

1998

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CUSTOMS (ANTI-DUMPING AMENDMENTS) BILL 1998

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Justice and Customs,
Senator the Hon Amanda Vanstone)

CUSTOMS (ANTI-DUMPING AMENDMENTS) BILL 1998

OUTLINE

The substantive amendments proposed in this Bill were introduced into Parliament in June 1997 as the Customs Legislation (Anti-Dumping) Amendment Bill 1997.

The purpose of this Bill is to amend the *Customs Act 1901*:

- (i) to provide a special approach for determining normal value of allegedly dumped goods from countries that are in the process of transition to a market economy when it is established that the selling price of those goods is subject to government control as announced by the Government on 12 March 1997;
- (ii) to provide a new methodology for determining the normal value of allegedly dumped goods where the goods are exported from a country in the process of transition to a market economy and a raw material input into the goods which accounts for more than 10% of the costs of producing or manufacturing the goods is supplied by a State owned enterprise;
- (iii) in combination with the amendments to the *Customs Tariff (Anti-Dumping) Act 1975* proposed in the Customs Tariff (Anti-Dumping) Amendment Bill (No. 2) 1998, to clarify provisions of these Acts which relate to the manner in which interim dumping and countervailing duties are collected; and
- (iv) to ensure consistency with amendments implemented by the *Customs Legislation (Anti-dumping Amendments) Act 1998*.

Items (i), (ii) and (iii) were the subject of the Customs Legislation (Anti-Dumping) Amendment Bill 1997 ("the 1997 Bill") which lapsed when the Parliament was prorogued on 31 August 1998.

Economies in transition - assessment of normal value of goods when domestic selling prices are subject to government control

The amendments to the normal value provisions in section 269TAC of the *Customs Act 1901* (the Customs Act) provide for a case by case approach to be taken by the Minister in inquiries into the alleged dumping of products from such economies. If the Minister is satisfied that the exporter's domestic selling prices of the product under investigation are subject to government control, normal values may be ascertained by reference to other relevant information which may include the selling prices of like goods in a "surrogate" country.

To ensure that Australia is not in breach of its obligations as a member of the World Trade Organization (WTO), the amendment provides for regulations to be made which will provide that the new methodology for calculating normal values will not apply in respect of specified countries.

Economies in transition - consideration of raw material inputs

In September 1997, the Senate referred the 1997 Bill then before the Parliament to the Economics Legislation Committee for consideration. Although the majority report from the Committee recommended passage of the 1997 Bill it commented "consideration should be given to the cost of raw material inputs where investigators conclude that it exceeds 10% of the production process".

In light of views expressed by Industry and the Economics Legislation Committee the Government amended the 1997 Bill to confer flexibility in determining normal values by allowing the examination of significant raw material inputs used in the production of the goods exported to Australia when those inputs are supplied by a state owned enterprise.

In the absence of a price control situation for the whole goods in the domestic economy, the proposed amendments will allow the Minister to proceed to examine the cost of production of the goods exported to Australia. If the Minister is satisfied that a raw material accounts for more than 10% of the costs of producing or manufacturing the exported goods and that the raw material is supplied by an enterprise which is wholly owned by the national government, or a provincial government, of the exporting country the cost of the particular item could be ignored and, for normal value purposes, its cost could be estimated by the Minister by reference to other relevant information which could, but need not necessarily, include the cost of that item in a surrogate country.

Interim dumping duties

The Bill also contains amendments which, in combination with those in the Customs Tariff (Anti-Dumping) Amendment Bill (No. 2) 1998, clarify the operation of the provisions of the Customs Act and the *Customs Tariff (Anti-*

Dumping) Amendment Act 1975 which relate to the manner in which interim dumping and countervailing duties are collected. The amendments make it clear that such interim duties can be imposed, pending final assessment of any dumping or countervailing duties, notwithstanding that the actual export price and normal value, or the fact that a countervailable subsidy has been received, have not yet been ascertained.

Although these amendments are to be taken to have commenced on 1 January 1993, the date on which the interim dumping and countervailing duties were introduced, they will not require importers to pay an amount of dumping duty beyond that which has previously been demanded. The amendments merely seek to ensure that approximately \$12 million in interim duties collected since 1 January 1993 is not subject to legal challenge.

Consistency with amendments implemented by the Customs Legislation (Anti-dumping Amendments) Act 1998

The purpose of these amendments is to replace the terms "preliminary finding" and "Anti-Dumping Act" with the terms "preliminary affirmative determination" and "Dumping Duty Act" (respectively) to ensure consistency with amendments to the *Customs Act 1901* implemented by the *Customs Legislation (Anti-dumping Amendments) Act 1998*.

The Bill also contains a minor technical amendment to correct a cross reference in the *Anti-Dumping Authority Act 1988*.

FINANCIAL IMPACT STATEMENT

The amendments in the Bill in relation to the assessment of the normal value of goods in countries in transition to market economies have no financial impact.

The proposed amendments to clarify the operation of the interim dumping and countervailing duties provisions, in combination with those proposed in the Customs Tariff (Anti-Dumping) Amendment Bill (No. 2) 1998, is designed to ensure that approximately \$12 million in interim duties collected since 1 January 1993 is not subject to legal challenge.

CUSTOMS (ANTI-DUMPING AMENDMENTS) BILL 1998

NOTES ON CLAUSES

Clause 1 - Short Title

This clause provides for this Act to be cited as the *Customs (Anti-dumping Amendments) Act 1998*.

Clause 2 - Commencement

This clause provides for the commencement provisions of the various amendments contained in this Act as set out below.

Subclause 2(1) provides that, subject to subsections (2), (3), (4) and (5), the provisions of this Act commence on the day on which this Act receives the Royal Assent. The provisions to commence upon Royal Assent are:

- the formal commencement and enabling clauses; and
- the application provisions in item 20 of Schedule 1.

Subclause 2(2) provides that, subject to subsection (5), items 1, 2 and 3 of Schedule 1 commence on a day to be fixed by Proclamation. These items all relate to the new method for calculating the normal value of goods exported from countries in transition to a market economy. Proclamation commencement is proposed to enable complementary regulations to be made with a commencement on the same day as the amendments to the *Customs Act 1901* ("the Customs Act").

The Proclamation commencement is subject to the standard provision providing for automatic commencement 6 months after Royal Assent if the

relevant provisions have not been proclaimed to commence within that time (subclause 2(5) refers).

Subclause 2(3) provides that items 4, 6, 8, 10, 12, 14, 16 and 18 are taken to have commenced on 1 January 1993. These items all relate to the amendments clarifying collection of interim dumping and countervailing duties. The interim duty regime was introduced by the *Customs Legislation (Anti-Dumping Amendments) Act 1992*, which commenced on 1 January 1993. Interim duties have been collected since that date in accordance with the intention of the regime and these amendments will ensure that approximately \$12 million in interim duties collected since 1 January 1993 is not subject to legal challenge.

Subclause 2(4) provides that items 5, 7, 9, 11, 13, 15, 17 and 19 are taken to have commenced on 24 July 1998, immediately after the commencement of the items (other than item 39) of Schedule 1 to the *Customs Legislation (Anti-dumping Amendments) Act 1998*. These items will ensure that the new terms "preliminary affirmative determination" and "Dumping Duty Act" are used consistently throughout the Customs Act as from 24 July 1998.

Clause 3 - Schedules

This clause is the formal enabling provision for the Schedule to this Act providing that each Act specified in the Schedule is amended or repealed in accordance with the applicable terms of the Schedule.

The clause also provides that the other items of the Schedules have effect according to their terms. This is a standard enabling clause for transitional, savings and application items in amending legislation (item 20 of Schedule 1 refers).

SCHEDULE 1 - AMENDMENT OF CUSTOMS ACT 1901

Background to economies in transition (items 1 to 3)

These items contain the proposed amendments to the normal value provisions in section 269TAC of the *Customs Act 1901*. The new subsections 269TAC(5D), (5E), (5F), (5G), (5H) and (5J) set out the special approach Customs may use in determining normal values for allegedly dumped goods from countries that are in the process of transition to a market economy.

Section 269TAC of the *Customs Act 1901* provides for the assessment of the 'normal value' of imported goods, for the purpose of determining whether the goods have been exported to Australia at less than that value (thereby dumped).

The structure of the section has been described as establishing a hierarchy of methodologies by which normal values are determined. Investigating authorities must progressively work through each of the prescribed methodologies until a point is reached at which a normal value can be determined.

Until the latter part of last year subsection 269TAC(4) was utilised by investigating authorities to ascertain normal values for goods exported from economies in transition, for example China, by reference to information obtained in a "surrogate" country. In November of last year legal advice was obtained as to the scope of subsection 269TAC(4). That advice confirmed that the section was severely limited in its application. Its stringent tests require that the Government of the country of export has at least a substantial monopoly of all of the trade of the country - not just in terms of the goods under investigation, AND must also substantially influence the domestic price of all goods in that country.

Therefore, although the governments of economies which are in a state of transition from a command economy to a market economy may still maintain controls over the domestic selling prices of a significant number of sensitive products, it cannot be said that the extent of the control falls within the ambit of subsection 269TAC(4). Clearly, in such economies the government has moved from a position in which it maintained a substantial monopoly over all of the trade of the country.

As subsection 269TAC(4) can have no further application to economies which are considered to be in transition from a command economy to a market economy, the determination of the normal values for exports from such economies, as a matter of law, must be made in accordance with the remaining provisions of section 269TAC. These provisions do not distinguish between "*market economies*" and those which are considered to be "*in transition*". Therefore, normal values for exports from economies which are considered to be in transition from a command economy to a market economy must be ascertained by the application of the same methodologies that are required to be applied in the ascertainment of normal values for exports from countries such as the United States of America and Germany. That is, there is presently no flexibility available for investigating authorities to treat exports from economies which are in transition differently from exports from other countries.

Investigating authorities require the flexibility to proceed to a methodology similar to that provided in s. 269TAC(6) (ie have regard to all relevant information) as soon as they are satisfied that the domestic selling prices of the goods under consideration are subject to government control. The proposed amendments therefore aim to confer such flexibility upon Customs.

The proposed amendments also set out the new methodology for determining the normal value of allegedly dumped goods where the goods are exported from a country in the process of transition to a market economy and where a

raw material input into the goods that accounts for more than 10% of the costs of producing or manufacturing the goods is supplied by a State owned enterprise.

Item 1 - After subsection 269TAC(5C)

This item introduces new subsections 269TAC(5D), (5E), (5F), (5G), (5H) and (5J).

New subsection (5D) provides an alternative "all relevant information" provision to subsection 269TAC(6) to cover the situation where goods are exported to Australia and the Minister is satisfied that:

- (a) in the past the Government of that country of export had a monopoly, or a substantial monopoly, of the trade of that country and determined, or substantially influenced, the domestic price of goods in that country (ie that the country previously would have met the terms of subsection 269TAC(4)); and
- (b) the circumstances described in paragraph (a) no longer applies in relation to the country of export; and
- (c) a 'price control situation' applies, within the meaning of subsection (5E), in relation to like goods to the goods exported to Australia.

In the above situation, the normal value of the first-mentioned goods may be determined by the Minister having regard to all relevant information.

New subsection (5E) describes the two different circumstances where a price control situation would apply to the domestic selling price of like goods to the goods first mentioned in subsection (5D) (ie the goods exported to Australia).

The circumstances are as follows:

- (a) where the exporter of those first-mentioned goods sells like goods in the country of export and the domestic selling price of those like goods is controlled, or substantially controlled, by a government (at whatever level) of that country; or
- (b) if the exporter does not sell like goods in the country of export, then where there are other sellers in that country of like goods and the domestic selling price of like goods sold by some or all of those other sellers is so controlled or substantially so controlled.

These are the only two circumstances where the new approach for ascertaining normal values can be used. Therefore the new approach may only be adopted where the Minister is satisfied that the domestic selling price of relevant goods sold by the exporter, or where applicable another seller, is subject to substantial government control.

New subsection (5F) makes it clear that although subsection 269TAC(4) does not apply, the use of the "surrogate country" methodology for ascertaining normal values in paragraphs 269TAC(4)(c), (d), (e) or (f) may be used under the "all relevant information" methodology in new subsection (5D).

New subsection (5G) gives effect to the Government's decision to provide an additional methodology for determining the normal value of allegedly dumped goods from countries that are in the process of transition to a market economy where a raw material input into the goods that accounts for more than 10% of the costs of producing or manufacturing the goods is supplied by a State owned enterprise.

This new provision can operate in respect of goods exported to Australia when the Minister is satisfied that:

- (a) in the past the Government of the country of export had a monopoly, or a substantial monopoly, of the trade of that country and determined, or substantially influenced, the domestic price of goods in that country (ie that the country previously would have met the terms of subsection 269TAC(4)); and
- (b) the circumstances described in paragraph (a) no longer applies in relation to the country of export; and
- (c) proposed subsection 269TAC(5D) does not apply (ie a price control situation does not apply in respect of the whole goods); and
- (d) a raw material used in producing or manufacturing the exported goods is directly supplied by an enterprise that is wholly owned by a government (whether national or provincial) of the country of export; and
- (e) the cost of that raw material to the producer or manufacturer of the exported goods exceeds 10% of the total costs actually incurred in the production or manufacturing of the exported goods.

If these preconditions are met, the normal value of the exported goods is to be calculated as the sum of:

- an amount the Minister determines, having regard to all relevant information, to be the 'value' (as opposed to the actual 'cost') of the state supplied raw materials that exceed the 10% threshold (new paragraph 269TAC(5G)(f) refers);
 - This paragraph allows the Minister to substitute a replacement value for the cost of the state supplied raw material, which the Minister can determine having regard to all relevant information. This substituted

value may be determined by reference to, amongst other things, the cost of like raw materials supplied by non state owned enterprises within the country of export or the cost of like raw materials in a surrogate country (see proposed subsection (5H)).

- the amount of the production and manufacturing costs actually incurred by the producer or manufacturer (excluding the costs of the state supplied raw material covered by paragraph (f)) (new paragraph 269TAC(5G)(g) refers); and
- an amount determined by the Minister to be the administrative, selling and general costs plus the profit on a sale of the goods if, instead of being exported, the goods were sold in the domestic economy of the country of export (new paragraph 269TAC(5G)(h) refers). (This element is modelled on current subparagraph 269TAC(2)(c)(ii) of the Act).

New subsection (5H) provides for range of "surrogate country" methodologies (modelled on paragraphs 269TAC(4)(c), (d), (e) and (f) of the Act for establishing the normal value of whole goods) that the Minister can, but is not required to, use when having regard to "all relevant information" for the purposes of determining the substitute value for the cost of the state supplied raw materials that exceed the 10% threshold under paragraph 269TAC(5G)(f)

New subsection (5J) provides for the power to make regulations to disapply subsection (5D) or (5G) to a country for the purpose of fulfilling Australia's international obligations under an international agreement. This provision is intended to ensure that Australia is not in breach of its obligations as a member of the World Trade Organization (WTO).

It is proposed to make regulations to disapply subsection (5D) to all current WTO members which will commence at the same time as these amendments.

As additional countries join the WTO, subject to the terms of their accession protocol, further regulations will be made to disapply subsections (5D) and (5G).

Item 2 - Subsection 269TAC(6)

This item effects a consequential amendment to subsection 269TAC(6), the existing "all relevant information" provision to exclude its application when new subsection (5D) applies.

Item 3 - After subsection 269TAC(7)

This item introduces new subsection 269TAC(7A) which allows the Minister to continue to use other provisions in section 269TAC [other than subsections (4) and (5)] in relation to other goods exported to Australia from a particular country where the new subsection (5D) or (5G) applies to certain goods exported from that country. This provision reflects the policy that the focus of new subsections (5D) and (5G) is not on the overall status or classification of the economy in the country of export but on the domestic selling prices of the goods under consideration when these prices are subject to government control or substantial control.

Item 4 - Subsection 269TG(1)

Final dumping duty and interim dumping duty are imposed by subsections 8(2) and (3), respectively, of the *Customs Tariff (Anti-Dumping) Act 1975* ("the Anti-Dumping Act") on goods the subject of a notice under subsection 269TG(1) of the Customs Act. A notice under subsection 269TG(1) is intended to apply retrospectively to the goods that were the subject of a dumping inquiry under Part XVB of the Customs Act and to like goods exported to Australia after a preliminary finding of dumping under section 269TD but before the publication of the notice.

The present wording of subsection 269TG(1) currently provides that the notices under this subsection applies to goods, or like goods, the amount of the export price of which is less than the amount of their normal value. In the case of interim dumping duties, these values have not yet been established, as their collection is intended to be "pending final assessment of the dumping duty payable". It therefore might be argued that it is not possible to impose interim dumping duty under subsection 8(3) of the Anti-Dumping Act until such time as the actual amounts are ascertained. Once actual values are ascertained, however, final dumping duties are imposed. Therefore, to interpret subsection 269TG(1) in this way defeats the purpose of imposing interim duties.

Item 4 is therefore necessary to correct the above anomaly by making it clear that interim dumping duties are imposed by section 8(3) of the Anti-Dumping Act in respect of like goods that were exported to Australia after the CEO made a preliminary finding under section 269TD that there were sufficient grounds for the publication of a notice under subsection 269TG(1) in respect of the goods referred to in paragraph 269TG(1)(c) (ie the goods the subject of the inquiry) but before the publication of that notice.

A complementary amendment to subsection 8(2) of the Anti-Dumping Act is also proposed in the Customs Tariff (Anti-Dumping) Amendment Bill 1997 to ensure that actual values are still required to be ascertained in order for final dumping duties to be imposed.

Item 5 - Paragraph 269TG(1)(d)

Item 5 replaces the phrase "preliminary finding under section 269TD that there were sufficient grounds for the publication of a notice under this subsection" with the term "preliminary affirmative determination" in proposed paragraph 269TG(1)(d) of the Customs Act with effect from 24 July 1998.

This will ensure consistency with amendments to the Customs Act implemented by the *Customs Legislation (Anti-dumping Amendments) Act 1998*.

Item 6 - Subsection 269TG(2)

Final dumping duty and interim dumping duty are imposed by subsections 8(2) and (3), respectively, of the Anti-Dumping Act on goods the subject of a notice under subsection 269TG(2) of the Customs Act. A notice under subsection 269TG(2) applies to like goods exported to Australia after the publication of the notice.

The present wording of subsection 269TG(2) currently provides that the notices under this subsection applies to like goods, the amount of the export price of which is less than the amount of their normal value. In the case of interim dumping duties, these values have not yet been established, as their collection is intended to be "pending final assessment of the dumping duty payable". It therefore might be argued that it is not possible to impose interim dumping duty under subsection 8(3) of the Anti-Dumping Act until such time as the actual amounts are ascertained. Once actual values are ascertained, however, final dumping duties are imposed. Therefore, to interpret subsection 269TG(2) in this way defeats the purpose of imposing interim duties.

Item 6 is therefore necessary to correct the above anomaly by making it clear that interim dumping duties are imposed by subsection 8(3) of the Anti-Dumping Act in respect of like goods that are exported to Australia after the date of publication of the notice or such later date as is specified in the notice.

A complementary amendment to subsection 8(2) of the Anti-Dumping Act is also proposed in the Customs Tariff (Anti-Dumping) Amendment Bill 1997 to

ensure that actual values are still required to be ascertained in order for final dumping duties to be imposed.

Item 7 - Subsection 269TG(2)

Item 7 replaces the term "Anti-Dumping Act" with the term "Dumping Duty Act" in proposed subsection 269TG(2) of the Customs Act with effect from 24 July 1998. This will ensure consistency with amendments to the Customs Act implemented by the *Customs Legislation (Anti-dumping Amendments) Act 1998*.

Item 8 - Subsections 269TH(1)

Item 8 effects similar amendments to those in item 4 above to the corresponding provisions in subsection 269TH(1) dealing with notices made in respect of third country dumping duties. Like subsection 269TG(1) this provision can currently be interpreted to require the actual amount of export price and normal value, or the fact that a countervailable subsidy has been received, to be ascertained before interim duties can be collected.

Item 9 - Paragraph 269TH(1)(d)

Item 9 replaces the phrase "preliminary finding under section 269TD that there were sufficient grounds for the publication of a notice under this subsection" with the term "preliminary affirmative determination" in proposed paragraph 269TH(1)(d) of the Customs Act with effect from 24 July 1998. This will ensure consistency with amendments to the Customs Act implemented by the *Customs Legislation (Anti-dumping Amendments) Act 1998*.

Item 10 - Subsection 269TH(2)

Item 10 effects similar amendments to those in item 6 above to the corresponding provisions in subsection 269TH(2) dealing with notices made in respect of third country dumping duties. Like subsection 269TG(2), this provision can currently be interpreted to require the actual amount of export price and normal value, or the fact that a countervailable subsidy has been received, to be ascertained before interim duties can be collected.

Item 11 - Subsection 269TH(2)

Item 11 replaces the term "Anti-Dumping Act" with the term "Dumping Duty Act" in proposed subsection 269TH(2) of the Customs Act with effect from 24 July 1998. This will ensure consistency with amendments to the Customs Act implemented by the *Customs Legislation (Anti-dumping Amendments) Act 1998*.

Item 12 - Subsection 269TJ(1)

Item 12 effects similar amendments to those in item 4 above to the corresponding provisions in subsection 269TJ(1) dealing with notices made in respect of countervailing duties. Like subsection 269TG(1), these provisions can currently be interpreted to require the actual amount of export price and normal value, or the fact that a countervailable subsidy has been received, to be ascertained before interim duties can be collected.

Item 13 - Paragraph 269TJ(1)(d)

Item 13 replaces the phrase "preliminary finding under section 269TD that there were sufficient grounds for the publication of a notice under this subsection" with the term "preliminary affirmative determination" in proposed

paragraph 269TJ(1)(d) of the Customs Act with effect from 24 July 1998. This will ensure consistency with amendments to the Customs Act implemented by the *Customs Legislation (Anti-dumping Amendments) Act 1998*.

Item 14 - Subsection 269TJ(2)

Item 14 effects similar amendments to those in item 6 above to the corresponding provisions in subsection 269TJ(2) dealing with notices made in respect of countervailing duties. Like subsection 269TG(2), this provisions can currently be interpreted to require the actual amount of export price and normal value, or the fact that a countervailable subsidy has been received, to be ascertained before interim duties can be collected.

Item 15 - Subsection 269TJ(2)

Item 15 replaces the term "Anti-Dumping Act" with the term "Dumping Duty Act" in proposed subsection 269TJ(2) of the Customs Act with effect from 24 July 1998. This will ensure consistency with amendments to the Customs Act implemented by the *Customs Legislation (Anti-dumping Amendments) Act 1998*.

Item 16 - Subsection 269TK(1)

Item 16 effects similar amendments to those in item 4 above to the corresponding provisions in subsection 269TK(1) dealing with notices made in respect of third country countervailing duties. Like subsection 269TG(1) these provisions can currently be interpreted to require the actual amount of export price and normal value, or the fact that a countervailable subsidy has been received, to be ascertained before interim duties can be collected.

Item 17 - Paragraph 269TK(1)(d)

Item 17 replaces the phrase "preliminary finding under section 269TD that there were sufficient grounds for the publication of a notice under this subsection" with the term "preliminary affirmative determination" in proposed paragraph 269TK(1)(d) of the Customs Act with effect from 24 July 1998. This will ensure consistency with amendments to the Customs Act implemented by the *Customs Legislation (Anti-dumping Amendments) Act 1998*.

Item 18 - Subsection 269TK(2)

Item 18 effects similar amendments to those in item 6 above to the corresponding provisions in subsection 269TK(2) dealing with notices made in respect third country countervailing duties, respectively. Like subsection 269TG(2), this provision can currently be interpreted to require the actual amount of export price and normal value, or the fact that a countervailable subsidy has been received, to be ascertained before interim duties can be collected.

Item 19 - Subsection 269TK(2)

Item 19 replaces the term "Anti-Dumping Act" with the term "Dumping Duty Act" in proposed subsections 269TK(2) of the Customs Act with effect from 24 July 1998. This will ensure consistency with amendments to the Customs Act implemented by the *Customs Legislation (Anti-dumping Amendments) Act 1998*.

Item 20 - Application provisions

Subitem 20(1) provides that, despite the amendments of the Customs Act made by items 1, 2 and 3 of the Schedule, the Customs Act as in force immediately before the day on which those items commence, continues to apply as though those amendments had not been made in relation to applications under subsection 269TB(1) or (2) that were made before that day.

This provision means that all applications on hand at the time the amendment to section 269TAC commences must be considered against the current provisions for ascertaining normal value.

Subitem 20(2) inserts a saving provision to ensure that any notice given by the Minister under subsections 269TG(1) or (2), TH(1) or (2), TJ(1) or (2), or TK(1) or (2) of the Customs Act on or after 1 January 1993 is taken to have effect as if it had been given under that subsection as amended and in force from time to time. This provision means that notices made between 1 January 1993 and the enactment of these amendments (and consequently the interim dumping and countervailing duties imposed and collected pursuant to them) are to be treated as if they were made in accordance with the amendments proposed above.