

## REGULATION (EEC) No 2606/70 OF THE COMMISSION

of 22 December 1970

on the classification of goods under sub-heading No 85.12 A of the Common Customs  
Tariff

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 97/69<sup>1</sup> of 16 January 1969 on measures to be taken for uniform application of the nomenclature of the Common Customs Tariff, and in particular Article 3 thereof;

Whereas provision must be made to ensure uniform application of the nomenclature of the Common Customs Tariff with a view to classification of apparatus designed to heat liquids and to keep them at a constant temperature, such apparatus consisting of an electric immersion heater regulated by a thermostat and an electric motor-driven pump and agitator, forming a composite whole;

Whereas the Common Customs Tariff annexed to Council Regulation (EEC) No 950/68<sup>2</sup> of 28 June 1968, as last amended by Council Regulation (EEC) No 2376/70<sup>3</sup> of 23 November 1970 includes:

- under heading No 84.17, machinery, plant and similar laboratory equipment, whether or not electrically heated, for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilising, pasteurising, steaming, drying, evaporating, vaporising, condensing or cooling, not being machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, non-electrical;
- under heading No 85.12, *inter alia*, electric storage water heaters and immersion heaters; and
- under heading No 90.24, instruments and apparatus for measuring, checking or

automatically controlling the flow, depth, pressure or other variables of liquids or gases, or for automatically controlling temperature, (for example, pressure gauges, thermostats, level gauges, flow meters, heat meters, automatic oven-draught regulators), not being articles falling within heading No 90.14;

Whereas the apparatus in question is intended to be hung on the wall of tanks and cisterns, the immersion heating part, the agitator and the pump being immersed in the liquid to heat it and make it circulate, the temperature being controlled by the thermostat;

Whereas this apparatus corresponds to the definition and the function of electric immersion heaters;

Whereas heading No 85.12, under which immersion heaters are listed by name, is more specific than heading No 84.17 which groups together a whole range of apparatus and equipment for the treatment of materials by processes involving a change of temperature such as heating;

Whereas, in any case, even if they are fitted with devices for the automatic control of the temperature the essential character of the immersion heaters in question is that they heat liquids by immersion; whereas, therefore, they cannot be classified with the apparatus and instruments referred to under heading No 90.24;

Whereas the apparatus in question must consequently be classified under heading No 85.12; whereas, moreover, the Customs Co-operation Council favours classification of these articles under that heading;

Whereas electric immersion heaters are specifically mentioned under sub-heading No 85.12 A;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Committee on the Common Customs Tariff Nomenclature;

<sup>1</sup> OJ No L 14, 21.1.1969, p. 1.

<sup>2</sup> OJ No L 172, 22.7.1968, p. 1.

<sup>3</sup> OJ No L 258, 27.11.1970, p. 1.

HAS ADOPTED THIS REGULATION:

*Article 1*

Apparatus designed to heat liquids and keep them at a constant temperature, such apparatus consisting of an electric immersion heater regulated by a thermostat, an electric motor-driven pump and an agitator, forming a composite whole, shall fall within Common Customs Tariff sub-heading No:

85.12 Electric instantaneous or storage water heaters and immersion heaters; electric soil heating apparatus and electric space heating apparatus; electric hair dressing appliances

(for example, hair dryers, hair curlers, curling tong heaters) and electric smoothing irons; electro-thermic domestic appliances; electric heating resistors, other than those within No 85.24:

A. Electric instantaneous or storage water heaters and immersion heaters.

*Article 2*

This Regulation shall enter into force on the eighth day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 December 1970.

*For the Commission*

*The President*

Franco M. MALFATTI