

N180919

September 15, 2011

CLA-2-:OT:RR:NC:N3:348

CATEGORY: Classification

TARIFF NO.: 6110.30.3059; 9819.11.12

Jimmy Ching
d b Inc.
30 Dunnigan Drive
Suffern, NY 10901

RE: The tariff classification and the status under the African Growth and Opportunity Act (AGOA) for woman's pullover from Malawi.

Dear Mr. Ching:

In your letter dated, August 15, 2011, you requested a ruling on the tariff classification and the status under AGOA for a woman's pullover. The samples are being returned as requested.

Style 7019A consists of a woman's pullover. The pullover is constructed from 55% polyester and 45% rayon jersey knit fabric. The outer surface of the garment measures more than nine stitches per two centimeters in the direction in which the stitches were formed. The pullover features a cowl neck collar, a finely knitted insert with lace trim at the center of the cowl neck collar above the bust area, long hemmed sleeves, and a straight self-fabric banded bottom. The garment extends from the shoulders to below the waist.

The applicable subheading for the pullover will be 6110.30.3059, Harmonized Tariff Schedule of the United States (HTSUS), which provides for Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of man-made fibers: Other: Other: Other: Women's or girls': Other. The duty rate will be 32% ad valorem.

The manufacturing operations are as follows:

- 1.) The polyester/rayon knit fabric is manufactured in Taiwan.
- 2.) The fabric is cut, sewn and assembled into the finished garment in Malawi.
- 3.) The sewing thread, used to assemble the components, and the labels are manufactured in Taiwan.
- 4.) The garments are exported directly from Malawi to the U.S.

The provisions implementing the textile sections of AGOA in the HTSUS are contained in Subchapter XIX, Chapter 98, HTSUS. Apparel articles wholly assembled in a lesser developed sub-Saharan African beneficiary country and directly imported into the United States are entitled to duty free status, subject to certain restrictions. Such articles are entered under subheading 9819.11.12, HTSUS, which provides for:

Apparel articles wholly assembled, or knit to shape and wholly assembled, or both, in one or more lesser developed countries enumerated in U.S. Note 2(d) to this subchapter, and 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.

On August 15, 2001, Presidential Proclamation 7350, dated October 2, 2000 was published in the Federal Register (73 Federal Register 72676). The proclamation implemented an amendment to section 112(c) of the AGOA. The amendment modified the tariff treatment applicable to lesser developed beneficiary sub-Saharan African countries, and provided that Malawi is to be treated as a lesser developed beneficiary sub-Saharan African country for purposes of the AGOA.

U.S. Note 2(d), Subchapter XIX, HTSUS, lists Malawi as qualifying for designation as a lesser developed sub-Saharan African beneficiary country. Duty free status is granted to apparel articles wholly assembled in one or more lesser developed beneficiary countries regardless of the country of origin of the fabric used to make those articles. Further, eligibility for such status requires that the apparel article be "wholly assembled in" the lesser developed beneficiary sub-Saharan African country. The term "wholly assembled" means that "all of the components of the textile or apparel article (including thread, decorative embellishments, buttons, zippers, or similar components) were joined together in one or more... lesser developed beneficiary countries." (Customs Regulations, C.R., Section 10.212).

Based on the manufacturing operations described above, the garment is wholly assembled in one of the lesser developed beneficiary sub-Saharan African countries.

U.S. Note 3(a), to Subchapter XIX, Chapter 98, provides, in relevant part, that:

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; or
- (iv) Any of the following components that do not meet the requirements set forth in the provisions to this subchapter: any collars or cuffs (foregoing cut or knit-to-shape), drawstrings, shoulder pads or other padding, waistbands, belt attached to the article, straps containing elastic, or elbow patches.

U.S. Note 3(b), Subchapter XIX, Chapter 98, provides, that:

For purposes of subdivision (a)(i) above, findings or trimmings eligible under such subdivision include sewing thread, hooks and eyes, snaps, buttons, "bow buds", decorative lace trim, elastic strips, zippers (including zipper tapes) and labels and other similar products. Elastic strips are considered findings or trimmings only if they are each less than 2.54 cm in width and used in the production of brassieres.

The sewing thread and labels are considered a finding or trimming and is allowable within the provisions of U.S. Notes 3(a)(i) and (b) of Chapter 98, subchapter XIX.

Based on the information you submitted, and provided all requirements are met, Style 7019A is eligible for duty free treatment under subheading 9819.11.12, HTSUS.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on World Wide Web at <http://www.usitc.gov/tata/hts/>.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the classification under subheading 6110.30.3059, contact National Import Specialist Francine Vivona-Brock at (646) 733-3049. If you have any questions regarding eligibility for preferential treatment under AGOA, contact National Import Specialist Rosemarie Hayward at (646) 733-3064.

Sincerely,

Robert B. Swierupski
Director
National Commodity Specialist Division