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COMMITTEE

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CLASSIFICATION OF CERTAIN MICROWAVE OVENS

(Item IX.24 on Agenda)

Reference documents:

39.911 (RSC/13)	41.126 (HSC/19)
40.180, Annex E/2 (RSC/13 – Report)	41.100, Annex G/15 (HSC/19 –Report)
40.039 (HSC/17)	41.291 (HSC/20)
40.155 (HSC/17)	41.600, Annexes E/14 and IJ/17 (HSC/20 – Report)
40.280 (HSC/17)	42.232 (RSC/18)
40.260, Annex IJ/30 (HSC/17 –Report)	42.500, Annex B/6 (HSC/18 - Report)
40.441 (HSC/18)	42.406, paragraphs 41 and 42 (HSC/22)
40.600, Annexes H/19 and L/5 (HSC/18 – Report)	42.750, Annex E, paragraph 36 (HSC/22 – Report)
40.906 (HSC/19)	

I. BACKGROUND

1. At its 18th Session, the Review Sub-Committee recognized that it was not in a position to examine Doc. 42.232 given that the classification question at issue stemmed from an amendment to the Explanatory Notes decided previously by the HS Committee. The RSC finally agreed to submit this question to the HS Committee.
2. After noting the RSC's conclusion, the Committee decided to examine the classification question on the basis of a new document.

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II. SECRETARIAT COMMENTS

3. The Secretariat first of all recalls that this question arose from discussions on possible amendments to the Nomenclature and Explanatory Notes following the classification of industrial microwave ovens. These discussions involved differing points of view as to the classification of microwave ovens of the type designed to be used in restaurants.
4. To enable the Committee to arrive at an informed decision on the classification of such ovens the Secretariat has summarized below the main elements presented in Doc. 42.232 (RSC/18).

Description of the equipment in question

5. The technical characteristics of a microwave oven for commercial use (Pro/NE 1757) are attached hereto (see Annex to the present document). According to the documentation it is "ideal for restaurants, convenience stores, supermarket deli, office coffee service, vending and fast food. The oven is identified as a commercial microwave oven which meets or exceeds all safety performance and sanitation standards set for commercial food service microwave ovens." It weighs approximately 27 kg, has a power of 1,700 watts and its internal dimensions are 32.5 x 30 x 16cm. This oven is designed to heat or cook food using dry heat or steam.

Opinion of the United States

6. The United States can agree that this oven is not a domestic microwave oven of heading 85.16. This microwave oven has an output in excess of 1,000 watts, does not have a turntable and is equipped with several controls to run pre-programmed applications. It appears to be for use in a commercial setting and is designed for heavy use.
7. However, the United States does not believe that Pro/NE-1757 is classifiable as an industrial microwave oven. The oven in question operates at a level well below 3,500 watts. It is not a continuous tunnel oven and it is not designed for heating large batches. Not being intended for the large-scale production or manufacture of goods, it cannot be classified as an industrial microwave oven.
8. Having ruled out headings 85.16 and 85.14, the United States would classify the product at issue in heading 84.19. Microwave ovens to be used in restaurants are not necessarily classifiable as domestic or industrial microwave ovens in headings 85.16 or 85.14 respectively but can be classified in heading 84.19 as equipment to be used for heating or cooking.

Comments by the Secretariat

9. The Secretariat recognizes only two categories of ovens - (1) domestic and (2) for industrial use – on the assumption that this distinction is in conformity with the views of HS users in general and the well-established design of the Structured Nomenclature.
10. Given that the oven in question has characteristics which are clearly superior to those of ovens normally used in households, the Secretariat is of the opinion that "Pro/NE-1757" should be classified in Subheading 8514.20 as an industrial dielectric oven.

Conclusions of the Secretariat

11. The Committee believes that the classification of industrial type microwave ovens in heading 85.14 should be governed by General Interpretative Rule 1, given that microwave ovens can be considered as dielectric ovens within the meaning of heading 85.14, which, *ipso facto*, rules out the possibility of classification in heading 84.19 in this particular case.
12. The Secretariat also points out that this view seems to have been endorsed by the Committee when it examined the classification of other types of microwave ovens (cf. Doc. 40.600, Annex H/19, paragraph 2 – HSC/18/Nov.96, Report).
13. The Secretariat, however, leaves it to the Committee to decide on the classification of "Pro/NE 1757", whose specifications are indicated in the Annex hereto.

IV. CONCLUSION

14. The Committee is invited to :
- Decide on the classification of "Pro/NE-1757" taking into account the arguments of the United States in paragraphs 6 to 8 and the Secretariat's comments in paragraphs 9 to 13 above.
 - Take note of the classification decision of the Review Sub-Committee when examining the question of the proposed amendments to Nomenclature and the Explanatory Notes in respect of microwave ovens.

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