

N319872

June 22, 2021

CLA-2-61:OT:RR:NC:N3:354

CATEGORY: Classification

TARIFF NO.: 6212.10.9020; 9819.11.12

Ms. Rebecca Cheung-Tran
Macy's Merchandising Group
151 West 34th Street
New York, NY 10001

RE: The tariff classification and status under the African Growth and Opportunity Act (AGOA) of women's knit sports bra from Lesotho

Dear Ms. Cheung-Tran:

In your letter dated June 7, 2021, you requested a ruling on the tariff classification and duty status under the African Growth and Opportunity Act (AGOA). The sample will be retained by this office.

Item # 100103125A is knit sports bra that is 2-ply constructed of 89% polyester 11% spandex fabric. The bra features approximately 1 ¼-inch wide shoulder straps, a front v-neckline, straps that crisscross in the back with multiple strips, and an approximately 1-inch covered elasticized bottom band. There is a small opening on each side for removable covered foam bra pads.

The applicable subheading for this item will be 6212.10.9020, HTSUS, which provides for "Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or knit knitted or crocheted: Brassieres: Other: Other: Of man-made fibers." The rate of duty will be 16.9 percent ad valorem.

You state that the manufacturing operations are as follows:

Foreign fabric is exported in rolls to Lesotho for cutting and assembly.

Elastic strip of 60% polyester 40% rubber is exported in rolls to Lesotho for cutting to length to form the bottom band of the bra.

Foreign sewing thread and labels will be exported to Lesotho. Their combined value does not exceed 25% of the cost of all components of the bra.

Foreign-formed bra pads (already cut to shape and finished) will be exported to Lesotho. They will

be placed in the small openings inside the bra.

The garments are exported directly from Lesotho to the United States.

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

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 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 LDBC sub-Saharan African countries.

U.S. Note 3(a), 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.

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. Elastic strips are considered findings and trimmings only if they are each less than 2.54 cm in width and used in the production of brassieres.

The foreign origin sewing thread and labels are considered trimmings and are allowable within the provisions of U.S. Notes 3(a)(i) and (b) of Chapter 98, subchapter XIX.

You stated that the foreign origin "elastic strip" is encased in the bottom band of the bra. However, as the "elastic strip" for the bottom band of the sample bra is instead a narrow elastic fabric measuring one inch (or 2.54 centimeters) or greater in width, it does not fall within the "findings and trimmings" special rule.

However, since Lesotho is designated as a LDBC for purposes of the AGOA, if preferential treatment is sought under the provision of AGOA which requires apparel be wholly assembled in a lesser developed beneficiary country regardless of the country of origin of the fabric or yarn (subheading 9819.11.12), the origin of the elastic fabric will be of no consequence. It may originate from anywhere, as may the remaining fabric used in producing the garment.

The foreign origin bra pads are considered "other padding" and are allowable within the provision of U.S. Note 3(a)(iv) of Chapter 98, subchapter XIX.

Based on the information you submitted, the bra is 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 Karen Sikorski at karen.sikorski@cbp.dhs.gov.

Sincerely,

Steven A. Mack
Director
National Commodity Specialist Division