



## Memorandum D10-18-8

Ottawa, June 30, 2020

### Importation of certain poultry and egg products and the *Import Control List* (ICL)

#### In brief

1. This new D-Memorandum is a revision the information pertaining to poultry and egg products found in D10-18-4 on the Importation of Certain Agricultural products and the *Import Control List* (ICL), dated August 14, 2009, which is cancelled by the publication of this new D-memorandum.
2. Information on dairy products as they relate to the *Import Control List* can now be found in the memorandum D10-18-7, Importation of Certain Dairy Products and *the Import Control List* (ICL).
3. This memorandum has also been updated to reflect the changes to Supplementary Note 1 to Chapter 16 as a result of the coming into force of the Canada United States Mexico Agreement as of July 1, 2020.

This memorandum addresses the importation of poultry and egg products that are included on the *Import Control List* (ICL).

#### Legislation

[Customs Tariff](#)

[Customs Tariff Act](#)

[Export and Import Permits Act](#)

[Import Control List](#)

#### Guidelines and General Information

1. Agricultural goods on the *Import Control List* (ICL) are provided for under one of two types of tariff items: “within access commitment” or “over access commitment.” Each item enumerated on the ICL has a dual tariff item reflecting this.
2. Pursuant to section 10(2) of the *Customs Tariff Act*, agricultural products included on the ICL, “...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”.
3. Global Affairs Canada (GAC) is the Department responsible for establishing the import access levels, allocating quota and issuing import permits.
4. Poultry and egg products enumerated on the ICL may only be classified under a “within access commitment” tariff item when a specific import permit for the goods is obtained from GAC, and all its terms and conditions are fulfilled. Without a specific import permit, goods will be entered under a General Import Permit (GIP) Number 100: Eligible Agricultural Products, and will be classified under an “over access commitment” tariff item.
5. Sections 7(1) to 11 of the *Export and Import Permits Act* is the legislation that governs the issuance of import permits referred to in section 10(2) of the *Customs Tariff Act*. For information on permits and quota applications, importers are advised to consult GAC’s Export and import controls webpage and to refer to the Notice to importers series.
6. Import permits are not required to be submitted to the Canada Border Services Agency (CBSA) to obtain the release of the goods. However, they are required at the time of accounting and must be available during any CBSA compliance verification activity.
7. The issuance of an allocation or a permit by GAC does not constitute a tariff classification ruling.
8. D10-18-1, Tariff Rate Quotas provides a general overview of the Tariff Rate Quota (TRQ) system.

## Classification Information

### Poultry Products – Definitions and guidelines

#### 9. Definitions:

- (a) Chicken is identified in the *Customs Tariff* as fowls of the species **Gallus domesticus**;
- (b) “Canner pack” refers to a turkey, without its neck and giblets that is destined for the further processing market and not for the consumer market;
- (c) “Prepared meals” consist of at least one milk product, meat (includes fish and poultry), or meat alternative (legumes, seeds, nuts, etc.), and at least one serving of grain products (bread and cereals) or vegetables or fruit. A prepared meal may contain a meal for more than one person and may be presented on a tray such as a TV dinner. A prepared meal may be ready for immediate consumption, such as a chicken pasta salad, may require heating, such as a meat stew containing vegetables, or may require some cooking and/or assembly such as stir-fried or fajita chicken and vegetable kits.
- (d) “Spent fowl” means a mature bird of the species **Gallus domesticus** that has finished its egg laying production cycle (whether for table eggs or breeding purposes). They are considered “spent” and, at that point, are destined for slaughter. “Spent fowl” are also referred to as stewing hens, boiling fowls, pot roasting hens, mature chickens, or old hens/roosters. For goods imported from the United States and accounted for under a tariff item containing the phrase “spent fowl”, a copy of a U.S. Department of Agriculture *Certificate for Export of Meat and Poultry Products* and additional documentation supporting the product as spent fowl may be requested by the CBSA to verify the classification of spent fowl. This documentation should clearly demonstrate that imported goods are either spent fowl or made of spent fowl.

10. Information on the classification of live poultry and chicks can be found in memorandum D10-14-63, Tariff Classification of Live Chicks of the Species Gallus Domesticus.

### Flours and Edible Flours of Heading 02.10

11. Flours of meat or meat offal and edible flours made from cooked meat such as chicken, turkey, or beef etc., or from edible meat offal are classified under tariff item 0210.99.90. Flours of meat or meat offal unfit for human consumption (e.g., for feeding animals) are excluded (heading 23.01).

### “Specially Defined Mixtures” – Definition and Guidelines

12. All goods classified in Chapter 16, including specially defined mixtures, must first meet the terms of Chapter Note 2 to Chapter 16 which reads:

Food preparations fall in this Chapter provided that they contain more than 20% by weight of sausage, meat, meat offal, blood, fish or crustaceans, molluscs or other aquatic invertebrates, or any combination thereof. In cases where the preparation contains two or more of the products mentioned above, it is classified in the heading of Chapter 16 corresponding to the component or components which predominate by weight. These provisions do not apply to the stuffed products of heading 19.02 or to the preparations of heading 21.03 or 21.04.

NOTE: The General Explanatory Note to Chapter 16 indicates, “in all cases the weight to be considered is the weight of meat, fish, etc., in the preparation at the time it is presented and not the weight of the same products before preparation.” A laboratory analysis may be necessary to determine the 20% criterion.

13. Goods meeting the 20% minimum content outlined in the above Chapter Note must also meet the terms of heading 16.02, as provided below, before the good can be considered as a “specially defined mixture”.

- (a) Terms of heading 16.02, as “Other prepared or preserved meat, meat offal or blood.”

NOTE: Sausages and similar products or food preparations based on sausages or similar products are not eligible for consideration as a specially defined mixture as they are classified under heading 16.01.

14. At the subheading level, products meeting the terms of heading 16.02, as provided above are classified in accordance to the type of meat in those products:

- (a) Turkey products - subheading 1602.31;
- (b) **Gallus domesticus** (chicken) products - subheading 1602.32.

15. At the tariff item level, Supplementary Note 1 “specially defined mixtures” applies. It is defined in the *Customs Tariff* as follows:

"Specially defined mixtures" of tariff items 1602.31.11, 1602.31.92, 1602.32.11 and 1602.32.92 means a product containing partially or fully cooked, including par-fried, chicken or turkey where 13% or more of the total weight of the product is comprised of goods other than the following listed goods: chicken, turkey, breading, batter, oil, glazing, sauces, other coatings, or bastes, or any added water (including that used in marination, glazing, sauces, other coatings, bastes, breading or batter). For the purposes of this definition, whether 13% or more of the total weight of the product is comprised of goods other than the listed goods shall be determined by calculating the total weight of listed goods contained in that product as a percentage of the total weight of the product.

In order to meet the definition and be classified as a specially defined mixture, the goods must meet all the criteria of the definition.

(a) The chicken or turkey must have been par-fried, partially or completely cooked as defined below:

i) Partially cooked refers to the use of a cooking process (e.g. dry roasting, baking, frying, boiling, etc.) to partially cook chicken or turkey. The product must have been subjected to a cooking process more than merely heating the product to improve its appearance or flavour. For example, a cooking process for two hours that results in an internal temperature of 120°F. This means that the chicken or turkey must be fully cooked prior to consumption to be considered safe and "ready to eat".

Per CFIA labelling requirements, the principle display panel on the labels may display (but are not limited to) the following; "cook and serve", "must be thoroughly cooked" and "cook before eating."

ii) Par-fried chicken or turkey has been partially fried but not browned nor completely cooked before being frozen and these goods must be completely cooked prior to serving.

For example, par-frying is usually a processing step applied to battered or breaded products. This may include chicken or turkey that has been immersed in hot oil and incurred a heat treatment at 190 C (374 F) for 25 to 30 seconds.

iii) Fully cooked chicken or turkey must have been cooked to an internal temperature of 74°C or 165°F.

(b) at least 13% or more of the total weight of the product must be made up of goods other than following:

i) Chicken or turkey, any breading, batter, oil, glazing, sauces, other coatings and bastes, and added water, including water used in marination, glazing, sauce, other coatings, bastes, breading, and batter of the total product.

The following definitions assist in clarifying the policy interpretation of the above noted terms:

**Breading:** a coating of breadcrumbs typically on fried or baked goods by dredging food in flour, moistening in an egg wash and coating in breadcrumbs prior to cooking. Bread (e.g., buns, ciabatta, rye, croissants, etc.) is not included in the "breading" exclusion.

**Batter:** A semi-liquid mixture usually composed of flour, eggs, a liquid (milk, water, beer, etc.) and assorted flavouring ingredients such as herbs, spices, etc. These mixtures are used as a coating prior to frying food products.

**Oil:** any oil, of vegetable or animal origin, used as an ingredient in the making of a food preparation.

**Glazing:** a thin layer of liquid or semi-liquid mixture, such as sauces, meat stock, marinades, etc., that are added to food during the cooking process in order to make the surface shine and improve its appearance and flavour.

**Sauce:** any hot or cold liquid or semi-liquid preparations, which adds to foods appearance, aroma, flavour or texture when served with, or added to it as it is being served. Preparations meeting this definition that are served with the meat portion (ex: dips, tzatziki, sauce packets, etc.) shall be considered as a sauce.

\*Note: identifiable ingredients added to a sauce, after it has been prepared, to render it a food preparation (e.g., carrots, celery, peppers, etc.) may be counted towards the calculation of the 13% "other" goods.

**Other Coatings:** any preparation that creates a coating on the meat portion of the product. This includes turkey or chicken that has been subjected to a breading process but where breadcrumbs were replaced with another ingredient (ex: crushed corn chips or cornmeal) in the breading process.

**Bastes:** Any liquid or semi-liquid mixture (ex: sauce, pan drippings, margarine, butter, etc.) applied to meat during cooking to keep it moist is considered to meet this definition.

**Added water:** Any water used to create a food preparation, is used in marinating the meat or that is added to any of the other terms defined in the above note.

16. The determination of whether a good is a “specially defined mixture” is based on the ingredient list and manufacturing processes of the product. Importers will need to clearly demonstrate, through the manufacturing process or additional production specifications of the product, how the product is produced in order to determine its eligibility. Additional information may be requested by the CBSA in order to further determine eligibility. This information is required by the CBSA for the issuance of an advanced ruling and for any CBSA compliance verification activity.

17. For examples of goods that qualify and do not qualify as specially defined mixtures, see Appendix A.

### **Eggs**

18. Eggs are classified in headings 04.07, 04.08, and 21.06.

19. Eggs classified in heading 04.07 are in their shell and are fresh, preserved or cooked.

20. “Hatching eggs” are provided for in heading 04.07 and are fertile eggs to be placed into incubators with the intention of producing live birds. Importations of hatching eggs, from the United States, must be accompanied by a U.S. Department of Agriculture *Certificate for Poultry or Hatching Eggs for Export*.

21. Fresh eggs for consumption (i.e. retail eggs or for breaking), imported from the United States, must be accompanied by a U.S. Department of Agriculture *Certificate Poultry Products Grading Certificate*.

22. Eggs which are not in their shell, that are fresh, cooked, dried, in parts, and may or may not contain sweetening matter are classified in heading 04.08.

23. Dried whole eggs containing a small amount of colorant which are not suitable for human consumption but are destined for animal consumption, generally referred to as “denatured eggs”, are provided for by heading 04.08. The Explanatory Notes to this heading indicate that eggs for use as food or industrial purposes (e.g., in tanning) are provided for by the heading.

24. Eggs of heading 04.07 are identified by species, eggs of heading 04.08 are not identified by species and therefore all eggs regardless of species, meeting the terms of the heading, are classified in the appropriate subheading. As such, in order to classify an egg product under a “within access” tariff item of heading 04.08, a specific import permit must be obtained from GAC.

25. Egg preparations of tariff item 2106.90.51 (within access) or 2106.90.52 (over access) are egg preparations which have been further processed into preparations containing 50% or more by weight of eggs. These goods also contain other ingredients, such as seasoning, spices and other additives, which are not permissible in heading 04.08.

### **Other Classification Information**

26. In accordance with the General Interpretive Rule 3(b), gift baskets or gift boxes made up of a selection of food stuffs are not considered to be a “set for retail sale”. As such, each component of gift baskets or boxes must be classified individually and any food stuffs that are included on the ICL must have a specific import permit for the goods from GAC to be classified under a “within access commitment” tariff item (i.e., to obtain a lower rate of duty).

27. For further guidelines on tariff classification, consult memorandum D10-13-1, Tariff Classification of Goods

### **Additional Information**

28. To obtain an application for an import permit or additional information on import permits, please contact the Export and Import Controls, GAC.

29. 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 memorandum D11-11-3, Advance Rulings for Tariff Classification.

30. 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**

The following show examples of chicken and turkey preparations that qualify as “specially defined mixtures” and two preparations that do not. For the purposes of these examples, Note 2 to Chapter 16 is assumed to have been met.

Example 1:

“Chicken wings with sauce”

Fully cooked chicken wings	74.00%
Sauce packet	14.00%
Seasoning	2.00%
Water	1.00%

According to the definition of specially defined mixtures, the sauce and water are considered to be part of the chicken portion. Since the non-chicken portion is not greater than 13%, this product cannot be considered to be a specially defined mixture.

Example 2:

“Uncooked, frozen chicken breasts with sauce”

Chicken	75.00%
Sweet and sour sauce	24.00%
White pepper	1.00%

According to the definition of specially defined mixtures, the sauce cannot be considered to be part of the non-chicken portion. Since the non-chicken portion is not greater than 13%, this product cannot be considered to be a specially defined mixture. Additionally, the meat portion does not meet the definition of a specially defined mixture since it has not been partially or completely cooked.

Example 3:

“Turkey burger patties”

Par-fried, turkey	78.00%
Water	5.00%
Roasted peppers	5.50%
Roasted mushrooms	4.50%
Roasted Zucchini	3.00%
Oats	3.00%
Chopped Cilantro	1.00%

According to the definition of specially defined mixture, the non-turkey portion (chopped cilantro, peppers, mushrooms, zucchini and oats) is greater than 13% and the meat portion has been partially cooked (par-fried); therefore this product qualifies as a specially defined mixture.

Example 4:

“Cranberry almond chicken salad”

Fully cooked chicken strips	38.00%
Spinach	30.00%
Balsamic vinaigrette	10.00%
Cranberries	8.00%
Almonds	7.00%
Celery	4.00%
Onions	3.00%

According to the definition of specially defined mixture, the non-chicken portion (spinach, cranberries, almonds, celery and onions) is greater than 13% and the chicken portion has been fully cooked; this product qualifies as a specially defined mixture. Vinaigrette meets the definition of sauce, and even though it was removed from the calculation, the good still qualified as a specially defined mixture.

<b>References</b>	
<b>Issuing Office</b>	Trade and Anti-Dumping Programs Directorate Trade Policy Division
<b>Headquarters File</b>	
<b>Legislative References</b>	<a href="#"><i>Customs Tariff</i></a> <a href="#"><i>Customs Tariff Act</i></a> <a href="#"><i>Export and Import Permits Act</i></a> <a href="#"><i>Import Control List</i></a>
<b>Other References</b>	<a href="#">D10-13-1</a> , <a href="#">D10-14-63</a> , <a href="#">D10-18-1</a> , <a href="#">D11-11-3</a> <a href="#">Export and import controls</a> <a href="#">CFIA labelling requirements</a> <a href="#">Notice to importers</a>
<b>Superseded Memorandum D</b>	D10-18-4 dated August 14, 2009