

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

Output 2.2

Question No. 67

Senator Brandis asked the following question at the hearing on 18 February 2008:

- a) Does the US court issue the warrant for Dr Patel's address consequent upon its determination of the dual criminality issue?
- b) What is the question upon an affirmative answer to which the issue of the arrest warrant depends?

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

- a) The issue of an arrest warrant is consequent upon the District Court's assessment of the prerequisites for acceptance of an extradition request, including the requirement for dual criminality.
- b) In order to issue an arrest warrant, the US court must find that (1) there is an extradition treaty in force between Australia and the United States, (2) that the offences for which Dr Patel's extradition is sought are "extraditable offences" within the meaning of the extradition treaty, which includes an assessment that there is dual criminality, and (3) that there is probable cause to believe that Dr Patel committed the offences for which his extradition is sought.