

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

Group: 2

Program: 1.1

Question: BE14/024

Senator Carr asked the following question at the hearing on 26-29 May 2014:

Senator KIM CARR: You made a couple of points that I want to take up, Minister. First, in regard to the jurisdictional issue about whether it is this committee or another committee, I will ask you: since the International Court of Justice was established in 1945, how many times has Australia appeared as a respondent in a substantive hearing before the court in The Hague—that is, to answer an allegation of breaches of international law? That is surely a matter for this department.

Senator Brandis: I will take that question on notice.

Senator KIM CARR: I do not have your legal training, but I am a student of history—and I do not recall us having to appear in the manner in which we had to appear this year.

Senator Brandis: As I said, I will take that question on notice. I want to make sure that the answer to the question you have asked is carefully considered.

Senator KIM CARR: I put it to you that this is the first time that Australia has been named as a respondent.

Senator Brandis: I have taken the question on notice.

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

[The question was answered during the Hearing.]

Senator Brandis: By the way, I can respond to your earlier question that I said I would take on notice. The answer to your question is no. This is a matter in which Australia is defending a suit brought by a foreign state. Australia is defending this suit, as you would expect, to protect Australia's national interests. No doubt the government of Timor-Leste is bringing this suit in the prosecution of what it believes to be its national interests. I do not think that it is appropriate for me to comment on the merits of a dispute in which Australia is involved, nor do I think, if I may say so, it is wise for you to do so.