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1 MEETING OF SENATE

The Senate met at 2 pm. The President (Senator the Honourable Margaret Reid) took the chair and read prayers.

2 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Airservices Australia—

Corporate plan July 2000 to June 2005.

Sydney Airport—Maximum movement limit compliance statement for the period 1 January to 31 March 2001.

Australia-Korea Foundation—Reports for—

1998-99.

1999-2000.

Australian Wool Research and Promotion Organisation—Report for the period 1 July to 31 December 2000 (Final report).

Centrelink—Compliance activity for Family and Community Services—Report for the period 1 July to 31 December 2000, including a statement by the Minister for Community Services (Mr Anthony).

Illegal fishing in the Southern Ocean—Recent government responses—Statement by the Minister for Forestry and Conservation (Mr Tuckey), dated 7 June 2001.

3 QUESTIONS

Questions without notice were answered.

Distinguished visitors: The President welcomed members of a parliamentary delegation from Canada led by the Speaker of the Senate, Senator the Honourable Dan Hays, and, with the concurrence of honourable senators, invited the Speaker to take a seat on the floor of the chamber.

Further questions without notice were answered.

4 ENVIRONMENT—CLIMATE CHANGE NEGOTIATIONS—ANSWERS TO QUESTIONS

Senator Bolkus moved—That the Senate take note of the answers given by the Minister for the Environment and Heritage (Senator Hill) to questions without notice asked by Senators Bolkus and Brown today relating to the Kyoto Protocol and climate change.

Debate ensued.

Question put and passed.

5 IMMIGRATION—DETENTION CENTRES—ANSWER TO QUESTION

Senator Bartlett moved—That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Hill) to a question without notice asked by the Leader of the Australian Democrats (Senator Stott Despoja) today relating to immigration detention centres.

Question put and passed.

6 NOTICES

Senator Calvert: To move on the next day of sitting—That the Parliamentary Standing Committee on Public Works be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on 21 June 2001, from 10.30 am to 12 noon.

The Chair of the Parliamentary Joint Committee on Corporations and Securities (Senator Chapman): To move on the next day of sitting—That the time for the presentation of the report of the Parliamentary Joint Committee on Corporations and Securities on the provisions of the Corporate Code of Conduct Bill 2000 be extended to 28 June 2001.

7 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Calvert, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Crane), moved—That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate today, from 7.15 pm to 10.15 pm, to take evidence for the committee's inquiry on the 2001-02 budget estimates for matters relating to regional services, territories and local government within the Department of Transport and Regional Services.

Question put and passed.

8 POSTPONEMENTS

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Collins for 21 June 2001, relating to the disallowance of the Workplace Relations Amendment Regulations 2000 (No. 3), postponed till 27 June 2001.

9 EMPLOYMENT, WORKPLACE RELATIONS, SMALL BUSINESS AND EDUCATION LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT—DIRECTION TO MEET—WITNESSES

Senator Carr, pursuant to notice of motion not objected to as a formal motion, moved—

- (1) That the time for the presentation of the report of the Employment, Workplace Relations, Small Business and Education Legislation Committee on the provisions of the Innovation and Education Legislation Amendment Bill 2001 be extended to 28 June 2001.
- (2) That the Employment, Workplace Relations, Small Business and Education Legislation Committee hold a further public hearing on the bill on 25 June 2001, between 11 am and 1 pm, and for that purpose have leave to meet during the sitting of the Senate.
- (3) That the Senate directs the Minister representing the Minister for Education, Training and Youth Affairs to ensure that relevant officers appear before the committee at that hearing for the purpose of answering questions about the bill.

Question put and passed.

10 FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Calvert, at the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee (Senator Sandy Macdonald) and pursuant to notice of motion not objected to as a formal motion, moved—That the time for the presentation of the report of the Foreign Affairs, Defence and Trade Legislation Committee on the 2001-02 budget estimates be extended to 27 June 2001.

Question put and passed.

11 FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Calvert, at the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee (Senator Sandy Macdonald) and pursuant to notice of motion not objected to as a formal motion, moved—That the Foreign Affairs, Defence and Trade Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on 19 June 2001, from 7 pm to 11 pm, to take evidence for the committee's inquiry on the 2001-02 budget estimates for the Foreign Affairs and Trade portfolio on trade-related issues.

Question put and passed.

12 LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Calvert, at the request of Senator Mason and pursuant to notice of motion not objected to as a formal motion, moved—That the time for the presentation of the report of the Legal and Constitutional Legislation Committee on the Measures to Combat Serious and Organised Crime Bill 2001 be extended to 25 June 2001.

Question put and passed.

13 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Calvert, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Crane) and pursuant to notice of motion not objected to as a formal motion, moved—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Maritime Legislation Amendment Bill 2000 be extended to 28 August 2001.

Question put and passed.

14 FOREIGN AFFAIRS—BALTIC STATES

Senator Calvert, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate notes that:

- (a) 14 June 2001 marks the 60th anniversary of the start of the Soviet Union's mass deportations of Estonians, Latvians and Lithuanians from their homes to Siberia and other foreign destinations;

- (b) during the night of 13 to 14 June 1941, thousands of Baltic residents of all ages were arrested by armed men, taken to railway stations, loaded into cattle wagons and deported;
- (c) these mass deportations continued on and off until 1953;
- (d) precise numbers of the Baltic deportees are difficult to determine, with conservative evidence showing that over half a million local residents of all ethnic origins were deported from the three Baltic States by 1953;
- (e) these innocent people had committed no offences; they were arrested and imprisoned as 'political prisoners' and as 'enemies of the people', with less than half surviving deportation;
- (f) Baltic immigrants to Australia have contributed significantly to Australia, its culture and its diversity; and
- (g) the sad events that are solemnly commemorated on 14 June by Baltic people across Australia, and across the world, stand in stark contrast to the robust democracy that all Australians enjoy and commemorate in this, Australia's Centenary of Federation Year.

Question put and passed.

15 CULTURE AND THE ARTS—MS KATE GRENVILLE

Senator Allison, pursuant to notice of motion not objected to as a formal motion, moved—
That the Senate—

- (a) notes that:
 - (i) Australian writer, Kate Grenville, was awarded £30 000 and the prestigious Orange prize for fiction by women writers, for her novel published in 1999 entitled, *The Idea of Perfection*, and
 - (ii) few Australian writers can make a living without such other means of support; and
- (b) congratulates Ms Grenville for this recognition of her work.

Question put and passed.

16 FOREIGN AFFAIRS—INDONESIA

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved—
That the Senate—

- (a) notes:
 - (i) the police raid that resulted in the unlawful detention of 32 foreigners, including 20 Australians, attending a labour and human rights conference near Jakarta, Indonesia on 8 June 2001, and
 - (ii) the *Jakarta Post* editorial of 11 June 2001, condemning the police raid with the words 'the day the nation turns a blind eye to its own law enforcement institutions breaking the law and the constitution is the day this nation kisses goodbye to democracy'; and
- (b) calls on the Minister for Foreign Affairs (Mr Downer) to condemn the police raid and seek an appropriate response from the Indonesian Government.

Question put and passed.

17 TRADE PRACTICES AMENDMENT (REPRESENTATIVE ACTIONS) BILL 2001
TRADE PRACTICES AMENDMENT (MERGERS IN REGIONAL MARKETS) BILL 2001
TRADE PRACTICES AMENDMENT (UNCONSCIONABLE CONDUCT) BILL 2001
TRADE PRACTICES AMENDMENT (OPERATION OF STATE AND TERRITORY LAWS)
BILL 2001
FAIR PRICES AND BETTER ACCESS FOR ALL (PETROLEUM) BILL 2001

Senator Schacht, pursuant to notices of motion not objected to as formal motions, moved—That the following bills be introduced:

A Bill for an Act to amend the *Trade Practices Act 1974* to enable the Australian Competition and Consumer Commission to undertake representative actions, and for related purposes.

A Bill for an Act to amend the *Trade Practices Act 1974* in relation to mergers in regional markets, and for related purposes.

A Bill for an Act to amend the *Trade Practices Act 1974* in relation to unconscionable conduct, and for related purposes.

A Bill for an Act to allow State and Territory laws to operate concurrently with the *Trade Practices Act 1974*.

A Bill for an Act to allow franchisees in the petroleum sector to purchase fuels for resale from a variety of sources.

Question put and passed.

Senator Schacht presented the bills and moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Schacht moved—That these bills be now read a second time.

On the motion of Senator Calvert the debate was adjourned till the next day of sitting.

18 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—
EXTENSION OF TIME TO REPORT

Senator Calvert, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Crane) and pursuant to notice of motion not objected to as a formal motion, moved—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the 2001-02 budget estimates be extended to 28 June 2001.

Question put and passed.

19 AUSTRALIAN PUBLIC SERVICE—CENTENARY

Senator O'Brien, at the request of the Leader of the Opposition in the Senate (Senator Faulkner) and pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes that the week beginning 17 June 2001 marks the centenary of the Australian Public Service (APS);
- (b) congratulates the APS on the achievement of this milestone;

- (c) recognises the vital contribution the APS has made to Australia's first 100 years as a nation and to the strength and stability of its system of government; and
- (d) expresses its appreciation to all past and serving public servants for a vitally important job well done.

Question put and passed.

20 ESTIMATES OF PROPOSED EXPENDITURE FOR 2001-02—PORTFOLIO BUDGET STATEMENTS—PORTFOLIOS AND EXECUTIVE DEPARTMENTS—DOCUMENTS

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) tabled the following documents:

Estimates of proposed expenditure for 2001-02—Portfolio budget statements—Portfolios and executive departments—Corrigenda—

Department of Veterans' Affairs.

Employment, Workplace Relations and Small Business portfolio.

Immigration and Multicultural Affairs portfolio.

Industry, Science and Resources portfolio.

21 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—6TH REPORT OF 2001

Senator Calvert, on behalf of the Parliamentary Standing Committee on Public Works, tabled the following report:

6th report of 2001—Commonwealth Law Courts, Adelaide, SA, dated 7 June 2001.

Senator Calvert, by leave, moved—That the Senate take note of the report.

Question put and passed.

22 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE—REPORT—BROADCASTING LEGISLATION AMENDMENT BILL (NO. 2) 2001

Pursuant to order, Senator Calvert, at the request of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston), tabled the following report and documents:

Broadcasting Legislation Amendment Bill (No. 2) 2001, dated June 2001, *Hansard* record of the committee's proceedings and submissions [6].

Report ordered to be printed on the motion of Senator Calvert.

23 DOCUMENTS

The following documents were tabled by the Clerk:

Australian Capital Territory (Planning and Land Management) Act—National Capital Plan—

Amendment 32.

Approval of Amendment 32.

24 EXCISE TARIFF AMENDMENT BILL (NO. 2) 2001
CUSTOMS TARIFF AMENDMENT BILL (NO. 3) 2001

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 722, dated 18 June 2001—A Bill for an Act to amend the *Excise Tariff Act 1921*, and for related purposes.

Message no. 721, dated 18 June 2001—A Bill for an Act to amend the *Customs Tariff Act 1995*, and for related purposes.

The Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Ian Campbell moved—That these bills be now read a second time.

On the motion of Senator O'Brien the debate was adjourned.

On the motion of Senator Ian Campbell the resumption of the debate was made an order of the day for a later hour.

25 EXPORT MARKET DEVELOPMENT GRANTS AMENDMENT BILL 2001

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Foreign Affairs and the Minister for Immigration and Multicultural Affairs (Senator Patterson)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

In the committee

Bill taken as a whole by leave.

Senator Bartlett moved the following amendment:

Schedule 1, page 17 (after line 3), after Part 9, insert:

Part 9A—Fossil fuels and logging of native forests

Export Market Development Grants Act 1997

46A Section 40 (at the end of the table)

Add:

20	Expenses associated with exploration for or production of fossil fuels	57C
----	---------------------------------------------------------------------------	-----

21 Expenses associated with the derivation of 57D
products from the logging of native forests

46B At the end of Subdivision 4 of Division 2

Add:

57C Expenses associated with exploration for or production of fossil fuels

- (1) Expenses of an applicant are excluded if they were incurred in respect of exploration for or production of fossil fuels.
- (2) Subsection (1) does not apply if the applicant can demonstrate that the particular exploration or production will result in a reduction of global greenhouse gas emissions.

Note: For *greenhouse gas emissions* see section 107.

57D Expenses associated with the derivation of products from the logging of native forests

Expenses of an applicant are excluded if they were incurred in respect of the derivation of products from the logging of native forests.

46C Section 107

Insert:

greenhouse gas emissions means anthropogenic emissions of those gaseous constituents of the atmosphere that absorb and re-emit infra-red radiation including, in particular, emissions of carbon dioxide, methane, nitrous oxide, chlorofluorocarbons, halons and other halocarbons, oxides of nitrogen, non-methane volatile organic compounds, carbon monoxide, sulphur oxides and sulphur hexafluoride.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Bartlett moved the following amendment:

Schedule 1, page 30 (after line 8), after Part 13B, insert:

Part 13C—Ethical guidelines

Export Market Development Grants Act 1997

64R At the end of section 80

Add:

- (3) Austrade must not make a determination under paragraph (1)(b) that an applicant is entitled to a grant unless Austrade:
 - (a) has assessed the application against the ethical guidelines; and
 - (b) is satisfied that the application is consistent with the ethical guidelines.

64S After paragraph 101(1)(b)

Insert:

- (ba) ethical guidelines to be complied with by Austrade under subsection 80(3) in assessing applications before determining that an applicant is eligible for a grant; and

64T After subsection 101(1)

Insert:

- (1A) Before determining guidelines under paragraph (1)(ba), the Minister must consult the Centre for Australian Ethical Research about the guidelines.

64U Section 107

Insert:

Centre for Australian Ethical Research means the Centre for Australian Ethical Research established in January 2000 as a business unit of Australian Ethical Investments Ltd.

Part 13D—Register of applicants

Export Market Development Grants Act 1997

64V After Division 6 of Part 8

Insert:

Division 6A—Grants Register

101A Register of grants

- (1) Austrade must maintain a Register of determinations under paragraph 80(1)(b) that an applicant is eligible for a grant. The Register may be kept in a computerised form.
- (2) The Register must include the following information:
 - (a) the name of the applicant;
 - (b) the purpose for which the grant has been approved;
 - (c) if the grant is in relation to the export of a product—the nature of the product and its source;
 - (d) the amount of the grant;
 - (e) a copy of Austrade's assessment of the application against the ethical guidelines.
- (3) Nothing in this section requires the Register to include information that is a trade secret.
- (4) Austrade must permit any person to inspect any part of the Register.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Bill agreed to.

Bill to be reported without amendment.

The Acting Deputy President (Senator Chapman) resumed the chair and the Temporary Chair of Committees reported accordingly.

On the motion of Senator Patterson the report from the committee was adopted and the bill read a third time.

**26 ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION AMENDMENT
(WILDLIFE PROTECTION) BILL 2001**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

In the committee

Explanatory memorandum: The Minister for the Environment and Heritage (Senator Hill) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

Bill taken as a whole by leave.

On the motion of Senator Bartlett the following amendments, taken together by leave, were debated and agreed to:

Schedule 1, page 3 (after line 5), before item 1, insert:

1A After paragraph 160(2)(c)

Insert:

- (ca) the declaration that a specified wildlife trade operation (other than an operation mentioned in paragraph 303FN(10)(d)) is an approved wildlife trade operation for the purposes of section 303FN where the operation is likely to have a significant impact on the environment; and
- (cb) the declaration that a specified plan is an approved wildlife trade management plan for the purposes of section 303FO where the activities covered by the plan are likely to have a significant impact on the environment; and
- (cc) the declaration that a specified plan is an accredited wildlife trade management plan for the purposes of section 303FP where the activities covered by the plan are likely to have a significant impact on the environment; and

1B After subsection 160(2)

Insert:

(2AA) To avoid doubt, this Division applies to paragraphs (2)(ca) to (cc) as if:

- (a) the authorisation referred to in subsection (1) is the decision to make the relevant declaration; and
- (b) the action referred to in subsection (1) is the carrying out of the wildlife trade operation or the carrying out of the activities under the management plan (as the case may be).

Schedule 1, page 88 (after line 22), after item 36, insert:

36A After section 523

Insert:

523A Management plans

- (1) This section applies to an action that is the making or implementation of a plan of management (however described).
- (2) To avoid doubt, the impacts of the action include the impacts of any action that is likely to be authorised by or under, or otherwise taken in accordance with, the plan of management.

Schedule 1, page 112 (after line 28), after item 83, insert:

83A At the end of Part 4

Add:

Division 6—Actions with prior authorisation**43A Actions with prior authorisation**

- (1) A person may take an action described in a provision of Part 3 without an approval under Part 9 for the purposes of the provision if:
 - (a) the action consists of a use of land, sea or seabed; and
 - (b) the action was specifically authorised under a law of the Commonwealth, a State or a self-governing Territory before the commencement of this Act; and
 - (c) immediately before the commencement of this Act, no further environmental authorisation was necessary to allow the action to be taken lawfully.

- (2) In this section:

environmental authorisation means an authorisation under a law of the Commonwealth, a State or a self-governing Territory that has either or both of the following objects (whether express or implied):

- (a) to protect the environment;
- (b) to promote the conservation and ecologically sustainable use of natural resources.

43B Actions which are lawful continuations of use of land etc.

- (1) A person may take an action described in a provision of Part 3 without an approval under Part 9 for the purposes of the provision if the action is a lawful continuation of a use of land, sea or seabed that was occurring immediately before the commencement of this Act. For this purpose, an enlargement, expansion or intensification of use is not a *continuation* of a use.
- (2) However, subsection (1) does not apply to an action that was specifically authorised under a law of the Commonwealth, a State or a self-governing Territory before the commencement of this Act.

Note: Section 43A applies to actions that were specifically authorised under a law before the commencement of this Act.

Schedule 1, page 113 (after line 25), after item 84, insert:

84A Subsection 146(1)

Repeal the subsection, substitute:

- (1) The Minister may agree in writing with a person responsible for the adoption or implementation of a policy, plan or program that an assessment be made of the impacts of actions under the policy, plan or program on a matter protected by a provision of Part 3.

84B Subsection 146(2) (note 1)

Omit “relevant”.

84C Paragraph 148(1)(a)

Repeal the paragraph, substitute:

- (a) make an agreement with the Minister under section 146 for assessment of the impacts of actions under the plan on each matter protected by a provision of Part 3; and

84D Paragraph 148(2)(a)

Repeal the paragraph, substitute:

- (a) make an agreement under section 146 with the Minister (the *Environment Minister*) administering this section for assessment of the impacts of actions under the plan on each matter protected by a provision of Part 3; and

84E Paragraph 149(a)

Repeal the paragraph, substitute:

- (a) make an agreement with the Minister under section 146 for assessment of the impacts of actions on each matter protected by a provision of Part 3, being actions permitted under the Authority’s policy for managing the fishery; and

84F Subsection 150(2)

Repeal the subsection, substitute:

Two-thirds of fisheries to be covered by agreements in 3 years

- (2) Before the day that is the third anniversary of this Act commencing, the Australian Fisheries Management Authority must make agreements with the Minister under section 146 for assessment of the impacts of actions on each matter protected by a provision of Part 3, being actions that are permitted under the Authority's policies for managing at least $\frac{2}{3}$ of the fisheries.

84G Subsection 150(3)

Repeal the subsection, substitute:

All fisheries to be covered by agreements in 5 years

- (3) Before the day that is the fifth anniversary of this Act commencing, the Australian Fisheries Management Authority must make agreements with the Minister under section 146 for assessment of the impacts of actions on each matter protected by a provision of Part 3, being actions that are permitted under the Authority's policies for managing the fisheries.

84H Subsection 151(2)

Repeal the subsection, substitute:

Policies for all actions to be covered by agreements in 5 years

- (2) Before the day that is the fifth anniversary of this Act commencing, the Minister administering the *Torres Strait Fisheries Act 1984* must make agreements under section 146 with the Minister administering this section for assessment of the impacts of the actions on each matter protected by a provision of Part 3, being actions that are permitted by policies under that Act.

84J Subsection 516A(6)

Omit "actions" (wherever occurring), substitute "activities".

84K At the end of section 516A

Add:

(7) In subsection (6):

activities includes:

- (a) developing and implementing policies, plans, programs and legislation; and
- (b) the operations of a department, authority, company or agency referred to in this section.

84L Section 522B

Repeal the section.

84M Subsection 523(2)

Repeal the subsection.

Schedule 1, page 113 (after line 27), after item 85, insert:

85A Section 528 (definition of *continuation*)

Omit "subsection 523(2)", substitute "section 43B".

On the motion of Senator Bartlett the following amendments, taken together by leave, were debated and agreed to:

Schedule 1, page 5 (after line 10), after item 10, insert:

10A After subsection 238(4)

Insert:

- (4A) Regulations made for the purpose of subparagraph (3)(d)(ii) or (3)(e)(ii) must not prescribe scrimshaw or any other product of commercial or scientific whaling as a part of a cetacean taken to be a personal item for the purpose of export or import.

Schedule 1, item 11, page 6 (after line 23), before the definition of *eligible listed threatened species*, insert:

bear product means any product derived from, or any part of, a member of the family Ursidae.

Schedule 1, item 11, page 6 (after line 23), before the definition of *eligible listed threatened species*, insert:

cat product means any product derived from, or any part of, a member of the family Felidae, other than a member of the species *Felis catus*.

Schedule 1, item 11, page 8 (after line 23), after the definition of *trade*, add:

trophy has the meaning given by the regulations.

Schedule 1, item 11, page 7 (after line 28), after the definition of *import by way of introduction from the sea*, insert:

listed migratory bird means a migrating bird included in the list established under section 209.

Schedule 1, item 11, page 10 (lines 29 and 30), omit subsection (3).

Schedule 1, item 11, page 11 (line 15), after “registered”, insert “, non-commercial”.

Schedule 1, item 11, page 12 (line 17), omit “not”.

Schedule 1, item 11, page 13 (line 1), after “registered”, insert “, non-commercial”.

Schedule 1, item 11, page 13 (after line 13), after section 303CD, insert:

303CDA Regulations relating to CITES exports or imports

- (1) Regulations made for the purposes of subsection 303CC(6) or 303CD(3) must not prescribe any of the following as an export or import that is taken to be a personal or household effect:
 - (a) a bear product;
 - (b) a cat product.
- (2) Regulations made for the purposes of paragraph 303CD(4)(c) must not prescribe species in any of the following families:
 - (a) the bear family (family Ursidae);
 - (b) the cat family (family Felidae) other than the domestic cat (*Felis catus*).

Schedule 1, item 11, page 13 (after line 13), after section 303CD, insert:

303CDB Export or import of trophies

Regulations made for the purposes of subsection 303CC(6) or 303CD(3) must not prescribe trophies as exports or imports that are taken to be personal or household effects.

Schedule 1, item 11, page 20 (line 25), after “species”, insert “or a species of listed migratory bird”.

Schedule 1, item 11, page 22 (after line 15), after paragraph (3)(b), insert:

(ba) the specimen is not a live terrestrial invertebrate or a live freshwater fish prescribed by the regulations for the purposes of this paragraph; and

Schedule 1, item 11, page 22 (line 22), after “registered”, insert “, non-commercial”.

Schedule 1, item 11, page 26 (lines 22 and 23), omit subsection (3).

Schedule 1, item 11, page 38 (line 23), omit subparagraph (iii).

Schedule 1, item 11, page 38 (line 25), omit paragraph (1)(c), substitute:

(c) any commercial purpose is incidental to the purpose of the export; and

Schedule 1, item 11, page 38 (line 26), omit “(if any)”.

Schedule 1, item 11, page 39 (line 2), omit subparagraph (iii).

Schedule 1, item 11, page 39 (line 4), omit paragraph 303FC(2)(c), substitute:

(c) any commercial purpose is incidental to the purpose of the import; and

Schedule 1, item 11, page 39 (line 5), omit “(if any)”.

Schedule 1, item 11, page 39 (line 12), omit paragraph 303FD(1)(b), substitute:

(b) any commercial purpose is incidental to the purpose of the export; and

Schedule 1, item 11, page 39 (line 13), omit “(if any)”.

Schedule 1, item 11, page 39 (line 19), omit paragraph 303FD(2)(b), substitute:

(b) any commercial purpose is incidental to the purpose of the import; and

Schedule 1, item 11, page 39 (line 20), omit “(if any)”.

Schedule 1, item 11, page 39 (line 27), omit paragraph 303FE(1)(b), substitute:

(b) any commercial purpose is incidental to the purpose of the export; and

Schedule 1, item 11, page 39 (line 28), omit “(if any)”.

Schedule 1, item 11, page 39 (line 34), omit paragraph 303FE(2)(b), substitute:

(b) any commercial purpose is incidental to the purpose of the import; and

Schedule 1, item 11, page 40 (line 1), omit “(if any)”.

Schedule 1, item 11, page 40 (lines 3 and 4), omit subsection (3), substitute:

(3) In this section:

exhibition includes:

- (a) a zoo; or
- (b) a travelling exhibition.

travelling exhibition does not include a travelling exhibition with live specimens.

zoo means an organisation involved in the public exhibition of animals primarily for educational or scientific purposes.

Schedule 1, item 11, page 40 (line 15), omit paragraph (1)(d), substitute:

- (d) any commercial purpose is incidental to the purpose of the export; and

Schedule 1, item 11, page 40 (line 16), omit “(if any)”.

Schedule 1, item 11, page 40 (line 27), omit paragraph (2)(d), substitute:

- (d) any commercial purpose is incidental to the purpose of the import; and

Schedule 1, item 11, page 40 (line 28), omit “(if any)”.

Schedule 1, item 11, page 41 (line 3), omit paragraph (1)(b), substitute:

- (b) any commercial purpose is incidental to the purpose of the export; and

Schedule 1, item 11, page 41 (line 12), omit paragraph (2)(c), substitute:

- (c) any commercial purpose is incidental to the purpose of the export; and

Schedule 1, item 11, page 41 (line 20), omit paragraph (3)(b), substitute:

- (b) any commercial purpose is incidental to the purpose of the import; and

Schedule 1, item 1, page 42 (line 9), omit paragraph 303FH(1)(b), substitute:

- (b) any commercial purpose is incidental to the purpose of the export; and

Schedule 1, item 11, page 42 (line 15), omit paragraph (2)(b), substitute:

- (b) any commercial purpose is incidental to the purpose of the import; and

Schedule 1, item 11, page 77 (after line 15), at the end of Division 6, add:

303GZ Inventory of scientific specimens

- (1) Scientific organisations may provide the Secretary with a list of specimens:
 - (a) held by the organisation; and
 - (b) that are available for exchange with other scientific organisations.
- (2) The Secretary must publish on the Internet an inventory that identifies specimens available for registered non-commercial exchanges between scientific organisations.

- (3) Where information has been provided to the Secretary under subsection (1), the Secretary must publish the information in the inventory.
- (4) The Secretary must take reasonable steps to ensure that the inventory is maintained in an up-to-date form.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 11, section 303FI.

Question—That Schedule 1, item 11, section 303FI stand as printed—put and negatived.

On the motion of Senator Bartlett the following amendments, taken together by leave, were debated and agreed to:

Schedule 1, item 11, page 13 (line 30), omit “subsection (3)”, substitute “subsections (3), (4A) and (4B)”.

Schedule 1, item 11, page 15 (after line 19), after subsection (4), insert:

- (4A) The Minister must not issue a permit for the import of any of the following:
 - (a) a bear product;
 - (b) a cat product.

Schedule 1, item 11, page 15 (after line 19), after subsection (4), insert:

- (4B) The Minister must not issue a permit for the import of a trophy.

Schedule 1, item 11, page 20 (lines 26 to 28), omit paragraph (6)(a), substitute:

- (a) the Minister is satisfied that the export of the specimen will not:
 - (i) adversely affect the conservation status of the species concerned; and
 - (ii) be inconsistent with any recovery plan or wildlife conservation plan for that species; and

Schedule 1, item 11, page 23 (after line 19), after subsection (3), insert:

- (3A) The Minister must not issue a permit authorising the export of a live terrestrial invertebrate or a live freshwater fish prescribed by the regulations for the purposes of paragraph 303DD(3)(ba) unless the Minister is satisfied that the proposed export would be an eligible non-commercial purpose export (within the meaning of section 303FA).

Schedule 1, item 11, page 23 (line 24), omit “survival”, substitute “conservation status”.

Schedule 1, item 11, page 24 (lines 1 to 3), omit paragraph (d), substitute:

- (d) if the specimen belongs to an eligible listed threatened species or a species of listed migratory bird—the export of the specimen is covered by subsection (7) or (8), and the export would not be inconsistent with any recovery plan or any wildlife conservation plan for that species; and

Schedule 1, item 11, page 25 (after line 11), at the end of section 303DG, add:

- (10) Despite paragraph (4)(b), the Minister must not issue a permit for a listed threatened species if:
 - (a) there is no recovery plan for that listed threatened species; and

- (b) the time allowed for making a recovery plan for that species under section 273 has expired.

Schedule 1, item 11, page 25 (line 26), omit “5 years”, substitute “3 years”.

Schedule 1, item 11, page 32 (lines 19 and 20), omit paragraph (a), substitute:

- (a) the proposed import would not be:
 - (i) detrimental to the conservation status of a species or ecological community; or
 - (ii) likely to threaten biodiversity; and

Schedule 1, item 11, page 33 (after line 2), at the end of section 303EN, add:

- (5) In this section:

not likely to threaten biodiversity has the meaning given by the regulations.

Schedule 1, item 11, page 33 (line 17), omit “5 years”, substitute “3 years”.

Schedule 1, item 11, page 44 (line 28), at the end of paragraph (b), add:

- or (iii) any relevant ecosystem including (but not limited to) any habitat or biodiversity;

Schedule 1, item 11, page 45 (lines 3 to 18), omit subsections (4) and (5), substitute:

- (4) In deciding whether to declare an operation under subsection (2), the Minister must have regard to the following:
 - (a) the significance of the impact of the operation on an ecosystem (for example, an impact on habitat or biodiversity);
 - (b) the effectiveness of the management arrangements for the operation (including monitoring procedures);
 - (c) the effectiveness of the legislation in the receiving country relating to the welfare, protection or conservation of the specimens to which the operation relates;
 - (d) whether legislation relating to the protection, conservation or management of the specimens to which the operation relates:
 - (i) is in force in the State or Territory concerned; and
 - (ii) applies throughout the State or Territory concerned; and
 - (iii) is, in the opinion of the Minister, effective.

Schedule 1, item 11, page 45 (lines 24 to 29), omit subsections (7) to (9).

Schedule 1, item 11, page 47 (lines 2 and 3), omit paragraph (b), substitute:

- (b) there has been an assessment of the environmental impact of the activities covered by the plan, including (but not limited to) an assessment of:
 - (i) the status of the species to which the plan relates in the wild; and
 - (ii) the extent of the habitat of the species to which the plan relates; and
 - (iii) the threats to the species to which the plan relates; and
 - (iv) the impacts of the activities covered by the plan on the habitat or relevant ecosystems; and

Schedule 1, item 11, page 48 (after line 28), after paragraph (a), insert:
 (aa) the implementation of the plan will be beneficial to the conservation of the taxon to which the plan relates; and

Schedule 1, item 11, page 49 (after line 6), at the end of paragraph (e), add:
 (iii) the status of the species to which the plan relates in the wild;
 and
 (iv) the impacts of the activities under the plan on the habitat of the species to which the plan relates; and

Schedule 1, item 11, page 49 (lines 25 to 32), omit subsection (9), substitute:
 (9) The Minister is not required to comply with subsection (8) to the extent to which compliance could reasonably be expected to be detrimental to:
 (a) the survival of a taxon to which the plan relates; or
 (b) the conservation status of a taxon to which the plan relates.

Schedule 1, item 11, page 55 (after line 15), after subsection (1), insert:
 (1A) The Minister must not issue a permit under this section unless the grant of that permit would be in accordance with CITES.

Schedule 1, item 11, page 55 (after line 34), after subsection (4), insert:
 (4A) If a permit issued under this section has expired or has been revoked or cancelled, a new permit may not be issued under this section:
 (a) to the same person; or
 (b) in relation to the same activity.

Schedule 1, item 11, page 56 (lines 10 to 26), omit subsections (7) to (9).

Schedule 1, item 11, page 56 (after line 26), at the end of section 303GB, add:
 (10) In this section:

exceptional circumstances has the meaning given by the regulations.

Schedule 1, item 11, page 62 (after line 17), at the end of section 303GH, add:
 (3) In deciding whether to transfer the permit to another person, the Minister must consider:
 (a) whether the transferee is a suitable person to hold the permit, having regard to the transferee's record in relation to environmental and animal welfare matters; and
 (b) the transferee's ability to meet the conditions of the permit.

On the motion of Senator Bartlett the following amendments, taken together by leave, were debated and agreed to:

Schedule 1, page 5 (after line 10), after item 10, insert:

10B Subsection 266A(1)

After "Division 1, 2, 3 or 4", insert "or Part 13A".

Schedule 1, item 11, page 21 (lines 23 and 24), omit paragraph (3)(c), substitute:
 (c) must consult other persons and organisations in accordance with the procedures for consultation set out in subsections (3A) to (3E).

Schedule 1, item 11, page 21 (after line 24), after subsection (3), insert:

- (3A) For the purposes of consultation under paragraph (3)(c), the Minister must cause a notice of the application to be:
 - (a) given to each person and organisation registered under section 266A; and
 - (b) published on the Internet.
- (3B) The notice referred to in subsection (3A) must:
 - (a) set out the proposal to amend the list; and
 - (b) set out sufficient information about the proposed amendment to enable persons and organisations to consider adequately the merits of the proposal; and
 - (c) invite persons and organisations to give written comments to the Minister about the proposal within the period specified in the notice; and
 - (d) specify an address for the lodgment of comments.
- (3C) The period specified in a notice under paragraph (3B)(c) must not be less than 20 business days after the date on which the notice was given.
- (3D) In making a decision under subsection (1), the Minister must consider any comments about the proposal that were given in response to an invitation under subsection (3A).
- (3E) Within 28 days after making a decision under subsection (1), the Minister must publish written reasons for the decision on the Internet.

Schedule 1, item 11, page 42 (after line 4), at the end of section 303FG, add:

- (8) Before amending the list referred to in subsection (4) as mentioned in paragraph (6)(a) or (b), the Minister must cause a notice of the proposed amendment to be:
 - (a) given to each person and organisation registered under section 266A; and
 - (b) published on the Internet.
- (9) A notice referred to in subsection (8) must:
 - (a) set out the proposal to amend the list; and
 - (b) set out sufficient information about the proposal to enable persons and organisations to consider adequately the merits of the proposal; and
 - (c) invite persons and organisations to give written comments to the Minister about the proposal within the period specified in the notice; and
 - (d) specify an address for the lodgment of comments.
- (10) The period specified in a notice under paragraph (9)(c) must not be less than 20 business days after the date on which the notice was given.
- (11) In making a decision under subsection (6), the Minister must consider any comments about the proposal that were given in response to an invitation under subsection (8).

- (12) Within 28 days after making a decision under subsection (6), the Minister must publish written reasons for the decision on the Internet.

Schedule 1, item 11, page 50 (lines 6 to 15), omit subsection 303FR(1), substitute:

- (1) Before making a declaration under section 303FN, 303FO or 303FP, the Minister must cause a notice of the proposal to make a declaration to be:
- (a) given to each person and body registered under section 266A; and
 - (b) published on the Internet.

Schedule 1, item 11, page 50 (after line 15), after subsection (1), insert:

- (1A) A notice under subsection (1) must:
- (a) set out the proposal to make the declaration; and
 - (b) set out sufficient information about the declaration to enable persons and organisations to consider adequately the merits of the proposal; and
 - (c) invite persons and organisations to give the Minister written comments about the proposal within the period specified in the notice.

Schedule 1, item 11, page 50 (line 16), omit “subsection (1)”, substitute “subsection (1A)”.

Schedule 1, item 11, page 50 (after line 22), at the end of section 303FR, add:

- (4) Within 28 days after making a decision whether to make a declaration under section 303FN, 303FO or 303FP, the Minister must publish written reasons for the decision on the Internet.

Schedule 1, item 11, page 60 (after line 16), after section 303GE, insert:

303GEA Public consultation on permits

- (1) This section applies to a permit issued under this Part.
- (2) Before issuing a permit, the Minister must cause a notice of the application for a permit to be:
 - (a) given to each person and body registered under section 266A; and
 - (b) published on the Internet.
- (3) The notice must:
 - (a) state that an application for a permit has been made; and
 - (b) set out sufficient information about the application to enable persons and organisations to consider adequately the merits of the application; and
 - (c) invite persons and organisations to give the Minister written comments about the proposals within the period specified in the notice.
- (4) The period specified in a notice under paragraph (3)(c) must not be less than 10 business days after the date on which the notice was given.
- (5) In making a decision whether to issue a permit, the Minister must consider any comments about the application that were given in response to a notice under subsection (2).

- (6) Within 28 days of making a decision under this Part whether to issue a permit, the Minister must publish written reasons for the decision on the Internet.
- (7) The regulations may prescribe categories of permit applications to be exempt from the requirements of subsections (2) to (6).

On the motion of Senator Bartlett the following amendments, taken together by leave, were debated and agreed to:

Schedule 1, item 11, page 5 (line 19), at the end of paragraph (a), add “and the Biodiversity Convention”.

Schedule 1, item 11, page 5 (line 26), at the end of subsection (1), add:

- ; (f) to ensure ethical conduct during any research associated with the utilisation of wildlife;
- (g) to ensure the humane treatment of individual animals involved in the international movement of wildlife specimens;
- (h) to ensure that the precautionary principle is taken into account during decisions relating to the utilisation of wildlife.

Schedule 1, item 12, page 77 (after table item 10A), insert:

10AA	303DC	whether or not to amend the list of exempt native specimens
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Schedule 1, item 12, page 77 (after table item 10G), insert:

10H	303GB	whether or not to grant an exceptional circumstances permit
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On the motion of Senator Bartlett the following amendment was debated and agreed to:

Schedule 1, item 11, page 5 (after line 30), after section 303BA, insert:

303BAA Certain indigenous rights not affected

To avoid doubt, nothing in this Part affects the existence and operation of the inherent traditional rights of indigenous peoples with respect to the ownership of native plants and wildlife and knowledge of their uses.

On the motion of Senator Bartlett the following amendment was debated and agreed to:

Schedule 1, item 11, page 49 (after line 32), at the end of section 303FP, add:

- (10) An instrument under subsection (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

On the motion of Senator Hill the following amendments, taken together by leave, were agreed to:

Schedule 1, item 11, page 21 (after line 12), after subsection (1), insert:

- (1A) In deciding whether to amend the list referred to in section 303DB to include a specimen derived from a commercial fishery, the Minister must rely primarily on the outcomes of any assessment in relation to the fishery carried out for the purposes of Division 1 or 2 of Part 10.
- (1B) Subsection (1A) does not apply to an amendment mentioned in paragraph (1)(e).

(1C) Subsection (1A) does not limit the matters that may be taken into account in deciding whether to amend the list referred to in section 303DB to include a specimen derived from a commercial fishery.

(1D) In this section:

fishery has the same meaning as in section 303FN.

Schedule 1, item 11, page 46 (after line 9), after subsection (10), insert:

(10A) In deciding whether to declare that a commercial fishery is an approved wildlife trade operation for the purposes of this section, the Minister must rely primarily on the outcomes of any assessment in relation to the fishery carried out for the purposes of Division 1 or 2 of Part 10.

(10B) Subsection (10A) does not limit the matters that may be taken into account in deciding whether to declare that a fishery is an approved wildlife trade operation for the purposes of this section.

At 6.50 pm: The Deputy President (Senator West) resumed the chair and the Temporary Chair of Committees (Senator Chapman) reported progress.

27 GOVERNMENT DOCUMENTS—CONSIDERATION

The following government document tabled earlier today (*see entry no. 2*) was considered:

Centrelink—Compliance activity for Family and Community Services—Report for the period 1 July to 31 December 2000. Motion to take note of the document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

28 ADJOURNMENT

The Acting Deputy President (Senator Chapman) proposed the question—That the Senate do now adjourn.

Debate ensued.

Document: Senator McKiernan, by leave, tabled the following document:

United States of America, Canada, the United Kingdom and Thailand—Report on study tour by Senator Jim McKiernan, April/May 2001.

The Senate adjourned at 7.17 pm till Wednesday, 20 June 2001 at 9.30 am.

29 ATTENDANCE

Present, all senators except Senators Lees, Lundy* and Payne (* on leave).

HARRY EVANS
Clerk of the Senate