

N296019

May 8, 2018

CLA-2-62:OT:RR:NC:N3:358

CATEGORY: Classification

TARIFF NO.: 6208.92.0020; 6302.60.0020; 6505.00.8045; 9819.11.12

Ms. Megan S. Kepler
Lassig, Inc.
629 Entler Avenue, Suite 38
Chico, CA 95928

RE: The tariff classification and status under the African Growth and Opportunity Act (AGOA) of an infant's hooded towel, a poncho style beach robe and infants' hats from Mauritius

Dear Ms. Kepler:

In your letter dated April 12, 2018, you requested a ruling on the tariff classification and duty status under the African Growth and Opportunity Act of four items. As requested, the samples will be returned to you.

Item # 1433003803, described as a "Beach Poncho - Sun," is a poncho style beach robe constructed from two different fabrics. The outer surface is constructed from a 100 percent polyester, printed, woven fabric. The inside surface is constructed from an 80 percent cotton and 20 percent polyester terry knit fabric. The one-piece rectangular garment, measuring approximately 24 X 48 inches, has a circular cutout at the center of the rectangle into which is sewn a two-ply hood from the same fabrics. The garment is capped and the two fabrics are sewn together along the edges. The unisex poncho is marked for sizes 12 - 36 months.

Item # 1433002410, described as a "Hooded Towel – Blue Whale," is a infant's hooded towel constructed from two different fabrics. The outer surface, when in use, is constructed from a printed, 100 percent polyester, woven fabric. The inside surface is constructed from an 80 percent cotton and 20 percent polyester terry knit fabric. The center of one of the long sides has extra fabric which is sewn to form a hood. The hood is used to cover the child's head after a bath or swimming while the rest of the towel is used to dry off or cover the body. The towel measures approximately 28 X 40 inches, exclusive of the hood. The towel is capped and sewn along the edges.

Item # 1433005411-06, described as a "Sun Protection Bucket Hat – Viking," is an infant's bucket-style hat made from 100 percent polyester, printed, woven fabric. The bucket hat is lined and features a 2 inch brim, two airholes on the brim and two, 13 inch long, self tie chin straps. The bucket hat is marked for sizes NB 0 – 6 months.

Item # 1433006401-18, described as a “Sun Protection Flap Hat,” is an infant’s hat made from 100 percent polyester woven fabric. The hat features a peak; three panels on the crown; a 4 ½ inch wide sun flap that covers the back and sides of the neck; a mesh lining; an elasticized back between the crown and flap; and two, 14 inch long, self tie chin straps. The flap hat is marked for sizes 6 – 18 months.

Chapter 61, Note 6(a), Harmonized Tariff Schedule of the United States (HTSUS), provides that “babies' garments” means articles for young children of a body height not exceeding 86 centimeters. Customs has determined that 86 centimeters includes the commercial size range of 0 to 24 months (Customs Headquarters Ruling Letter (HRL) 081165, dated October 27, 1987; HRL 082762, dated March 19, 1990). As the “Beach Poncho – Sun” is sized for a range encompassing young children of a body height exceeding 86 centimeters, the garments will be classified outside of the heading for babies’ garments.

The applicable subheading for the “Beach Poncho – Sun” will be 6208.92.0020, HTSUS, which provides for “Women’s or girls’ singlets and other undershirts, slips, petticoats, briefs, panties, nightdresses, pajamas, negligees, bathrobes, dressing gowns and similar articles: Other: Of man-made fibers: Bathrobes, dressing gowns and similar articles: Girls’.” The rate of duty will be 16 percent ad valorem.

The applicable subheading for the “Hooded Towel – Blue Whale” will be 6302.60.0020, HTSUS, which provides for “Toilet linen and kitchen linen, of terry toweling or similar terry fabrics, of cotton: Towels: Other.” The rate of duty will be 9.1 percent ad valorem.

The applicable subheading for the “Sun Protection Bucket Hat – Viking” and “Sun Protection Flap Hat” will be 6505.00.8045, HTSUS, which provides for “Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or not lined or trimmed: Other: Other: Of man-made fibers: Other: Not in part of braid: Other: For babies.” The rate of duty will be 18.7 cents per kilogram plus 6.8 percent ad valorem.

Title I of the Trade and Development Act of 2000, Pub. L 106-200, 114 Stat. 251, May 18, 2000, as amended by section 3108 of the Trade Act of 2002, referred to as the African Growth and Opportunity Act (“AGOA”), seeks to promote trade opportunities between the U.S. and the countries of sub-Saharan Africa. The AGOA provides for the extension of duty-free treatment under the GSP to non-textile articles normally excluded from GSP duty-free treatment that are not import sensitive; and the entry of specific textile and apparel articles free of duty.

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 are enumerated in U.S. Note 1, Subchapter XIX, Chapter 98, HTSUS, whenever the USTR issues a Federal Register notice as described herein. Mauritius was designated a beneficiary country by Presidential Proclamation

7350, published in the Federal Register on October 4, 2000, 65 Fed. Reg. 59321. Mauritius was determined to be eligible for textile benefits under the AGOA by the USTR effective January 19, 2001. See 66 Fed. Reg. 8440, dated January 31, 2001.

The provisions implementing the textile provisions of the AGOA in the Harmonized Tariff Schedule of the United States (HTSUS) are contained, for the most part, in subchapter XIX, Chapter 98, HTSUS (one provision may be found in subheading 9802.00.80, HTSUS). The regulations pertinent to the textile provisions of the AGOA may be found at §10.211 through §10.217 of the Customs Regulations (19 CFR 10.211 through 10.217). The textile provisions of AGOA are limited to the production of textile and apparel articles. The use of fabric from a foreign country is restricted to certain provisions for “apparel articles” under the AGOA. “Apparel articles” are defined as “goods classifiable in Chapters 61 and 62 and headings 6501, 6502, 6503, and 6504 and subheadings 6406.90.15 and 6505.00.02-6505.00.90, of the HTSUS.” See 19 C.F.R 10.212. As towels are not included under these chapters, headings or subheadings, you will not be able to receive preferential treatment under AGOA for item # 1433002410, “Hooded Towel – Blue Whale.”

Item # 1433003803, “Beach Poncho - Sun,” is cut and sewn in Mauritius using fabric, sewing thread and a woven label from China. Item # 1433005411-06, “Sun Protection Bucket Hat – Viking,” is cut and sewn in Mauritius using fabric, interlining fabric, sewing thread and a woven label from China. Item # 1433006401-18, “Sun Protection Flap Hat,” is cut and sewn in Mauritius using fabric, sewing thread, elastic strip and a woven label from China. All hangers and hangtags applied to each item also originate in China. All items are imported directly from Mauritius into the United States.

As provided for in U.S. Note 2 (d), Chapter 98, Subchapter XIX, HTSUS, Mauritius is a designated lesser developed beneficiary country.

Subheading 9819.11.12, HTSUS, provides for:

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, 2025, inclusive.

The sewing thread and labels from China are considered findings or trimmings; however, based on the information you have provide they do not exceed 25 percent of the cost of the components in each item and are, therefore, allowable within the provisions of U.S. Notes 3(a)(i), 3(b) and 3(c) of Chapter 98, subchapter XIX.

Based on the information you submitted, item # 1433003803, “Beach Poncho - Sun”; item # 1433005411-06, “Sun Protection Bucket Hat – Viking”; and item # 1433006401-18, “Sun Protection Flap Hat” are eligible for duty free treatment under subheading 9819.11.12, HTSUS,

subject to the provisions of U.S. Note 2, Chapter 98, Subchapter XIX, HTSUS. The rate of duty will be Free.

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>.

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 Kim Wachtel at kimberly.a.wachtel@cbp.dhs.gov.

Sincerely,

Steven A. Mack
Director
National Commodity Specialist Division