



## Memorandum D10-18-6

Ottawa, February 19, 2019

### First-come, First-served Agricultural Tariff Rate Quotas

#### In Brief

This Memorandum supersedes Memorandum D10-18-6, published on March 10, 1998.

The following changes have been made to the Memorandum:

- a) The Appendix has been removed;
- b) The reference to customs bonded warehouse has been removed;
- c) The names of the Canada Border Services Agency (CBSA) and Global Affairs Canada have been modified to reflect organizational changes;
- d) The contact information for the CBSA and Global Affairs Canada have been updated; and
- e) Paragraphs have been reorganized and renumbered.

#### FIRST-COME, FIRST-SERVED AGRICULTURAL TARIFF RATE QUOTAS

This Memorandum provides an overview of the Global Affairs Canada's first-come, first-served (FCFS) agricultural tariff rate quotas (TRQs) on the categories of wheat, wheat products, barley, and barley products, as well as the legislation and administrative guidelines that apply to them. For more information on TRQs, importers should refer to Memorandum [D10-18-1](#), Tariff Rate Quotas.

#### Legislation

[Customs Act](#), Subsections 32(1), (3), and (5) (R.S.C., 1985, c. 1 (2nd Supp.))

[Customs Tariff](#), Subsections 10(1) and (2) (S.C. 1997, c. 36)

[Export and Import Permits Act](#), Subsections 8(1.1) and 8.3(1), paragraphs 8(2)(a), 8(2)(b), 8(3)a), and 8(3)(b) (R.S.C., 1985, c. E-19)

[General Import Permit No. 3 — Wheat and Wheat Products and Barley and Barley Products for Personal Use](#) (SOR/95-396)

[General Import Permit No. 20 — Wheat and Wheat Products and Barley and Barley Products](#) (SOR/95-400)

[General Import Permit No. 100 — Eligible Agriculture Goods](#) (SOR/95-37)

## Guidelines and General Information

### FCFS TRQs for Wheat, Wheat Products, Barley, and Barley Products

1. The four categories of wheat, wheat products, barley, and barley products, referred to as FCFS TRQ goods, are not subject to prior import allocations or specific import permits. Each good is listed in the *Customs Tariff* under two separate tariff items, one containing the phrase “within access commitment” and the other containing the phrase “over access commitment”. Within access commitment refers to imports made within the established import access quantity (or quota) for the goods of a particular category, which are subject to a lower rate of duty. Over access commitment refers to imports made outside the established quota for the goods of the category, which are subject to a higher rate of duty.
2. Quota control for each category of FCFS TRQ goods is managed through two General Import Permits (GIP) – GIP No. 20 - Wheat and Wheat Products and Barley and Barley Products and GIP No. 100 – Eligible Agricultural Goods.
3. FCFS TRQ goods imported under the authority of GIP No. 20 are classified as within access commitment and assessed at a rate of duty of within access commitment until the quota is filled or expired. Whether the goods of a particular category are classified as within access commitment is determined by calculating the quota level of FCFS imports at the time of final accounting. Any shipment of goods that is released and accounted for, under subsection 32(1), (3), or (5) of the *Customs Act*, on or before the day on which the quota is filled, is classified as within access commitment and assessed at the rate of duty of the within access commitment.
4. The FCFS TRQs are administered on a marketing year basis (August 1 to July 31). GIP No. 20 is in force each marketing year as of August 1, for each of the four categories of goods, and applies to goods accounted for during that quota year. For each category, goods accounted for after the day on which the quota is deemed to be filled as set out in the Notice to Importers, are classified as over access commitment and assessed at the rate of duty of over access commitment. GIP No. 20 continues to be in force for the remaining categories of goods until the quota for each of the categories has been filled. Goods accounted for after the expiry of the quota may, under exceptional circumstances, (e.g. trade agreements) be classified at the preferred rate of duty of within access commitment if an importer has obtained a supplemental import permit from Global Affairs Canada.
5. When the quota for a particular category of FCFS TRQ goods is filled, GIP No. 20 ceases to apply in respect of the goods, and GIP No. 100 starts to apply for the same quota year. GIP No. 100 covers unlimited imports of eligible agricultural goods, and must be used for imports of FCFS TRQ goods accounted for after the day on which the quota for a category is deemed to be filled as set out in the Notice to Importers, even if accounted for after the coming into force of the next quota year. At no time are both GIP No. 20 and GIP No. 100 applicable to the same category of goods. All imports under GIP No. 100 are assessed at the applicable rate of duty, which is generally the over access commitment rate of duty.
6. When a shipment of FCFS TRQ goods has been short-shipped, the GIP applicable for that particular category of goods at the time of importation of the goods short-shipped will determine their tariff classification. GIP No. 20 does not authorize the importation of goods which have not actually arrived in Canada. For example, if a shipment of goods imported is short-shipped during a period when GIP No. 20 is applicable, the shortage must be imported, released, and accounted for on or before the day on which the quota is filled in order for the goods to be classified as within access commitment and assessed at a rate of duty of within access commitment.
7. Pursuant to section 10 of the *Customs Tariff*, the CBSA is responsible for classifying goods under a tariff item in accordance with the General Rules for the Interpretation of the Harmonized System and the Canadian Rules, unless otherwise provided. The CBSA cannot classify a good under a tariff item that contains the phrase within access commitment unless the good is imported under the authority of a

permit issued under section 8.3 of the [Export and Import Permits Act](#) (EIPA) and in compliance with the conditions of that permit.

8. Accordingly, the CBSA monitors imports of FCFS TRQ goods and provides information to Global Affairs Canada on the quota status for each category. The CBSA uses the Quota File, which is a system designed to calculate commercial imports of FCFS TRQ goods classified as within access commitment. Quota quantities are updated daily, except for weekends and statutory holidays, and when a grain equivalency conversion factor applies to a tariff item, that factor is applied by the Quota File to calculate the quantity of quota used and remaining.
9. Pursuant to section 6.2 of the EIPA, Global Affairs Canada is responsible for determining the quota for each category of FCFS TRQ goods. Global Affairs Canada issues a Notice to Importers prior to the closure date for a particular category, when the quota is almost filled, in order to minimize disruptions to transactions in progress. The CBSA's Technical Commercial Client Unit also issues a Notice to Importers on the Electronic Bulletin Board with the closure date.
10. Prior to accounting for their FCFS TRQ goods, for the most up-to-date information on the quota status, importers should consult the [Global Affairs Canada](#) website and [review](#) the information on TRQs.

#### **Travellers' Importations**

11. GIP No. 3 authorizes a resident of Canada to import unlimited quantities of FCFS TRQ goods for personal use under the within access commitment tariff items in accordance with the terms and conditions of the GIP. The special provisions (note 5) of Chapter 98 of the List of Tariff Provisions set out in the schedule to the *Customs Tariff* apply to FCFS TRQ goods.

#### **Tariff Classification of FCFS TRQ Goods – General**

12. Each FCFS TRQ good is listed in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* in two separate 8-digit tariff items: one containing the phrase “within access commitment” and the other containing the phrase “over access commitment”. Goods cannot 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 *EIPA* and in compliance with the conditions of the permit.
13. 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.

#### **Tariff Classification of FCFS TRQ Goods - Originating in a Free Trade Agreement Country**

14. In order to accurately calculate import quantities against the established quota for each of the four categories of FCFS TRQ goods, the goods originating in a beneficiary country are classified under the within access commitment tariff item applicable to the same goods that are of a non-free trade origin on the final day of accounting. That is, the within access commitment tariff item applies to the goods imported, released, and accounted for during a period when GIP No. 20 is in force for the category, and the over access commitment tariff item applies at all other times. However, in the latter cases, the rate of duty applied to the goods originating in a beneficiary country under the applicable over access commitment tariff item will be the same as for the within access commitment tariff item.

#### **Advance Rulings for FCFS TRQ Goods**

15. Importers are encouraged to obtain Advance Rulings on the tariff classification of their goods to confirm whether they are goods included on the *Import Control List* under the *EIPA*. These rulings will also assist the CBSA with effective and accurate quota administration, as the rulings help to ensure the accuracy of the tariff classification. Disputes and appeals are generally reduced, and importers are provided with a greater degree of certainty regarding imports of goods. Information on how importers can obtain a ruling is set out in Appendices A and B of Memorandum [D11-11-3 Advance Rulings for Tariff Classification](#).

**ADDITIONAL INFORMATION****CBSA's Border Information Service**

16. The CBSA's Border Information Service (BIS) line responds to public inquiries related to import requirements of other government departments, including Global Affairs Canada. Importers can access BIS toll-free throughout Canada by calling 1-800-461-9999. If calling from outside Canada, importers can reach BIS by dialing 204-983-3500 or 506-636-5064 (long-distance charges will apply). Importers can speak directly to an agent by calling during regular business hours from Monday to Friday (except holidays), 8 a.m. to 4 p.m. Ottawa local time. More information on import requirements is available on the [CBSA's website](http://www.cbsa-asfc.gc.ca) at: [www.cbsa-asfc.gc.ca](http://www.cbsa-asfc.gc.ca).

**Global Affairs Canada**

17. More information on controlled agricultural goods, TRQs, or on permits is available on the Global Affairs Canada's website at [www.international.gc.ca](http://www.international.gc.ca) or contact Trade Controls Policy Division (TIC)

Trade Controls Bureau (TID)  
Global Affairs Canada  
125 Sussex Drive  
Ottawa, Ontario  
K1A 0G2

Telephone: 343-203-6820  
Facsimile: 613-996-0612 / 613-995-5137  
Email: [tic@international.gc.ca](mailto:tic@international.gc.ca)

<b>References</b>	
<b>Issuing Office</b>	Other Government Department Programs Unit, Program and Policy Management Division, Commercial Programs Directorate Programs Branch
<b>Headquarters File</b>	4572-2-3
<b>Other References</b>	<a href="#">D10-18-1</a> <a href="#">D10-18-4</a> , <a href="#">D10-18-5</a> , <a href="#">D10-18-6</a> , <a href="#">D19-10-2</a> , <a href="#">D11-11-3</a> <a href="#">D10-18-4</a> , <a href="#">D7-4-4</a> , <a href="#">D10-18-6</a> , <a href="#">D19-10-2</a> , <a href="#">D11-11-3</a> .
<b>Superseded Memorandum D</b>	D10-18-6, March 10, 1998