

1. 'My Government strongly supports this treaty, and I believe that having signed the treaty, and having had it tested both through the British justice system and by independent experts, it is now incumbent on the UK government to stand in support of it'.
 - a. It would be a strange Government that did not support a treaty so demonstrably unequal in its favour.
 - b. It has not been 'tested' by any independent experts.
 - c. It is certainly not incumbent upon the UK Government to stand in support of it. The first duty of the UK Government is to its own citizens, not to the United States of America. On 21st July 2006, the Senate Foreign Relations Committee met in Washington to discuss the potential ratification of the Treaty, which was roundly opposed by Irish Americans fearing that the 'on the run' IRA terrorists who had lived safely in America might be sent home to face trial. When told that the UK Government was facing difficulties at home because the Americans had not yet ratified the Treaty that the UK had committed to its domestic law some two and a half years previously, Senator Chris Dodds (a candidate for the 2008 presidential election) said: "I'm not going to do it because they want me to! I have an obligation to the people here and to my constituents. We cannot go around tailoring our own laws because a foreign power is putting political pressure on us to do so or because critics of Tony Blair's do not like something. Where would America be today if we did that?"
2. "Anyone holding a grievance with the treaty was given the fullest opportunity to express their concerns and their criticisms".
 - a. To date, not one submission to the Scott Baker Review, or any notes of interviews, has been published, so it is impossible to tell what was said which formed the basis of the Review's conclusions. Compare and contrast with the review by the Joint Committee on Human Rights, all evidence to which (both written and oral) is publicly available.
 - b. However, what is a fact is that not one single defence counsel or individual who has been subject to extradition was called to give oral evidence to the Committee, even though one in particular specifically asked to be called. Every single oral evidence session (and there were many) was with either prosecutors or members of the administration of the system, including the US Government.
3. "Accusations from Members of Parliament such as '24 Britons have been extradited to the US under the new arrangements and just one American to Britain' ...are simply not true".
 - a. Home Office figures show that by nationality of persons extradited, only 3 people brought back to the UK were either American or had dual nationality. It has since been established that only one of these three was 100% American. The point is that in practice the UK typically seeks extradition of its own nationals who have committed crimes here and fled to America. The US, by contrast, routinely seeks the extradition of UK nationals who have never set foot in the US.
4. "The United States has never denied an extradition request under the Treaty. The UK has refused on seven occasions".
 - a. The Treaty has been operable for the UK only since instruments of ratification were exchanged in April 2007, whereas the US has been able to avail itself of its provisions since 1st Jan 2004.
 - b. This statistic is just as likely to support the notion that the UK only submits extradition requests where the fact pattern firmly supports an extradition, and where prior consideration has been given to factors such as the age and health of the potential

defendant. The US is far more likely to engage in fishing expeditions, and cares not about personal circumstance.

5. "The standard that each country has to meet to extradite someone is the same".
 - a. Accepting that 'probable cause' and 'reasonable suspicion' are likely to be quite close, the above statement (and Scott Baker) completely misses the point. If a UK citizen is wanted by the US, he has no right to an evidential hearing in a UK court. If a US citizen is wanted by the UK, he has a constitutional right to an evidential hearing in a US magistrate's court.
6. "The US does not get special treatment. The UK domestic extradition law is the same for the US, Australia, Canada, Israel, Russia and Turkey".
 - a. This is undeniably true. However, the reason that the US causes such consternation is because it routinely exercises an aggressive extraterritorial approach to its jurisdiction (cf the NatWest Three, Gary McKinnon, Christopher Tappin, Babar Ahmad, Richard O'Dwyer and many others). If the US attitude was more in line with our Commonwealth partners (based on territoriality), then probably none of the angst would have arisen. These are not specious concerns. They are real, and demonstrable in the figures and the natures of the cases brought. The US Government describes as 'fugitives' anyone whose extradition it seeks, notwithstanding that most of the people currently in the UK system were nowhere near the US when they are alleged to have committed their 'crimes'.
7. "The UK authorities always begin by considering whether or not an individual can and should be tried in the UK instead of being extradited to the US."
 - a. Nonsense. The UK prosecutors routinely cede jurisdiction if the US says it wants to try someone. Cf NatWestThree, Gary McKinnon, Babar Ahmad.
 - b. There is current no statutory mechanism whereby any judicial authority in the UK can take a balanced view as to whether a UK prosecution should be preferable to an extradition.
 - c. Moreover, at no stage of the current informal process between prosecutors are the interests of the defendant taken into any account.
 - d. The prosecutors' decisions on forum are not remotely transparent or amenable to any automatic judicial review.
8. "I also have total confidence that the UK government will accept the findings of the independent Baker Review and uphold the integrity of the US-UK Treaty".
 - a. This might be construed almost as a veiled threat.
 - b. The principled position of the US Government, as evidenced by nearly 98% of its bilateral extradition treaties, is that it is willing to support its requests for extradition with evidence. Indeed, it signed new treaties in 2006 with Latvia, Estonia and Macedonia, in all of which it undertook to provide evidence that could be tested in a local court. That being the case, why is there such an objection to providing evidence to the courts of one of its closest allies and partners, when its own constitution demands that all other countries afford that privilege to its citizens.