

[HQ 966242](#)

March 14, 2003

CLA-2 RR:CR:TE 966242 JFS

CATEGORY: Classification

TARIFF NO.: 9819.11.12

Mr. Milad F. Millet Agridotcom Limited P.O. Box 439 Accra, Ghana

RE: African Growth and Opportunity Act; Knit Cotton Shirt; Lesser Developed Beneficiary Country Status; Ghana

Dear Mr. Millet:

This is in response to your letter dated February 21, 2003, requesting a binding ruling on the eligibility of a man's knit shirt for preferential treatment under the African Growth and Opportunity Act (AGOA).

FACTS:

You submitted a short sleeved shirt manufactured from knit material. You state that the knit fabric comprising the body of the shirt and the accessories will be sourced from Asia. The collars and cuffs will be knitted and dyed in Ghana from yarn that is sourced from a non-beneficiary country. For the purposes of this ruling, Customs will infer that all cutting, sewing and assembly of the garments will occur in Ghana.

ISSUE:

Whether the subject apparel article is eligible for preferential treatment under AGOA?

LAW AND ANALYSIS:

The Trade and Development Act of 2000 ("the Act") was signed into law on May 18, 2000 (Pub. L. 106-200, 114 Stat. 251). Title I of the Act concerns trade benefits for sub-Saharan Africa and is referred to as the African Growth and Opportunity Act ("AGOA"). Section 112 of the Act (codified at 19 U.S.C. 3721) specifies the textile and apparel articles that are eligible for duty-free and quota-free treatment when imported directly into the customs territory of the United States from a beneficiary sub-Saharan African country. Section 3108 of the Trade Act of 2002 (Pub. L. 107-210, 116 Stat. 933), enacted on August 6, 2002, amended the AGOA to modify the treatment accorded to textile and apparel articles imported from beneficiary sub-Saharan African countries.

Presidential Proclamation 7350 dated October 2, 2000, published in the Federal Register on October 4, 2000 (65 FR 59321), implemented the AGOA by designating the eligible beneficiary sub-Saharan African countries and amending Chapter 98, Harmonized Tariff Schedule of the United States ("HTSUS") (including the creation of new subchapter XIX) to facilitate the entry of the specific textile and apparel articles eligible for preferential treatment under the AGOA. The enhanced trade benefits provided by the AGOA are available to eligible textile and apparel articles imported directly from a country (1) that is designated as a beneficiary sub-Saharan African country and (2) which the U.S. Trade Representative ("USTR") has determined by a proclamation published in the Federal Register has satisfied the requirements of the AGOA and therefore should be afforded the tariff treatment authorized in such Act. Such countries shall be enumerated in U.S. Note 1, Subchapter XIX, Chapter 98, HTSUS, whenever the USTR issues a Federal Register notice as described herein. See Presidential Proclamation 7350, Annex, dated October 2, 2000, 65 Fed. Reg. 59321.

Ghana was designated as a beneficiary sub-Saharan African country under AGOA by Presidential Proclamation 7350. The USTR issued a determination finding that Ghana has adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents in connection with shipments of textile and apparel articles and has implemented and follows, or is making substantial progress toward implementing and following, the customs procedures required by the AGOA, effective March 20, 2002. See 67 Fed. Reg. 14761, dated March 27, 2002.

Apparel articles wholly assembled in a sub-Saharan African lesser developed beneficiary country (LDBC) and directly imported into the U.S. are entitled to duty free status, subject to certain restrictions. Such articles are entered under subheading 9819.11.12, HTSUS, which provides as follows:

Apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more such lesser developed countries enumerated in U.S. note 2(d) to this subchapter, subject to the provisions of U.S. note 2 to this subchapter, regardless of the country of origin of the fabric or the yarn used to make such articles, if entered during the period beginning on the date announced in a Federal Register notice issued by the United States Trade Representative and continuing through September 30, 2004, inclusive  
U.S. Note 2(d) lists Ghana as qualifying for designation as a LDBC.

The collar and cuffs of the shirt will be knit to shape in Ghana using non-beneficiary yarn. The body and sleeves of the shirt will be cut from the non-beneficiary country fabric in Ghana. All of the components will then be wholly assembled into a shirt in Ghana. Accordingly, the garment will be entitled to be classified in subheading 9819.11.12, HTSUS, subject to the quantitative limits set forth in U.S. Note 2, Subchapter XIX, Chapter 98, HTSUS.

II. Findings & Trimmings Requirements

Subchapter XIX, U.S. Note 3(a), HTSUSA, provides:

An article otherwise eligible for preferential treatment under any provision of this subchapter shall not be ineligible for such treatment because the article contains—

(i) findings or trimmings of foreign origin, if the value of such findings and trimmings does not exceed 25 percent of the cost of the components of the assembled article[.]

The Interim Regulations, regarding findings and trimmings further provide:

An article otherwise described under paragraph (a) of this section will not be ineligible for the preferential treatment referred to in [19 C.F.R.] § 10.211 because the article contains:

(i) Findings and trimmings of foreign origin, if the value of those findings and trimmings does not exceed 25 percent of the cost of the components of the assembled article. For the purposes of this section "findings and trimmings" include, but are not limited to, hooks and eyes, snaps, buttons, "bow buds", decorative lace trim, elastic strips (but only if they are each less than 1 inch in width and are used in the production of brassieres), zippers (including zipper tapes), labels, and sewing thread except in the case of an article described in paragraph (a)(3) of this section.

See 19 C.F.R. §10.213(b)(1)(i). The zippers, buttons and labels that you state are sourced from Asia are acceptable as findings and trimmings under the AGOA. Assuming the value of the findings and trimmings does not exceed 25 percent of the cost of the components of the assembled article, the subject garment will remain eligible for preferential treatment under the AGOA.

HOLDING:

The subject shirt is eligible for preferential treatment under the AGOA and is appropriately entered under visa group 5 and preference group E.

Provided the cost of the foreign findings and trimmings is less than 25 percent of the cost of the components of the assembled garment and the garment is wholly assembled in Ghana, the garment is eligible for duty free/quota free treatment under subheading 9819.11.12, HTSUSA. Duty free treatment is contingent upon the garment being imported directly into the customs territory of the United States from an AGOA beneficiary country.

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is entered. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

Sincerely,  
Myles B. Harmon, Director

Commercial Rulings Division