



Ottawa, November 13, 2014

Memorandum D8-11-6

Application of the *Outerwear Fabrics Remission Order, 1998*

In Brief

1. The editing revisions made in this memorandum do not affect or change any of the existing policies or procedures.
2. This memorandum has been revised to reflect changes to the Canada Border Services Agency's organizational structure.

This memorandum outlines and explains the provisions of the [*Outerwear Fabrics Remission Order, 1998*](#) (the Order).

This program will be of interest to outerwear fabric manufacturers, who are named in the Schedule to the Order (see Appendix).

Legislation

[*Customs Act*](#)

[*Customs Tariff*](#)

[*Outerwear Fabrics Remission Order, 1998*](#)

P.C. 1997 2058, as amended by P.C. 2004-1606 and P.C. 2008-1599

Guidelines and General Information

Definitions

1. The following definitions apply for the purpose of administering this Order:

broadwoven fabric – means woven fabric of a width exceeding 30 cm. (tissus larges)

coat – means a garment that:

- extends to the knee or below the knee;
- is designed to protect against the cold; or
- is a textile raincoat designed to protect against the rain or cold. (manteau)

fabric – means broadwoven fabric, as defined in this memorandum. (tissu)

finished – means, in respect of a fabric, that the fabric has undergone all processes required to convert it from a greige fabric into a fabric sold to an outerwear apparel manufacturer. (fini)

greige – means, in respect of a fabric, that the fabric has come directly from the loom and has not undergone any process required to convert it into a finished fabric and includes an unfinished fabric woven from coloured or dyed yarns. (écru)

jacket – means a garment that:

- is worn over other apparel;
- is designed to protect against the cold; and
- covers the upper part of the body, but does not extend to the knee. (veste)

manufacturer – means an outerwear fabric manufacturer, whose name appears in the Schedule to the Order.
(fabricant)

Minister – means the Minister of Public Safety. (ministre)

outerwear apparel – means

- children's and infants' coats, jackets and snow and ski wear, (for the purpose of clarification this should be understood to mean a garment of a size under or equivalent to 6X);
- women's and girls' jackets and snow and ski wear;
- men's and boys' jackets and snow and ski wear;
- women's and girls' coats; or
- men's and boys' coats.

Note: all of the above garments are to be made from outerwear fabric, and may include decorations of other than woven material (including collars and cuffs), provided they only form a minor component, are of minimal value and the body and the sleeves of the outerwear apparel are manufactured from woven fabric.

outerwear fabric – means fabric used in the manufacture of outerwear apparel and designates:

- broadwoven fabrics consisting solely of nylon or solely of other polyamide fibres or filaments;
- broadwoven fabrics consisting solely of polyester fibres or filaments;
- broadwoven fabrics consisting solely of fibres or filaments solely of acetate, solely of triacetate or solely of rayon; or
- broadwoven fabrics consisting solely of cotton fibres, of cotton fibres mixed solely with man-made fibres, or of man-made fibres mixed solely with other man-made fibres. (tissu pour vêtements de dessus)

snow and ski wear – means snow and ski wear designed to protect against the cold, and excludes headwear, handwear, footwear, hosiery and other accessories. (vêtements de neige et de ski)

Who Qualifies

2. Eligibility to the program is restricted to manufacturers of outerwear fabric who are named in the Schedule to the Order.

Eligible Goods

3. During the period beginning January 1, 1998 and ending December 31, 2004, outerwear fabrics imported by a manufacturer whose name appears in the Schedule to the Order, for use in the manufacture of outerwear apparel, are designated eligible goods for which remission entitlement can be claimed under the Order.

Amount of Remission (Prior to September 4, 2008)

4. (a) For the period beginning January 1, 1998 and ending on December 31, 2006 the annual remission entitlement granted to a manufacturer under this Order may not exceed the **total amount** of customs duties that were remitted to the manufacturer under the *Outerwear Fabrics and Outerwear Apparel Remission Order*, P.C. 1988-1246 in respect of outerwear fabric imported in 1995. (SOR/2005-9)

(b) For the period beginning January 1, 2007 and ending on December 31, 2007 the annual remission entitlement granted to a manufacturer under this Order may not exceed **75% of the total amount** of customs duties that were remitted to the manufacturer under the *Outerwear Fabrics and Outerwear Apparel Remission Order*, P.C. 1988-1246 in respect of outerwear fabric imported in 1995. (SOR/2005-9)

(c) For the period beginning January 1, 2008 and ending on December 31, 2008 the annual remission entitlement granted to a manufacturer under this Order may not exceed **50% of the total amount** of customs

duties that were remitted to the manufacturer under the *Outerwear Fabrics and Outerwear Apparel Remission Order*, P.C. 1988-1246 in respect of outerwear fabric imported in 1995. (SOR/2005-9)

Amount of Remission (as of September 4, 2008)

(d) For the period beginning January 1, 2008 and ending on December 31, 2008 the annual remission entitlement granted to a manufacturer under this Order may not exceed **a further remission of 25% of the total amount** of customs duties that were remitted to the manufacturer under the *Outerwear Fabrics and Outerwear Apparel Remission Order*, P.C. 1988-1246 in respect of outerwear fabric imported in 1995. (SOR/2008-256)

(e) For the period beginning January 1, 2009 and ending on December 31, 2009 the annual remission entitlement granted to a manufacturer under this Order may not exceed **75% of the total amount** of customs duties that were remitted to the manufacturer under the *Outerwear Fabrics and Outerwear Apparel Remission Order*, P.C. 1988-1246 in respect of outerwear fabric imported in 1995. (SOR/2008-256)

(f) For the period beginning January 1, 2010 and ending on December 31, 2012 the annual remission entitlement granted to a manufacturer under this Order may not exceed **50% of the total amount** of customs duties that were remitted to the manufacturer under the *Outerwear Fabrics and Outerwear Apparel Remission Order*, P.C. 1988-1246 in respect of outerwear fabric imported in 1995. (SOR/2008-256)

Summary

Year	Remission Entitlement based on 1995 Imports	Order-In-Council
1998 to 2006	100% of the total duty amount	P.C. 1997-2058
		Amending Order-In-Council
2007	75% of the total duty amount	P.C. 2004-1606
2008	50% of the total duty amount	P.C. 2004-1606
September 2008	A further 25% of the total duty amount	P.C. 2008-1599
2009	75% of the total duty amount	P.C. 2008-1599
2010 to 2012	50% of the total duty amount	P.C. 2008-1599

How to Apply for Remission

5. A manufacturer may choose to access this program by claiming remission at the time of importation or by submitting a claim for remission by way of drawback subsequent to the importation and payment of duties on qualifying outerwear fabric.

6. All claims for remission must be submitted to the appropriate regional CBSA office, or as otherwise directed, within three years following the day the outerwear fabric was imported into Canada. For the purpose of identifying the date on the customs accounting documents, this shall be the date the goods were released from customs.

Claiming Remission at Time of Importation

7. If a manufacturer intends to have duties remitted at the time of importation, the manufacturer must submit, prior to or during each calendar year, to the appropriate regional CBSA office where the company's operations are located, or as otherwise directed, an application by letter of intent, confirming that the company:

- (a) is listed in the Schedule to the Order and has a 1995 duty remission entitlement of (insert amount);
- (b) will not exceed the amount of duties that may be claimed for remission on imported outerwear fabric;
- (c) will maintain records that are satisfactory to the CBSA;
- (d) will meet all the conditions of the Order;

(e) will provide the CBSA with any other information which may be required to substantiate its claim for remission; and

(f) has, if applicable, included the names and addresses of any distributors who have purchased finished outerwear fabric to be sold to outerwear apparel manufacturers.

8. Upon receipt of the application, an officer will review the information submitted to confirm that:

(a) the manufacturer is listed in the Schedule to the Order;

(b) the maximum amount of duties to be remitted is accurate; and

(c) the manufacturer continues to be a manufacturer of outerwear fabrics.

9. If no revisions to the application are required, the CBSA will approve the application and notify the manufacturer in writing of such approval and any related obligations. The CBSA will provide the applicant with an authorization number that is to be indicated on all customs accounting documents that are presented, in order to claim remission under this Order. The authorization number identifies, for the CBSA, the manufacturer's eligibility to the *Outerwear Apparel Remission Order, 1998*. Provided that the manufacturer is in compliance with all the conditions of this Order and with all other related legislation and regulations, it will not be required to pay any duties on qualifying outerwear fabric that it imports, up to the maximum allocation for the applicable calendar year.

10. Where an application is submitted and authorized subsequent to the beginning of the calendar year, the authorization number will be made retroactive to January 1 of the applicable calendar year thus allowing for a drawback claim to be filed for any imports of qualifying outerwear fabrics prior to the receipt of an authorization number.

11. Additional information on the completion of customs accounting documents may be found in [Memorandum D17-1-10, Coding of Customs Accounting Documents](#).

12. There may be occasions when the manufacturer is not the owner or purchaser of goods imported into Canada but agrees to import those goods under its remission authorization. For the purpose of administering the remission order, such an arrangement is referred to herein as a "partnering agreement". In such cases, the manufacturer's name, number and address must be indicated in field 1 of the [B3-3 Canada Customs Coding Form](#) as well as on any related supporting documentation provided to the CBSA. All supporting documentation must also clearly indicate the name and address of the actual owner, purchaser and/or consignee. As the importer of record, the manufacturer must satisfy the record keeping requirements detailed below and is fully responsible for all such goods imported under its remission authorization and for any liabilities to the Crown resulting therefrom.

13. Additional information concerning partnering agreements may be found in [Memorandum D8-11-7, CBSA Policy on the Transfer of Entitlement Pursuant to the Textile and Apparel Remission Orders](#).

14. The CBSA will inform the manufacturer that officers of the CBSA may, at any time, exercise the powers granted to them under section 42 of the [Customs Act](#) and perform a compliance verification:

(a) to ensure that during the calendar year, all the conditions of the Order were observed;

(b) to ensure that the remission entitlement was not exceeded;

(c) to ensure that only eligible goods were claimed;

(d) to ensure that any duties remitted where the conditions of the Order were not met will be reassessed under the provision of section 118(1) of the [Customs Tariff](#). Any applicable interest and penalty may also be assessed pursuant to section 123(2) of the [Customs Tariff](#) and section 109.1(2), of the [Customs Act](#), respectively; and

(e) to verify the manufacturer's application to use the provisions of the Order during the forthcoming calendar year.

Claiming Remission by Way of Drawback

15. If the manufacturer has paid duties on outerwear fabric that it has imported during a calendar year prior to the determination of eligibility under this Order, the manufacturer may, subject to paragraph 5, claim a remission of duties by way of drawback.
16. With the exception of not having to submit a letter of intent at the beginning of the calendar year to obtain an authorization number, a manufacturer claiming remission by way of drawback must meet the same requirements as a manufacturer claiming remission at time of importation.
17. A manufacturer using the drawback procedure must pay customs duties on imported outerwear fabric at time of accounting.
18. The manufacturer may subsequently file a claim for remission of duties on Form [K32, Drawback Claim](#). This form and all substantiating documentation are to be submitted to the appropriate [regional CBSA office](#).
19. Assistance with completion of the [K32](#) is available from any [regional CBSA office](#).

Record Keeping Requirements

20. If a manufacturer intends to claim remission at the time of importation or by way of drawback, section 40 of the [Customs Act](#) requires that the company maintain and make available records that are satisfactory to the CBSA. These records must be maintained in a manner that facilitates verification by the CBSA and be of a quality sufficient to substantiate a claim for remission.
21. [Memorandum D17-1-21, Maintenance of Records in Canada by Importers](#) contains information on record keeping. The appropriate regional CBSA office can provide additional information and advice on how a company's record keeping systems may be modified, if necessary, to meet the above objectives.
22. The manufacturer must maintain records of:
 - (a) production;
 - (b) sales; and
 - (c) importations.

Production Records

23. These must be of a type which allows the CBSA to identify the:
 - (a) manufacturing plant where the company's outerwear fabric is manufactured;
 - (b) date of manufacturing;
 - (c) volume, type and style of outerwear fabric manufactured.

Note: These records may include, but are not limited to, sketches, design sheets, trim sheets, cutting records, cost sheets, and samples.

Sales Records

24. These must allow the CBSA to identify the:
 - (a) sales of manufactured outerwear fabric to an outerwear apparel manufacturer;
 - (b) name and address of purchaser;
 - (c) date of sale; and
 - (d) volume, type and style of outerwear fabric sold.

Importation Records

25. The manufacturer must maintain the customs records of the outerwear fabric that it has imported under the provisions of the Order:

- (a) these records must include copies of the purchase orders, bills of lading, commercial invoices and customs accounting documents for the imported outerwear fabric;
- (b) the invoices must clearly indicate the style and type of outerwear fabric imported; and
- (c) the samples of fabric attached to the accounting documents, where required, must be in accordance with [Memoranda D10-17-15, Information Requirements for Textiles and Textile Products](#).

Additional Information

26. If a condition to which the remission is subject to is not complied with, the manufacturer must report the failure to comply to an officer at a CBSA office and pay, pursuant to subsection 118(1) of the [Customs Tariff](#), an amount equal to the amount of the duties in respect of which the remission was granted, within 90 days after the day of the failure to comply, unless that it can prove that:

- (a) at the time of the failure to comply with the condition, a refund or drawback would otherwise have been granted if duties had been paid, or
- (b) the goods in respect of which the relief or remission was granted qualify in some other manner for relief or remission under the [Customs Tariff](#) or the [Financial Administration Act](#).

27. A manufacturer that does not comply and is liable to pay an amount must, pursuant to subsection 123(2) of the [Customs Tariff](#), pay, in addition to the amount, interest at the specified rate for the period beginning on the day that the liability is incurred and ending on the day the amount is paid in full, calculated on the amount of the balance outstanding.

28. A manufacturer that fails to report to the appropriate CBSA office a failure to comply with a condition under which remission is granted, within 90 days or such other period as may be prescribed, may be subject to a penalty pursuant to subsection 109.1(2) of the [Customs Act](#), not to exceed \$25,000.

29. A manufacturer that fails to pay the amount of duties in respect of which relief or remission was granted, within 90 days or such period as may have been prescribed, unless the provisions of subsection 118(1)(b)(i) or (ii) were met, may be subject to a penalty. Please refer to [D22-1-1, Administrative Monetary Penalty System](#), for information regarding the AMPs program.

30. A manufacturer may enter outerwear fabrics into a customs bonded warehouse on a type 10, [B3-3 Canada Customs Coding Form](#). The authorization number issued, if applicable, is not to be shown in Field 26 until such time as the outerwear fabrics are removed from the customs bonded warehouse and enter the domestic economy. When a manufacturer removes outerwear fabrics from a bonded warehouse during the period beginning July 1, 1997 and ending December 31, 2012, the manufacturer may use its remission entitlement (as in effect at the time the goods are removed) to have the duties remitted on these goods in the year the goods are removed from the bonded warehouse.

31. Manufacturers undergoing a change of operations for any reason including, for example, a change of ownership or name, amalgamation or merger, sale, dissolution, receivership or bankruptcy are required to advise their appropriate regional CBSA office as well as Trade Compliance Division, Trade Incentives Unit, 222 Queen Street, 9th Floor, Ottawa, Ontario, K1A 0L8. The manufacturer or its representatives are to provide complete disclosure by way of a letter and, if required, supporting documentation, outlining the circumstances surrounding the change. Where a manufacturer enters receivership, bankruptcy or dissolution, provisions of the [Bankruptcy and Insolvency Act](#) will apply. The Trustee responsible must be clearly identified in these cases.

32. Each case will be reviewed and evaluated on the basis of its own merits and particular circumstances in order to determine its eligibility under the Order.

33. 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

Schedule – (Section 2 and 3)

Consoltex Inc.

References	
Issuing Office	Trade and Anti-dumping Programs Directorate
Headquarters File	6587-5
Legislative References	<i>Customs Act</i> <i>Financial Administration Act</i> <i>Bankruptcy and Insolvency Act</i> <i>Outerwear Fabrics Remission Order, 1998</i> <i>Customs Tariff</i>
Other References	D8-11-7 , D10-17-15 , D17-1-10 , D17-1-21 , D22-1-1 Forms B3-3 , K32
Superseded Memorandum D	D8-11-6 dated December 5, 2012