

- The relevant countries involved are Japan as flag State of the whaling vessel, the Netherlands as flag State of the Steve Irwin, Canada as a State of nationality of the Captain of the Steve Irwin and Australia as the port State into which the Steve Irwin has entered.
- All of these countries are parties to the Convention on the Suppression of Unlawful Acts Against the Safety of Maritime Navigation
- One of the offences covered by the Convention is where a person unlawfully and intentionally causes damage to a ship or its cargo which is likely to endanger the safe navigation of a ship
- It also covers attempts to do such an act and threats to carry out such an act.
- Under the Convention, each State party is obliged to take jurisdiction over the offences where an alleged offender is present in its territory and it does not extradite them to another country
- Under Article of the Convention, a State, upon being satisfied that the circumstances so warrant, shall in accordance with its law take the person into custody or take such measures as are necessary to ensure their presence for such time as is necessary to enable criminal or extradition proceedings to be implemented.
- Prior to that, the relevant State is obliged to make a preliminary inquiry into the facts in accordance with its own legislation.
- Under Article 10, the State in which the alleged offender is present, is obliged to refer the case to 'its competent authority for the purpose of prosecution'.
- These obligations are given effect in Australia by the *Crimes (Ships and Fixed Platforms) Act 1992*.
- The crime of damaging a ship is to be found in section 10(2) of the Act.
- Ancillary offences, such as attempts, would be covered by the Criminal Code
- The Act has certain requirements which must be met before a prosecution can take place. These are in alternate criteria, the most relevant being that:
 - the relevant ship was flying the flag of a Convention State
 - the alleged offender was a national of a Convention State.
- A prosecution for an offence may not be begun except with the consent of the Attorney-General or a person authorised by the Attorney-General

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