

Attorney-General's Department

**Offshore  
constitutional  
settlement  
A milestone in  
co-operative  
federalism**

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# The offshore constitutional settlement between the Commonwealth and the States

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At the Premiers Conference on 29 June 1979, the Commonwealth and the States completed an agreement of great importance for the settlement of contentious and complex offshore constitutional issues. The agreement marked the solution of a fundamental problem that has bedevilled Commonwealth-State relations, and represents a major achievement of the policy of co-operative federalism.

## **International background**

Particularly since the Proclamation by President Truman in 1945 of jurisdiction and control over the continental shelf adjacent to the United States, the international law of the sea, as it relates to offshore areas, has been one of the great growing points—one of the areas of major change—in the law of nations.

The factors inducing change in the substantive law were basically technological in character; rapid technological developments in the means of communication, in the methods of fishing and in the techniques of seabed mining and drilling. The technological revolutions of the 20th century brought under the influence of man's new capabilities great areas of the high seas and of the seabed beneath them. These developments have been spurred on by a sharp increase in the demand for resources, both biological and mineral, of the sea and the seabed.

## **Australian continental shelf**

Australia's major national interests in the law of the sea are based on its geographical and economic position as a great island continent, relatively, though not completely, remote from other countries. In 1953 Australia by Proclamation declared its sovereign rights over the continental shelf contiguous to its coast, thus distinctly enlarging its asserted sovereign authority in the offshore area. This jurisdiction was in effect confirmed by the First United Nations Conference on the Law of the Sea held at Geneva in 1958, which drew up four Conventions including the Convention on the Continental Shelf, to which Australia is now a party.

The Second United Nations Conference in 1960 failed to secure agreement on two major issues left unsettled in 1958—the extent of

fisheries jurisdiction and the related question of the breadth of the territorial sea.

### **Australian 200 nautical mile fishing zone**

The Third United Nations Conference on the Law of the Sea began in 1973 what has turned out to be a lengthy consideration of a broad range of related issues. The Ninth Session of the Conference began on 3 March 1980. An informal composite negotiating text has been drawn up and revised. It provides, among other things, for fisheries jurisdiction in a zone extending up to 200 nautical miles from the coastline. Consistently with this text, and relying on the emerging international law on this matter as evidenced by the practice of nations, Australia, with effect as from 1 November 1979, established its 200 nautical mile fishing zone, in which all fisheries activities must be licensed under Australian law.

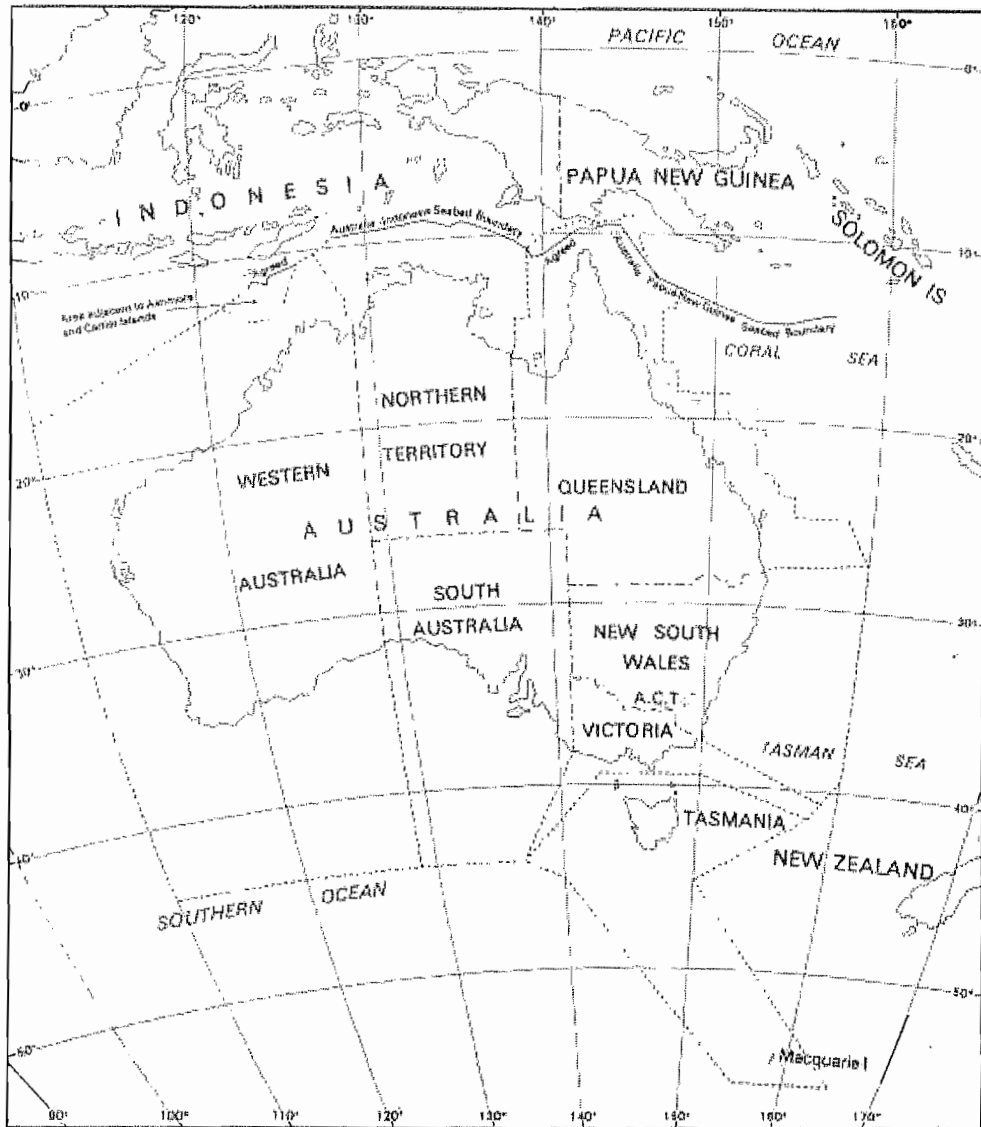
The enlargement of offshore rights also involves responsibilities on the part of the coastal nations concerned—one of the important matters that has concerned the Third United Nations Conference is the balance of these rights and responsibilities, including the issue of freedom of passage and transit through international straits. However, it will be amply evident, even from this brief survey, that the overall trend has been to enlarge the jurisdiction of nations in offshore areas over both the sea and the seabed.

### **Use of straight baselines and bay closing lines**

Also, the 1958 Convention of the Territorial Sea and the Contiguous Zone, to which Australia is a party, permits substantial enlargement of 'internal waters' by the use on deeply indented or island-fringed coasts of 'straight baselines' for measuring the breadth of the territorial sea, and by the adoption of a 24-mile closing line for bays. The effect in particular areas can be to move some parts of the external boundary of Australia's territorial sea some tens of miles seawards.

### **Commonwealth State issues—Petroleum (Submerged Lands) Acts 1967**

The international developments have raised acute issues in a number of federations as to the appropriate division of responsibilities in the offshore area. For Australia these issues crystallised first of all in the Commonwealth-State negotiations in the sixties in relation to the legislative basis for offshore petroleum mining. The course finally chosen was to seek to avoid raising questions concerning the respective constitutional powers of the Commonwealth and the States by agreeing in the 1967 Offshore Petroleum Agreement to the enactment by the Commonwealth and each State of a common petroleum mining code for the 'adjacent area' of each State (see the map opposite) to be administered by a 'Designated



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## PETROLEUM (SUBMERGED LANDS) ACT 1967 (as amended) ADJACENT AREAS

### NOTE:

1. The Act applies only in relation to exploration for, and exploitation of, the petroleum resources of such submerged lands included in the adjacent area as have the character either—
  - (a) of seabed or subsoil beneath territorial waters, or
  - (b) of continental shelf within the meaning of the Convention on the Continental Shelf signed at Geneva on 29 April 1958.
2. Adjustment of the Adjacent Area in the Torres Strait area will be necessary when the Torres Strait Treaty enters into force.

Authority'. In practice, the Designated Authority in respect of the 'adjacent area' of each State has been a State Minister, with consultation with the Commonwealth resting not on the legislation but on the Agreement.

However, in 1970 the Territorial Sea and Continental Shelf Bill was introduced into the Parliament in pursuance of the then Government's view that it would serve Australia's national and international interests to have the constitutional position resolved as soon as practicable by the Courts. That Bill was not proceeded with, but its reception served to indicate the highly controversial nature of the subject.

A further development was the 1971 report of the Senate Select Committee on Offshore Petroleum Resources, which concluded that, notwithstanding the advantages which the legislation and its underlying concepts had produced, the national interest was not served by leaving unresolved and uncertain the extent of State and Commonwealth authority in the seabed of the territorial sea and on the continental shelf.

### **Seas and Submerged Lands Act 1973 and the High Court's decision**

The passage of the *Seas and Submerged Lands Act* 1973 followed, and the constitutional issues were resolved by the High Court in 1975 when it upheld—in *New South Wales v. Commonwealth* (1976) 135 CLR 337—the Act's assertion of sovereign rights on the part of the Crown in right of the Commonwealth, as against the States, over the continental shelf. Also, it upheld the Act's assertion of sovereignty on the part of the Crown in right of the Commonwealth over the territorial sea, and also over internal waters outside State limits as at 1901, including the seabed beneath the territorial sea and those waters. In effect, this meant that Commonwealth sovereignty extends, generally speaking, right into low-water mark.

### **Need for readjustment**

The 1975 decision did not mean that States have no power to regulate offshore activities. The subsequent ruling of the High Court in *Pearce v. Florenca* (1976) 135 CLR 507 upheld the application of State fisheries laws in the territorial sea. However, a reordering and readjustment of powers and responsibilities—as between the Commonwealth and the States—were clearly required to take account of the 1975 decision. History, common sense and the sheer practicalities of life mark out the territorial sea, in particular, as a matter for local jurisdiction—that is to say, State jurisdiction—except on matters of overriding national or international importance. On the other hand, revision of existing petroleum mining arrangements is required to properly reflect the Commonwealth's paramount rights over the continental shelf.

Australia's experience in this regard is by no means unique. Similar questions arose earlier in the United States, and subsequently in Canada.

In their case—as in the case of Australia—the ruling by the Courts was that jurisdiction on the part of the central government extended to low-water mark. In the cases of these other federations, as in the case of our own, it has been found that the *constitutional ruling is not the end* of the matter and that adjustment is necessary.

### **A practical and co-operative solution**

The resulting discussions with the States have now produced a solution agreed to by all States. The talks at both Ministerial and adviser level have focused in a practical way—and in a spirit of co-operative federalism that has taken full account of international, national and State interests—on what matters are appropriate for Commonwealth or, on the other hand, State administration, what matters are appropriate for joint administration, and how the various agreed arrangements should be implemented.

The appropriate Commonwealth–State consultative bodies have been fully involved, including the Australian Minerals and Energy Council, the Australian Fisheries Council, the Australian Environment Council and the Council of Nature Conservation Ministers.

### **Standing Committee of Commonwealth and State Attorneys-General**

The legal aspects of the exercise have been the responsibility of the Standing Committee of Attorneys-General. It has devised innovative and flexible legislative measures to carry out the arrangements that have been agreed. These are now described.

## Agreed arrangements

### **Extension of the legislative powers of the States in and in relation to coastal waters**

The Commonwealth Parliament will pass legislation, based on section 51 (38) of the Constitution, to give each State the same powers with respect to the adjacent territorial sea (including the seabed) as it would have if the waters were within the limits of the State.

The legislation will also give each State powers outside the territorial sea in respect of port-type facilities, underground mining extending from land within a State, and fisheries. The power with respect to fisheries will apply to fisheries that, under an arrangement to which the Commonwealth is a party, are to be managed in accordance with the laws of the State concerned, under the offshore fisheries scheme described below.

The status of the territorial sea under international law is to be expressly preserved. Also, savings provisions are to be included:

- to safeguard existing State extra-territorial powers in the offshore area;
- to ensure that laws of the Commonwealth that apply in the territorial sea prevail over any inconsistent State law in accordance with the paramountcy given to Commonwealth laws under section 109 of the Constitution.

The intended use, for the first time since federation, of section 51 (38) of the Constitution is of considerable significance for federal relations as its exercise requires the request or concurrence of the Parliaments of the States concerned. All States have agreed to pass Acts requesting the Commonwealth legislation. A copy of the Victorian Bill is in the accompanying booklet, *Offshore Constitutional Settlement—Selected Statements and Documents 1978–79*.

### **Vesting in the States of the title to seabed beneath the territorial sea**

The Commonwealth Parliament will pass legislation to vest in each State proprietary rights and title in respect of the seabed of the adjacent territorial sea.

This grant of proprietary rights and title will both support the extension of the powers of the States in the territorial sea and provide an assurance to the States that the arrangements relating to the territorial sea will have permanency and stability.

As in the case of the 'Powers' legislation, the status of the territorial sea under international law is to be expressly preserved. Also, it will be necessary to except from the grant any seabed owned or used by the Commonwealth or by a Commonwealth authority for a specific Commonwealth purpose at the time of the grant. In addition, the Commonwealth legislation will reserve the Commonwealth's right to use the seabed for such national purposes as:

- defence
- cables
- navigational aids
- quarantine

### **Amendment of the Seas and Submerged Lands Act 1973**

Consequential amendments will be made to the *Seas and Submerged Lands Act 1973* to ensure that State laws passed under the other legislation will not be invalidated by that Act.

### **The area involved**

The above legislation—and also the petroleum and fisheries arrangements referred to below—will be limited to a territorial sea of 3 miles breadth, irrespective of whether Australia subsequently moves to a territorial sea of 12 miles.

On the other hand, the baselines from which the territorial sea will be measured will be drawn in a way that takes advantage of the international principles authorising the drawing of 'straight baselines' where the coast is deeply indented or fringed by islands, and of closing lines where bays are not more than 24 miles wide. Thus 'straight baselines' will be used to enclose the waters of Investigator Strait adjacent to South Australia. The 'internal waters' on the landward side of these lines will be included in the grants made by the legislation. The result will be to enlarge the area in which the States will enjoy the benefits of the legislation.

The baselines to be adopted are being prepared in close consultation with the States and will be promulgated in due course under the *Seas and Submerged Lands Act 1973*.

### **Offshore petroleum arrangements outside the 3 mile territorial sea**

These will be regulated by Commonwealth legislation alone, consisting of an amended Commonwealth Petroleum (Submerged Lands) Act. Day-to-day administration will continue to be in the hands of the 'Designated Authority' appointed for the 'adjacent area' of each State—that is, the State Minister—and State officials. The existing mining code will be retained and existing permits and licences will not be affected.



However, the legislation will establish for the first time a statutory Joint Authority for each adjacent area consisting of the Commonwealth Minister and the State Minister (Commonwealth-Victoria Offshore Petroleum Joint Authority, and so on). The Joint Authorities will be concerned only with major matters arising under the legislation including:

- determination of the areas to be open for applications for permits;
- the grant and renewal of exploration permits and production licences;
- approval of instruments creating interests in permits or licences;
- determination of permit or licence conditions governing the level of work or expenditure.

In the event of disagreement within a Joint Authority the view of the Commonwealth Minister is to prevail.

Having regard to the remoteness of Western Australia and its other special circumstances, special conditions were agreed in its case. A copy of the agreement is in the accompanying booklet, *Offshore Constitutional Settlement—Selected Statements and Other Documents 1978–1979*. However, Commonwealth views based on the national interest are still to prevail in the Joint Authority, as in the case of other States.

Summing up, the new arrangements will ensure that:

- the national interest in offshore petroleum activities can be asserted;
- the valuable role of the States is continued;
- dislocation of ongoing projects is avoided.

The present arrangements for the sharing of royalties between the States and the Commonwealth will be retained.

### **Offshore petroleum arrangements inside the outer limit of the 3 mile territorial sea**

This will be regulated by State legislation alone, administered by State authorities, in recognition of the fact that local matters within the territorial sea are primarily matters for the States. However, the common mining code will be retained as far as practicable, and existing permits and licences, and appropriate arrangements will be made for 'transitioning' existing permits to the extent that they fall within the outer limit of the territorial sea.

### **Offshore mining for other minerals**

Arrangements for the mining of offshore minerals other than petroleum will be the same as for offshore petroleum.

Commonwealth and State legislation embodying a common mining code will be needed to implement the arrangements. Arrangements will also be made for sharing royalties.

### Offshore fisheries

The arrangements existing to date involve a division of legislative responsibilities under which, generally speaking, State laws are applied inside 'territorial limits' consisting of the outer limit of the 3 mile territorial sea, and Commonwealth laws beyond. These arrangements inhibit a flexible functional approach under which responsibilities can be adjusted by reference to the requirements of particular fisheries. Fish do not respect the jurisdictional lines that man may draw.

The new arrangements will enable a single fishery to be regulated by the one set of laws, Commonwealth or State, as agreed between the Commonwealth and the State or States concerned, and they will provide for the establishment of Fisheries Joint Authorities:

- a *South-Eastern Fisheries Joint Authority* consisting of the Commonwealth Minister together with the appropriate Ministers of New South Wales, Victoria, South Australia and Tasmania;
- a *Northern Australian Fisheries Joint Authority* consisting of the Commonwealth Minister together with the appropriate Ministers of Queensland and the Northern Territory;
- a *Western Australian Fisheries Joint Authority* consisting of the Commonwealth Minister together with the appropriate Minister for Western Australia;
- a *Northern Territory Fisheries Joint Authority* consisting of the Commonwealth Minister and the appropriate Minister of the Northern Territory.

Flexibility is the keynote of the proposed legislation, and the Commonwealth will be able to make at any time an arrangement with a State or States for the establishment of further Fisheries Joint Authorities.

There will be complementary State legislation covering the area within the outer limit of the territorial sea.

In the event of disagreement within a Fisheries Joint Authority, the views of the Commonwealth Minister will prevail.

By agreement of the Governments concerned, a particular fishery may be assigned to the management of one of these Joint Authorities. Alternatively, it may be assigned to the administration of the Commonwealth alone or a State alone, if that is agreed.

These measures, devised in close collaboration between Commonwealth and State fisheries officers and legal advisers, have a practical objective—to provide a sound legal and administrative basis for a functional approach under which a particular fishery can be regulated by one authority under one set of laws, without regard to jurisdictional lines.

To give possible examples, the very important northern prawn fishery could be considered for management by the Northern Australian Fisheries Joint Authority; the Western Australia rock lobster fishery for management by that State; and the southern bluefin tuna fishery by the Commonwealth.

Under existing arrangements, foreign fishermen are regulated by Commonwealth law. This will continue to be the position. However, it has been agreed that the Commonwealth Minister is to be able to deem a boat brought to Australia from overseas for a limited period to participate in a joint venture under the control of an Australian company to be an 'Australian boat' for the purposes of the arrangements.

### **Historic shipwrecks**

The *Historic Shipwrecks Act 1976* as presently drafted does not apply in relation to waters adjacent to the coast of any State until a proclamation has been made declaring that the Act so applies. In practice, proclamations have only been made where the adjacent State requests it. The result to date is that the Act applies to the waters adjacent to Western Australia, Queensland and New South Wales, as well as to waters adjacent to the Northern Territory.

Under the offshore settlement agreed to at the Premiers Conference the Act is to be amended so that it will expressly provide that it will only be applicable, or continue to be applicable, to waters adjacent to a State or the Northern Territory with the consent of that State or Territory. However, an exception is made for the special case of old Dutch shipwrecks lying off the coast of Western Australia.

These shipwrecks are the subject of a 1972 agreement between the Commonwealth and the Netherlands. They are protected at present by the *Historic Shipwrecks Act 1976* and are to continue to remain under the Commonwealth Act until satisfactory alternative arrangements are made with Western Australia. Western Australia has already proposed discussions for such arrangements. Its State authorities have a fine record in taking steps to protect these shipwrecks and the relics from them, notwithstanding the legal difficulties illustrated by the case of *Robinson v. Western Australian Museum* (1977) 138 CLR 283.

### **Great Barrier Reef Marine Park**

The *Great Barrier Reef Marine Park Act 1975* is to continue to apply to the whole of the Great Barrier Reef Region as defined in that Act, and the rights and title to be vested in the States in respect of the seabed of the territorial sea are to be subject to the operation of that Act.

In addition, the Commonwealth and Queensland have agreed to establish joint consultative arrangements for the management and preservation of the Region, which extends right into low-water mark along the Queensland coast and around Queensland islands in the area.

After consultation in accordance with these new arrangements, the Governor-General has since proclaimed the Capricornia Section as the first area to be declared to be part of the Great Barrier Reef Marine Park (*Commonwealth of Australia Gazette* of 21 October 1979).

### **Other marine parks**

The general division of responsibility is that parks or reserves within the outer limit of the territorial sea would be established under State legislation and parks or reserves beyond would be established by Commonwealth legislation with management responsibilities determined after consultation between the State concerned and the Commonwealth.

Where an area proposed as a marine park or reserve lies across the boundary of the territorial sea, the State concerned would establish that portion within the outer limit of the territorial sea under State legislation and the Commonwealth would legislate for that portion seawards of the outer limit of the territorial sea. Such arrangements would be subject to agreement between the State concerned and the Commonwealth on policy, planning and management for the whole area.

The only departure envisaged from this general division of responsibilities is where the Commonwealth and the State concerned agree that a proposed park within the territorial sea has international significance but where the State does not wish to legislate itself. In that event, the Commonwealth would legislate.

The need for consultation between the States and the Commonwealth in the establishment of marine parks and reserves has been recognised.

### **Crimes at sea**

The purpose of the agreed scheme of complementary Commonwealth-State legislation is to ensure that an appropriate body of Australian criminal laws—either State or Territory—is applicable to ships and to activities in offshore areas coming under Australian jurisdiction.

The legislation, much of which has already been passed, will deal with a situation that has required attention for some time.

Under the scheme State legislation will deal with offences in the territorial sea and offences committed on voyages between two ports in one State, or that began and ended at the same port in a State. The Commonwealth legislation deals with other cases, but in doing so it applies the criminal laws of a State or Territory with which the ship is connected by registration or otherwise. This should facilitate law enforcement and resolve, in a way that fits in with the federal system, the uncertainties and doubts that have existed.

The scheme will not affect the application of existing specific federal criminal offences, which will continue to be dealt with, as now, under the special Commonwealth legislation in question, for example the Customs Act. However, the application of State criminal laws under the scheme will help law enforcement generally on matters such as drug offences.

The Commonwealth legislation involved—the *Crimes at Sea Act 1979*—came into force on 1 November 1979, the date of the establishment of the Australian 200 nautical mile fishing zone. It applies to

offences committed on Australian ships which are on overseas, interstate or Territory voyages. The Act also applies to offences on Australian ships in foreign ports, offences by Australian citizens on foreign ships where they are not members of the crew, and offences in offshore areas outside the territorial sea in relation to matters within Australian jurisdiction.

In certain limited cases the Act can also be applied to offences committed on foreign ships. The consent of the Commonwealth Attorney-General is required and is only to be given if the consent of the foreign State is obtained. This special jurisdiction would only be resorted to where necessary to ensure that serious criminal offences did not go unpunished for lack of an applicable law.

The scheme contains innovative provisions for the removal of proceedings from a Court in one part of Australia to a Court in another part of Australia where that would be expedient to avoid hardship on the accused or to promote a speedy trial.

### **Agreement on shipping and navigation**

The broad terms of the agreement, which deals primarily with the survey and issue of certificates to ships, the regulation of ships' crews, and the number and qualifications of those on board are:

- The States will be responsible for trading vessels except those proceeding on an interstate or an overseas voyage. For this purpose, 'trading vessels' are vessels, other than those in the categories listed below, that carry goods and passengers on a commercial basis. This category also includes tugs, barges, dredges and other marine service vessels.
- The Commonwealth will be responsible for trading vessels on an interstate or overseas voyage.
- The States will be responsible for all Australian commercial fishing vessels except those going on an overseas voyage. For this purpose a voyage of a Queensland based fishing vessel to Papua New Guinea would not be regarded as an overseas voyage. The safety standards of foreign fishing vessels in Australian waters will be a Commonwealth responsibility.
- The States will be responsible for all vessels whose operations are confined to rivers, lakes and other inland waterways. New South Wales will be responsible for all vessels operating on the River Murray upstream from the South Australian border.
- The States will be responsible for pleasure craft and for vessels used for pleasure on a hire and drive basis.
- The Commonwealth will be responsible for the navigation and marine aspects of offshore industry mobile units (mainly drilling vessels), but Navigation Act requirements may be displaced by

directions or conditions of instruments issued under the Petroleum (Submerged Lands) legislation.

- The Commonwealth will be responsible for offshore industry vessels (mainly supply craft), other than those confined to one State and its adjacent area. Petroleum (Submerged Lands) Act requirements will be capable of displacing the Commonwealth's Navigation Act requirements as in the case of mobile units. The procedure for determining whether an offshore industry vessel is confined to one State will depend on the owner making a declaration as to the intended operations of the vessel over a prescribed period. Unless a declaration is made and is accepted by the Minister for Transport following consultation with his State counterpart, the vessel will be under State law.

Simultaneously with the negotiation of this agreement the Commonwealth and States have developed a Uniform Shipping Laws Code which was published in the *Commonwealth of Australia Gazette* on 28 December 1979. This Code will be used as the basis for uniform Commonwealth, State and Northern Territory legislation for the survey and manning of commercial vessels, including fishing vessels, and will minimise problems that would otherwise occur in the implementation of the agreement on shipping and navigation. This is particularly necessary as the present laws of the States vary considerably due to their separate historical development.

Increasingly the regulation of shipping and navigation is being developed at the international level and considerable importance is placed on the need for Australian requirements to reflect the latest international standards. This is being done progressively in close consultation with the States. In implementing particular maritime treaties it may be desirable to depart from the shipping and navigation arrangements outlined above and the agreement with the States provides for this.

An example is the Convention on the International Regulations for the Prevention of Collisions at Sea 1974 which is being ratified by Australia following the enactment of the *Navigation Amendment Act* 1979. The Act enables State law to apply the international regulations to all ships in the territorial sea and internal waters and provides the necessary Commonwealth law to apply the international regulations to ships outside the 3 mile limit.

Summing up, the arrangements lay the basis for a complete resolution of shipping and navigation problems that have existed in Australia since federation.

In a separate development from the shipping and navigation agreement, the Commonwealth is preparing a Shipping Registration Bill to replace the provisions of the Merchant Shipping Act 1894 under which ships are registered in Australia as 'British ships'. Internationally Australia is obliged to fix the conditions for the grant of its nationality to ships. Although this is essentially a Commonwealth responsibility the

Government has kept in close touch with the States in the Marine and Ports Council on this matter.

### **Ship-sourced marine pollution**

The initial division of responsibilities between the Commonwealth and the States in the field of ship-sourced marine pollution came about in 1960 when the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, was accepted by Australia. Effect was given to the Convention by the enactment of Commonwealth legislation which applied to Australian ships outside the territorial sea, and similar legislation passed by the States which applied to all ships within the territorial sea.

Part VIIA of the *Navigation Act* 1912 includes provisions for intervention by Commonwealth authorities in cases of pollution or threatened pollution by oil from ships. This Part also imposes civil liability on shipowners whose ships carry oil in bulk as cargo. Similar legislation exists in some of the States.

In the interests of co-operative federalism, it has been agreed that the arrangements that existed before the High Court decision in the *Seas and Submerged Lands* case in 1975 should be continued.

It has also been agreed that the Commonwealth should prepare legislation which will implement the provisions of the International Conventions relating to Intervention on the High Seas in cases of Oil Pollution Casualties, 1969, and Civil Liability for Oil Pollution Damage, 1969. In implementing the latter Convention, a saving clause is to be inserted to allow States to legislate to implement certain aspects of the Convention if they wish to do so.

### **Northern Territory**

Following on the Government's action to bring the Northern Territory to the stage of responsible government with effect from 1 July 1978, representatives of the Northern Territory Government have participated in all offshore discussions. The Northern Territory is to be treated as a State for the purposes of the offshore constitutional settlement, and the legislation to implement the settlement will reflect this.

### **Jervis Bay Territory**

The Commonwealth Government and the New South Wales Government are at an advanced stage of negotiating mutually acceptable arrangements.

# Co-operative federalism at work

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## Continuing discussions

Discussions among the Commonwealth and the States are to continue with a view to dealing with other offshore matters that require attention, including:

- land-based marine pollution
- marine pollution through dumping
- protection of whales

When the Commonwealth and the States are each concerned with the same matter, they should channel that concern into the paths of co-operation. Past attitudes of confrontation with the States and of centralising Commonwealth power at their expense have resulted in a polarisation of positions in which all interests—national, State and international—have suffered in one way or another.

The offshore arrangements have laid the basis for a permanent, workable and beneficial solution of problems that have beset the nation for a decade or more.

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