

49

s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Thursday, 17 December 2015 12:16 PM
To: TARCON
Cc: s22(1)(a)(ii)
Subject: FW: Tariff Concession Order TC 1520129 [SEC=UNCLASSIFIED]

Good afternoon s22(1)

NTAC recommends that TC 1317650 should be classified to 4818.90.00.

For your consideration.

Regards,

s22(1)

s22(1)(a)(ii)

NATIONAL TRADE ADVICE CENTRE | National Trade Services
 Customs Compliance Branch | Border Management Division
 Australian Border Force
 1010 LaTrobe Street, MELBOURNE DOCKLANDS VIC 3008

From: s22(1)(a)(ii)
Sent: Wednesday, 16 December 2015 6:12 PM
To: s22(1)(a)(ii)
Subject: FW: Tariff Concession Order TC 1520129 [SEC=UNCLASSIFIED]

Hi s22(1)(a)

Further to this email. TCO 1532775 mentioned earlier in the emails doesn't seem to have transferred into Tapin web.

Regards,

s22(1)(a)(ii)

NATIONAL TRADE ADVICE CENTRE | Trade Advice, Facilitation and Compliance
 Customs Compliance Branch | Border Management Division
 Australian Border Force
 1010 LaTrobe St, Melbourne Docklands VIC 3008
 Ph. 1800 053 016 | Fax. 03 9244 8680

Formal rulings and internal reviews are processed by the National Trade Advice Centre in Melbourne. For updates on existing requests for a formal tariff classification advice please contact the National Trade Advice Centre on 1800 053 016 or by email tariffclassification@border.gov.au or fax 03 9244 8680.

From: s22(1)(a)(ii)
Sent: Wednesday, 16 December 2015 5:50 PM
To: s22(1)(a)(ii)
Subject: RE: Tariff Concession Order TC 1520129 [SEC=UNCLASSIFIED]

Hi s22(1)(a)

48

I have checked TCO application 1317650 and it should be classified to 4818.90.00 because the idm shows it as napkin stock in rolls rather than actual napkins (articles) which would go to 4818.30.00

Regards,

s22(1)(a)(ii)

| National Trade Advice Centre | Trade Advice, Facilitation and Compliance
Customs Compliance Branch | Border Management Division
Australian Border Force
1010 Latrobe St, Melbourne Docklands VIC 3008
Ph. 1800 053 016 | Fax. 03 9244 8680

Formal rulings and internal reviews are processed by the National Trade Advice Centre in Melbourne. For updates on existing requests for a formal tariff classification advice please contact the National Trade Advice Centre on 1800 053 016 or by email tariffclassification@border.gov.au or fax 03 9244 8680.

From: Tariff Classification

Sent: Thursday, 3 December 2015 12:34 PM

To: s22(1)(a)(ii)

Subject: FW: Tariff Concession Order TC 1520129 [SEC=UNCLASSIFIED]

Good afternoon s22(1)(a)

Please have your Team examine the enquiry below and advise me via email.

Regards,

s22(1)

s22(1)(a)(ii)

, NATIONAL TRADE ADVICE CENTRE | Trade Advice, Facilitation and Compliance
Regional Command Vic/Tas | Strategic Border Command
Australian Border Force
1010 LaTrobe Street, MELBOURNE DOCKLANDS VIC 3008

From: TARCON

Sent: Thursday, 3 December 2015 12:01 PM

To: Tariff Classification

Cc: TARCON

Subject: FW: Tariff Concession Order TC 1520129 [SEC=UNCLASSIFIED]

Hi

Advice please.

Regards

s22(1)(a)(ii)

Industry Assistance
Trade and Customs Branch | Traveller Customs and Industry Policy Division
Policy Group
Department of Immigration and Border Protection
P: 02 s22(1)(a)(ii) | M: s22(1)(a)(ii)
E: s22(1)(a)(ii) @border.gov.au

47

From: s47F
Sent: Tuesday, 24 November 2015 10:00 AM
To: TARCON
Subject: RE: Tariff Concession Order TC 1520129 [SEC=UNCLASSIFIED]

Hi s22(1)

Further to my query below that concerned TC 1520129 which was subsequently replaced by TC 1532775 when it was re-classified, the new classification differs to the classification applied to TC 1317650 which describes the same goods except for a difference in size (which should not affect the classification in this instance).

4818.30.00 TABLE NAPKIN STOCK, wood cellulose, single ply OR multi-ply, in rolls having a width NOT less than 230 mm and NOT greater than 310 mm
 Op. 30.05.13 Dec. date 26.08.13 - TC 1317650

4818.90.00 TABLE NAPKIN STOCK, wood cellulose, single ply OR multi-ply, in rolls, having a width NOT less than 310 mm and NOT greater than 360 mm
 Op. 02.06.15 Dec. Date 27.08.15 - TC 1532775

It would be appreciated if you could have a look at this as we wish to lodge Tariff Advice applications in regard to these TCO's.

Thank You.

s47F

From: TARCON [mailto:tarcon@border.gov.au]
Sent: Wednesday, 26 August 2015 10:18 AM
To: s47F
Cc: TARCON <tarcon@border.gov.au>
Subject: RE: Tariff Concession Order TC 1520129 [SEC=UNCLASSIFIED]

Hello s47F

Thank you for the advice. We have confirmation from the National Trade Advice Centre that the correct classification is 4818.90.00. We will revoke and reissue the concession (with a new number).

Regards

s22(1)(a)(ii)
 Industry Assistance
 Trade Branch | Trade Customs and Industry Policy Division
 Policy Group
 Department of Immigration and Border Protection
 P: 02 s22(1)(a)(ii) | M: s22(1)(a)(ii)
 E: s22(1)(a)(ii)@border.gov.au

From: s47F
Sent: Friday, 21 August 2015 9:37 AM
To: TARCON
Subject: Tariff Concession Order TC 1520129

46

Dear Tariff Concessions Group

TC 1520129 was advertised as being made in the gazette TC 15/32 of 19 August 2015


Based on the description of goods, the TC appears to be incorrectly classified as it does not meet the terms of Note 8(a) to Chapter 48.

Heading 4823?

s47F



s22(1)(a)(ii)



Important Notice: The content of this email is intended only for use by the individual or entity to whom it is addressed. If you have received this email by mistake, please advise the sender and delete the message and attachments immediately. This email, including attachments, may contain confidential, sensitive, legally privileged and/or copyright information.

Any review, retransmission, dissemination or other use of this information by persons or entities other than the intended recipient is prohibited. DIBP respects your privacy and has obligations under the Privacy Act 1988.

Unsolicited commercial emails MUST NOT be sent to the originator of this email.

Released by DIBP under the
Freedom of Information Act 1982

TARIFF CONCESSION REVOCATION ORDER

Under Section 269SD(2) of the Customs Act 1901, I **s22(1)(a)(ii)** a delegate of the Comptroller-General of Customs

(a) revoke Tariff Concession Order Number 1317650 made on 26.08.13, in respect of the goods described in TABLE A below. This Revocation has effect from 17.12.15; and

(b) make in its place the Tariff Concession Orders described in TABLE B. The goods specified in Column 1 of TABLE B are goods to which the item in Part III of Schedule 4 to the Customs Tariff Act 1995 specified in Column 2 of TABLE B applies. The Order shall have effect from the date notified in paragraph (a) above as the date of effect for the Revocation.

TABLE A

COLUMN 1		COLUMN 2
Description of Goods including the Customs Tariff Classification		Schedule 4 Item Number Last date of effect
4818.30.00	TABLE NAPKIN STOCK, wood cellulose, single ply OR multi-ply, in rolls having a width NOT less than 230 mm and NOT greater than 310 mm	50 16.12.15
Op. 30.05.13		- TC 1317650

This is page 1 of 2 Pages of the instrument.

Dated 06 May 2016

s22(1)(a)(ii)

Delegate of the Comptroller-General of Customs

Released by DIBP under the
Freedom of Information Act 1982

65

TABLE B

COLUMN 1		COLUMN 2
Description of Goods including the Customs Tariff Classification		Schedule 4 Item Number Last date of effect
4818.90.00	TABLE NAPKIN STOCK, wood cellulose, single ply OR multi-ply, in rolls having a width NOT less than 230 mm and NOT greater than 310 mm	50
	Op. 17.12.15	- TC 1616228

This is page 2 of 2 Pages of the instrument.

Dated 06 May 2016

s22(1)(a)(ii)

Delegate of the Comptroller-General of Customs

Released by DIBP under the
Freedom of Information Act 1982

UNCLASSIFIED

53

s22(1)(a)(ii)

From: s47F
 Sent: Wednesday, 16 March 2016 1:29 PM
 To: TARCON
 Subject: Revocation TC 1317650

Good Morning,

We are responding in relation to the notice that TC 1317650 is intended to be revoked under section 269SD (1AA) of the Customs Act 1901.

We wish to advise that our client, The Castaway Paper Products Company (Castaway) will be affected by this revocation.

On behalf of Castaway we applied for this concession.

The Gazette indicates that the TCO is being revoked due to an inadequate description of the goods.

We do not agree with this assertion and provide the following reasons:

The product as imported is napkin/serviette paper (stock) in roll widths of 23cms & 31cms.

The rolls are placed on a machine at Castaway's Sydney premises and cut into napkins/serviettes.

Chapter note 8 of Chapter 48 determines that the goods cannot be classified to 4803 as the width of the rolls does not exceed 36cms.

The goods are therefore, classified to 4818.

4818 is as follows:

Toilet paper and similar paper, cellulose wadding or webs of cellulose fibres, of a kind used for household or sanitary purposes, in rolls of a width not exceeding 36cm, or cut to size or shape; handkerchiefs, cleansing tissues, towels, tablecloths, serviettes, bed sheets and similar household, sanitary or hospital articles, articles of apparel and clothing accessories, of paper pulp, paper, cellulose wadding or webs of cellulose fibres

4803 differentiates between toilet paper and napkin stock.

4818 refers only to Toilet paper and similar paper etc, in rolls of a width not exceeding 36cms.

Our opinion is that napkin stock is not a similar paper to toilet paper and the heading of 4803 confirms this view.

Therefore, we cannot classify our clients goods to the description in 4818 prior to the semi colon.

We then have to determine in conjunction with the General Rules For the Interpretation of Schedule 3 of the Tariff whether the description of goods after the semi colon will cover the goods.

We have relied on Interpretative rules 1 & 2(a) to determine that the goods are classified to 48183000.

The goods are rolls of paper napkin stock that will be converted into napkins/serviettes with a cutting process at Castaway's facility.

Rule 2 (a) allows any reference in a heading to an article (article is mentioned in 4818) shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article.

Our view is that Castaway's goods as imported have the essential character of serviettes and should be classified to 48183000.

s22(1)(a)(ii)

Why wouldn't TC1317650 be treated in the same manner (revoked and reissued under Section 269SD 2)?

Although as outlined above we do not agree that 48189000 covers table napkin stock that is in rolls not exceeding 36cms.

UNCLASSIFIED

52.

We look forward to your further advice.

Best regards,

s47F



UNCLASSIFIED

54

s22(1)(a)(ii)

From: s47F
Sent: Thursday, 17 March 2016 9:43 AM
To: TARCON
Subject: Revocation TC 1317650

Categories: Actioned by s22(1)(a)(ii)

Good Morning,

Further to my email of March 16, we omitted the following:

s22(1)(a)(ii)

By invoking different provisions of the Customs Act for what is essentially in our view the same set of circumstances will place our client at a commercial disadvantage.

Again we await your response.

Best Regards,

s47F

Released by DIBP under the
Freedom of Information Act 1982

s47F

5 April 2016

The Comptroller General of Customs
Australian Border Force
CANBERRA ACT 2600

ATTENTION: TARIFF CONCESSIONS

BY EMAIL ONLY TO: tarcon@border.gov.au

EM
By:

Dear Comptroller

**RE: TC 13178650 – NOTICE OF INTENTION TO REVOKE – SUBMISSIONS IN
SUPPORT OF THIS TC (THIS TC) NOT BEING REVOKED**

We refer to the notice of intention to revoke this TC for the stated reason, "*due to an inadequate description of the TCO goods*" and submit as follows:

1. For goods to have this TC applied on an import declaration and be afforded duty free status, the goods must first be identified and then classified within tariff heading 4818.30.00. This procedure was followed pursuant to paragraph 269K(1)(b) of the Customs Act in 2013 when the relevant application was processed;
2. For goods to have this TC applied and be afforded duty free status on an import declaration, the goods must then also satisfy the criteria of the TC, being:
 - a. Table napkin stock;
 - b. Wood cellulose;
 - c. Single ply or multi-ply;
 - d. In rolls having a width NOT less than 230mm and NOT greater than 310mm;

s47F

- 2 -

3. When this TC was made the delegate had regard to the application and was satisfied that the core criteria for making a TC were satisfied per section 269F(1));
4. If it is the case that particular goods:
 - (i) are classified in heading 4818.30.00; and
 - (ii) (ii) satisfy the criteria described in paragraph 2 above,then particular goods will be adequately identified and described and able to have the benefit of this TC;
5. If it is the case that the Comptroller-General considers that it is a relevant matter (subsection s269(1AB)) that the tariff heading which applies to goods described by this TC is 4818.90.00, then the apparent transcription error which was made when the application for this TC was processed per paragraph S269k(1)(b), should be rectified by:
 - (i) the Comptroller-General making a TC in the terms of this TC which is keyed to tariff heading 4818.90.00;
 - (ii) with an operative date of 30.05.13, per subsection 269(3) and subsections 269(2) and 269(4).

Please do not hesitate to contact me if you have any questions.

S47F



Note for file - TCO 1317650

Following the intention to revoke notice in gazette TC 16/09, two submissions were received as follows.

Century Customs and Freight

s47F stated that he submitted the application for the TCO on behalf of his client Castaway paper Products. He stated that his client would be disadvantaged if the TCO were to be revoked. He argued that the TCO description was an accurate description of the goods his client imported and the goods are classified 4818 by virtue of the goods being incomplete goods of 4818, that is, incomplete serviettes.

s47F argued that this TCO should be treated in the same way that TCO 1520129 which was revoked and reissued with the operative date being the date TCO 1520129 came into force. The circumstances of TCO 1520129 were different in that the classifier failed to take into account a Chapter Note 8. In this case, there has been a change of opinion of the classification of the goods.

s47F

Under instructions from Century Customs and Castaway Paper, s47F stated that the incorrect tariff classification of the TCO should be treated as a transcription error and a new TCO should replace the existing TCO with an operative date of 30 May 2013.

Analysis of submissions

Tariff heading 4818 includes, in summary, paper in rolls of a width less than 360 mm and complete items. The TCO goods are described by the first part of the heading, that is, paper in rolls and such goods fall to the residual heading 4818.90.00. As the goods are specifically covered by 4818.90.00, they cannot be classified as incomplete items of 4818.30.00.

The classification error made at the time the TCO application was processed cannot be treated as a transcription error as, at the time, the intention was to key the TCO to 4818.30.00.

269SD (4) states that a new TCO under 269SD (2) can have an effective date of the date the original TCO came into force or a later date.

Decision

Having regard to the written advice on the matter given by an officer of customs in the email of 17 December 2015, I am satisfied that the TCO must be revoked and a new TCO made in respect of the goods with effect from 17 December 2015.

s22(1)(a)(ii)

Delegate of the Comptroller-General of Customs
5 May 2016

UNCLASSIFIED

s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Wednesday, 11 May 2016 3:49 PM
To: s47F
Cc: s22(1)(a)(ii)
Subject: RE: TC - 13178650 - SUBMISSIONS RE PROPOSED REVOCATION
 [SEC=UNCLASSIFIED]

Dear s47F

Thank you for your submission.

Customs Act 1901 Section 269 SD contains a number of options that allow the Comptroller-General of Customs to revoke tariff concession orders. A concession can be revoked if the description of the goods is not a full description and a concession with wording that is not consistent with the tariff heading to which the concession is keyed is an example of a concession that does not have a full description. However, I have reconsidered the intention to revoke TC 1317650 and I have decided to cancel the notification of the intention to revoke contained in gazette TC 16/09 of 9 March 2016.

Revocation action was initiated on the basis of advice that was received on 17 December 2015 from an officer that TC 1317650 should be classified 4818.90.00. I have reconsidered this advice and I am satisfied that the concession should be revoked and reissued under 269SD (2) (e). I am satisfied that the date of the reissued concession should be the dated that the classification opinion was received, that is, 17 December 2015.

I am not satisfied that there was a transcription error in the making of TC 1317650 as the classification opinion at the time the concession application was first processed was that the goods were classified 4818.30.00.

Notification of the decision to revoke and reissue the concession as TC 1616228 will appear in gazette TC 16./18 of 18 May 2016.

Please note that 273GA provides for applications to be made to the Administrative Appeals Tribunal for review of a decision under 269SD (2).

Yours sincerely

s22(1)(a)(ii)

Delegate of the Comptroller-General of Customs

P: s22(1)(a)(ii)
 E: s22(1)(a)(ii)@border.gov.au

From: s47F
Sent: Tuesday, 5 April 2016 9:54 AM
To: TARCON
Subject: TC - 13178650 - SUBMISSIONS RE PROPOSED REVOCATION

Dear Tariff Concession Officers

Please refer to our submissions attached.

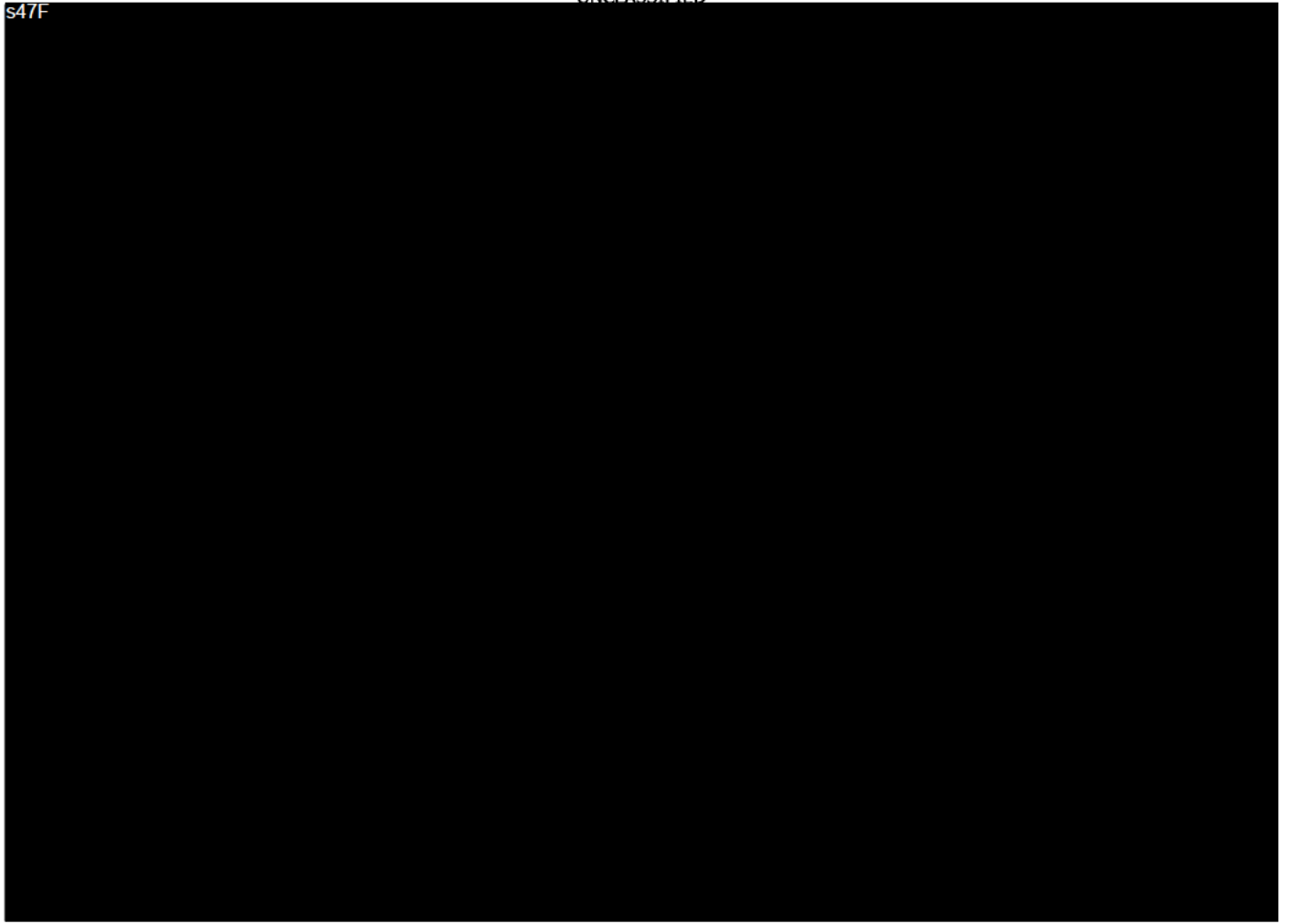
Regards

s47F

 Released by DIBP under the
 Freedom of Information Act 1982

UNCLASSIFIED

s47F



UNCLASSIFIED

68

s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Wednesday, 11 May 2016 4:53 PM
To: s47F
Subject: RE: Revocation TC 1317650 [SEC=UNCLASSIFIED]

Dear s47F

Thank you for your submission.

Customs Act 1901 Section 269 SD contains a number of options that allow the Comptroller-General of Customs to revoke tariff concession orders. A concession can be revoked if the description of the goods is not a full description and a concession with wording that is not consistent with the tariff heading to which the concession is keyed is an example of a concession that does not have a full description. However, I have reconsidered the intention to revoke TC 1317650 and I have decided to cancel the notification of the intention to revoke contained in gazette TC 16/09 of 9 March 2016.

Revocation action was initiated on the basis of advice that was received on 17 December 2015 from an officer that TC 1317650 should be classified 4818.90.00. I have reconsidered this advice and I am satisfied that the concession should be revoked and reissued under 269SD (2) (e). I am satisfied that the date of the reissued concession should be the date that the classification opinion was received, that is, 17 December 2015.

The original classification of TC 1520129 failed to take into account Note 8 to Chapter 48. This was an obvious failure to correctly apply principle 1 of the *General Rules for the Interpretation of schedule 3*. The reconsideration of the classification of TC 1317650 involves a change of opinion and in this case I am satisfied that the appropriate action has been taken.

In your email of 17 March 2016 you mention that invoking different provisions of the Customs Act in relation to TC 1520129 and TC 1317650 would place your client at a commercial disadvantage. Section 269SD (2) does not permit consideration of such issues. I am satisfied that the cases have been considered on their individual merits.

Notification of the decision to revoke and reissue the concession as TC 1616228 will appear in gazette TC 16/18 of 18 May 2016.

Please note that 273GA provides for applications to be made to the Administrative Appeals Tribunal for review of a decision under 269SD (2).

Yours sincerely

s22(1)(a)(ii)

Delegate of the Comptroller-General of Customs

P: s22(1)(a)(ii)

E: s22(1)(a)(ii)@border.gov.au

From: s47F
Sent: Wednesday, 16 March 2016 1:29 PM
To: TARCON
Subject: Revocation TC 1317650

Good Morning,

We are responding in relation to the notice that TC 1317650 is intended to be revoked under section 269SD (1A) of the Customs Act 1901.

We wish to advise that our client, The Castaway Paper Products Company (Castaway) will be affected by this revocation.

On behalf of Castaway we applied for this concession.

The Gazette indicates that the TCO is being revoked due to an inadequate description of the goods.

UNCLASSIFIED

We do not agree with this assertion and provide the following reasons:

The product as imported is napkin/serviette paper (stock) in roll widths of 23cms & 31cms.

The rolls are placed on a machine at Castaway's Sydney premises and cut into napkins/serviettes.

Chapter note 8 of Chapter 48 determines that the goods cannot be classified to 4803 as the width of the rolls does not exceed 36cms.

The goods are therefore, classified to 4818.

4818 is as follows:

Toilet paper and similar paper, cellulose wadding or webs of cellulose fibres, of a kind used for household or sanitary purposes, in rolls of a width not exceeding 36cm, or cut to size or shape; handkerchiefs, cleansing tissues, towels, tablecloths, serviettes, bed sheets and similar household, sanitary or hospital articles, articles of apparel and clothing accessories, of paper pulp, paper, cellulose wadding or webs of cellulose fibres

4803 differentiates between toilet paper and napkin stock.

4818 refers only to Toilet paper and similar paper etc, in rolls of a width not exceeding 36cms.

Our opinion is that napkin stock is not a similar paper to toilet paper and the heading of 4803 confirms this view.

Therefore, we cannot classify our clients goods to the description in 4818 prior to the semi colon.

We then have to determine in conjunction with the General Rules For the Interpretation of Schedule 3 of the Tariff whether the description of goods after the semi colon will cover the goods.

We have relied on Interpretative rules 1 & 2(a) to determine that the goods are classified to 48183000.

The goods are rolls of paper napkin stock that will be converted into napkins/serviettes with a cutting process at Castaway's facility.

Rule 2 (a) allows any reference in a heading to an article (article is mentioned in 4818) shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article.

Our view is that Castaway's goods as imported have the essential character of serviettes and should be classified to 48183000.

s22(1)(a)(ii)

Why wouldn't TC1317650 be treated in the same manner (revoked and reissued under Section 269SD 2)?

Although as outlined above we do not agree that 48189000 covers table napkin stock that is in rolls not exceeding 36cms.

We look forward to your further advice.

Best regards,

s47F