



Ottawa, November 6, 2014

# Memorandum D8-11-4

## Application of the *Outerwear Apparel 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 Apparel Remission Order, 1998\*](#) (the Order).

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

### Legislation

[Customs Act](#)

[Customs Tariff](#)

[Outerwear Apparel Remission Order, 1998](#)

P.C. 1997-2056, as amended by P.C. 2001-1497, 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)

hoods, mittens, gloves and belts – will be considered to be a part of the jacket, coat, or snow and ski wear, **provided they:**

- are made from fabric;
- are attached or manufactured or imported for the purpose of being attached to the jacket, coat, snow and ski wear;
- are sold together with the jacket, coat, or snow and ski wear as one unit;
- form only a minor constituent of the garment; and
- are of minimal value

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 apparel 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, (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;
- 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 are only form a minor component, are of minimal value and the body and the sleeves of the outerwear apparel are manufactured from woven fabric.  
(vêtements de dessus)

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

- broadwoven fabrics consisting solely of one generic man-made fibre; 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 (for the purpose of clarification) snow and ski wear designed to protect against the cold, and to exclude 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 apparel who are named in the Schedule to the Order.

## Eligible Goods

3. During the period beginning January 1, 1998 and ending December 31, 2012, outerwear apparel, imported into Canada by an outerwear apparel manufacturer whose name is listed in the Schedule to the Order, 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 outerwear apparel manufacturer under the *Outerwear Fabrics and Outerwear Apparel Remission Order*, P.C. 1988-1246 in respect of outerwear apparel 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 apparel 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 apparel 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 apparel 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 apparel 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* in respect of outerwear apparel imported, P.C. 1988-1246 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. 1997-2056
		<b>Amending Order-in-Council</b>
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. The 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 apparel.
6. All claims for remission must be submitted to the appropriate regional CBSA office, or as otherwise directed, within five years following the day the outerwear apparel 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 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 apparel;
  - (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 other persons or companies that might be performing cutting or sewing operations on its behalf.

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 company continues to be a manufacturer of outerwear apparel.
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 company 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 apparel that it imports, up to the maximum allocation for the applicable 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<sup>st</sup> of the applicable calendar year, thus allowing for a drawback claim to be filed for any imports of qualifying outerwear apparel made prior to the receipt of an authorization number.
11. Additional information on the completion of customs accounting documents may be found in departmental [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 [Canada Customs Coding Form \(B3-3\)](#) 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 company'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 apparel 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 apparel 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 manufacturer 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 manufacturer's record keeping systems may be modified, if necessary, to meet the above objectives.
22. The manufacturer must maintain records of:
- (a) production;
  - (b) purchases; and
  - (c) importations.

### **Production Records**

23. These must allow the CBSA to identify the:
- (a) manufacturing plant where the company's outerwear apparel is produced;
  - (b) date of production; and
  - (c) quantity, size, and style of the outerwear apparel that is produced.

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

### **Purchase Records**

24. The invoices for all fabrics purchased for use in the manufacture of outerwear apparel where the manufacturer owns the fabric prior to the production of the finished apparel or, where the manufacturer does not own the fabric, invoices of all imported finished outerwear apparel must include information which allows the CBSA to identify the:
- (a) vendor's name and address;
  - (b) value, style and type of outerwear apparel including fabric purchased;
  - (c) date of all purchases made; and
  - (d) proof of payment.

### **Importation Records**

25. The manufacturer must maintain the customs records of the outerwear apparel 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 apparel;
  - (b) invoices must clearly indicate the style, the fabric and type of outerwear apparel imported; and

(c) the samples, 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 that 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 [Memorandum D22-1-1, Administrative Monetary Penalty System](#), for information regarding the AMPs program.

30. A manufacturer may enter outerwear apparel 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 apparel is removed from the customs bonded warehouse and enters the domestic economy. When a manufacturer removes outerwear apparel from a bonded warehouse during the period beginning January 1, 1998 and ending on 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)

Amerella Canada Ltée  
 Astro Sportswear Ltd.  
 Atlantic Sportswear  
 Audvik Ltée  
 Bertrand Croft Inc.  
 Canada Sportswear Corp.  
 Canadian Children Wear  
 Chemises Empire Ltée  
 Compagnie Canadienne de Montréal  
 Créations Claire Bell Inc.  
 DDI Fashion Design Inc.  
 Diffusion Bell-Gam Inc.  
 E. & J. Manufacturing Ltd.  
 Ested Industries  
 Fen-Nelli Fashions Inc.  
 Freed & Freed International Ltd.  
 Gemini Fashions of Canada Ltd.  
 Gusti Vêtements Tabco Inc.  
 Hiverna Inc.  
 Innotex Inc.  
 Irwin Togs Inc.  
 J.P. Hammill & Son Limited  
 Kelsey Sportswear Ltd.  
 Koolah Products of Australia  
 K-Way Radisson Sports  
 Les Confections Lamartine Inc.  
 Les Industries FLG  
 Linda Lundstrom Ltd.  
 Louis Garneau Sports Inc.  
 L.W.L. Outerwear Manufacturers Ltd. Sports Chief du Canada Mac Mor of Canada Ltd.  
 Marv Holland Industries Ltd.  
 Maywest Manufacturing Ltd.  
 Mazsport Garments Inc.  
 Me-Jay Modes Inc.  
 Metro Sportswear Ltd.  
 Modern Headwear Ltd.  
 Mustang Survival Corp.  
 New West Sportswear Ltd.  
 Nikaldi Sportswear Inc.  
 Peerless Garments Inc.  
 Richlu Sportswear Ltd.  
 Robin International Inc.  
 Street Sport Mfg.  
 Trans-Continental Sales  
 Vêtements d'Enfants Allen Inc.  
 Vêtements Irwin Inc.

History: Schedule amended by SOR/2001-315, s. 6, effective August 28, 2001

<b>References</b>	
<b>Issuing Office</b>	Trade and Anti-dumping Programs Directorate
<b>Headquarters File</b>	6587-6
<b>Legislative References</b>	<a href="#"><i>Customs Act</i></a> <a href="#"><i>Financial Administration Act</i></a> <a href="#"><i>Bankruptcy and Insolvency Act</i></a> <a href="#"><i>Outerwear Apparel Remission Order, 1998</i></a> <a href="#"><i>Customs Tariff</i></a>
<b>Other References</b>	<a href="#">D8-11-7</a> , <a href="#">D10-17-15</a> , <a href="#">D17-1-10</a> , <a href="#">D17-1-21</a> , <a href="#">D22-1-1</a> Forms <a href="#">B3-3</a> , <a href="#">K32</a>
<b>Superseded Memorandum D</b>	D8-11-4 dated November 30, 2012