



BUREAU OF CUSTOMS

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16 September 2020

CUSTOMS MEMORANDUM CIRCULAR
NO. 232-2020

To: All Deputy Commissioners
All Directors and Division Chiefs
All District/ Port Collectors
All Others Concerned

SUBJECT: TARIFF CLASSIFICATION DISPUTE RULING

Pursuant to Commission Order No. 2018-1 (Rules of Procedure on Disputes involving Tariff Classification), attached is the copy of Tariff Classification Circular Dispute Ruling (TCC/DR) No. 20-003 issued on 11 September 2020.

For your information and guidance.

For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt thereof.


REY LEONARDO B. GUERRERO
Commissioner

SEP 24 2020



BOC-09-15274

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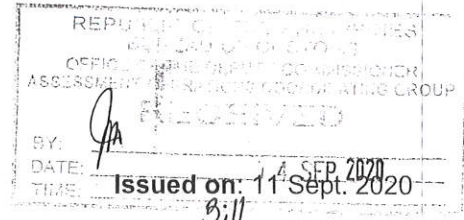


REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

TCC (DR) NO. 20-003

RE: REQUEST FOR TARIFF CLASSIFICATION
DISPUTE RULING ON "VITACEL® WHEAT FIBER
WF300" CONSIGNED TO PROMESSO BUSINESS
SOLUTIONS CORPORATION

(Import Entry/Customs Reference Nos. C-1011287
and C-1011289, Port of Manila)



TARIFF CLASSIFICATION DISPUTE RULING

Before this Commission is a request for tariff classification dispute ruling (TCDR), pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), on the shipments of VITACEL® Wheat Fiber WF300 imported by Promesso Business Solutions Corporation (Importer/Consignee) from Germany. The request of the Importer/Consignee for TCDR was accepted by this Commission on 06 July 2020.

The shipments of the said article, declared under ASEAN Harmonized Tariff Nomenclature (AHTN) 2017 subheading 4706.92.00, with Most Favoured Nation (MFN) rate of duty of 1% *ad valorem*, were processed under Import Entry/Customs Reference Nos. C-1011287 and C-1011289 at the Bureau of Customs (BOC), Port of Manila. The BOC contested the declared heading and reclassified subject article under AHTN 2017 subheading 2302.40.90 with an MFN rate of duty of 3% *ad valorem*.

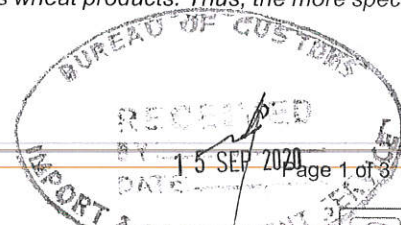
Hence, this request for tariff classification dispute ruling.

On 23 July 2020, this Commission wrote to the Importer/Consignee Company President, Engr. Ma. Cecilia Dela Paz, requesting for the submission of the following: (i) complete percentage composition; (ii) declaration of raw material used; and (iii) detailed production process of subject article starting from the raw materials, to determine the proper tariff classification of subject article. The information requested was received by this Commission on 24 July 2020.

With information deemed sufficient to classify subject article and pursuant to Section 7.3 of Commission Order No. 2018-01, this Commission requested the concerned BOC District Collector on 29 July 2020 for comments on the request for TCDR on VITACEL® Wheat Fiber WF300. In its letter dated 11 August 2020, Mr. Michael Angelo DC. Vargas, Acting District Collector of BOC Port of Manila, submitted a copy of the Disposition Form dated 10 August 2020 bearing the position of the assigned Customs Examiners and Appraisers asserting that the tariff classification made by Promesso Business Solutions Corp. in its shipments of VITACEL® Wheat Fiber WF300 under AHTN 2017 subheading 4706.92.00 is erroneous and that the proper tariff classification must be AHTN 2017 subheading 2302.40.90. The basis for this conclusion is stated in the Disposition Form, as follows:

"Ultimately, the subject shipment must be classified under 2302.4090 since the same represents a more specific description of wheat fiber as required under par. 3(a), Section 1610 [General Rules for the Interpretation (GRI)] of the CMTA. Tariff heading 2302 is more specific since the subject shipment is a raw material for food products and the said tariff heading includes residues or by-products of wheat. On the other hand, tariff heading 4706 made no any mention that it covers wheat products. Thus, the more specific tariff heading for the subject shipment is tariff heading 2302."

OFFICE OF THE DIRECTOR
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In the evaluation of disputes on tariff classification, Section 8 of Commission Order No. 2018-01 provides that this Commission, if it deems necessary, shall conduct a hearing to clarify the facts necessary to resolve the pending dispute in the tariff classification. In the present case, however, this Commission found that the submissions of the Importer/Consignee are sufficient to make a correct determination on the tariff classification of the subject article. A hearing, therefore, is no longer necessary.

After due examination of the submitted composition statement, production process flowchart, technical and safety data sheets, product regulatory information, and brochure, it is established that subject article is a pure fiber produced from wheat plant (*Triticum L.*) without kernels and roots. It is in the form of white powder with a total dietary fiber content of approximately 96% (cellulose, hemicellulose, and lignin). It is produced by digesting wheat plant with sodium hydroxide (chemical process) followed by cleaning and washing, pH-adjustment, drying, milling (mechanical process), and classifying. Subject article is intended to be used as a food ingredient for dietary fiber enrichment in foodstuffs.

Heading 23.02 of the AHTN 2017 covers bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants. The Harmonized System (HS) Explanatory Notes (EN) to this heading state that:

"This heading covers:

- (A) ***Bran, sharps and other residues from the milling of cereal grains.*** *This category essentially comprises by-products from the milling of wheat, rye, barley, oats, maize (corn), rice, grain sorghum or buckwheat, which do not comply with the requirements of Note 2 (A) to Chapter 11 as regards starch content and ash content.*
- B) ***Residues from the sifting or other working of cereal grains.*** *Sifting residues, obtained during pre-milling operations, consist essentially of:*
- *grains of the basic cereal, smaller, mis-shapen, broken or crumbled;*
 - *seeds of various stray plants mixed with the basic cereal;*
 - *fragments of leaves, stalks, minerals, etc."*

On the other hand, heading 47.06 of the AHTN 2017 covers pulps of fibres derived from recovered (waste and scrap) paper or paperboard or of other fibrous cellulosic material. The General HS EN to Chapter 47 state that:

"The pulp of this Chapter consists essentially of cellulose fibres obtained from various vegetable materials, or from waste textiles of vegetable origin. Other materials used for making pulp include: straw, esparto, flax, ramie, jute, hemp, sisal, bagasse, bamboo and various other grasses and reeds."

"Apart from their use in the paper industry, some pulps (especially bleached pulps) serve as a source of cellulose in the manufacture of various products such as artificial textile materials, plastics, varnishes and explosives; they may also be used in cattle fodder."

Pulp is generally presented, among others, in the form of powder or flakes."

Furthermore, the HS Explanatory Notes to heading 47.06 states that:

*"Pulps of this heading **other than** those derived from recovered (waste and scrap) paper or paperboard may be obtained by a mechanical process, a chemical process or a combination of mechanical and chemical processes."*

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Subject article is a fibrous powder produced straight from raw wheat plant (belonging to the family of grasses) by means of a combination of mechanical and chemical pulping process. It is not a residue of the working of cereal. In view thereof, subject article is classified under AHTN 2017 subheading 4706.93.00 by virtue of Rules 1 and 6 of the General Rules for the Interpretation (GRI) of the HS.

WHEREFORE, premises considered, subject article is hereby classified as follows:

Product	AHTN 2017 Code	2020 MFN Rate
VITACEL® Wheat Fiber WF300	4706.93.00	1%

For compliance by the BOC pursuant to Section 1100 of the CMTA.

So Ordered.

FOR THE COMMISSION

MariLou P. Mendoza

MARILOU P. MENDOZA
Chairperson

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