



REPORT OF THE

STANDING COMMITTEE ON
CONSTITUTIONAL AFFAIRS

IN RELATION TO THE

***Crimes at Sea Bill 1999* and Proposed
Intergovernmental Agreement**

Presented by the Hon Murray Nixon JP (Chairman)

STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS

Date first appointed:

21 December 1989

Terms of Reference:

1. The functions of the committee are to inquire into and report on:
 - (a) the constitutional law, customs and usages of Western Australia;
 - (b) the constitutional or legal relationships between Western Australia and the Commonwealth, the States and Territories,

and any related matter or issue;
 - (c) a bill to which SO 230 (c) applies but subject to SO 230 (d);
 - (d) any petition.

2. A petition stands referred after presentation. The committee may refer a petition to another standing committee where the subject matter of the petition is within the terms of reference of that standing committee. A standing committee to which a petition is referred shall report to the House as it thinks fit.

Members as at the date of this report:

Hon Murray Nixon JP, MLC (Chairman)
Hon Ray Halligan MLC
Hon Tom Helm MLC

Staff as at the date of this report:

Felicity Beattie, Advisory/Research Officer
Kelly Campbell, Committee Clerk
David Driscoll, Committee Clerk

Address:

Parliament House, Perth WA 6000, Telephone (08) 9222 7222

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Report of the Legislative Council
Constitutional Affairs Committee

in relation to the

***CRIMES AT SEA BILL 1999 AND PROPOSED
INTERGOVERNMENTAL AGREEMENT***

1. Executive Summary

- 1.1 The purpose of the *Crimes at Sea Bill 1999* ("the Bill") is to give effect to a cooperative scheme ("the scheme") which will simplify the application of the criminal law in waters surrounding Australia, to repeal the *Crimes (Offences at Sea) Act 1979* and to amend the *Off-shore (Application of Laws) Act 1982*.
- 1.2 The aim of the Bill is to give effect to the extraterritorial application of State criminal laws in the sea surrounding Australia. It is part of the legislative process required to give effect to the national uniform co-ordination of the prosecution of crimes committed in waters surrounding Australia.
- 1.3 The details of the scheme are set out in Schedule 1 of the Bill. Schedule 1 covers matters such as :
- the application of the substantive criminal laws of the State in adjacent areas in waters surrounding Australia;
 - the laws of criminal investigation, procedure and evidence that will apply under the scheme;
 - the evidentiary presumptions in relation to the location of an offence; and
 - the exclusions of certain laws from the scheme.
- 1.4 Key features of the scheme include :
- provision for the making of an intergovernmental agreement facilitating the division of responsibility between the Commonwealth and the States for administering and enforcing the law relating to maritime offences;
 - provision that where more than one jurisdiction is empowered to prosecute offences those jurisdictions should consult to determine the jurisdiction most convenient for prosecution;
 - a requirement that, prior to the prosecution of offences committed on foreign ships registered in a foreign country, the Commonwealth Attorney General consent to the prosecution to ensure that there is no breach of Australia's international obligations; and

- the exclusion from the scheme of State and Commonwealth laws excluded by regulation from the ambit of the scheme.

1.5 The combined effect of the Bill and the proposed intergovernmental agreement is to extend the extra-territorial application of a State's substantive criminal laws. Under the scheme a State will have primary responsibility for investigating and prosecuting crimes committed in its adjacent waters out to the 200 nautical mile limit or to the outer limit of the continental shelf, whichever is the greatest distance. Further, State laws which already have extra-territorial operation of their own force will continue to have extra-territorial effect provided that is not inconsistent with the scheme.

2. Recommendations

2.1 This report outlines selected clauses of the *Crimes at Sea Bill 1999* and the proposed intergovernmental agreement requiring explanation and makes comment and recommendations in relation to those clauses. The Committee believes there is nothing controversial in the Bill however does highlight several matters for consideration.

Recommendation: *The Committee recommends that all clauses be passed.*

Report of the Legislative Council
Constitutional Affairs Committee

in relation to the

***CRIMES AT SEA BILL 1999 AND PROPOSED
INTERGOVERNMENTAL AGREEMENT***

CRIMES AT SEA BILL 1999

3. Reference and Procedure

- 3.1 The *Crimes at Sea Bill 1999* ("the Bill") was referred to the Constitutional Affairs Committee ("the Committee") by the Legislative Council under Standing Order 230(d).

4. Contents and Purpose of the Bill

- 4.1 The purpose of the *Crimes at Sea Bill 1999* is to give effect to a cooperative scheme ("the scheme") which will simplify the application of the criminal law in waters surrounding Australia, to repeal the *Crimes (Offences at Sea) Act 1979* and to amend the *Off-shore (Application of Laws) Act 1982*.
- 4.2 The aim of the Bill is to give effect to the extraterritorial application of State criminal laws in the sea surrounding Australia. It is part of the legislative process required to give effect to the national uniform regulation of the prosecution of crimes committed in waters surrounding Australia.
- 4.3 The details of the scheme are set out in Schedule 1 of the Bill. Schedule 1 covers matters such as :
- the application of the substantive criminal laws of the State in adjacent areas in waters surrounding Australia;
 - the laws of criminal investigation, procedure and evidence that will apply under the scheme;
 - the evidentiary presumptions in relation to the location of an offence; and
 - the exclusions of certain laws from the scheme.

4.4 Key features of the scheme include :

- provision for the making of an agreement facilitating the division of responsibility between the Commonwealth and the States for administering and enforcing the law relating to maritime offences;
- provision that where more than one jurisdiction is empowered to prosecute offences those jurisdictions should consult to determine the jurisdiction most convenient for prosecution;
- a requirement that, prior to the prosecution of offences committed on foreign ships registered in a foreign country, the Commonwealth Attorney General consent to the prosecution to ensure that there is no breach of Australia's international obligations; and
- the exclusion from the scheme of State and Commonwealth laws excluded by regulation from the ambit of the scheme.

4.5 The Bill contains ten (10) clauses and two (2) schedules. An intergovernmental agreement proposed to be entered into by the Commonwealth and the States with respect to the operation of the scheme has also been drafted. A copy of the proposed agreement is attached at *Appendix 'A'*.

4.6 Schedule 1 of the Bill sets out the details of the scheme as follows:

Part 1: Preliminary

Part 2: Application of State criminal law in adjacent area

Part 3: The intergovernmental agreement

Part 4: Limitations and exclusions

Part 5: Miscellaneous

Part 6: Adjacent areas

4.7 Schedule 2 of the Bill amends the *Off-shore (Application of Laws) Act 1982*.

4.8 Certain selected clauses of the Bill, Schedule 1 and the proposed intergovernmental agreement requiring explanation are outlined below and the Committee has provided comment and recommendations on each of these clauses.

Recommendation: The Committee recommends that all clauses be passed.

4.9 As part of the review, the Committee placed an advertisement in *The West Australian* newspaper inviting submissions on the Bill. The Committee received no submissions.

4.10 As a further part of the review, the Committee called for evidence from a number of witnesses concerning the operation of the Bill. The witnesses who appeared before the Committee were :

- Mr Robert Meadows QC, Solicitor General;
- Mr Walter Pritchard, Deputy Secretary, Maritime Union of Australia; and
- Mr Barry Shaw, Tug Delegate, Maritime Union of Australia.

The Committee also invited comment from a number of parties who it considered may wish to make submissions, however those invitations were declined. The parties approached by the Committee were :

- Ship owners;
- Shipping agents; and
- Protection and Indemnity lawyers for ship owners and agents.

5. Selected clauses of the *Crimes at Sea Bill 1999*

5.1 **Clause 2** *Commencement*

This clause provides that the provisions of the Act come into operation on a day fixed by proclamation. It is a matter for the Attorney General as to when the legislation is proclaimed, however it is anticipated that it will be proclaimed once all jurisdictions are in a position to enter into the intergovernmental agreement.

5.2 **Clause 6** *Publication of intergovernmental agreement*

This clause provides that the intergovernmental agreement, and any amendments thereto, must be published in the *Gazette*. It is proposed that the agreement will be entered into and subsequently gazetted by the Commonwealth and the States once all the participating jurisdictions have enacted similar legislation in order to give effect to the uniform nature of the scheme.

5.3 **Clause 7** *Regulations*

This clause provides that the Governor may make regulations prescribing any matter that is necessary or convenient to be prescribed for giving effect to the purposes of the Act.

This clause does not, however, authorise the making of regulations for the purpose of the scheme, and as a result the State is not able to regulate on its own to exclude a State law from operating under the scheme. A regulation

excluding a State law from the operation of the scheme would be a regulation for carrying out, or giving effect to, the scheme and as such is to be made by the Governor-General under clause 12(1) of Schedule 1. See 6.10.

5.4 **Clause 8** *Crimes (Offences at Sea) Act 1979 repealed*

This clause repeals the current *Crimes (Offences at Sea) Act 1979*.

5.5 **Clause 9** *Off-shore (Application of Laws) Act 1982 amended*

This clause amends the *Off-shore (Application of Laws) Act 1982*.

6. Selected clauses of Schedule 1 of the *Crimes at Sea Bill 1999*

6.1 **Schedule 1**

Schedule 1 sets out the details of the scheme as follows :

Part 1: Preliminary

Part 2: Application of State criminal law in adjacent area

Part 3: The intergovernmental agreement

Part 4: Limitations and exclusions

Part 5: Miscellaneous

Part 6: Adjacent areas

6.2 **Clause 1** *Definitions*

"Inner adjacent area" for a State is defined as the parts of the adjacent area for the State that are :

- (a) on the landward side of the baseline for the State; and
- (b) on the seaward side, but within 12 nautical miles from, the baseline for the State.

"Adjacent area" is defined in Clause 14 of Schedule 1 and extends from the baseline of the State to 200 nautical miles, or to the outer limit of the continental shelf - whichever is the greater of the two.

This means that the criminal law of the State will apply of its own force from the baseline of the State out to a distance of 12 nautical miles and by force of Commonwealth law beyond 12 nautical miles. The boundaries and baselines of the States and the Northern Territory and the boundaries of the adjacent areas are described in Part 6 of Schedule 1 and indicated on the map at Appendix 1 of Schedule 1.

"Maritime offence" is defined as an offence against a law that applies in the adjacent area for a State under the scheme and "offence" as an indictable or summary offence.

"Ship" is defined as a vessel or boat of any description and includes :

- (a) a floating structure; and
- (b) a hovercraft or similar craft.

It should be noted that this definition extends the operation of the scheme to crimes committed on structures such as oil rigs, exploratory vessels, and research platforms.

By virtue of this definition the scheme will also apply to offences occurring on vessels carrying refugees to Australia in circumstances where the offence occurred within a state's adjacent area out to the 200 nautical mile limit, the vessel is not registered in its country of origin or its origin is unknown.

6.3 **Clause 3** *Application of laws of criminal investigation, procedure and evidence*

This clause sets out the laws of criminal investigation, procedure and evidence to apply to maritime offences as follows :

- the law of the Commonwealth will apply to investigations, procedures and acts, other than judicial proceedings, by authority of the Commonwealth;
- the law of a State will apply to investigations, procedures and acts, other than judicial proceedings, by authority of the State operating within the area of administrative responsibility for the relevant State; and
- in a Commonwealth judicial proceeding the law of the Commonwealth applies and in a State judicial proceeding the law of the State in which the proceeding was commenced applies, subject to the Constitution.

This allows the authority investigating an offence to follow its own laws of procedure. For example, Western Australian police investigating an offence that under the scheme is an offence under South Australian law will investigate it according to Western Australian procedures. Previously, Western Australian police would have been obliged to conduct investigations according to South Australian law. This simplifies the application of the law and eliminates the current legal uncertainties encountered by those authorities responsible for investigating and prosecuting crimes at sea. This provision is consistent with the uniform nature of this Bill.

6.4 **Clause 4** *Evidentiary presumption about the locus of an offence*

This clause provides that if, in proceedings for a maritime offence, an alleged act, omission, or state of affairs that is an element of the offence is proved, an allegation in the information or complaint that the act, omission or state of affairs happened in the adjacent area, inner adjacent area or outer adjacent area for a particular State is taken to be proved in the absence of proof to the contrary.

This clause therefore provides for an evidentiary presumption as to the location of an offence; that is, whether the offence occurred in the adjacent area, inner adjacent area, or outer adjacent area for a particular State.

This presumption simplifies the operation of the law.

6.5 **Clause 5** *Intergovernmental agreement*

This clause provides for the making of an intergovernmental agreement providing for the division of responsibility for administering and enforcing the law relating to maritime offences. The agreement will empower State authorities to exercise or perform powers, duties and functions as provided for in the legislation.

The intergovernmental agreement will be entered into by the Commonwealth and State Attorneys General once the legislation is enacted in all jurisdictions. As stated at 5.2, Clause 6 of the Bill requires the Minister to have the intergovernmental agreement published in the Gazette.

The intergovernmental agreement has been drafted in consultation with the State and Territory Ministers, however is not subject to disallowance by the House.

6.6 **Clause 6** *Effect of the agreement*

This clause provides that a charge of a maritime offence must not be brought in a court contrary to the intergovernmental agreement. If a charge is brought in contravention of the agreement, the court will, on application by the Commonwealth Attorney General or a participating State Minister, permanently stay the proceedings.

6.7 **Clause 7** *Commonwealth Attorney-General's consent required for certain prosecutions*

This clause outlines the circumstances where the written consent of the Commonwealth Attorney General is required prior to the prosecution of a maritime offence. This applies where an offence occurs on a foreign ship

that is registered in a foreign country where, under international law, the country of registration has jurisdiction over the alleged offence. This requirement is designed to ensure that no conflicts occur in respect of Australia's international obligations.

6.8 **Clause 8** *Non-exclusion of consistent extra-territorial legislative schemes*

The effect of the Bill is to give extra-territorial effect to the State's criminal laws by force of the scheme. Some State laws, however, already have extra-territorial operation by their own force. This clause acknowledges that they will continue to have extra-territorial effect to the extent that the State law is capable of operating extra-territorially consistently with the scheme.

The effect of this clause is to apply the relevant law of criminal investigation, procedure and evidence to offences committed against the substantive criminal law of the State whether the substantive criminal law of the State applies by virtue of the scheme or by virtue of its own extra-territorial operation.

This is an important clause for the States as it preserves the existing extra-territorial effect of their substantive laws and therefore preserves their influence over activities occurring in their adjacent areas.

6.9 **Clause 9** *Exclusion of certain laws from the ambit of the scheme*

This clause provides that the scheme does not apply to State and Commonwealth laws excluded by regulation from the ambit of the scheme.

These regulations will exclude special regimes of law, such as fisheries legislation, pollution at sea and marine and harbours type offences from the ambit of the scheme. It is probable that this clause has been included out of an abundance of caution as the laws in question, by reason of their nature, are likely to have extra-territorial operation in any event.

6.10 **Clause 12** *Regulations*

This clause provides that :

- "(1) The Governor-General may make regulations for carrying out, or giving effect to, this scheme.
- (2) However, a regulation affecting the operation of this scheme in relation to the inner adjacent area for a State may only be made with the agreement of the participating State Minister for the relevant State."

Any regulations excluding State legislation from the operation of the scheme would have to be made by the Governor-General under this clause. When this clause and clause 9 of Schedule 1 are read together, they empower the Governor-General to make regulations which exclude State laws from the operation of the scheme. In the case of the inner adjacent area, the regulations would have to be made with the agreement of the State Minister.

The Solicitor-General has advised that there does not appear to be a problem constitutionally with the Western Australian Parliament legislating to delegate power to make regulations to the Governor-General, so long as that is done with the agreement of the Commonwealth Parliament.

A regulation which excluded a State law from the operation of the scheme in both the outer adjacent area and the inner adjacent area would be a regulation made under both State law and Commonwealth law. In so far as it excluded the law from operation in the outer adjacent area it would be made under Commonwealth law (the Commonwealth *Crimes at Sea Act*.) In so far as it excluded the law from operation in the inner adjacent area it would be made under State law (the Western Australian *Crimes at Sea Act*.)

As a result, any such regulation would be disallowable by either House of the Commonwealth Parliament under section 48(4) of the *Acts Interpretation Act 1901* (Cth), in so far as it applied to the outer adjacent area, and by either House of State Parliament under section 42 of the *Interpretation Act 1984* (WA), in so far as it applied to the inner adjacent area.

In the event that one of the Houses of State Parliament were to disallow the regulation the State law would continue to operate in the inner adjacent area but not in the outer adjacent area. If that were to happen, the scheme would have broken down.

If the Governor-General were to make regulations which excluded certain State laws from the operation of the scheme within the inner adjacent area those regulations should be laid before both Houses of State Parliament and the procedures set out in Part VI of the *Interpretation Act* (WA) followed. That is, the regulations would be subject to disallowance in so far as they applied to the inner adjacent area.

PROPOSED INTERGOVERNMENTAL AGREEMENT

7 Selected clauses of the proposed Intergovernmental Agreement

7.1 Clause 4

This clause provides that the Arrival State - that is the State in which an Australian ship arrives after an alleged offence has occurred - has primary responsibility for investigating and prosecuting the offence. In general terms this means that a State will have primary responsibility for investigating and prosecuting crimes committed in its adjacent waters out to the 200 nautical mile limit or to the outer limit of the continental shelf, whichever is the greatest distance. This expands the extra-territorial operation of a State's criminal laws.

"Arrival State" is defined in clause 1 of the intergovernmental agreement to mean the participating State in which an Australian ship next arrives, with the alleged offender on board, after an offence has been committed on or from that ship within the territorial sea adjacent to another participating State. It does not matter that the offence may have occurred within the territorial sea adjacent to a state on the other side of the country. What does matter is where the ship next arrives after an offence has been committed. For example, if an offence is alleged to have been committed on an Australian ship within the territorial sea adjacent to New South Wales and the ship next arrives in Western Australia, then Western Australia is the Arrival State and under Clause 4 has primary responsibility for taking investigation and prosecution action.

7.2 Clause 5

This clause extends the primary responsibility of a State whose laws have been applied by Commonwealth laws to taking investigation and prosecution action where the alleged offence occurs in its adjacent area and :

- (a) the conduct occurs on or from or in relation to a fixed or floating platform or other installation in that area; or
- (b) the conduct occurs on or from an Australian ship and the next place of entry to Australia is, or is intended to be at the time of the conduct, within that State; or
- (c) the alleged offender is an Australian citizen whose next place of entry to Australia is, or is intended to be at the time of the conduct, within that State.

This is a significant extension of a State's primary responsibility to investigate and prosecute an alleged offence and could include circumstances where the matter to be investigated occurred on an oil rig, an exploratory vessel, or a research platform.

Like Clause 4, this clause expands the extra-territorial operation of a State's criminal laws by providing that they apply out to the 200 nautical mile limit or to the outer limit of the continental shelf, whichever is the greatest distance.

Clause 5 is subject to Clause 4 which, as discussed above, gives primary responsibility for taking investigation and prosecution action to the Arrival State.

If there is a change of intention as to the next place of entry to Australia after an offence is committed, it is likely that the offender will enter Australia at a place that is not within the Adjacent State. In that case, by virtue of Clause 4 it will be the Arrival State which will have primary responsibility for taking investigation and prosecution action.

Clause 5(b) covers situations where the apprehension of the offender takes place at sea. In that case, if the alleged offence occurred in the Adjacent Area of a State and on or from an Australian ship, then the primary responsibility for taking investigation and prosecution action will fall on the Adjacent State if the next place of entry to Australia is or is intended to be at the time the offence occurred, within the Adjacent State. It will not matter if the intended place of entry changes after the offence was committed.

An example of the operation of Clause 5(b) is as follows :

- (i) a ship departs Fremantle bound for Adelaide;
- (ii) a murder occurs on the ship in the waters adjacent to Western Australia;
- (iii) the accused is apprehended on board the ship and the captain re-routes the ship to Albany; and
- (iv) the accused is placed in the custody of the Albany police.

In this case the Western Australian laws of investigation and prosecution apply as well as the substantive criminal laws of Western Australia despite the intended destination being Adelaide.

7.3 **Clause 8**

This clause provides that where more than one jurisdiction is empowered to prosecute an offence those jurisdictions should consult to determine the jurisdiction most convenient for prosecution. Again, this is in line with the uniform nature of this Bill and will simplify the legal procedures for prosecuting crimes at sea.

It is contemplated that the question of jurisdiction will be determined on a case by case analysis depending on the facts of each matter. In general, matters that may be taken into account include the location of witnesses, the extent of involvement of authorities in the various jurisdictions to date, and the comparative costs of dealing with the matter in the various jurisdictions.

7.4 **Clause 9(b)**

This clause provides for co-operation and assistance between the States and the Commonwealth where practicable. The Commonwealth shall, upon a request being made by the Attorney-General of a State with primary responsibility in relation to an alleged offence, use its best endeavours to secure the assistance from any relevant Commonwealth Department, body or agency including the Defence Forces, the Customs Service and the Australian Federal Police. This assistance may include the gathering of evidence, the provision of investigating personnel, or the provision of transport, communication facilities or information.

The Solicitor General advised that this clause was inserted as a result of negotiations between the State of Western Australia and the Commonwealth, particularly because of the logistical difficulties in Western Australia associated with attempting to investigate crimes that have been committed off the state's substantial coastline. This provision should help to overcome these difficulties.

Hon Murray Nixon JP, MLC
Chairman

APPENDIX A

APPENDIX A: Proposed Intergovernmental Agreement

AGREEMENT made on 1998
pursuant to clause 5, Part 3, Schedule 1 of -

Crimes at Sea Act 1998 (Commonwealth)
Crimes at Sea Act 1998 (New South Wales)
Crimes at Sea Act 1998 (Victoria)
Crimes at Sea Act 1998 (Queensland)
Crimes at Sea Act 1998 (Western Australia)
Crimes at Sea Act 1998 (South Australia)
Crimes at Sea Act 1998 (Tasmania)
Crimes at Sea Act 1998 (Northern Territory); and
Crimes at Sea Act 1998 (Norfolk Island Territory)

BETWEEN

the COMMONWEALTH OF AUSTRALIA
the STATE OF NEW SOUTH WALES
the STATE OF VICTORIA
the STATE OF QUEENSLAND
the STATE OF WESTERN AUSTRALIA
the STATE OF SOUTH AUSTRALIA
the STATE OF TASMANIA
the NORTHERN TERRITORY, and
the NORFOLK ISLAND TERRITORY

1. In this Agreement:

"Adjacent State" and "adjacent area" refer respectively to a State whose laws have been applied by Commonwealth laws and the area in relation to which they have been applied;

"applied laws" means the substantive and procedural laws applied by clauses 2 and 3, Part 2, Schedule 1 of the *Crimes at Sea Act 1998* (Commonwealth).

"Arrival State" means the participating State in which an Australian ship next arrives, with the alleged offender on board, after an offence has been committed on or from that ship within the territorial sea adjacent to another participating State;

"Attorney -General" includes the Administrator of Norfolk Island;

"cooperative scheme" has the meaning ascribed to it in section 3 of the *Crimes at Sea Act 1998* (Commonwealth); and

"Australian ship" and "State" have the meanings ascribed to them in clause 1, Part 1, Schedule 1 of the *Crimes at Sea Act 1998* (Commonwealth).

2. Where, under a law of the Adjacent State to which part of the criminal law of the State as applied by Commonwealth law corresponds, an authority of the State (not being a court) may or shall, as the case may be, exercise or perform any power, duty or function (not being a power, duty or function involving the exercise of judicial power), the corresponding power, duty or function under that part of the applied criminal law may or shall, as the case may be, be exercised or performed by that authority.
3. In exercising or performing powers, duties and functions under the cooperative scheme, the parties and their agencies shall act so as to avoid any breach by Australia of its international obligations, in particular under the United Nations Convention on the Law of the Sea, having regard especially to the responsibilities of Australia with respect to ships of the Australian flag, and to the rights of other countries in the maritime areas to which the arrangements in this Agreement apply.
4. The Arrival State shall have primary responsibility for taking investigation and prosecution action under its laws in respect of the alleged offence.
5. Subject to clauses 4 and 6 the Adjacent State shall have primary responsibility for taking investigation and prosecution action under its applied laws where the alleged offence occurs in its adjacent area and:
 - (a) the conduct occurs on or from or in relation to a fixed or floating platform or other installation in that area; or
 - (b) the conduct occurs on or from an Australian ship and the next place of entry to Australia is, or is intended to be at the time of the conduct, within that State; or
 - (c) the alleged offender is an Australian citizen whose next place of entry to Australia is, or is intended to be at the time of the conduct, within that State.
6. The Commonwealth shall have primary responsibility for taking investigation and prosecution action in respect of any alleged offence on or from a Defence Force ship when it is outside the limits of a State..
7. Subject to clause 5, decisions by the authorities of the State or the Commonwealth with primary responsibility under clause 4 or 6 as to whether to investigate or further investigate or prosecute or seek extradition shall be taken in the same manner and subject to the same considerations and policies as apply to decisions in relation to other alleged offences against the laws of that State or the Commonwealth.
8. Where more than one party may take investigation or prosecution action in relation to the same alleged offence, the parties concerned shall consult at the request of any of them on how the matter should be dealt with. In such a case if it appears that one of those parties may more conveniently take action to investigate or prosecute, it should do so.

9. Bearing in mind the possible difficulties for any single party of taking action at sea in relation to an alleged offence:
- (a) any other party shall, on request, give whatever assistance it considers practicable to the party with primary responsibility in relation to the alleged offence; and
 - (b) the Commonwealth shall, upon a request for assistance being made by the Attorney-General of a State with primary responsibility in relation to the alleged offence to the Attorney-General of the Commonwealth, use its best endeavours to secure that assistance from any relevant Commonwealth Department, body or agency (including the Defence Forces, the Customs Service and the Australian Federal Police), and any such assistance may include the gathering of evidence, the provision of investigating personnel, or the provision of transport, communication facilities or information.

SIGNED by the parties as at the date written above.

SIGNED by the Honourable)
Attorney-General of the Commonwealth)
of Australia, in the presence of:)

SIGNED by the Honourable)
Attorney-General of the State of)
New South Wales,)
in the presence of:)

SIGNED by the Honourable)
Attorney-General of the State of Victoria,)
in the presence of:)

SIGNED by the Honourable)
Attorney-General of the State of Queensland,)
in the presence of:)

SIGNED by the Honourable)
Attorney-General of the State of)
Western Australia,)
in the presence of)

SIGNED by the Honourable)
Attorney-General of the State of)
South Australia, in the presence of:)

SIGNED by the Honourable)
Attorney-General of the State of Tasmania,)
in the presence of:)

SIGNED by the Honourable)
Attorney-General of the Northern Territory,)
in the presence of:)