

Notice to Importers 2770 issued on 18 December 2008 by Import Licensing Branch (ILB),
Queensway House, West Precinct, Billingham TS23 2NF

OUTWARD PROCESSING TRADE FOR TEXTILES (OPT) - YEAR 2009 ARRANGEMENTS FOR BELARUS

OPT is a trading arrangement that allows manufacturers of clothing garments within the European Community (EC) to take advantage of cheaper production costs outside the EC when there are quantitative restrictions (quotas) in place for that country. OPT provides additional quantitative quota for the garments returning after processing and so OPT is only appropriate where the third country has restrictions against it. OPT is also known as economic outward processing and is not to be confused with Outward Processing Relief (OPR). This Notice covers applications for OPT where the cloth is exported to Belarus in quota year 2009.

With effect from 1 January 2009 textiles and clothing products originating in China are no longer subject to an import licensing requirement. Please refer to Notice to Importers 2767 for further information on this.

2. Council Regulation (EC) No 3036/94 (OJ No L322, 15.12.94) sets out the main requirements for eligibility for OPT and Commission Regulation (EC) No 3017/95 (OJ No L314, 28.12.95) sets out the management arrangements standard throughout all Member States (MS) of the EC.

Prior Authorisation

3. An individual import licence, where applicable, will not be required for certain made-up garments re-imported into the EC after working or processing in Belarus where a prior authorisation for this trade has been issued by any competent authority of the EC. Table A sets out the quantitative limits for OPT for Belarus for 2009. Import Licensing Branch (ILB) is the competent authority in the UK. Applicants must receive a prior authorisation to undertake OPT *before* the fabric is exported for processing. Authorisation **cannot** be given retrospectively.

Eligibility

4. Applicants **must manufacture, in their own factory within the EC** products, which are similar to and at the same stage of manufacturing as the made up garments in respect of which the application is made. Similar products are defined as products falling within the same category or within the same group of categories as listed in Table B. The design or manufacture of models or samples shall not be taken into account.

5. Prior authorisations will be issued in the name of the manufacturing applicant as above. They may not be transferred and can only be used by the person named in the authorisation or by his authorised representative.

6. Fabric to be exported by applicants must be in free circulation in the EC within the meaning of Article 9 (2) of the Treaty of Rome and be:

(a) of EC origin within the meaning of Council Regulation (EEC) No. 2913/92 (OJ No. L302, 19.10.92). Derogations from this requirement may be granted only in respect of fabric of which EC production is insufficient and/or,

(b) of Turkish origin. The use of Turkish origin fabric for processing under OPT arrangements was set out in Decision No. 1/1999 of the EC-Turkey Association Council (OJ No. L35 9.2.1999) as implemented by Decision No 2/1999 of the EC-Turkey Customs Co-operation Committee (OJ No. L5 8.1.2000).

7. In considering applications ILB must ensure that the applicant's manufacturing activity in the EC is maintained with regard to both the nature of the products and their quantities.

Extent of Processing

8. In general, processing should not involve more than manufacturing garments from woven or knitted fabrics. However, a limited amount of authorisations may be issued for the manufacture of fully-fashioned knitwear made from yarn.

Central Management of OPT

9. All requests made to ILB are sent to a central system in Brussels. No authorisations will be issued until central approval for the amount requested has been received. There can be no guarantee that requests (see paragraph 12 below) will be met. Applicants are advised that orders and contracts should be made conditional upon receipt of OPT prior authorisation.

Applying for OPT

10. Applications shall be completed in the language, or one of the official languages, of the MS to which the application is submitted. Where this is the UK applications should be made in English to ILB at the above address. If you wish to apply to a competent authority in another MS please contact ILB for details.

11. Applications made to ILB for prior authorisations must be made on form OPT/1 available from ILB. Guidance notes are available to assist in completion of the form.

Applications must be supported by:

- (a) a copy of the contract concluded with the undertaking responsible for carrying out the processing in the third country or equivalent evidence;
- (b) documentary proof that the fabric to be exported is of EC origin and in free circulation (see paragraph 6) within the EC;
- (c) a statement as to the value of the applicant's EC production in 2008. EC production is calculated on the ex factory price, excluding VAT, of the garments produced in the applicant's factory (factories) located within the EC in 2008. If this includes subcontracted production this value should also be indicated. The value of EC production that has been carried out by the operator limits the amount of OPT quota that can be issued in each quota year.

PLEASE NOTE THAT A SEPARATE APPLICATION MUST BE MADE FOR EACH CATEGORY OF MADE-UP GARMENTS.

Allocation

12. Allocation(s) will be made depending on an applicant's status as defined in the following paragraphs.

(a) Traditional Applicants

- i) Traditional applicants shall be allocated an amount equal to the overall quantity for which they carried out OPT for that category and country in any of the years 1993 to 2008 inclusive. The allocation they are entitled to is equal to the best one of these years.
- ii) Traditional applicants who choose not to use the quantities under sub paragraph (i) above will be eligible to apply for an equivalent quantity in another category and third country on a first come first served basis subject to quota availability.
- iii) Traditional applicants who have taken up their allocation under sub-paragraph (i) or (ii) above and wish to apply for a same or different category or third country can only do so when at least 50% of the made-up

garments have been re-imported or at least 80% of the fabric has been exported. These applications will be treated as if they were received from newcomers. See paragraph (12b) below.

iv) Where an applicant's manufacturing production in the EC has declined due to outward processing operations carried out in the preceding year the allocation based on past performance under these subparagraphs may be reduced accordingly and where appropriate.

b) Newcomers

i) Newcomers will be allocated maximum amounts. They will be allocated on a first come first served basis to the extent that quota is available.

ii) Allocations shall only be granted to those manufacturers who can prove that in the preceding year they maintained production in the EC. Newcomers may only apply for a total quantity of made-up garments with a value of the processing carried out in third countries no higher than 50% of the value of their EC production of all categories listed in Table B up to the maximum amounts listed in Table C.

iii) Further applications for the same category and same third country may be made when the amount previously allocated for that category/country has been utilised. This is when at least 50% of the made-up garments have been re-imported or at least 80% of the fabric has been exported. Applications will be dealt with on a first come first served basis and will be subject to the overall ceiling mentioned in paragraph (b ii) above.

Deadlines for Submission of Applications

13. Deadlines for the submission of applications for the year 2009 quota are as follows:

i) Traditional Applicants

All applications must be received at ILB by 12 January 2009 as ILB must submit these requests to Brussels before 15 January 2009.

ii) Newcomers

Applications can be made at any time. However, ILB may not submit such applications to Brussels until 15 January 2009. As the available quota is allocated on a first come first served basis applicants are advised to submit applications in time to be submitted on this date.

Validity of Prior Authorisations

14. Prior authorisations issued are valid for use in any MS of the EC. They will be valid for 6 months to allow for the temporary exportation of the fabric. This may be extended to 9 months. Accordingly applicants should indicate, in their application, the date from which they want the prior authorisations to run. The time limit for re-importation will depend upon the time necessary to carry out the processing operation or operations. This too should be indicated in the application.

15. Any unused or partly used prior authorisations issued by ILB must be returned within 15 days of their expiry date to the address given above.

BERR and H M Revenue and Customs Inspection

16. Given the nature of the regime prior authorisations are issued in paper not electronic format.

17. BERR inspections may be made to ensure compliance with the provisions of Council Regulation No. 3036/94 and applicants must therefore make available all company records in respect of this trade. Similarly the role of the customs supervising office will be carried out in the UK by H M Revenue and Customs who will check trader's stock records in accordance with provisions contained in Commission Regulation No. 3017/95.

Presentation of Prior Authorisation at Export and Import

18. The prior authorisation must be presented to HM Revenue and Customs, or the equivalent in another MS, when the fabric to be processed is exported and when the made-up garments are re-imported.

19. Exportation and re-importation may be in more than one consignment in which case the authorisation must be presented with each. Evidence of origin and proof that the processing operation has in fact been performed in the third country stated in the prior authorisation may also be required.

20. If the garments are intended to be re-imported to a different MS from the one exporting the fabric it is advisable to ask the supervising customs office to certify a sample of fabric on exportation. This is in case you are asked to present a sample of fabric at re-importation of the made-up garments.

Import/Export Procedures - Applicable to UK.

21. **The following procedures should be used:**

i) Export of fabric to be processed

OPT Only

For goods subject to OPT only customs procedure code (CPC) 22 00 001 should be used and shown in box 37 of the Single Administrative Document (SAD).

OPT / Outward Processing Relief (OPR)

For goods subject to both OPT and OPR, CPC code 22 00 002 should be used and shown in box 37 of the SAD.

In both cases the OPT prior authorisation reference number should be entered in box 44. Also if OPR is being claimed the authorised means of identifying the exported goods in the compensating products and OPR details need to be entered in box 44. The OPT prior authorisation and evidence of origin should be submitted with the SAD to the customs office at the place of export. The OPT prior authorisation and stamped copy of the SAD will be returned to the trader for use when re-importing the processed made-up garments. An extra copy of the export SAD will be retained for customs control purposes.

ii) Re-import of processed made-up garments

OPT Only

CPC code 61 22 001 should be used and shown in box 37 of the SAD.

OPT/OPR

CPC 61 22 000 should be used and shown in box 37 of the SAD. However if the fabric was sent out from another MS State then CPC code 61 21 003 should be used. Further documents or information may be required for OPR purposes.

For both of the above the following information should also be shown at box 44:

a) Document code Y009 followed by the OPT authorisation number. Do not enter a status code.

b) Textile document origin identifier code C634. Do not enter a status code.

c) Document Code C019 followed by OPR authorisation number and the address of the local office of H M Revenue and Customs.

d) Code OP/9999/999/99 (where fabric was exported from a MS other than the UK).

The following documents must also be attached to the Customs entry:

- e) the OPT prior authorisation.
- f) The processor's invoice with proof that the processing operation has been performed in the country shown on the OPT prior authorisation.
- g) A certified copy of the export SAD.
- h) A declaration that the ownership has not changed since exportation in those cases where VAT is being paid on a reduced value (see Customs Notice 235).
- i) An extra copy of the import SAD.
- j) Form C & E 1154.
- k) Form INF2 (where fabric exported from a MS State other than the UK).

Advice on VAT can be found in Customs Notices 235 and 702 and 702/9.

22. Provided that the necessary OPT arrangements as set out above are followed an individual import licence will not be required for the re-import of the processed made-up garments.

23. This Notice supersedes Notice to Importers 2758 (issued 18 December 2007), which set out the 2008 arrangements.

24. Abbreviations Used in this Notice

CPC	Customs procedure code
EC	European Community
ILB	Import Licensing Branch
INF2	Information Document 2. The UK version is form C&E 1155
MS	Member State
OJ	Official Journal of the European Union
OPR	Outward Processing Relief
OPT	Outward Processing Trade
SAD	Single Administrative Document
VAT	Value Added Tax

Enquiries.

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This document is for information purposes only and has no force in law. Please note that where legal advice is required, importers should make their own arrangements.

Table A: OPT Quantitative Limits for Belarus.

Category	Brief Description ¹	OPT Limit for 2009
4	Knitted shirts/T-Shirts/undervests	6,610,000 pcs
5	Jerseys/pullovers/twinsets/cardigans	9,215,000 pcs
6	Shorts/trousers	12,290,000 pcs
7	Women's blouses/shirts	9,225,000 pcs
8	Men's/boys' woven shirts	3,140,000 pcs
15	Women's/girls' woven overcoats, raincoats and other coats, cloaks and capes	5,387,000 pcs
21	Parkas/anoraks/windcheaters	3,584,000 pcs
24	Knitted pyjamas/nightdresses	922,000 pcs
26/27	Women's skirts/dresses	4,492,000 pcs
29	Women's/girls'/infants' woven suits	1,820,000 pcs
73	Knitted track-suits	6,979,000 pcs

¹ Descriptions and commodity codes of textile categories are set out in Notice to Importers 2714 dated 23 August 2005. Traders can obtain a copy of this Notice from ILB by contacting one of the contact points given above.

Table B: Groups of Categories Referred to in paragraphs 4 & 12 b(ii)

Group 1: Outerwear

Categories:

4, 5, 6, 7, 8, 15, 21, 26, 27, 29 & 73

Group 2: Underwear

Categories:

4, 5, 24 & 26

Table C: Maximum Allocations for Newcomers Referred to in Paragraphs 12 b(i) and 12 b(ii)

Categories	Maximum Allocation
5, 6, 7 & 8	80,000 pieces
15, 21, 26, 27, 29 & 73	40,000 pieces
4 & 24	100,000 pieces