

N293259

February 7, 2018

CLA-2-08:OT:RR:NC:N2:228

**CATEGORY: Classification**

**TARIFF NO.: 0804.50.8010; 0813.50.0020; 2008.97.1040**

Ms. Janet Forest  
J. Forest Consulting  
5604 Chevy Chase Parkway, NW  
Washington, DC 20015-2520

**RE: The tariff classification and status under the African Growth and Opportunity Act (AGOA) of fruit products from Ghana**

Dear Ms. Forest:

In your letter dated January 5, 2018 on behalf of your client, HPW AG, you requested a ruling on the tariff classification and status under the African Growth and Opportunity Act (AGOA).

Ingredients breakdowns, a narrative description of the manufacturing process, a manufacturing flowchart, and samples of five products accompanied your letter. The samples were examined and discarded. Additional information was provided pertaining to the value of materials, and the direct costs of processing operations for determining the eligibility of the fruit products under the AGOA.

The fruit products are made in two sizes. The flat rectangular shaped product is 2 7/8" long, 1 3/8" wide, and 1/4" thick weighing 20 grams, net. The flat squared shaped product is 1 3/8" long, 1 3/8" wide, and 1/4" thick weighing 10 grams, net.

The mango/coconut products are said to be 95 percent mango, and 5 percent coconut. The pineapple/passion products are said to be 98 percent pineapple, and 2 percent passion fruit. The pineapple/mango with lime juice products are said to be 49 percent pineapple, 49 percent mango, and 2 percent lime juice. The pineapple/banana with lime juice products are said to be 49 percent pineapple, 49 percent banana, and 2 percent lime juice. The mango products are said to be 100 percent mangoes.

The product ingredients are locally grown in Ghana. The manufacturing process for all of the products consists of washing, peeling, cutting; drying the fruit in a drying tunnel at temperatures between 60 and 70 degrees Celsius for approximately 14 to 18 hours; mixing, grinding and pressing the fruit into rectangles and squares that are each individually wrapped in cellophane.

In your letter, you suggested that the fruit products, consisting of mixtures of fruit, are classified under subheading 2008.97.1040 Harmonized Tariff Schedule of the United States (HTSUS), which provides for fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included . . . other, including mixtures other than those of subheading 2008.19 . . . mixtures . . . in airtight containers and not containing apricots, citrus fruits, peaches or pears . . . other. We agree that pineapple/mango with lime juice, and pineapple/banana with lime juice products are classified under this subheading. However, based on the ingredients and manufacturing process the mango/coconut and pineapple/passion fruit products will be classified elsewhere.

You also suggested that fruit products, made from a single fruit, are classified under subheading 2008.99.4000, HTSUS, which provides for fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included . . . other, including mixtures other than those of subheading 2008.19. . . other . . . mangoes. However, based on the manufacturing process the mango-only products will be classified elsewhere.

The applicable subheading for the mango-only products will be 0804.50.8010, HTSUS, which provides for dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh or dried . . . guavas, mangoes and mangosteens . . . dried . . . mangoes. The general duty rate will be 1.5 cents per kilogram.

The applicable subheading for the mango/coconut, and pineapple/passion fruit products will be 0813.50.0020, HTSUS, which provides for fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter . . . mixtures of nuts or dried fruits of this chapter . . . containing only fruit. The general duty rate will be 14 percent ad valorem.

The applicable subheading for the pineapple/mango with lime juice, and pineapple/banana with lime juice products will be 2008.97.1040, HTSUS, which provides for fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included . . . other, including mixtures other than those of subheading 2008.19 . . . mixtures . . . in airtight containers and not containing apricots, citrus fruits, peaches or pears . . . other. The general duty rate will be 5.6 percent ad valorem.

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 the World Wide Web at <https://hts.usitc.gov/current>.

General Note 16(b), HTSUS, sets forth the criteria for determining whether a good is an eligible article under the AGOA. General Note 16(b), HTSUS, states, in pertinent part, that Articles provided for in a provision for which a rate of duty appears in the “Special” subcolumn followed by the symbol “D” in chapters 1 through 97 of the tariff schedule are those designated by the President to be eligible articles pursuant to section 111(a) of the AGOA and section 506A of the Trade Act of 1974 (“the 1974 Act”).

In order to qualify for duty-free treatment under the AGOA, merchandise imported directly into the customs territory of the United States must be: (i) the growth, product or manufacture of a designated beneficiary sub-Saharan African country enumerated in subdivision (a) of this note, and (ii) the sum of --- (A) the cost or value of the materials produced in one or more designated beneficiary Sub-Saharan African countries, plus (B) the direct costs of processing operations performed in the designated beneficiary sub-Saharan African country or any two or more designated beneficiary sub-Saharan African countries that are members of the same association of countries which is treated as one country under section 507(a)2 of the 1974 Act, is not less than 35 percent of the appraised value of such article at the time it is entered.

With regard to the value-content, you provided the following information for the fruit products costing. Approximately 65 percent of the total cost of production is attributed to the cost or value of the materials produced in Ghana, and approximately 19 percent of the total cost of production is attributed to the direct costs of processing operations performed in Ghana. Therefore, the sum of the cost or value of materials produced in Ghana, plus the direct costs of processing operations performed in Ghana is not less than 35 percent of the appraised value of the articles at the time they are entered.

Based on the information submitted, the fruit products would be “products of” Ghana, and they would satisfy the 35 percent value-content requirement for AGOA purposes. Accordingly, the subject goods, classifiable under subheadings 0804.50.8010, 0813.50.0020, and 2008.97.1040, HTSUS, are products of Ghana, and will be entitled to duty-free treatment under the African Growth and Opportunity Act (AGOA/“D”), upon satisfaction of the above-described requirements and compliance with all applicable regulations. Please be aware that the administration of AGOA is subject to modification, which may affect the status of your transaction at the time of entry for consumption or withdrawal from warehouse. Public notification of any changes generally would be published in the Federal Register, and may also be reflected on our Web site at [www.cbp.gov](http://www.cbp.gov).

This merchandise is subject to The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (The Bioterrorism Act), which is regulated by the Food and Drug Administration (FDA). Information on the Bioterrorism Act can be obtained by calling FDA at 301-575-0156, or at the Web site [www.fda.gov/oc/bioterrorism/bioact.html](http://www.fda.gov/oc/bioterrorism/bioact.html).

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 ruling, contact National Import Specialist Bruce N. Hadley, Jr. at [bruce.hadleyjr@cbp.dhs.gov](mailto:bruce.hadleyjr@cbp.dhs.gov).

Sincerely,

Steven A. Mack  
Director  
National Commodity Specialist Division