Attachment A

DECISION RECORD

Request Details
FOI Request  FA 15/07/00839
File Number  ADF2015/35064

Scope of request

... all documents in respect of the voiding of the attached 4 March 2002 Tariff Precedent 15913900 (extract attached) including, among other items:
- those giving reasons for voiding
- authorisation and/or decision for voiding
- instructions for voiding
- evidencing date of voiding
- notifications to customs brokers (through TAPIN or otherwise), importers or the public (through public advice products or otherwise) of voiding

Documents in scope

8. Departmental ICS system printout - Tariff Precedent View; Tariff Precedent History List – containing 2 folios
11. Departmental document (email) - Subject: Tapin Precedent message – containing 1 folio.
Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate Departmental records.

Information considered

In reaching my decision, I have considered the following:
- The Freedom of Information Act 1982;
- Departmental documents (identified above); and
- The Australian Information Commissioner’s guidelines relating to access to documents held by government.

Reasons for decision

I have considered the documents within the scope of your request. It is my decision to release the documents to you in full, with irrelevant material removed, as detailed in the Schedule of Documents.

Deletion of exempt or irrelevant material under s.22 of the Act

Section 22(2) of the Act provides that, where an agency reaches the view that a document contains exempt information or material that is irrelevant to the request and it is possible for the agency to prepare an edited copy of the document with the irrelevant or exempt material deleted, then the agency must prepare such a copy.

This edited copy must be provided to the applicant. Further, the decision maker must advise the applicant in writing that the edited copy of the document has been prepared and of the reason(s) for each of the deletions in the document (s.22(3) of the Act).

Exempt material is deleted pursuant to s.22(1)(a)(i) and irrelevant material is deleted pursuant to s.22(1)(a)(ii) of the Act.

Deletion of irrelevant material as applied to your FOI request

The documents contain information which is considered irrelevant to your request. You have requested access to information on the ‘voiding’ of Tariff Precedent 15913900. Information which does not relate to this ‘voiding’ is not in scope and has been deleted pursuant to s.22(1)(a)(ii) of the Act.

Departmental staff names and contact numbers are also considered irrelevant to the scope of the request and have also been deleted under s.22(1)(a)(ii) of the Act.

Authorised decision maker
Freedom of Information Section
Department of Immigration and Border Protection

Email foi@border.gov.au

17 August 2015
Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request  FA 15/07/00839
File Number  ADF2015/35064

1. Departmental Document:

<table>
<thead>
<tr>
<th>Folio</th>
<th>Description</th>
<th>Decision</th>
<th>Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Tariff Precedent Review - No. 15913900</td>
<td>Released in full</td>
<td></td>
</tr>
</tbody>
</table>

2. Departmental Document:

<table>
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<tr>
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<th>Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2</td>
<td>Australian Customs Notice No. 2006/44 Customs Tariff Amendment (2007 Harmonizes System Changes) Bill 2006</td>
<td>Irrelevant to the scope</td>
<td>s.22(1)(a)(ii)</td>
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</table>

3. Departmental Document:

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<tr>
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<th>Description</th>
<th>Decision</th>
<th>Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2</td>
<td>Australian Customs Notice No. 2006/45 HS 2007 proposed tariff changes – implications for Tariff Concession orders and tariff/origin advices and precedents</td>
<td>Irrelevant to the scope</td>
<td>s.22(1)(a)(ii)</td>
</tr>
</tbody>
</table>

4. Departmental Document:

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>1-4</td>
<td>Amendment Schedule</td>
<td>Irrelevant to scope</td>
<td>s.22(1)(a)(ii)</td>
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5. Departmental Document:

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<tbody>
<tr>
<td>1-3</td>
<td>Assessment Guide - Tariff Precedent Review – Template and Spreadsheet guide</td>
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<td>s.22(1)(a)(ii)</td>
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6. Departmental Document:

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<tbody>
<tr>
<td>1-14</td>
<td>HS 2007 Tariff Precedence Concordance</td>
<td>Irrelevant to scope</td>
<td>s.22(1)(a)(ii)</td>
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### 8. Departmental Document:

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<th>Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2</td>
<td>From Departmental ICS system: Tariff Precedent View; Tariff Precedent History List</td>
<td>Release in full</td>
<td></td>
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### 9. Departmental Document:

<table>
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<tbody>
<tr>
<td>1-2</td>
<td>Notice of Intent – Voiding of Current Tariff Precedents</td>
<td>Release in full</td>
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### 10. Departmental Document:

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<tr>
<td>1-9</td>
<td>Precedent Void List</td>
<td>Irrelevant to scope</td>
<td>s.22(1)(a)(ii)</td>
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### 11. Departmental Document:

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</thead>
<tbody>
<tr>
<td>1</td>
<td>Email correspondence: Subject: Tapin Precedent message</td>
<td>Irrelevant to scope</td>
<td>s.22(1)(a)(ii)</td>
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</table>

### 12. Departmental Document:

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</thead>
<tbody>
<tr>
<td>1</td>
<td>HS 2007 Changes Implementation Update Tariff Precedents</td>
<td>Irrelevant to scope</td>
<td>s.22(1)(a)(ii)</td>
</tr>
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</table>

### 13. Departmental Document:

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</thead>
<tbody>
<tr>
<td>1-4</td>
<td>Draft Letter: Re: Tariff Precedent Changes with attachments: 1. Notice of Intent, 2. Replacement Precedent</td>
<td>Irrelevant to scope</td>
<td>s.22(1)(a)(ii)</td>
</tr>
</tbody>
</table>
22 Access to edited copies with exempt or irrelevant matter deleted

Scope

(1) This section applies if:
   (a) an agency or Minister decides:
       (i) to refuse to give access to an exempt document; or
       (ii) that to give access to a document would disclose information that
            would reasonably be regarded as irrelevant to the request for access;
            and
   (b) it is possible for the agency or Minister to prepare a copy (an *edited copy*)
       of the document, modified by deletions, ensuring that:
       (i) access to the edited copy would be required to be given under
           section 11A (access to documents on request); and
       (ii) the edited copy would not disclose any information that would
            reasonably be regarded as irrelevant to the request; and
   (c) it is reasonably practicable for the agency or Minister to prepare the edited
       copy, having regard to:
       (i) the nature and extent of the modification; and
       (ii) the resources available to modify the document; and
   (d) it is not apparent (from the request or from consultation with the applicant)
       that the applicant would decline access to the edited copy.

Access to *edited copy*

(2) The agency or Minister must:
   (a) prepare the edited copy as mentioned in paragraph (1)(b); and
   (b) give the applicant access to the edited copy.

Notice to applicant

(3) The agency or Minister must give the applicant notice in writing:
   (a) that the edited copy has been prepared; and
   (b) of the grounds for the deletions; and
   (c) if any matter deleted is exempt matter—that the matter deleted is exempt
       matter because of a specified provision of this Act.

(4) Section 26 (reasons for decision) does not apply to the decision to refuse access
    to the whole document unless the applicant requests the agency or Minister to
give the applicant a notice in writing in accordance with that section.
23 Decisions to be made by authorised persons

(1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.

(2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.
TARIFF PRECEDENT REVIEW

Current Class 8473.30.00  Review Cat. 3.1  New Class 8443.99.00

Reason for Classification
Identified as 'Parts and accessories for printers.' The replacement ink cartridges are therefore classifiable under heading 8443, IR 1 applies.

Classification under heading 3215 was also considered but rejected because goods are identified as more than printing ink, writing or drawing ink and other inks, whether or not concentrated or solid.

AAT case Sharp Corporation versus Customs provides guidance in this case by identifying toner kits for use with Laser printers as part of the printer.

Precedent Goods Description
Replacement ink cartridges of various process colours for colour printing by ink jet printers, shaped solely to fit a specific printer and featuring integrated electrical circuitry that establishes the cartridge’s exclusive end use.

"This precedent created as part of the HS 2007 review, and replaces 15913900."

Reason for Replacement Text
Separately presented ink jet printers are no longer classified as output units of ADP equipment.

Review Officer Coordinator Gaeil Grooby Sign C3G MG Date 5/10/06 Region ACT

New No. 1847790
The World Customs Organization sponsors the International Convention on the Harmonized Commodity Description and Coding System, commonly referred to as the Harmonized System (HS). The HS obliges signatory parties, including Australia, to implement approximately 600 amendments to HS classifications, from 1 January 2007. The HS forms the basis of the Australian Customs Tariff (the Customs Tariff) and the Australian Harmonized Export Commodity Classification (AHECC).

The HS is reviewed approximately every five years. The aims of the current review (the third) are to amend the HS to delete those headings and subheadings where there are low levels of international trade; amend the system to reflect changes in industry practices and technological developments; and provide new subheadings to allow signatory parties to separately identify new products for community protection reasons. Many amendments are also designed to clarify the existing descriptions and terminology.

The present review requires approximately 1,200 changes to the Customs Tariff, affecting 20% of commodity classifications. These changes are spread throughout the Customs Tariff and will have at least some impact on most industry sectors.

The necessary legislation to amend the Customs Tariff has now been prepared and was introduced in the House of Representatives on 7 September 2006 as the Customs Tariff Amendment (2007 Harmonized System Changes) Bill 2006. As occurred with previous reviews of the HS, in 1996 and 2002, and in accordance with Government policy, the legislation has been designed to preserve, to the greatest extent possible, existing duty rates for imports into Australia, and margins of tariff preference accorded to Australia’s trading partners.

Concordance and Explanatory Memorandum

A concordance of tariff items affected by the proposed changes to the Customs Tariff is available with this ACN from the special HS 2007 page on the Customs website at http://www.customs.gov.au, then select Import/Export and Customs Tariff. This concordance should be read in conjunction with the Explanatory Memorandum that was tabled in the Parliament with the legislation. This document is also available on the Customs website.

Statistical Codes

The Australian Bureau of Statistics (ABS) has begun the process of drafting new statistical codes for the proposed changes.

The proposed changes will be progressively made available on the ABS website. This may be accessed on the internet at www.abs.gov.au, then select Themes, Foreign Trade, Noticeboard. The ABS welcomes comments made, before 6 October 2006, on errors in the proposed statistical codes for the new revised tariff and AHECC headings and subheadings.

Other Matters

When the Bill is passed by the Parliament revised Customs Tariff working pages incorporating these HS related changes will be printed and distributed.
ACN 2006/45 is also being issued in conjunction with this ACN - it covers proposed arrangements for Tariff Advices, Tariff Precedents, Tariff Concession Orders and Origin Advices affected by the changes.

Enquiries

In the first instance, those seeking information on the HS 2007 proposed changes and their consequential amendments should refer to the special HS 2007 page on the Customs website at http://www.customs.gov.au, then select Import/Export and Customs Tariff. The HS 2007 page contains links to all available information relevant to the proposed changes.

Copies of these documents can also be e-mailed to Customs’ clients. For this purpose, please e-mail your request to TARLEG@customs.gov.au.

If you require any further information about the proposed changes to the Customs Tariff, please contact Manager, Tariff Legislation on  or Supervisor, Tariff Legislation on

National Manager
Trade for
Chief Executive Officer
13 September 2006
AUSTRALIAN CUSTOMS NOTICE NO. 2006/45

HS 2007 proposed tariff changes – implications for Tariff Concession Orders and tariff/origin advices and precedents

Australian Customs Notice No. 2006/44 provides advice on the amendments to the Customs Tariff Act 1995 contained in the Customs Tariff Amendment (2007 Harmonized System Changes) Bill 2006, which was introduced into the House of Representatives on 7 September 2006. Those amendments reflect the changes arising out of the third review of the World Customs Organization (WCO) International Convention on the Harmonized Commodity Description and Coding System, to enter into force on 1 January 2007 (the HS 2007 changes).

Subject to parliamentary passage of the Bill, the HS 2007 changes will impact on a number of Customs’ instruments and decisions, including Tariff Concession Orders (TCOs), Tariff Precedents, Tariff Advices (TAs) and Origin Advice Rulings.

Tariff Concession Orders

Customs has commenced a review of TCOs potentially affected by the HS 2007 changes. Many TCOs will need to be revoked on 31 December 2006 and replaced with one or more new TCOs under the appropriate HS 2007 tariff classifications, with effect from 1 January 2007.

TCOs intended to be revoked will be valid until 31 December 2006. However, once preparations for the revocation of a TCO have commenced, that TCO will no longer appear in the general TCO lists found on the Customs website Import/Export Customs Tariff page (http://www.customs.gov.au). The Customs website does not list TCOs that are in the process of revocation.

Customs will provide further information on TCOs affected by the proposed HS 2007 changes before 1 January 2007. That information will be posted on a special HS 2007 page on the Customs internet website (see Enquiries below), and will include:

- a list of all TCOs to be revoked, including their descriptions (until 31 December 2006, those relying on the internet to identify TCOs that may apply to their imports should refer to this new list, as well as to the general TCO lists); and
- a concordance showing the current and proposed TCO reference numbers and their relevant tariff classifications.

Tariff Precedents

Customs will shortly commence a review of Tariff Precedents potentially affected by the HS 2007 changes. Many Tariff Precedents will need to be voided. Where possible, voided Tariff Precedents will be replaced after 1 January 2007. There will be circumstances, however, where this will not be possible.

Customs will provide further information on Tariff Precedents affected by the HS 2007 changes. That information will also be posted on the special HS 2007 page on the Customs website (see Enquiries below), and will include:

- a list of all Tariff Precedents to be voided; and
- a concordance showing the old and the new Tariff Precedent reference numbers and their relevant tariff classifications (to be provided after 1 January 2007).
Tariff Advices

In December 2006, Customs intends to void all TAs potentially affected by the HS 2007 changes. Importers who wish to seek new TAs to replace those to be voided will need to submit new applications through TAPIN on or after 1 January 2007. TAPIN will reject TA applications submitted before 1 January 2007 that refer to new tariff classifications operative from that date. Importers should review new Tariff Precedents before applying for new TAs.

Origin Advice Rulings

Customs is currently reviewing all Origin Advice Rulings to determine if any Rulings will be affected by the proposed HS 2007 changes. Where a Ruling is potentially affected by the HS 2007 changes, the applicant will be contacted by Customs by 31 October 2006.

All importers should be aware that any Ruling containing a tariff classification affected by the proposed HS 2007 changes will no longer be valid for goods entered for home consumption on or after 1 January 2007.

Import declarations

Once the TA voiding process commences in December 2006, importers should take care when quoting TAs on import declarations. The Integrated Cargo System (ICS) will reject an import declaration that quotes a voided TA in the TA field of a tariff line. Importers who need to rely on a TA after it has been voided as part of the HS 2007 process should quote that TA in the goods description field of the relevant tariff line, rather than in the TA field, until 31 December 2006. From 1 January 2007, importers will not be able to rely on TAs voided as part of the HS 2007 process, and should not quote those TAs on import declarations made on and from that date.

Importers should also take care when quoting tariff classifications and TCOs on import declarations made on and from 1 January 2007, as the ICS will not accept those declarations if they quote tariff classifications repealed or TCOs revoked as a result of the HS 2007 changes.

Care should also be taken when relying on an Origin Advice Ruling to claim preferential tariff rates. The tariff classification quoted in the Ruling may be affected by the HS 2007 changes, resulting in the Ruling no longer being valid for goods entered for home consumption on or after 1 January 2007.

Enquiries

In the first instance, those seeking information on the HS 2007 changes and their consequential amendments should refer to the special HS 2007 page on the Customs website, at http://www.customs.gov.au, accessible from the Import/Export Customs Tariff page. The HS 2007 page contains links to all available information relevant to the proposed changes.

Any further questions relating to TCOs, Tariff Precedents and TAs affected by the HS 2007 changes should be directed to email address TARLEG@customs.gov.au, or to the Director HS 2007 Implementation Project on telephone. Any further enquiries relating to Origin Advice Rulings should be directed to email address origin@customs.gov.au or to telephone...
<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
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<tr>
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<td>Action Completed</td>
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Released by DIBP under the Freedom of Information Act 1982.
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</table>

Released by DIBP under the Freedom of Information Act 1982
Replacement ink cartridges of various process colours for colour printing by ink jet printers, shaped solely to fit a specific printer and featuring integrated electrical circuitry that establishes the cartridge's exclusive end use.

On spreadsheet against V/Y and N/Y actions: N = Y & V = Y on sheet amended 29-Dec-06
### CAT 3.1 - 1: many changes where at least one of the HS 2007 classifications is the same as the current classification. (pg 9).

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<tr>
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<tr>
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<td>Void and replaced with amended text for same class</td>
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<tr>
<td>VN</td>
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<td>VN</td>
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### Notes from Precedent Review Workshop

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<th>Abbreviations:</th>
<th>LMB</th>
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<tr>
<td>s. 22(1)(a)(b)</td>
<td>PRM Precedent Review Manager</td>
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<tr>
<td>s. 22(1)(a)(b)</td>
<td>MTR Manager Tariff Review</td>
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</table>

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<tr>
<th>Precedent review situation......</th>
<th>Action</th>
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<tbody>
<tr>
<td>The original classification decision for the precedent being reviewed is questioned.</td>
<td>Refer to MTR with cc PRM</td>
</tr>
<tr>
<td>Any rate change arising from the old to new tariff class; including any FTA rates</td>
<td>ASAP notify PRM, MTR and cc LMB. MTR/LMB will alert Judy Sutton or Nick Blackaby as required.</td>
</tr>
<tr>
<td>A text change is required</td>
<td>Void precedent. (or may edit if the change is only to remove an explicit HSEN ref. such as a page number and it can be amended to a more general HSEN reference. However, amended text must be correct for both 2006 and 2007).</td>
</tr>
<tr>
<td>Precedent mentions general HSEN note references, tariff headings considered, legal note references, etc.</td>
<td>Must check that all of the references will still be correct when HS 2007 commences. Must void precedent if changes will occur in 2007.</td>
</tr>
<tr>
<td>Consider the rules for classification</td>
<td>Check the Interpretation Rule will still apply. Ensure HS 2007 amendments will not affect the considerations that applied to the original precedent decision in regard to TOH, essential character, last occurring etc. or parts rules</td>
</tr>
</tbody>
</table>

### General notes.....

s. 22(1)(a)(b)
| **Templates** | Templates are to be saved as a word document using the precedent number as the file name.  

PRM will circulate templates to Regional Co-ordinators for comment with a checklist of the precedent numbers. Regional Co-ordinators will respond to PRM with a cc to MTR.  

Check list can be marked “ok” against any precedent number that has no comment from that region/requires no change from that region. If there are no changes for all of the precedents on the checklist the region must still send the completed checklist.  

PRM will make simple changes e.g. typos, and will consolidate other comments and recirculate for agreement. If the matter cannot be resolved in reasonable time the precedent will be treated as a V and noted for later discussion.  

PRM will keep a consolidated record of changes.  

A hard copy of the original precedent will be held with the replacement template by the amending/voiding region. |
| **Voiding** | When agreement is reached that a precedent should be voided, PRM will notify the Region concerned to put into action.  

PRM will monitor TAPIN and keep record of voided precedents. |
s. 22(1)(a)(ii)
s. 22(1)(a)(ii)
s. 22(1)(a)(ii)
4 TARIFF PRECEDENTS

4.1 Preparations

Resourcing and training

4.1.1 The resourcing of the HS 2007 Tariff Precedent Review was also part of the Trade Branch’s NRA proposal (1.3.11). In the past, this task was completed by regional tariff officers seconded to Central Office. This was the basis for the funding proposal, adjusted to take into account the increased level of tariff change, the introduction of the ICS and a new TAPIN system.

4.1.2 However, the HS 2007 Tariff Precedent review was affected by the same security clearance and shortage of skilled internal personnel issues that had hindered recruitment for the HS 2007 TCO Review (3.1.3 to 3.1.5). It was impossible to secure the release of sufficiently skilled regional staff. Added to this was the unavailability of sufficiently skilled recently retired staff at the appropriate level to undertake the review.

4.1.3 There was, however, one recently retired NSW Customs manager with relevant technical, liaison and managerial skills prepared to manage an inter-regional team of tariff officers working both on their core tasks and on the HS 2007 Tariff Precedent Review.

4.1.4 When NMT advised the regional executive of the HS 2007 changes in mid-August 2006 (2.2.15), the assistance of at least one experienced tariff officer from each region was also sought to assist in the HS 2007 Tariff Precedent Review. NMT advised that participants would attend a four-day National Workshop in Canberra prior to returning to their regions to review the impact of HS 2007 changes on Tariff Precedents, as well as to perform their normal functions. As an added bonus, it was hoped that this alternative HS Tariff Precedent Review process would enable at least one staff in each region to gain expertise in the revised Tariff Act. This in turn would allow them to better perform their tariff advisory functions from 1 January 2007, which would be both a benefit to stakeholders and to other regional personnel.

4.1.5 NSW, Queensland, Victoria, South Australia, Tasmania and Western Australia each agreed to provide one regional tariff officer to participate in the project. NSW and Victoria also offered the assistance of their Tariff Chemists. Due to the low level of tariff advisory services needed in the Northern Territory, and the lack of experienced tariff staff, that region was unable to participate in the review. The Northern Territory did, however, nominate a contact so that the region could be fully informed of the progress and outcomes of the review.

4.1.6 In preparation for the National Workshop, the HS Implementation Project team, with the assistance of Manager Trade Applications Support produced a range of worksheets listing potentially affected Tariff Precedents. These worksheets revealed that around 700 Tariff Precedents required review.
4.1.7 The National Workshop was hosted by the Trade Branch in Canberra mid-late September 2006. It was attended by the newly recruited former NSW Customs manager, the nominated regional tariff officers and selected Central Office personnel from the Trade, Cargo and Intelligence Branches. Participants were provided with an overview of the HS 2007 changes, including the legislation, the Explanatory Memorandum, the Tariff Concordance, the categories of classification change (3.2.2) and the categorised Tariff Precedents, indicating:

- which Tariff Precedents could be retained under the current classification;
- which Tariff Precedents had to be voided; and
- the potential classifications to apply to replacements for voided Tariff Precedents.

4.1.8 During the workshop, participants agreed that the continuation or replacement of a Tariff Precedent was subject to the relevance of that Tariff Precedent after 1 January 2007 and the removal or substitution of any HS or tariff references that would no longer apply after that date.

4.1.9 Procedures and documentation for the HS 2007 Tariff Precedent Review were also discussed during the workshop, and agreed in principle. Participants also agreed on the Tariff Precedents for which each region would be primarily responsible, on a classification basis.

4.1.10 Each officer tasked with reviewing Tariff Precedents was given the title of the Regional Co-Ordinator (including the Tariff Chemists, who were tasked with the chemical chapters, and Central Officer personnel, who were tasked with the machinery and electrical chapters). The manager for the review was given the title Precedent Review Manager (PRM), and was to be based in Sydney. All were given full access to the Tariff Precedent update functions in TAPIN.

Record Keeping

4.1.11 At the completion of the National Workshop, Regional Co-ordinators were required to commence reviewing Tariff Precedents and recording proposed actions against the relevant listing on the spreadsheet Tariff Precedents Review.xls.

4.1.12 The PRM, who acted as the National Co-ordinator, put weekly reporting procedures into place. Each region was required to forward an updated spreadsheet to the PRM weekly accompanied by any templates prepared with the replacement text.

4.1.13 PRM checked that the proposed actions recorded on the spreadsheets were in accordance with the spreadsheet rules and circulated the spreadsheets and templates to all regions for review by all regional co-ordinators each week.

4.1.14 A checklist of templates was provided by PRM to assist the recording of checks completed, or any comments, by each region (Template checklist week 06 xx xx.xls).

4.1.15 A copy of each updated spreadsheet and all templates were held by PRM and filed according to the originating region.
4.1.16 Comments and queries on the work circulated for review were forwarded to PRM by the regional co-ordinators. Less complex questions were resolved by PRM. Other comments were collated by PRM and returned to the originating region to be resolved. A schedule of precedents and templates under review was maintained by PRM to track progress between the regions, PRM and Manager Tariff Review (MTR) on file Amendment Schedule.xls.

4.1.17 A copy of Tariff Precedents Review.xls was maintained by PRM and updated each week with the details of completed work (Updated PRM Master Tariff Precedents Review.xls) and information from individual template checklists was collated on file Full Template checklist.xls

Assessment

4.1.18 Assessment procedures developed at the National Workshop were documented and forwarded to each Regional Co-ordinator to assist uniformity (Appendix 20).

4.1.19 Using the prepared document Distribution of Precedents by Chapter the responsibility for review of precedents was divided between regions based on an allocation of tariff chapters, taking into account the resources of each region and the volume of precedents for each chapter.

4.1.20 The division of workload was as follows:

<table>
<thead>
<tr>
<th>Chapters</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-26</td>
<td>New South Wales (NSW)</td>
</tr>
<tr>
<td>27-40</td>
<td>Tariff Chemists (NSW and VIC)</td>
</tr>
<tr>
<td>41-49</td>
<td>Western Australia (WA)</td>
</tr>
<tr>
<td>50-67</td>
<td>South Australia (SA)</td>
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<td>68-83</td>
<td>Victoria (VIC)</td>
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<td>Canberra (ACT)</td>
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<tr>
<td>86-94; 96-97</td>
<td>Queensland (QLD)</td>
</tr>
<tr>
<td>95</td>
<td>Tasmania (TAS)</td>
</tr>
</tbody>
</table>

4.1.21 The file Tariff Precedents Review.xls had five worksheets:

- Full List: All affected precedents, showing Heading, Category, (Precedent) Number, Index (Spreadsheet Item Number) and Goods Description
- Cat 1: Precedents for classifications where the existing and new classifications were identical affected only because the classification gained additional goods under HS 2007
- Cat 2: Precedents for classifications where all goods were moving from the existing classification to a single new or existing classification
- Cat 3.1: Precedents for classifications where many HS 2007 classifications were proposed, including the existing classification
- Cat 3.2: Precedents for classifications where many HS 2007 classifications were proposed, all different to the existing classification.

4.1.22 Worksheets for Cat 1, Cat 2, Cat 3.1, and Cat 3.2 provided the additional information that was required for each category of assessment.
4.1.23 Using the agreed alpha code Regional Co-ordinators indicated against each precedent line whether the precedent was to be voided without replacement, voided and replaced with a new classification or voided and replaced with new text with or without a new classification. Where many new classifications were proposed under the HS 2007 Tariff Concordance the proposed action was recorded against the replacement classification line and the other related lines for that precedent were marked NA. Provision was made for any comments concerning the precedent decision to be added to the spreadsheet. If the initial review brought a classification query to attention it was coded for attention and referral to Manager Tariff Review (MTR) in Canberra by PRM where necessary.

4.1.24 Where new text was required, other than solely a new classification, a template was prepared showing the revised text for input to TAPIN post 31 December 2006.

4.2 Voiding and Replacing

TAPIN

4.2.1 Pre-void: Voiding of precedents in TAPIN could not commence until HS 2007 related legislation had been passed by Parliament. Replacement precedents could not be input to TAPIN until HS 2007 commenced on 1 January 2007.

4.2.2 On 28 November 2006 PRM forwarded the first list of precedents to be voided, prepared from the information contained in Updated PRM Master Tariff Precedents Review.xls, to each regional co-ordinator. The lists only contained precedents where the proposed void action had been agreed. The second round of voiding was undertaken by PRM in December for those precedents where:

- the decision to void and the decision on replacement action were taken after the end of November; or

- appropriate replacement action had not been determined, but the Tariff Precedent could not be maintained due to a redundant tariff classification.

4.2.3 The Regional Co-ordinators carried out the voiding action in TAPIN, recorded the void date on their spreadsheet and returned it to PRM for preparation of the Tariff Precedent Concordance. PRM added further information to the Tariff Precedent Concordance as later voiding action was completed.

4.2.4 A final check of the Tariff Precedent Concordance against the actions recorded on the precedent review file was conducted on 29 December by PRM to ensure all void action was completed prior to HS 2007 implementation. Nine precedents with unresolved issues were voided and marked TBA (to be advised) on the concordance for follow up in 2007.

Other issues

4.2.5 Action to input replacement precedents into TAPIN and update the information contained in the Tariff Precedent Concordance to show the replacement date and new Precedent number was completed by 31 January 2007.
4.3 Other Tariff Precedents

4.3.1 It should be noted that the HS 2007 Tariff Precedent Review only considered the impacts on Tariff Precedents for the classifications potentially affected by the HS 2007 changes. It is possible that Tariff Precedents for other classifications may also be affected by the HS 2007 changes if they mention provisions (eg tariff classifications, legal notes, EN references, etc) that no longer apply due to those changes. Appropriate approaches to the review of those Tariff Precedents will need to be considered.

4.4 Notification

Notices – pre-void

4.4.1 ACN 2006/45 issued 13 September 2006 (3.6.1) advised of Customs intention to commence a review of Tariff Precedents potentially affected by HS 2007 changes. The ACN also advised that many precedents would be voided, and that a concordance showing the old and new Tariff Precedent reference numbers and other information would be placed on the HS 2007 Information page on the Customs website in due course.

4.4.2 On 26 September 2006 Tariff Precedent information was placed on the TAPIN Bulletin Board advising that the voiding of precedents had commenced and further advised that the voided precedents would be binding until 31 December 2006.

4.4.3 A Tariff Precedent Update (Appendix 21) was later placed on the HS 2007 Information page on the Customs website to consolidate the earlier advice concerning the review and its outcomes for importers.

Seminars

4.4.4 The Tariff Precedent Review procedures were detailed at all HS 2007 seminars (2.2.23). Participants were advised that the concordance would be placed on the HS 2007 Information page on the Customs website once the voiding action commenced and the instructions governing the use of a voided precedents until 31 December 2007 were outlined.

4.4.5 Participants were advised to check the Tariff Precedent Update information on the HS 2007 Information page on the Customs website for further details.

Notices – post-void

4.4.6 A Tariff Precedent Concordance was initially placed on the HS 2007 Information page on the Customs website on 15 December 2006. The Tariff Precedent Concordance provided details of precedents that had been voided up until that date, including the date of the void action and, where applicable, the replacement HS 2007 classification. Further updates to the concordance were posted on the site on 21 December 2006 and again on 4 January 2007.

4.4.7 A final update was placed on the website at end January 2007 showing the replacement precedent details.

4.4.8 It should be noted that the only information published in relation to Tariff Precedents for HS 2002 were TAPIN notices. Customs did not produce ACNs, Customs website updates, or a Tariff Precedent Concordance; and seminars were not conducted.
4.5 Summary of Outcomes

4.5.1 Recruitment difficulties forced Customs to find an alternative process for reviewing the impact of HS 2007 changes on Tariff Precedents. This alternative involved the recruitment of a former Customs manager on a four-day per week non-ongoing basis to coordinate Tariff Precedent reviews conducted regionally. This strategy proved highly successful.

4.5.2 The decision to allocate regional reviews in accordance with tariff chapter blocks helped to develop specialists who could provide consistent decision making over their range of commodities. The peer review process then gave further exposure to decisions covering all chapters and helped to familiarise the regional co-ordinators with the HS 2007 changes throughout the tariff.

4.5.3 Finalising the revocation process took longer than expected due to delays in finalising the Tariff Precedent Review spreadsheet. Some problems occurred when data was transferred from the Regional spreadsheet to the PRM Master sheet because spreadsheet protocols had not been adhered to. In addition, the age of many precedents meant that the reasons for classification had not been updated to reflect HS 2002. As a consequence, significant revision was required, and many were referred to MTR for classification review.

4.5.4 TAPIN’s inability to accept tariff classifications that were not valid as at the system date prevented the issuing of replacement Tariff Precedents before 1 January 2007. This was also a limitation for HS 2002. However, the TAPIN “copy to new” functions and the templates generated before 1 January 2007 enabled speedy creation of replacement Tariff Precedents after that date.

4.5.5 It was initially intended to post a concordance on the website that gave notice of precedents that were to be voided, that is, to provide pre void information. Delays in finalising the Tariff Precedent Review meant that this had not occurred prior to the commencement on the Seminars. It was then decided not to post a concordance on the website until the first round of voiding had been completed. This delayed action did not result in any public enquiries or complaints. This could be because information already provided for the HS 2007 review of Tariff Precedents far exceeded that for past HS amendments.

4.5.6 With the additional funding provided for the HS 2007 Tariff Precedent Review under the NRA proposal, Trade (Services) Branch was able to deliver its objective of reviewing, voiding and replacing Tariff Precedents affected by HS 2007 on time and within budget, while at the same time delivering significantly improved services to stakeholders.

4.6 Recommendations

Process

4.6.1 Bringing all review participants together for the National Workshop at the commencement of the process provided many benefits. It was felt that the input to development of codes and review procedures helped give participants a sense of ownership for the project. The establishment of the team during the initial week led to a strong co-operative effort throughout the review process. Given that each participant came from a different region it would have been difficult to quickly establish this degree of co-operation without the initial four-day workshop.
4.6.2 This process not only achieved the review of the Tariff Precedents, but also resulted in the regional and Central Office participants gaining expertise in the significantly amended Tariff Act. This, in turn, enabled them to provide enhanced tariff advisory services to internal and external clients.

4.6.3 In addition, the workshop established contact between the Regional Co-ordinators and those who were responsible for other aspects of the HS 2007 implementation such as Tariff Policy and Legislation, Profiling and Alerts, Preference and Origin and Tariff Concessions.

18. It is recommended that the review of the impact of HS amendments on Tariff Precedents continue to be undertaken by a fully resourced and trained team of experienced regional and Central Office staff coordinated by a Customs manager with highly developed technical, liaison and managerial skills.

4.6.4 As noted above (4.3), Tariff Precedents for classifications other than those directly affected by the HS 2007 changes may mention provisions (eg tariff classifications, legal notes, EN references, etc) that no longer apply due to those changes.

19. It is recommended that consideration be given to the question of whether the wording of Tariff Precedents input before 1 January 2007 should be reviewed to identify redundant references, or whether those that refer to redundant provisions are no longer valid due to legislative change. It is further recommended that final approach be included in a Tariff Precedent Practice Statement by mid-2007.

4.6.5 The TAPIN’s inability to accept tariff classifications that are not yet current prevented Customs from replacing voided Tariff Precedents until after a tariff change has occurred. Ideally, Customs should be able to issue and advise stakeholders of replacement Tariff Precedents before the change is implemented.

20. It is recommended that TAPIN be updated to include a function to allow the conversion of a Tariff Precedent from one classification to another with effect from a future nominated start date, and in doing so, accept tariff classifications current as at that nominated start date.

4.6.6 The initial identification of the four categories of change that could occur to the affected classification helped participants become familiar with classification listings on the Tariff Concordance and assisted them to understand the review requirements for each category of precedents as listed on the separate worksheets of the Tariff Precedent Review document.

4.6.7 There is a need to ensure that all users follow the set procedures when working on sections of a common document. Although agreed processes and codes were developed at the workshop users did not always adhere to these and this led to problems when transferring data to the master spreadsheet.

4.6.8 Due to the different requirements for each category, the spreadsheet for each category was configured differently, limiting the usefulness of the Tariff Precedent Review document for other purposes. As a consequence, the preparation of other working documents such as the amendment schedule, checklists for templates and the Tariff Precedent Concordance required the data to be manually added rather than utilising a copy/paste function of lines.
21. It is recommended that an electronic means (eg an Excel workbook or simple Access database) for recording the extent, progress and outcome of Tariff Precedent reviews be developed that includes the following elements:

(1) Can accept Tariff Precedent data from TAPIN.

(2) Provides for the categorisation of Tariff Precedents according to the impact of the HS changes on the tariff classifications for those Tariff Precedents (eg, whether or not the current tariff classification remains, and whether the current tariff classification translates to one or to many tariff classifications after the change).

(3) Provides different records for different categories, but with the same structure (with unfilled and/or hidden columns, if necessary) so that records can be merged.

(4) Is adaptable to other purposes (eg can generate a concordance).

(5) Can be used by all staff conducting reviews.

Legislation

4.6.9 While Tariff Precedents are considered binding under Customs tariff policy, they are not issued under any specific legal provision. It has been suggested on a number of occasions that Australia’s Tariff Precedent and Tariff Advice services be converted into a legally binding ruling service with its own legislative basis. This topic was raised again last year during deliberations on the World Trade Organization’s Doha Trade Facilitation agenda.

22. It is recommended that, should any proposal be put forward to legislate Tariff Precedents as legally binding rulings, that legislation take into consideration the impact of HS amendments.
s. 22(1)(a)(ii)
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<th>Void date</th>
<th>Replacement Precedent</th>
<th>Replacement Date</th>
<th>Replacement Number</th>
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Released by DIBP under the Freedom of Information Act 1982

Current as at 21 December 2006
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<th>Replacement Precedent</th>
<th>Replacement Date</th>
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<td>TBA</td>
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**Note:**

Revised by DIBP under the Freedom of Information Act 1982

Current as at 21 December 2006
* Added to Tariff Precedent Concordance 21 December 2006
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<tr>
<td><strong>Change Log</strong></td>
<td></td>
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<tr>
<td><strong>Last Change By</strong></td>
<td>C8MYW</td>
</tr>
<tr>
<td><strong>Date/Time</strong></td>
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**Tariff Precedent View**

**Status** VOID

**Void Date** 21 DEC 2006

**Void Reason** NEW TARIFF IMPLEMENTED
## Tariff Precedent History List

### Tariff Precedent Details

**Tariff Precedent Number**: 15913900

### History List Details

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Records 1-2 of 2

Page
Notice of Intent

Voiding of Current Tariff Precedents

Background
Tariff Precedents are being reviewed in preparation for the Classification Opinions system. As advised, this change is intended to be a ‘clean slate’ introduction with clear and explicit policy on life-span, processes, authority and reliability in regard to the published advice.

It has been noted that many historical precedents on the current database are either redundant, provide little guidance or potentially capable of misinterpretation, thereby failing to achieve their purpose. It is in the best interest of all parties that such precedents that are determined to be unhelpful or unreliable are removed as soon as possible, and these would have normally been voided on an ad hoc basis.

As the current precedent system has many internal cross references, voiding normally requires that other potential related precedents are checked prior to voiding. Given that the precedents are currently being reviewed, a larger number of precedents are marked for voiding than would normally be processed at one time. With this volume, the cross-checking process adds an unacceptable delay to corrections. Removal of marked precedents without cross-checking provides timeliness but raises concerns that either inconsistencies or references to voided precedent may arise or remain, causing problems for both industry and internal Customs and Border Protection users.

Intended Action
To ensure a workable set of advices prior to the introduction of the new of precedents, Customs and Border Protection is intending to undertake the following actions:

- voiding of all current Tariff Precedents; and
- replacement by new Tariff Precedents written to the quality standards that will be expected of the new Customs Classification Opinions.

This is expected to have the following benefits:

- cleansing of the database of historical precedents that no longer serve as reliable advice;
- automatic removal of any linkages to such precedents;
- provision of contemporary advice; and
- the opportunity for industry to view the style intended for Customs Classification Opinions so informed comment can be made prior to changeover.

This Notice of Intent is provided to inform interested parties of actions intended to be undertaken in the area of provision of tariff advice during the period of the 30th September to 2nd October 2009.
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<thead>
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<th>Precedent Number</th>
<th>Void date</th>
<th>Replacement Precedent</th>
<th>Replacement Date</th>
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<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Please see text below for the TAPIN message relating to the Tariff Precedent Review:

Tariff Precedents may be quoted on the goods description line of an import declaration to provide support for the tariff classification nominated for those goods. ACN 2006/45 advised that a review of Tariff Precedents would be undertaken to identify those decisions that would be affected by the proposed HS 2007 changes. As a result of that review, many Tariff Precedents will be voided prior to 1 January 2007.

The Tariff Precedent Review has now commenced. A list of all Tariff Precedents that are intended to be voided as a part of that review will be placed on the HS 2007 page on the Customs website, <http://www.customs.gov.au>, by selecting “import/export”, “customs tariff” and “hs 2007 changes” from the menu. Despite their status as “void”, Tariff Precedents voided on and from 22 September 2006 as a result of the HS 2007 Tariff Precedent Review (as indicated by the phrase “New Tariff Implemented” at the end of the Tariff Precedent), may be relied upon up until COB 31 December 2006. After that date, they will no longer be recognised as support for tariff classifications nominated on import declarations.

Where possible, the affected Tariff Precedents will be replaced with new ones (with new numbers) to reflect the proposed HS 2007 tariff changes. However, replacement Tariff Precedents cannot be input to TAPIN before 1 January 2007. Once the replacement Tariff Precedents have been input, a concordance of old to new Tariff Precedent reference numbers will be made available on the HS 2007 page on the Customs website. Any further questions relating to the Tariff Precedent Review should be directed to email address TARLEG@customs.gov.au, or to the Director HS 2007 Implementation Project on telephone 6275 6477.
Australian Customs Notices (ACNs) 2006/44, 45 and 51 announced that major changes were to be made to the Customs Tariff Act 1995 (the Tariff Act) with effect from 1 January 2007. The legislation containing the proposed changes to the Tariff Act received Royal Assent on 4 November 2006.

Customs has commenced the review of around 700 Tariff Precedents potentially affected by the changes. While that review is yet to be completed, Customs has already identified a number that will need to be voided. Now that the legislation has received Royal Assent, Customs will start to void those Tariff Precedents identified.

**Tariff Precedent List**

At the completion of the Tariff Precedent review, Customs will place on the Harmonized System 2007 information page of the Customs website, a list of Tariff Precedents that have been voided or that are intended to be voided. That list will also include advice on whether the voided Tariff Precedents will be replaced after 1 January 2007.

After 1 January 2007, Customs will update the Tariff Precedents List to include, where appropriate, the reference numbers for the Tariff Precedents that replace those voided.

**Using voided Tariff Precedents**

Tariff Precedents voided due to the HS 2007 changes will be annotated with “New Tariff Implemented”. Despite their status as “void”, those Tariff Precedents may continue to be used to support the tariff classifications nominated in import declarations for goods entered for home consumption before 1 January 2007. Importers need only follow the current process of quoting the Tariff Precedent reference number in the goods description field of the relevant tariff line.

After 1 January 2007, clients will need to quote replacement Tariff Precedent numbers, where available, or apply for Tariff Advice, if necessary.

**Contacts:**

Email:  TARLEG@customs.gov.au  
Telephone:  , Director HS 2007 HS 2007 Implementation Project

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Current as at 8 November 2006
Dear

As you will be aware, my area has been undertaking a review of Tariff Precedents as part of the preparation for the publicised replacement of the current system.

We first took the concept of a replacement system to the 28 October 2008 workshop with industry representatives at Sydney Customs House. Industry representatives included the CBFCA, the Law Council and CAPEC. There was support from this forum for the concept of a replacement for the Tariff Precedent system. Documentation outlining the principles of the new system, known as Customs Classification Opinions, was later circulated to industry for comment.

The main principles behind the design of the system are that:
- the advice must be freely and readily available;
- there is clear policy and guidelines on the use of the advice;
- the relevancy, accuracy and quality of the advice is paramount; and
- Customs and Border Protection and users have clear avenues of communication.

The changes to content (the precedents) were intended to be implemented progressively, ready for the change to the policy framework.

The review however has identified that there are a number of historical precedents that do not meet the current standards of Customs and Border Protection in terms of quality. It is also recognised that the current database of precedents includes large numbers of precedents that cross-reference other precedents or relate to similar matters as other precedents.

These two factors gave rise to the identification of two major risks in incrementally changing content. If the precedents were removed as soon as identified, then it could potentially cause confusion or difficulty to users as related precedents may not have been reviewed. If the precedents were only removed after all related precedents were reviewed, it would lengthen the period that unsuitable precedents were in the public arena and potentially result in multiple checks of precedents.

We are dedicated to implementing a system of written advice that excels at performing its function: providing clear, contemporary and consistent advice on classification that can be relied upon.
In order to do this, it is intended that Customs and Border Protection will remove all historical and current precedents during the period 6 October to 9 October 2009. They will be replaced on the 9 of October with number of new precedents that have been written to the standards of the forthcoming Classification Opinions. This body of advice will then be progressively expanded.

The new precedents will be in the same format and fields as the old precedents so there will be no difficulty in viewing the precedents on current software. Software providers will be supplied with new files on the 6 of October.

In addition, the new body of precedents will be loaded onto the Customs and Border Protection internet site on the 6 of October. This site will ensure that all industry participants can access the precedents freely and readily.

Attached are a Notice of Intent and an example of a replacement precedent for your information.

If you foresee any difficulties this change over period may cause, please contact me on .................

Your sincerely

A/g National Manager, Trade Services
Notice of Intent

Voiding of Current Tariff Precedents

Background
Tariff Precedents are being reviewed in preparation for the Classification Opinions system. As advised, this change is intended to be a ‘clean slate’ introduction with clear and explicit policy on life-span, processes, authority and reliability in regard to the published advice.

It has been noted that many historical precedents on the current database are either redundant, provide little guidance or potentially capable of misinterpretation, thereby failing to achieve their purpose. It is in the best interest of all parties that such precedents that are determined to be unhelpful or unreliable are removed as soon as possible, and these would have normally been voided on an ad hoc basis.

As the current precedent system has many internal cross references, voiding normally requires that other potential related precedents are checked prior to voiding. Given that the precedents are currently being reviewed, a larger number of precedents are marked for voiding than would normally be processed at one time. With this volume, the cross-checking process adds an unacceptable delay to corrections. Removal of marked precedents without cross-checking provides timeliness but raises concerns that either inconsistencies or references to voided precedents may arise or remain, causing problems for both industry and internal Customs and Border Protection users.

Intended Action
To ensure a workable set of advices prior to the introduction of the new of precedents, Customs and Border Protection is intending to undertake the following actions:

- voiding of all current Tariff Precedents; and
- replacement by new Tariff Precedents written to the quality standards that will be expected of the new Customs Classification Opinions.

This is expected to have the following benefits:

- cleansing of the database of historical precedents that no longer serve as reliable advice;
- automatic removal of any linkages to such precedents;
- provision of contemporary advice; and
- the opportunity for industry to view the style intended for Customs Classification Opinions so informed comment can be made prior to change-over.

This Notice of Intent is provided to inform interested parties of actions intended to be undertaken in the area of provision of tariff advice during the period of the 30th September to 2nd October 2009.
Attachment to Notice of Intent: “Voiding of Current Tariff Precedents”

Current Precedent to be Voided

Precedent:

Description:

Classification:

Reason:

Assessment of:

Replacement

Description:

Classification:

Reason:

Released by DIBP under the Freedom of Information Act 1982