



HARMONIZED SYSTEM  
COMMITTEE  
-  
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NC0135E1  
(+ Annex)  
O. Fr.  
H9-3

Brussels, 19 August 1999.

CLASSIFICATION OF A NON-ELECTRIC STAINLESS STEEL

“CHAFING DISH” (“BAIN-MARIE”)

(Item VIII.19 on Agenda)

I. DESCRIPTION

1. On 2 July 1999, the Secretariat received a note from the Customs Administration of Switzerland asking it to submit to the Harmonized System Committee the HS classification of a non-electric stainless steel chafing dish. This request was prompted by the fact that the apparatus at issue is the subject of a dispute between the Swiss Administration and another administration which could not be resolved bilaterally. The Swiss Administration's comments and illustrations are set out at the Annex hereto.

Non-electric stainless steel chafing dish (model “RONDO 1/1 GN”, No. 2509-697), with a roll-top lid (standard version) consisting of a frame (housing) with an appliance on both sides known as a “retainer box” holding the lid, which is fitted with a handle, pivots on its axis and opens backwards. The housing is designed to hold a rectangular water pan with four screws on the bottom enabling it to be fitted onto a heating unit in which three recipients containing fuel (e.g., in gel form) are placed. This appliance is 65 cm long, 43 cm wide, 40 cm high, holds 9.5 litres of water, and is put up for retail sale with the unassembled heating frame (without the fuel). It is used in establishments serving hot buffets (especially hotels) to keep food hot using the “bain-marie” procedure (the hot water in which the food trays are placed is kept at a constant temperature by the burners) and additionally to keep food cold (in this case, the hot water is replaced by ice cubes and the heating device is not used).

## II. CLASSIFICATION

### Swiss Administration's opinion

2. The Swiss Administration feels that headings 73.21, 73.23, 84.19 and 85.16 should be taken into consideration, but does not think that the appliance at issue is (1) an electro-thermic appliance within the meaning of heading 85.16 or that (2) the chafing dish under examination is "machinery for the treatment of materials by a process involving a change of temperature such as cooking" within the meaning of heading 84.19.
3. It therefore recommends classifying the appliance in heading 73.21 as a non-electric appliance similar to domestic gas-rings and plate warmers. If the Committee rules out that heading by virtue of a restrictive interpretation of "domestic", the appliance is potentially classifiable in heading 73.23 as a "household article .... of iron or steel" (Switzerland's comments are set out in full at the Annex hereto).

### Secretariat opinion

4. The Secretariat feels that this request raises two fundamental issues, namely (1) whether this is a chafing dish used for the treatment of materials by a process involving a change of temperature and (2) whether it can be considered "domestic".
5. With regard to the first issue, the Secretariat points to Explanatory Note 84.19 (page 1271) specifying that this heading covers machinery and plant designed to submit materials to a heating or cooling process in order to cause a simple change of temperature, or to cause a transformation of the materials (cooking, evaporating, etc.). In the Secretariat's opinion, the fact that the food is not cooked (Switzerland's argument) does not automatically exclude the appliance from this heading.
6. However, according to the information received, this appliance is designed essentially to keep the water in the water pan, and consequently the food, at a constant temperature and it could be argued that the materials do not undergo any treatment within the meaning of the above-mentioned Explanatory Note as their temperature does not change. In this connection, the Secretariat points out that some chafing dishes are actually used to cook food or to heat preparations, but the appliance at issue does not appear to perform these functions.
7. On the basis of this data, the Secretariat tends to concur with the Swiss Administration that this appliance does not fulfil the terms of heading 84.19, despite comprising a heating device. Nor does the Secretariat feel that it could fall in another heading of Section XVI. By way of information, the exclusion note to heading 90.27 (page 1643, last paragraph) covering, inter alia, heating apparatus (bunsen burners, steam-heating baths, etc.) refers to Section XV for this type of apparatus.
8. With regard to the second issue, the Secretariat recalls that the scope of the term "domestic" within the meaning of heading 73.21 is normally limited to appliances used in the household or for camping (see Explanatory Note 73.21, page 1121, first paragraph, Item (iii) and second paragraph). To the best of the Secretariat's knowledge, the appliances at issue do not have the characteristics of an appliance used in the household and do not therefore fulfil this condition, hence ruling out this heading. In addition, the Secretariat points out that

the appliances of that heading must be designed for the production and utilisation of heat for space heating or cooking.

9. If the Committee agrees with the Secretariat regarding both the restrictive interpretation of the expression "domestic" for the application of heading 73.21 and the scope of the term "treatment of materials" within the meaning of heading 84.19, the appliance is potentially classifiable in two headings : namely heading 73.23 "Table, kitchen or other household articles, of steel" and heading 73.26 "Other articles of steel" (residual heading for non-moulded articles).
10. According to Explanatory Note 73.23 (page 1123, first paragraph), the scope of this heading is less restrictive than that of heading 73.21. In fact, the terms "Table, kitchen or other household articles" cover not only articles used for table, kitchen or other household purposes, but also the same goods for use in hotels, restaurants, etc. The Secretariat feels that this description covers the chafing dish under examination and that subheading 7323.93 could be taken into consideration.
11. If the Committee does not consider the chafing dish to be table, kitchen or other household articles within the meaning of heading 73.23, classification in heading 73.26 (subheading 7326.90) would seem appropriate.

### III. CONCLUSION

12. The Committee is invited to rule on the classification of a non-electric stainless steel chafing dish, described in paragraph 1 above, taking account of the Swiss Administration's additional comments and information (set out at the Annex hereto) and the Secretariat comments in paragraphs 4 to 11 above.

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**Non-electric chafing dish (model "RONDO 1/1 GN", No. 2509-607),  
with roll-top lid (standard version).**

- Description of the appliance : This is an appliance whose frame (housing) (fig. 1 on the illustration) is fitted on both sides with a “retainer box” (fig.2) holding the lid (fig.3). The lid has a handle, pivots on its axis and opens backwards. The housing is designed to hold a rectangular water pan filled with hot water. One or more food trays (fig. 4) with cooked and hot food are then placed therein. The bottom of the tray has four screws for attaching a heating unit (fig. 5) in which three recipients containing fuel (e.g. in gel form) are placed.
  
  - Characteristics and constituent materials of the appliance : The chafing dish at issue is entirely made of stainless steel. It has a gilt lid and side buttons (“retainer box”). The appliance is 65 cm long, 43 cm wide and 40 cm high. It holds 9.5 litres of water.
  
  - Use and function : Chafing dishes are used in establishments serving buffets, **principally hotels**. They keep food warm using a “bain-marie” procedure. The water in the water pan is in contact with the recipients containing the food and keeps it at a given temperature. The actual water temperature is kept constant by heaters in the heating unit, attached by four screws under the water pan.
- The appliance has an additional function : the water pan (fig. 4) can be filled with ice cubes and can keep the food in the tray cold (fig. 6). In this case, the heating device is not used. This is an additional function, mentioned in the product description in the brochure.
- Packaging : In the standard version each appliance is delivered packed for retail sale in a box (fig. 1), i.e. with the heating unit unassembled, but without the fuel (e.g. gel).

**Note** : The illustrations are attached hereto.

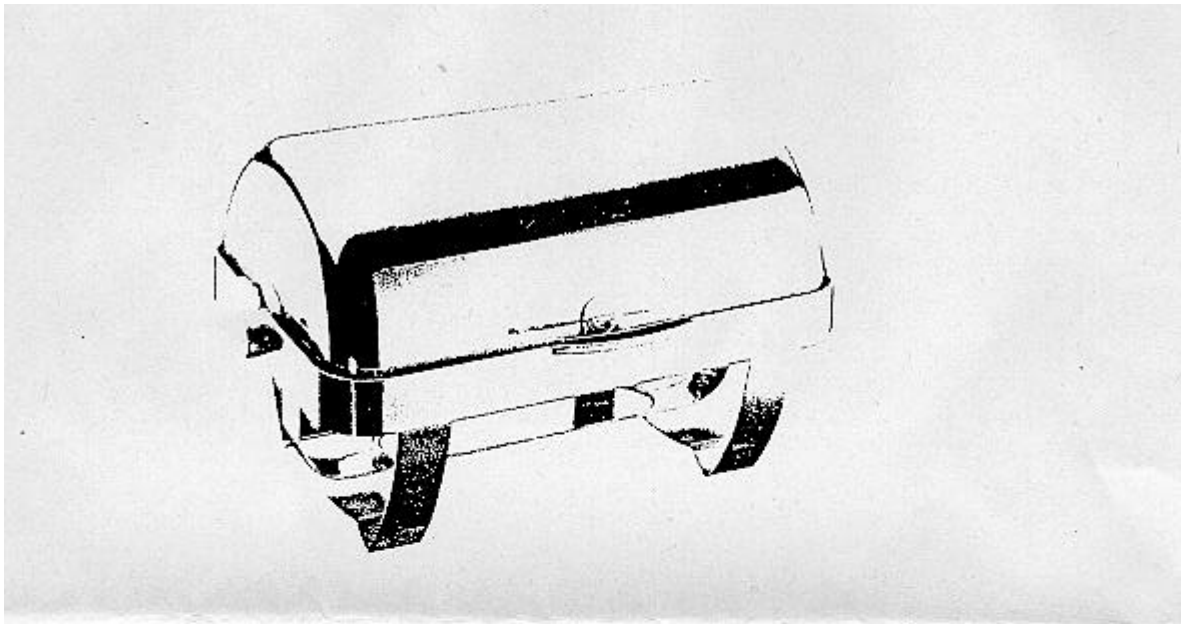
### Tariff classification

The Swiss Administration feels that the above article is potentially classifiable in headings 73.21, 73.23, 84.19 and 85.16. The following criteria have been selected :

- the heating unit is designed to be attached to the chafing dish (under the water pan) with screws. For that reason, by application of the second part of General Interpretative Rule 2 (a), the article presented unassembled is classifiable in the same heading as the chafing dish with the assembled heating unit.
- the chafing dish described above uses a combustible gel as an energy source. It is not therefore an electro-thermic appliance within the meaning of heading 85.16.
- the appliance only keeps food hot, it does not cook it. The chafing dish does not therefore have the characteristics of an appliance of heading 84.19 which refers to appliances for "the treatment of materials by a process involving a change of temperature such as cooking ....". In addition, the Explanatory Note to heading 84.19 excludes domestic stoves, grates, cookers etc. of heading 73.21 (page 1271, second paragraph, Item (a)) and electro-thermic domestic appliances of heading 85.16 (page 1271, second paragraph, Item (o)).
- of the headings potentially applicable, heading 73.21 seems to be the most suitable. Although the heading text refers to "domestic" appliances, Switzerland feels that this is the most appropriate heading. The heading text covers, inter alia, "gas-rings, plate warmers and similar non-electric domestic appliances". In addition, the Explanatory Note mentions "spirit or pressure stoves, .....etc.; plate warmers incorporating provision for heating elements" (page 1121, paragraph 3, Item (5)).
- if heading 73.21 were ruled out by virtue of a restrictive interpretation of the term "domestic", alternative classification could be envisaged in heading 73.23 as "table, kitchen or other household articles....of steel". The Explanatory Note to the heading mentions "a wide range of ... articles, not more specifically covered by other headings of the Nomenclature, used for ... household purposes; it includes the same goods for use in hotels, restaurants, boarding-houses, hospitals, canteens, barracks, etc.". (p. 1123 – penultimate paragraph).

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**2509-697 1/1 Gastronorm  
Chafing Dish RONDO  
mit Rolltop-Deckel**

Gestell, Stützring, Einsatz,  
Wanne, Deckel und Sei-  
tengriffe aus Edelstahl  
18/10. Deckelgriff und  
Seitenknöpfe vergoldet.

Masse (LxBxH)      Inhalt  
65 x 43 x 40 cm      9,5 l

**2509-697 Bain-marie  
RONDO 1/1 gastronorme  
avec couvercle roll-top**

Piètements, support amovi-  
ble rectangulaire, bac à  
eau, couvercle et poignées  
latérales en acier inoxy-  
dable 18/10. Poignée de  
couvercle et boutons laté-  
raux dorés.

Dimensions      cont.  
65 x 43 x 40 cm      9,5 l

**2509-697 RONDO 1/1  
Gastronorm chafing dish  
with rolltop lid**

Stand, supporting ring,  
water pan, lid and side  
handles made of 18/10  
stainless steel. Gilt lid  
and side handles.

Dimensions  
25 1/2 x 16 7/8 x 16 7/8"  
capacity 9 7/8 qt

**RONDO 1/1 GN mod. 2509-697**  
**Version Standard**

