



Ottawa, January 15, 2015

Memorandum D10-13-1

Tariff Classification of Goods

In Brief

The editing revisions made in this memorandum do not affect or change any of the existing policies or procedures.

This memorandum explains the methodology for classifying goods in the [Customs Tariff](#).

Legislation

Customs Tariff

3. The List of Tariff Provisions is divided into Sections, Chapters and sub-Chapters.

...

10. (1) Subject to subsection (2), the classification of imported goods under a tariff item shall, unless otherwise provided, be determined in accordance with the General Rules for the Interpretation of the Harmonized System and the Canadian Rules set out in the schedule.

(2) Goods shall not be classified under a tariff item that contains the phrase “within access commitment” unless the goods are imported under the authority of a permit issued under section 8.3 of the [Export and Import Permits Act](#) and in compliance with the conditions of the permit.

11. In interpreting the headings and subheadings, regard shall be had to the Compendium of Classification Opinions to the Harmonized Commodity Description and Coding System and the Explanatory Notes to the Harmonized Commodity Description and Coding System, published by the Customs Co-operation Council (also known as the World Customs Organization), as amended from time to time.

General Rules for the Interpretation of the Harmonized System (HS) and the *Customs Tariff*

Classification of goods in the Nomenclature shall be governed by the following principles:

1. The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions:

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

3. When by application of Rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

4. Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.

5. In addition to the foregoing provisions, the following Rules shall apply in respect of the goods referred to therein:

(a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This Rule does not, however, apply to containers which give the whole its essential character;

(b) Subject to the provisions of Rule 5(a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use.

6. For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, *mutatis mutandis*, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purpose of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

Canadian Rules

1. For legal purposes, the classification of goods in the tariff items of a subheading or of a heading shall be determined according to the terms of those tariff items and any related Supplementary Notes and, *mutatis mutandis*, to the above Rules, on the understanding that only tariff items at the same level are comparable. For the purpose of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

2. Where both a Canadian term and an international term are presented in this Nomenclature, the commonly accepted meaning and scope of the international term shall take precedence.

3. For the purpose of Rule 5(b) of the General Rules for the Interpretation of the Harmonized System, packing materials or packing containers clearly suitable for repetitive use shall be classified under their respective headings.

Customs Act

2. (1) In this Act ...

“tariff classification” means the classification of imported goods under a tariff item in the List of Tariff Provisions set out in the schedule to the [Customs Tariff](#);

...

32.1(1) Subject to this section, every person who accounts for goods under subsection 32(1), (3) or (5) shall, at the time of accounting, furnish an officer at a customs office with the statistical code for the goods determined by reference to the Coding System established pursuant to section 22.1 of the [Statistics Act](#).

Guidelines and General Information

1. This memorandum explains the methodology to be employed when classifying goods under the Departmental Consolidation of the *Customs Tariff* (Tariff).
2. The Tariff combines the 8-digit coding structure found in the schedule to the *Customs Tariff* legislation with an additional two-digit coding structure created by Statistics Canada.
3. The legal core of the Tariff consists of the General Rules for the Interpretation of the Harmonized System, the Section and Chapter notes, and the heading, subheading and tariff item texts.
4. The Tariff is generally structured in a hierarchical manner.
5. Section and Chapter notes are located at the beginning of the Chapter or Section. Most, but not all, Sections and Chapters have such notes. These notes are part of the legislation and, therefore, must be observed.
6. Typically, these notes will list certain inclusions and exclusions for the Chapter or Section. In some cases, the notes define certain terms or they may specify how a certain commodity is to be classified. Also, where applicable, they may indicate how parts of goods are to be classified.
7. The HS Explanatory Notes complement the legal core. They discuss how certain Chapter or Section notes should be interpreted, what goods are included in certain headings or subheadings, and general information respecting the scope of the various headings and subheadings.
8. Similarly, the Compendium of Classification opinions collect HS level classification decisions taken by the Harmonized System Committee of the World Customs Organization, the body that is responsible for the Harmonized System.
9. Section 11 of the *Customs Tariff* legislation requires that regard must be given to the Explanatory Notes in interpreting the headings and subheadings in the schedule to the *Customs Tariff*.

Structure of the Tariff

10. Headings are four digit codes, (e.g., 08.03), in which the first two digits indicate the chapter where the heading is located and the last two digits indicate the position of the heading within that chapter.
11. Subheadings are six digit codes, (e.g., 0803.10), which represent subdivisions of the heading providing greater product detail. Not all headings have been subdivided. In such cases, the fifth and sixth digits are zeros. Subheadings have at least one dash before the description. One dash subheadings that are not further subdivided will end in "0"; those that are further subdivided will have two dashes before the description of those subdivisions.
12. The headings and subheadings are part of the international Harmonized Commodity Description and Coding System (HS) that is the basis of the customs tariffs of almost all trading nations.
13. Tariff items are eight digit codes, (e.g., 0803.10.00). These subdivisions have been created to provide further product detail for domestic tariff purposes. As with headings and subheadings, not all tariff items have been subdivided, in which case the seventh and eighth digits are zeros. The dash structure is the similar to the subheading level, but with three or four dashes before the description.
14. Rates of duty are assigned at the tariff item level.
15. Classification numbers are ten digit codes, (e.g., 0803.10.00.00), required for the reporting of goods imported into Canada. These last two digits are also referred to as statistical suffixes. Again, not all have been subdivided, in which case the ninth and tenth digits are zeros. At this level the description is preceded by five or six dashes.
16. The HS and thus the Schedule of the *Customs Tariff* is generally arranged with the least processed or manufactured goods in earlier Sections and Chapters and the further manufactured goods in later Sections and Chapters. Thus, agricultural products can be found in Section I, while more complex goods such as machinery and precision instruments can be found in later sections.

17. This same structure is followed within each Section and Chapter. For example, Chapter 50 provides for silk products. The first heading in that Chapter provides for silk-worm cocoons while articles made from silk can be found in the later headings of the Chapter.

General Interpretative Rules

18. The six General Rules for the Interpretation of the Harmonized System (GIRs) are the foundation of the tariff classification process and must be followed at all times.

19. GIR 1 specifies that goods must be classified according to the terms of the headings and the relative Section and Chapter notes. In many cases, GIRs 2 through 5 will not need to be applied as the terms of the heading and the Section and Chapter notes will result in there being only one heading under which the goods qualify.

20. GIR 2 is to be applied in conjunction with GIR 1 to address the classification of goods that are incomplete, unassembled, unfinished or disassembled, as well as mixtures and combinations of goods.

21. GIR 3 addresses the classification of goods that cannot be classified by the application of the preceding rules. It does so in three ways by:

(a) giving precedence to a heading that provides a more specific description of the goods, provided the alternative heading does not also describe part of the good;

(b) directing that mixtures, composite goods, and sets of goods put up for retail sale be classified according to the element which gives the whole its essential character; and

(c) providing for the good to be classified in the heading last in numerical order amongst the headings that equally merit consideration.

22. GIR 4 essentially exists to absolutely ensure that all goods can be classified. GIRs 1 through 3, in combination with the fact that almost every Chapter of the Tariff includes a residual heading (e.g., 74.19 – Other articles of copper) to capture goods not specifically provided for elsewhere, render this rule moot for all practical purposes.

23. GIR 5 deals with specific aspects of packaging.

24. GIR 6 specifies that the preceding process be repeated to classify goods at the six-digit “subheading” level.

25. The Canadian Rules compliment the GIRs, and provide for these rules to be applied to determine classification at the eight-digit “tariff item” level.

26. For an official detailed explanation of the rules, reference should be made to the Harmonized System Explanatory Notes, Volume 1.

Tariff Classification Process

27. The classification process reflects the hierarchical structure of the Tariff. Headings are only to be compared with other headings. No consideration is to be given to the descriptions found in the subheadings, tariff items or statistical subdivision, when determining which heading is applicable.

28. The same process is followed when selecting each level of subheading, tariff item and statistical breakout.

29. The heading structure shown in Appendix A to this memorandum illustrates this concept of comparing at equal levels. An example is included therein.

30. The classification of liquefied ethane gas imported in bulk containers is determined as follows:

(a) Since the gas is in the liquefied state, it is evident that it fits into the subheading for liquefied gas.

(b) Next, it falls into the two-dash subheading number 2711.19, – “Other,” since this particular gas is not specified in any of the other two-dash subheadings.

(c) Tariff items that must be compared before looking at the statistical suffix are 2711.19.10 and 2711.19.90.

(d) Tariff item 2711.19.10 specifies that the gas must be “in containers ready for use.”

(e) In this case, the ethane gas is not in containers ready for use.

(f) Since there are no further statistical subdivisions, the classification number is 2711.19.90.00.

31. The [Customs Act](#) contains specific direction for certain goods that are subject to tariff rate quotas (TRQ); the same principles of tariff classification will apply.
32. TRQ agricultural products can only be classified under a tariff item that contains the phrase “within access commitment” when the importer has a valid import permit specifying entitlement to the “within access commitment” rate of duty, issued by the Department of Foreign Affairs, Trade and Development Canada (FATDC).
33. For some goods, the permits are issued individually for particular importations of goods (application required), while others (e.g. wheat, barley, and wheat and barley products) are subject to General Import Permits (GIPs) (for which no application is required) that are administered on a first-come first-served basis.
34. Permits will have terms and conditions that must be met to be valid. If the importer does not have an import permit or if the “within access commitment” GIP has been closed for the year by FATDC, the goods are classified under the “over access commitment” tariff item, which attracts a higher rate of duty than the “within access commitment” tariff item for those goods.
35. To illustrate this process, refer to Appendix B to this memorandum. An example is included therein.
36. For more information on GIPs and import permits, refer to [Memorandum D19-10-2, Export and Import Permits Act \(Importations\)](#).
37. For more information on the administration of “within access commitment” and “over access commitment” tariff items, consult [Memorandum D10-18-1, Tariff Rate Quotas](#).
38. For information concerning the coding of Form [B3-3, Canada Customs Coding Form](#) refer to [Memorandum D17-1-10, Coding of Customs Accounting Documents](#).

Classification in Chapters 97 and 98 of the Customs Tariff

39. Goods that satisfy the conditions in any of the provisions of Chapter 98 (Special Classification Provisions – Non-commercial) are to be classified under the appropriate classification number of that Chapter, rather than elsewhere in the tariff.
40. Goods that satisfy the conditions in any of the provisions of Chapter 99 (Special Classification Provisions – Commercial) are first to be classified in Chapters 1 to 97. The first four digits of the appropriate Chapter 99 classification number must also be entered on the Form [B3-3](#), (Field 28).

Additional Information

41. For certainty regarding the tariff classification of a product, importers may request an advance ruling. Details on how to make such a request are found in CBSA [Memorandum D11-11-3, Advance Rulings for Tariff Classification](#).
42. For more information, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time/except holidays). TTY is also available within Canada: **1-866-335-3237**.

Appendix A

Example for Classification

Tariff Item -	Description of Goods
27.11	Petroleum gases and other gaseous hydrocarbons - Liquefied:
2711.11.00	--Natural gas
2711.12	--Propane
2711.12.10	--In containers ready for use
2711.12.90	--Other
2711.13.00	--Butanes
2711.14.00	--Ethylene, propylene, butylene and butadiene
2711.19	--Other
2711.19.10	---In containers ready for use
2711.19.90	---Other - In gaseous state:
2711.21.00	--Natural gas
2711.29.00	--Other

(a) To classify goods, it must be determined that the goods meet the requirement of the heading. Therefore, in this example the goods must be petroleum gases or other gaseous hydrocarbons. It is not possible to look at further subdivisions if the goods do not meet the requirement of the heading.

(b) Once it has been determined which heading applies, the subheadings must be compared. In this case, there are two one-dash subheadings. Consequently, it must be determined whether the gases are liquefied or gaseous.

(i) If the gas is liquefied, the two-dash subheadings relating to liquefied must be examined. In this example, they are 2711.11, 2711.12, 2711.13, 2711.14, and 2711.19.

(ii) The last or residual subheading relating to liquefied gas is 2711.19, "Other." "Other" provides for goods that are not described in subheadings at the same level; in this case, other than natural gas (2711.11), propane (2711.12), butane (2711.13), ethylene, propylene, butylene, and butadiene (2711.14).

(c) This same process is used at each level. Once the appropriate subheading is located, the process is repeated at the tariff item level except that, rather than examining one- and two-dash subheadings, three- and four-dash tariff items are examined (and ultimately the five- and six-dash statistical subdivision level).

Appendix B

Live Broilers for Domestic Production

Tariff Item -	Description of Goods
01.05	Live poultry, that is to say, fowls of the species <i>Gallus domesticus</i> , ducks, geese, turkeys, and guinea fowls. -Weighing not more than 185g:
0105.11	--Fowls of the species <i>Gallus domesticus</i>
0105.11.10	---For breeding purposes ---Broilers for domestic production
0105.11.21	----Within access commitment
0105.11.22	----Over access commitment
0105.11.90	---Other
0105.12	--Turkeys
0105.12.10	---For breeding purposes
0105.12.90	---Other
0105.13	--Ducks

0105.13.10	---For breeding purposes
0105.13.90	---Other
0105.14	--Geese
0105.14.10	---For breeding purposes
0105.14.90	---Other
0105.15	--Guinea fowls
0105.15.10	---For breeding purposes
0105.15.90	---Other
	-Other:
0105.94	--Fowls of the species <i>Gallus domesticus</i>
0105.94.10	---For breeding purposes; Spent fowl; Started pullets
	---Other:
0105.94.91	----Within access commitment
0105.94.92	----Over access commitment
0105.99	--Other
	---Turkeys:
0105.99.11	----Within access commitment
0105.99.12	----Over access commitment
0105.99.90	---Other

Suppose live broilers (fowls of the species *Gallus Domesticus*), weighing 180 grams, are being imported for domestic production.

- (a) Live poultry is specifically provided for under heading No. 01.05.
- (b) Since the broilers weigh 180 grams, they meet the one-dash subheading 0105.1, which reads, “weighing not more than 185 grams.”
- (c) As they are fowl of the species *Gallus Domesticus*, the two-dash subheading 0101.11 is applicable.
- (d) As the broilers are for domestic production, tariff items 0105.11.21 and 0105.11.22 must be examined.
- (e) If the importer does not have a specific import permit, or the terms and conditions of the permit have not been complied with, the broilers are classified under “over access commitment” tariff item No. 0105.11.22 as broilers for domestic production.

References	
Issuing Office	Trade and Anti-dumping Programs Directorate
Headquarters File	N/A
Legislative References	<u>Customs Tariff</u> <u>Customs Act</u> <u>Export and Import Permits Act</u> <u>Statistics Act</u>
Other References	<u>D10-18-1</u> , <u>D11-11-3</u> , <u>D17-1-10</u> , <u>D19-10-2</u> Form <u>B3-3</u>
Superseded Memorandum D	D10-13-1 dated October 2, 2009