

4



If this form was completed by a business with fewer than 20 employees, please provide an estimate of the time taken to complete this form.

Hours Minutes

APPLICATION FOR A TARIFF CONCESSION ORDER (TCO)

The form should be read carefully before being completed

- (a) Before lodging an application for a TCO, the applicant should determine whether a suitable TCO already exists. Information on existing TCOs is contained in the schedule of Concessional Instruments (SCI), a copy of which is available at each Regional Office of Customs. A TCO can be used by any importer.
- (b) An application will be date stamped on the day it is first received in Canberra by an officer of Customs. Receipt of an application will be acknowledged. Any resultant TCO will operate from the date of receipt. Instructions on how to lodge this form are provided at the end of this form.
- (c) Where an application is accepted as being a valid application, the identity of the applicant and of the importer for whom the applicant is acting will be published in the *Gazette*.
- (d) Section 269F of the *Customs Act 1901* requires that a TCO application to be in writing, be in an "approved form", contain such information as the form requires, and be signed in the manner indicated in the form. **This is the approved form for the purposes of that section.**
- (e) Section 269FA of the *Customs Act 1901* states "It is the responsibility of an applicant for a TCO to establish, to the satisfaction of the Chief Executive Officer (CEO), that, on the basis of:
- (i) all information that the applicant has, or can reasonably be expected to have; and
 - (ii) all inquiries that the applicant has made, or can reasonably be expected to make;
- there are reasonable grounds for asserting that the application meets the core criteria". The application is taken to meet the core criteria if, on the day of lodgement of the application, no substitutable goods were produced in Australia in the ordinary course of business.
- (f) **Every question on the form must be answered.** Failure to supply the information required by this form will result in rejection of the application (and in the loss of operative date).
- (g) Where the form provides insufficient space to answer a question, an answer may be provided in an attachment. The attachment should clearly identify the question to which it relates.
- (h) All information about inquiries into the production of substitutable goods must relate to the date the application is lodged with Customs.
- (i) Customs may require an applicant to substantiate, with documentary evidence, any information provided in the application form.
- (j) Further information on the Tariff Concession System is available in Part XVA of the *Customs Act 1901*, in the foreword to the Schedule of Concessional Instruments, in the administrative guidelines in Volume 13 of the Australian Customs Service Manual, in Australian Customs Notice No. 98/19, on the internet at www.customs.gov.au, by e-mailing information@customs.gov.au or by phoning the Customs Information Centre 1300 363 263.

APPLICANT DETAILS (An agent/broker should provide details on the next page)

Applicant's Name MOFFAT PTY LTD		Australian Business Number (A.B.N.) 90.070.810.721	
Postal Address 740 SPRINGVALE RD., MULGRAVE, VIC. 3170			
Applicant's Reference		Owner Code (if applicable)	
Company Contact S47F		Position Held S47F	
Telephone Number S47F	Facsimile Number	E-mail Address	

If you do not intend to use the TCO to Import into Australia the goods the subject of the application, you must provide, in the section below, the identity of the importer for whom you are acting (refer to paragraph 269F(3)(c) of the *Customs Act 1901*).

IMPORTER DETAILS

Importer's Name (If same as applicant, write "as above") AS ABOVE		A.B.N.	
Postal Address			
Importer's Reference		Owner Code 32 FEB 05 10:50	
Company Contact		Position Held	
Telephone Number		Facsimile Number	

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AGENT/BROKER DETAILS (if applicable)

Agent's Name <i>M. BILSTON</i>		A.B.N. <i>42. 851. 107. 497</i>
Postal Address <i>[REDACTED]</i>		
Agent's Reference <i>PASTO</i>	Agency Contact <i>[REDACTED]</i>	
Telephone Number <i>[REDACTED]</i>	Facsimile Number <i>[REDACTED]</i>	E-mail Address <i>[REDACTED] @ BIGBOX.COM</i>

DESCRIPTION OF GOODS

(a) The description of the goods in the application will be used as the description of the goods in the TCO (if made).

(b) The application should provide a full description of the goods, including the physical features of the goods or the various components of the goods. It should not describe the goods in terms of what they do.

(c) In accordance with section 269SJ of the *Customs Act 1901*, the CEO must **not** make a TCO in respect of goods:

- (i) described in terms other than in generic terms; or
- (ii) described in terms of their intended end use; or
- (iii) declared by the regulations to be goods to which a TCO should not be extended.

Goods will be taken to be described in terms other than in generic terms if, for example, their description, either directly or by implication, indicates that they are goods of a particular brand or model, or that a particular part number applies to the goods.

(d) Guidance on the drafting of the description of goods is contained in Volume 13 of the ACS Manual and in Australian Customs Notice No. 98/19.

1 Describe the goods

"PASTEURIZERS ICE CREAM MIX, ELECTRONIC, PROGRAMMABLE LOGIC CONTROL"

ILLUSTRATIVE MATERIAL

2 Attach technical, illustrative descriptive material and/or a sample to enable a full and accurate identification of the goods the subject of the application. ✓

TARIFF CLASSIFICATION

3 Identify the tariff classification (to 8 figure subheading level) *84798990*

Identify the General Duty rate ☐ *5* %

If a Tariff Advice for the goods has been sought or obtained, please provide the TA No. ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ or attach a copy.

USES OF THE IMPORTED GOODS

4 Describe ALL uses (including design uses) to which the goods can be put.

*Automatic PASTEURISATION OF
ICE CREAM MIX*

SUBSTITUTABILITY OF LOCALLY PRODUCED GOODS

- (a) A local manufacturer's goods are substitutable when they are put, or are capable of being put, to a use that corresponds with a use (including a design use) to which the goods the subject of the application can be put (subsection 269B(1) of the *Customs Act 1901*). Even if not identical, locally made goods may be substitutable.
- (b) In determining whether the uses of Australian produced goods correspond with the uses of the goods the subject of the application, the ability of the goods to compete with each other in any market is not relevant.
- (c) The applicant must provide written information as to the inquiries made to establish that there are reasonable grounds for believing that there are no producers of substitutable goods in Australia. The application must include a copy of the research material sourced and a copy of correspondence to, and replies from, potential local manufacturers or relevant industry associations. The application will be rejected if it fails to provide all written information as to the inquiries made.

NOTE: The Australian Customs Service suggests that potential local manufacturers should be given at least 10 working days to respond to inquiries concerning local manufacture.

- 5 Provide details of the nature of ALL inquiries you have undertaken in order to establish that substitutable goods are not produced in Australia, and the results of those inquiries. Attach copies of all correspondence or directory searches, etc.

ROMANUS AUST - 41-71-0-30 - DAIRY SYSTEMS + MACHINERY
41-70-0-32 - MILK PROCESSING SYSTEMS.

LETTERS TO:

APV AUSTRALIA PL 3168

NO REPLY 11/2

EDSON, 3169

——"——

MILKFO AUST. 3277

——"——

DAIRIESWAY PL, 3820

——"——

PHASEFACE PL, 3189

——"——

- 6 Provide any additional information in support of discharging your responsibility to establish that there are reasonable grounds for asserting that there are no substitutable goods produced in Australia in the ordinary course of business.

PRESCRIBED ORGANISATIONS

7 Have you made inquiries of a prescribed organisation to obtain advice about whether there are producers in Australia of substitutable goods?

☐ YES ☒ NO

If YES, attach a copy of the advice received.

Note that under subsection 269M(6) of the *Customs Act 1901*, the CEO may, despite section 16 of the *Customs Administration Act 1985*, give a copy of all, or of a part, of the application to a prescribed organisation.

ADDITIONAL INFORMATION

8 Provide any additional information in support of your application.

DECLARATION

I, s47F	Position Held CONSULTANT
Company (if applicable)	
declare that:	
1 To the best of my knowledge and belief the information contained in this form is correct; and	
2 I have the authority to act on behalf of the company/applicant; and	
3 I agree, in submitting this form by electronic means (including facsimile) that, for the purposes of Sub-Section 14(3) of the Electronic Transactions Act, this application will be taken to have been lodged when it is first received by an officer of Customs, or if by e-mail, when it is first accessed by an officer of Customs, as specified in Sub-Section 269F(4) of the Customs Act.	
Signature of Applicant/Agent/Broker s47F	Date 11.2.09

NOTE: SECTION 234 OF THE CUSTOMS ACT 1901 PROVIDES THAT IT IS AN OFFENCE TO MAKE A STATEMENT TO AN OFFICER THAT IS FALSE OR MISLEADING IN A MATERIAL PARTICULAR.

WHEN THIS FORM HAS BEEN COMPLETED LODGE IT WITH CUSTOMS BY:

- posting it by prepaid post to the
National Manager, Tariff Branch
Australian Customs Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601
- or
- delivering it to the ACT Regional Office located at
Customs House, Canberra
- or
- sending it by facsimile to (02) 6275 6376
- or
- e-mailing it to tarcon@customs.gov.au.

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M.P. BILSTON

s47F



ABN 42 851 107 497

THE PRODUCT MANAGER,
EDSON HOT WATER PTY. LTD.,
7 FURY ST.
CLAYTON. VIC. 3169

27TH JANUARY, 2008

DEAR SIR ,

MY CLIENT , MOFFAT PTY. LTD., CURRENTLY IMPORTS ELECTRONIC PASTEURISERS FOR
THE PRODUCTION OF ICE CREAM MIXES IN RETAIL ICE CREAM PARLOURS

AS FAR AS WE ARE AWARE THESE MACHINES ARE NOT PRODUCED LOCALLY & WE WOULD
LIKE TO APPROACH AUSTRALIAN CUSTOMS WITH A VIEW TO HAVING THE CURRENT 5%
IMPORT DUTY ON THEM REMOVED , BY WAY OF TARIFF CONCESSION.

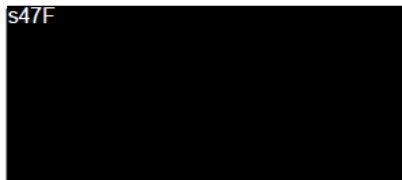
THE WORDING WE PROPOSE IS AS FOLLOWS :-

" PASTEURISERS , ICE CREAM MIX , ELECTRONIC , PROGRAMMABLE
LOGIC CONTROL. "

IN ORDER THAT WE CAN DECIDE WHETHER OR NOT TO PROCEED WITH OUR
APPLICATION , WOULD YOU PLEASE ADVISE AS TO WHETHER YOUR COMPANY
CURRENTLY MANUFACTURES SUBSTITUTABLE GOODS HERE IN AUSTRALIA .

I LOOK FORWARD TO YOUR RESPONSE.

s47F



TARIFF & TRADE CONSULTANT

10

M.P. BILSTON

s47F



ABN 42 851 107 497

THE PRODUCT MANAGER,
PHASEFALE PTY.LTD.,
36 BULLI ST.,
MOORABBIN. VIC. 3189

27TH JANUARY, 2008

DEAR SIR ,

MY CLIENT , MOFFAT PTY.LTD., CURRENTLY IMPORTS ELECTRONIC PASTEURISERS FOR
THE PRODUCTION OF ICE CREAM MIXES IN RETAIL ICE CREAM PARLOURS

AS FAR AS WE ARE AWARE THESE MACHINES ARE NOT PRODUCED LOCALLY & WE WOULD
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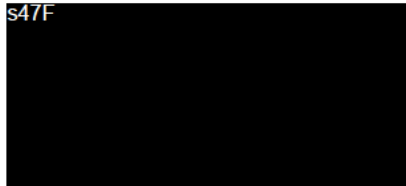
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CURRENTLY MANUFACTURES SUBSTITUTABLE GOODS HERE IN AUSTRALIA .

I LOOK FORWARD TO YOUR RESPONSE.

s47F



TARIFF & TRADE CONSULTANT

9

M.P. BILSTON

s47F



ABN 42 851 107 497

THE PRODUCT MANAGER,
MILKFLO AUSTRALIA PTY.LTD.,
268 ZIEGLER PDE.,
ALLANSFORD, VIC. 3277

27TH JANUARY, 2008

DEAR SIR,

MY CLIENT, MOFFAT PTY.LTD., CURRENTLY IMPORTS ELECTRONIC PASTEURISERS FOR THE PRODUCTION OF ICE CREAM MIXES IN RETAIL ICE CREAM PARLOURS

AS FAR AS WE ARE AWARE THESE MACHINES ARE NOT PRODUCED LOCALLY & WE WOULD LIKE TO APPROACH AUSTRALIAN CUSTOMS WITH A VIEW TO HAVING THE CURRENT 5% IMPORT DUTY ON THEM REMOVED, BY WAY OF TARIFF CONCESSION.

THE WORDING WE PROPOSE IS AS FOLLOWS :-

" PASTEURISERS, ICE CREAM MIX, ELECTRONIC, PROGRAMMABLE LOGIC CONTROL."

IN ORDER THAT WE CAN DECIDE WHETHER OR NOT TO PROCEED WITH OUR APPLICATION, WOULD YOU PLEASE ADVISE AS TO WHETHER YOUR COMPANY CURRENTLY MANUFACTURES SUBSTITUTABLE GOODS HERE IN AUSTRALIA -

I LOOK FORWARD TO YOUR RESPONSE.

s47F



TARIFF & TRADE CONSULTANT

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M.P. BILSTON

s47F



ABN 42 851 107 497

THE PRODUCT MANAGER,
DAVIESWAY PTY.LTD.,
187 QUEEN ST.,
WARRAGUL. VIC. 3820

27TH JANUARY, 2008

DEAR SIR ,

MY CLIENT , MOFFAT PTY.LTD., CURRENTLY IMPORTS ELECTRONIC PASTEURISERS FOR
THE PRODUCTION OF ICE CREAM MIXES IN RETAIL ICE CREAM PARLOURS

AS FAR AS WE ARE AWARE THESE MACHINES ARE NOT PRODUCED LOCALLY & WE WOULD
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THE WORDING WE PROPOSE IS AS FOLLOWS :-

" PASTEURISERS , ICE CREAM MIX , ELECTRONIC , PROGRAMMABLE
LOGIC CONTROL."

IN ORDER THAT WE CAN DECIDE WHETHER OR NOT TO PROCEED WITH OUR
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CURRENTLY MANUFACTURES SUBSTITUTABLE GOODS HERE IN AUSTRALIA .

I LOOK FORWARD TO YOUR RESPONSE.

s47F



TARIFF & TRADE CONSULTANT

7

M.P. BILSTON

s47F



ABN 42 851 107 497

THE PRODUCT MANAGER,
APV AUSTRALIA PTY.LTD.,
MONASH SCIENCE & TECHNOLOGY PARK
BLACKBURN RD,
CLAYTON, VIC. 3168

27TH JANUARY, 2008

DEAR SIR ,

MY CLIENT , MOFFAT PTY.LTD., CURRENTLY IMPORTS ELECTRONIC PASTEURISERS FOR
THE PRODUCTION OF ICE CREAM MIXES IN RETAIL ICE CREAM PARLOURS

AS FAR AS WE ARE AWARE THESE MACHINES ARE NOT PRODUCED LOCALLY & WE WOULD
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CURRENTLY MANUFACTURES SUBSTITUTABLE GOODS HERE IN AUSTRALIA .

I LOOK FORWARD TO YOUR RESPONSE.

s47F



TARIFF & TRADE CONSULTANT

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s22(1)(a)(ii)

41-71.0

- | | |
|--------------------------------|------------------|
| AACE Filters Australia | Ph: (03)97236134 |
| APV Australia Pty Ltd | Ph: (03)95899222 |
| Cutting Edge Electrical & Inst | |
| Davesway Pty Ltd | |
| Edson Hot Water Systems | |
| Ernest Fleming Pty Ltd | |
| Flemingo Machinery Pty Ltd | |
| Pegg Filler Co (Aust) Pty Ltd | |
| Trigoscandia Equipment Pty Ltd | |
| Heat and Control Pty Ltd | |
| L Lennard Pty Ltd | |
| Lightnin Mixers Pty Ltd | |
| Miklo Australia | |
| Noffat Pty Ltd | |
| Noffat Pty Ltd | |
| Phaseale Pty Ltd | |
| Wilson Hot Water Systems P/L | |

931

Carpigiani Electronic Pasteurizer for Ice Cream Mixes

15



PASTO XP

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Freedom of Information Act 1982

Carpigiani PASTO XP electronic pasteurizers

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The result of CARPIGIANI's vast experience in the sector, these new electronic XP pasteurizers are easy to use, simple to manage, and extremely useful in every ice cream parlour to produce all ice cream mixes, in total hygiene. Two models: one with a bowl suitable for medium-sized production, and another with two bowls for higher production capacities.

The PASTO XP has automatic programmes for:

- 1.pasteurizing milk-cream Mixes at 65°C**
to preserve the fragrance and aroma of cream in the ice cream
- 2.pasteurizing milk-eggs Mixes at 85°C**
for the maximum hygiene in the heat treatment of the egg-yolk
- 3.pasteurizing milk-cacao Mixes at 90°C**
to guarantee the solubilization of the cacao vegetable fibres.

After heating, each mix remains at a high temperature for the time necessary to complete the sanitization; then it is quickly cooled to 4°C; a buzzer and blinker warn the operator that the cycle is finished. The mix is then preserved so it can mature. The model with two bowls works in progression, so consumption is lower than for two single pasteurizers.

The mixtures can be kept for up to 3 days in the PASTO XP.



Pasto 60 XP



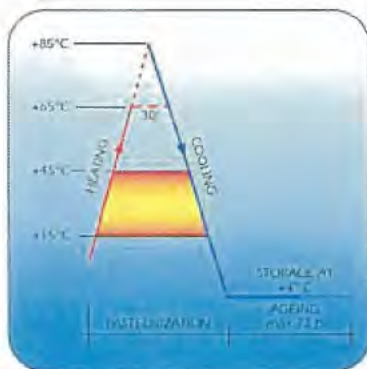
Pasto 60+60 XP

MODEL	Production		Electric power*			Installed power	Condenser**	Dimensions cm			Net weight	
	Min litres	Max litres	Volt	Hz	Ph			kW	at the base			Height
									Width	Depth		
Pasto 60 XP	30	60	400	50	3	6.5	Water	39	85	103	162	
Pasto 60+60 XP	2x30	2x60	400	50	3	9.6	Water	70	85	103	300	

* 1 phase 230V - 50Hz - 3 wires with ground and with three phase supply. ** Air cooled without need of additional cooling. Dimensions refer to 25°C external temperature and to 20°C water temperature in the condenser.

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Freedom of Information Act 1982

XP Technology



Pasteurization

In 1864 the French scientist Louis Pasteur discovered that controlled heat treatment could be used to eliminate pathogenic microbes in foodstuffs without destroying the vitamins and proteins, in other words it was possible to sanitize them while conserving the nutritional and organoleptic values.

Control Panel

Control keys with easy-to-read symbols for immediate interpretation; each pasteurization cycle is continuously monitored on the display, so the operator can follow all of the phases of the process involved in the preparation of the mixes.



Tanks

Extremely compact, made of stainless steel, in a rectangular shape, with covers for pouring in ingredients that meet accident prevention standards. Dry heating and cooling, for constant efficiency, without the deposits from liquid bath systems.

Half Tank

Command for the partialization of the heating system for working in the low season with half the quantity of mix; this lets you pasteurize 30 litres of mix in each tank perfectly, without wasting energy.



Stirrers

Made of stainless steel, with mobile blades, suitable for mixing liquid ingredients and designed to easily break up and mix solid ingredients, such as sugar. The stirrers can be removed from the machine without the need for tools and are easy to clean.

Taps

Easy-to-use to batch the quantity of the mix. For the maximum hygiene, after each extraction the automatic washing is activated to eliminate all the residues of the mix. They can be fully dismantled, washed and inspected.



Black-Out

In a power cut, when the power returns if the temperature of the mix is within the critical band of from 15°C to 45°C, the machine automatically runs the pasteurization cycle again, otherwise it will return to the function it was in before the power cut.

Washing the Machine

Double command water shower tap, to be connected to the hot water supply of the shop, to wash the machine; control lever with "fully open" position for continuous supply; timed safety system that stops the flow every 3 minutes.



The 3 Golden Rules of the Homemade Ice Cream Making

In order to produce homemade ice-cream, the fresh, good and worldwide successful Italian ice-cream, you might keep an eye on these three golden rules:

- 1° Always use natural RAW MATERIALS, such as milk, milk cream, eggs, sugar, cocoa, fresh fruit and every other ingredient, and always be sure of their top quality.
- 2° Pour the raw materials into the boiling vat of the PASTO XP, the new Carpigiani's pasteurizer, to have them mixed and pasteurised at hot temperatures, and therefore transformed in an homogeneous and healthy mix. Complete the full pasteurizing cycle, cooling the mix until reaching C°4, thus maximizing its density. Actually, as ageing proceeds, free water reduces, giving a fine, delicious and steady structure to the ice-cream produced.
- 3° Pour liquid mix into the freezing cylinder of LABO XP; here the mix is strongly stirred by the beater at a cold temperature, hence absorbing air and generating overrun, and at last transforming into excellent, creamy and healthy homemade ice-cream.



CARPIGIANI equipment for homemade ice-cream, operated by XP technology

Product designed and produced in compliance with the UNI-EN-ISO 9001-2000, built in accordance with international health standards and rules; conceived to easily allow to perform quality check routines as established by HACCP rules.



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Description of Goods including the Cus Tariff Classification	Schedule 4 Item Number
8419.89.90 PASTEURIZERS, ice cream mix, electronic, programmable logic control Op. 12.02.09 Stated Use: Automatic pasteurisation of ice cream mix Applicant: MOFFAT PTY LIMITED	50 - TC 0904719

Notes

TCOs existing	NO
Tariff Advice	NO
Q5	F 2
LM Research	F 6-11
IDM	F 12-15

Please check words and use

s22(1)(a)(ii)

Trade Services Branch

13/2/09

Wording Agreed with today

s47F

2/3/09

s22(1)(a)(ii)

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**MINUTE PAPER
CENTRAL OFFICE**

TR5

TC Number 0904719

Please provide a Tariff Classification for the goods subject of this Tariff Concession application

TC Officer: _____

OP Date: 12-Feb-09APPLICANT: MoffatGOODS: Ice Cream Pasteurizers

Level 4 Officer: _____ Date: _____

CLAIMED CLASSIFICATION: 8419.89.90Date to Classification Section: 16/2/09

Required Return Date: Date to Class plus 3 _____

TA No. & CLASSIFICATION: _____

CLASSIFICATION DECISION:

8419	89	90
------	----	----

IS TCO RESTRICTED BY REG. 185? NoGENERAL DUTY
RATE:

5%

IDENTIFICATION OF GOODS:

PASTO XP - machine pasteurises
by heating ice-cream mix to 65-90°C then cools to 4°C.

HEADINGS CONSIDERED: 8419 8418 8438

COMMENTS AND CHAPTER NOTES:

Not a freezer or refrigerator
as the cooling is only to "fix" the pasteurising. Does not
make ice-cream - mix is transferred to another machine
for freezing/stirring. Pasteurising/heating is principal
function. IR 3(a).

RETURNED TO TARIFF CONCESSIONS BY:

NAME & DATE:

s22(1)(a)(ii)

16/2/2009



Australian Government
Australian Customs Service

(22)

Reply to the Chief Executive Officer

Quote: TC 0904719
Your Ref: PASTO

Australian Customs Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601
Ph: s22(1)(a)(ii)
Fax: (02) 6275 6376
Email: tarcon@customs.gov.au

12 March 2009

s47F

Dear s47F,

TARIFF CONCESSION SYSTEM
APPLICATION ACCEPTANCE

Your application for Tariff Concession Order (TCO) Number TC 0904719 has been accepted by Customs as a valid application. The application will be published in Gazette Number TC09/11 of 18 March 2009. Details of the gazette notice are shown in the attachment.

Please examine the wording of the gazette notice and advise Customs immediately if the wording does not accurately describe the goods for which a TCO has been sought. This is a verification of agreed wording not an opportunity to further amend.

Yours sincerely,

s22(1)(a)(ii)

for National Manager
Trade Services

Released by DIBP under the
Freedom of Information Act 1982

(2)

Description of Goods including the
Customs Tariff Classification

Schedule 4 Item Number

8419.89.90 PASTEURIZERS, ICE CREAM MIX, electronic, programmable logic controlled
Op. 12.02.09 - TC 0904719 50

Stated Use:
Automatic pasteurisation of ice cream mix

Applicant:
MOFFAT

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Freedom of Information Act 1982

TARIFF CONCESSION ORDER

Under Section 269P of the Customs Act 1901, I, **s22(1)(a)(ii)**, a delegate of the Chief Executive Officer declare that the goods specified in Column 1 of THE TABLE are goods to which the item in Part III of Schedule 4 to the Customs Tariff Act 1995 specified in Column 2 of THE TABLE applies. This Order shall have effect from 12.02.09 and continue in force until revoked under sections 269SC or 269SD of the Act, or the date, if any, specified in Column 2.

THE TABLE

COLUMN 1		COLUMN 2
Description of Goods including the Customs Tariff Classification		Schedule 4 Item Number Last date of effect
8419.89.90	PASTEURIZERS, ICE CREAM MIX, electronic, programmable logic controlled	50
	Op. 12.02.09	- TC 0904719

This is page 1 of 1 Page of the above Table.

Dated 08 May 2009

s22(1)(a)(ii)

.....
Delegate of the Chief Executive Officer

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Freedom of Information Act 1982



Australian Government
Australian Customs Service

(25)

Reply to the Chief Executive Officer

Quote: TC 0904719
Your Ref: PASTO

Australian Customs Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601
Ph: s22(1)(a)(ii)
Fax: (02) 6275 6376
Email: tarcon@customs.gov.au

08 May 2009

s47F

Dear s47F

TARIFF CONCESSION SYSTEM
APPLICATION SUCCESSFUL

I refer to your application for Tariff Concession Order (TCO) Number TC 0904719 lodged on 12 February 2009.

As a delegate of the Chief Executive Officer I am satisfied that the application meets the core criteria on the basis of section 269C of the *Customs Act 1901* and have accordingly made a written Tariff Concession Order.

The decision to make a TCO will be published in Gazette Number TC09/19 of 13 May 2009.

The TCO, as detailed in the attachment, will also be published in the Schedule of Concessional Instruments as soon as possible.

Yours sincerely
s22(1)(a)(ii)

Delegate of the Chief Executive officer

Released by DIBP under the
Freedom of Information Act 1982

Description of the Particular goods including the applicable subheading of the Customs Tariff	Schedule 4 Item Last day of effect
<div>8419.89.90 PASTEURIZERS, ICE CREAM MIX, electronic, programmable logic controlled Op. 12.02.09 Dec. date 08.05.09 - TC 0904719</div>	50

Released by DIBP under the
Freedom of Information Act 1982

EXPLANATORY STATEMENT

Tariff Concession Instrument No. 0904719

Customs Act 1901

Background

Part XVA of the *Customs Act 1901* (the Act) sets out a scheme under which Tariff Concession Orders (TCOs) may be made by the Chief Executive Officer of Customs (the CEO). A lower rate of customs duty applies to goods that are the subject of a TCO.

Under section 269F of the Act, a person may apply to the CEO for a TCO in respect of goods. If the CEO is satisfied that the application is not in respect of goods specified in section 269SJ of the Act, which sets out those goods that cannot be subject to a TCO, the CEO must decide whether the application meets the core criteria.

Section 269C of the Act provides that a TCO application meets the core criteria if, on the day on which the application was lodged, no substitutable goods were produced in Australia in the ordinary course of business. Section 269B of the Act provides that 'goods produced in Australia' has the meaning given by section 269D, 'ordinary course of business' has the meaning given by section 269E and 'substitutable goods' in respect of goods the subject of a TCO application, means goods produced in Australia that are put, or are capable of being put, to a use that corresponds with a use (including a design use) to which the goods the subject of the application can be put.

Subsection 269P(3) of the Act provides that if the CEO is satisfied that a TCO application meets the core criteria, the CEO must make a written order (a TCO) declaring that the goods the subject of the TCO application are goods to which a prescribed item of Schedule 4 to the *Customs Tariff Act 1995* (the Tariff) specified in the order applies.

Moffat applied for a TCO in respect of certain ice cream mix pasteurizers on 12 February 2009.

Instrument

TCO No 0904719 was made on 08 May 2009. It declares that those certain ice cream mix pasteurizers are goods to which item 50 of Schedule 4 to the Tariff applies since the CEO was satisfied that no substitutable goods were produced in Australia. The general rate of duty on these goods is 5%. The rate of duty for the goods subject to the TCO is free.

Consultation

Subsection 269K(1) of the Act provides in part that as soon as practicable after accepting a TCO application as a valid application, the CEO must publish a notice in the Gazette which includes an invitation to any person who considers that there are reasons why the TCO should not be made to lodge a submission with the CEO. The CEO did not receive any submissions in response to this invitation.

Commencement

Subsection 269S(1) relevantly provides that a TCO is to be taken to have come into force on the day on which the application for the TCO was lodged. TCO No. 0904719 is taken to have come into force on 12 February 2009.

The TCO does not affect the rights of a person (other than the Commonwealth) as at the date of registration so as to disadvantage that person or impose liabilities on a person (other than the Commonwealth) in respect of anything done or omitted to be done before the date of registration. The rights of importers will be beneficially affected. Under paragraph 126(1)(r) of the Regulations, importers of such goods will be able to apply for a refund of duty on goods imported since the day on which the TCO is taken to have come into force. The TCO does not impose any liabilities on any person.