of Korea) effectively require the establishment of 'reasonable grounds' to believe the person sought committed the offence for which extradition is sought. Although this issue was the subject of further discussion during the hearing (proof *Hansard*, TR 38), I thought it appropriate to correct my initial statement. I apologise for any confusion this may have caused the Committee.

I trust the above information is of some assistance. Please do not hesitate to contact me if you wish to discuss these matters further.

Yours sincerely



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