



**United Nations  
Environment  
Programme**



Distr.  
GENERAL

UNEP/OzL.Pro.14/INF/6  
15 November 2002

ORIGINAL: ENGLISH

**Fourteenth Meeting of the Parties to the Montreal Protocol on  
Substances that Deplete the Ozone Layer**  
Rome, 25-29 November 2002

**Item 9 of the annotated provisional agenda for the preparatory segment\***

INFORMATION ON THE RECOMMENDATIONS OF THE EXPERT GROUP ON CUSTOMS  
CODES FORWARDED TO THE WORLD CUSTOMS ORGANIZATION

Note by the Secretariat

1. The Tenth Meeting of the Parties decided in its decision X/18 to convene a group of five interested experts to provide advice to the Ozone Secretariat out of session on possible amendments to the Harmonized System. At the Eleventh Meeting, the Parties noted, in their decision XI/26, that the expert group would conduct further work on recommendations relating to the Harmonized System codes for mixtures and products containing ozone-depleting substances in collaboration with the World Customs Organization (WCO).

2. The Expert Group on Customs Codes comprised the following members:

Ms. Ingrid Kokeritz (Sweden) (Chair);  
Mr. Nick Campbell (United Kingdom of Great Britain and Northern Ireland);  
Mr. Janusz Kozakiewicz (Poland);  
Mr. Iain McGlincy (New Zealand);  
Mr. Izaak Wind (WCO).

It should be noted that the Expert Group operated on a purely voluntary basis using the Internet and e-mail as its sole means of communication.

3. The Expert Group prepared a proposal entitled: "Suggestions on specific codes under the Harmonized System (HS) for mixtures containing ozone depleting substances (ODS) and some of its substitutes", which the Secretariat forwarded to WCO for comment. The Expert Group prepared an updated and revised proposal based on the comments received from WCO on 24 July 2002.

4. The revised proposal of the Expert Group reproduced in annex to the present note was forwarded to WCO on 13 November 2002 for consideration by the Harmonized System Committee at its thirtieth session, from 18 to 29 November 2002, and by the WCO Scientific Committee at its forthcoming session from 13 to 17 January 2003.

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\* UNEP/OzL.Pro.14/1

K0263281 xx1102

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13 November 2002

**Suggestions on specific customs codes under the Harmonized System (HS) for mixtures containing ozone depleting substances (ODS) and some of its substitutes**

based on the proposal by the group of experts on customs codes established under Decision X/18(2) forwarded on 3 July 2002 to the World Customs Organization (WCO) and comments to it received from the WCO

**General comments**

This proposal is intended to cover all currently controlled ozone depleting substances (ODS) - 15 chlorofluorocarbons (CFCs), 3 halons, carbon tetrachloride, 1,1,1-trichloroethane (also called methyl chloroform), 40 hydrochlorofluorocarbons (HCFCs), 34 hydrobromofluorocarbons (HBFCs), methyl bromide and bromochloromethane - when traded as mixed chemicals.

Broadly speaking, ozone depleting substances (ODS) are primarily used as refrigerants, foam blowing agents, solvents, fire fighting agents, pesticides and aerosol propellants. It is our understanding that most of these applications belong to Chapter 38 in the Harmonized System (HS) structure (although for solvents Chapter 34 might also be applicable). The proposals are therefore listed below in the order in which the applications occur in Chapter 38.

Finished products (where "the mere dispensing of the chemical from a container constitutes its intended use") are not included in the definition of "controlled substances" under the Montreal Protocol, even though some are subject to secondary restrictions such as a ban on imports from non-party countries. One example of such a finished product is aerosol cans. The proposals therefore do not include any proposals for specific customs codes for ODSs used as aerosol propellants (it is assumed that ODS intended for the manufacturing of aerosol cans will be traded as a pure substance and fall under Chapter 29).

In addition to recommending codes for the ODS, it would be desirable to take advantage of this occasion to insert special national customs codes for the hydrofluorocarbons (HFCs) and perhalogenated fluorocarbons (PFCs). These have no ozone depleting potential (ODP) and so are not covered by the Montreal Protocol. However, they are widely used as substitutes to the ODS and they are part of the basket of gases whose emissions are controlled under the Kyoto Protocol as greenhouse gases. Parties to the Kyoto Protocol are required to monitor and

report emissions of these gases. Countries are encouraged to insert special national codes on the HFCs and PFCs, in addition to those recommended below.

### **Pesticides**

In particular methyl bromide but also to a lesser extent bromochloromethane are used as pesticides. It is our understanding that, under the HS system, they can belong to any of the subheadings under heading 3808 (3808.10-3808.90: insecticides, fungicides, herbicides, disinfectants and other products).

#### ***Proposal (initially as recommendation for national customs codes):***

##### *3808.10 insecticides*

- Containing methyl bromide
- Containing bromochloromethane

##### *3808.20 fungicides*

- as under 3808.10

##### *3808.30 herbicides, etc.*

- as under 3808.10

##### *3808.40 disinfectants*

- as under 3808.10

##### *3808.90 other*

- as under 3808.10

*Note:* Methyl bromide containing not more than 2% of chloropicrin added "as an anti-dusting, colouring or odoriferous agent or for safety reasons which do not render the product particularly suitable for specific use rather than for general use" will be classified as pure substance under 2903.30.

### **Fire extinguishing agents**

Several ODS - primarily halons, hydrochlorofluorocarbons (HCFCs), hydrobromofluorocarbons (HBFCs) and bromochloromethane - can be used as fire extinguishing agents.

#### ***Proposal (initially as recommendation for national codes):***

##### *3813.00 preparations and charges for fire extinguishers*

- Containing bromochlorodifluoromethane, bromotrifluoromethane or dibromotetrafluoroethanes (halons)
- Containing other derivatives of acyclic hydrocarbons, halogenated only with fluorine and bromine (HBFCs)

- Containing other derivatives of acyclic hydrocarbons, halogenated only with fluorine and chlorine (HCFCs), whether or not containing perhalogenated fluorocarbons (PFCs) or hydrofluorocarbons (HFCs)
- Containing bromochloromethane.

## Solvents

Many types of ODS are used as solvents - chlorofluorocarbons (CFCs), 1,1,1-trichloroethane, carbon tetrachloride, hydrochlorofluorocarbons (HCFCs) and bromochloromethane. In the Montreal Protocol context the term “solvent” is used for convenience, as a collective term for a wide variety of applications: as solvents in its literal meaning, for other cleaning applications, for de-greasing, as carriers for lubricants, for drying and etching, as adhesives, for coating, as process agents, etc. ODS traded as solvents (in this broad sense) are often mixed with a small portion of other chemicals to make them better adapted for their specific application, with different trade names depending on the detailed composition.

Several headings under the Harmonized System might be applicable for ODS when used as solvents (in the Montreal Protocol sense), depending on the specific application. We have in particular identified heading 3814 (“*organic composite solvents and thinners, not elsewhere specified or included*”) but other headings higher up in the hierarchy might also be applicable, for instances 3402 (“*organic surface-active agents, surface-active preparations, washing preparations and cleaning preparations*”).

### ***Proposal (initially as recommendation for national codes):***

#### *3814.00 Organic composite solvents and thinners, not elsewhere specified or included.*

- Containing perhalogenated derivatives of acyclic hydrocarbons, perhalogenated only with chlorine and fluorine (CFCs), whether or not containing hydrochlorofluorocarbons (HCFCs), perhalogenated fluorocarbons (PFCs) or hydrofluorocarbons (HFCs)
- Containing other derivatives of acyclic hydrocarbons, halogenated only with fluorine and chlorine (HCFCs), whether or not containing perhalogenated fluorocarbons (PFCs) or hydrofluorocarbons (HFCs), but not containing chlorofluorocarbons (CFCs)
- Containing carbon tetrachloride
- Containing 1,1,1-trichloroethane (methyl chloroform)
- Containing bromochloromethane.

The same codes are also proposed for sub-heading 3402.90 *Organic surface active agents, surface active preparations, washing preparations and cleaning preparations - Other.*

## Refrigerants, foam blowing agents and miscellaneous applications

ODS mixtures that do not fall under any specifically described application in the HS hierarchy will fall under the heading 3824 “*chemicals and preparations not elsewhere specified or included*”. This includes refrigerants - a major application for the ODS - but also foam blowing agents and various miscellaneous applications.

A sub-heading 3824.70 “*Mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens*” was requested in 1990 to take care of two typical chlorofluorocarbon (CFC) refrigerants mixtures, R500 and R502, at a time when only five chlorofluorocarbons (CFCs) and three halons were controlled under the Montreal Protocol. It was initially accepted as a recommendation for national codes and became in 1996 a code at the international level. It is sub-divided in 3824.71 “*containing acyclic hydrocarbons perhalogenated only with fluorine and chlorine*” (= CFCs) and 3824.79 “*Other*” and covers together all chlorofluorocarbons (CFCs) and halon mixtures “not elsewhere specified or included”. All other ODS mixtures “not elsewhere specified” – mixtures containing hydrochlorofluorocarbons (HCFCs) as well as mixtures containing 1,1,1-trichloroethane, carbon tetrachloride, methyl bromide or bromochloromethane - fall under the very last subheading 3824.90 “*Other*”, mixed with all other chemicals of any type that are not specifically identified in the HS. The lack of specific classification of mixtures under the HS is a major problem for Parties to the Montreal Protocol. In particular the lack of a suitable classification for the hydrochlorofluorocarbon-containing mixtures, which are widely traded as refrigerants and are allowed a long-term phase-out schedule under the Montreal Protocol (until 2040), but also for mixtures used for other applications, is creating difficulties for monitoring and controlling ODS consumption in many countries.

As chlorofluorocarbon (CFC) and halon mixtures fall under 3824.70, and due to the time delay in changing the international HS codes we propose, for the time being, only a recommendation for separate national codes under 3824.90 that distinguish mixtures containing hydrochlorofluorocarbons (HCFCs), 1,1,1-trichloroethane, carbon tetrachloride, methyl bromide and bromochloromethane from other miscellaneous chemicals.

### ***Proposal (as recommendation for national codes):***

3824.90 {*chemicals and preparations not elsewhere specified or included - Other*}

- Containing carbon tetrachloride
- Containing 1,1,1-trichloroethane (methyl chloroform)
- Containing bromochloromethane
- Containing methyl bromide
- Containing derivatives of acyclic hydrocarbons, halogenated only with fluorine and bromine (HBFCs)
- Containing derivatives of acyclic hydrocarbons, halogenated only with fluorine and chlorine (HCFCs), whether or not containing perhalogenated fluorocarbons (PFCs) or hydrofluorocarbons (HFCs).

In connection with the next revision at the international level it would, however, be useful to revise the sub-heading 3824.70 and move all ODS mixtures that now are covered by 3824.90 to 3824.70.

***Proposed later change of the international codes (then replacing the above recommendation under 3824.90 for national codes):***

***Subheadings 3824.7, 3824.71 and 3824.79***

Delete and substitute:

- *Mixtures containing halogenated derivatives of acyclic hydrocarbons*
- 3824.71 -- Containing perhalogenated acyclic hydrocarbons, perhalogenated only with fluorine and chlorine (CFCs), whether or not containing hydrochloro-fluorocarbons (HCFCs), perhalogenated fluorocarbons (PFCs) or hydro-fluorocarbons (HFCs)
- 3824.72 -- Containing perhalogenated acyclic hydrocarbons, perhalogenated only with fluorine and bromine or fluorine, bromine and chlorine (halons)
- 3824.73 -- Containing other acyclic hydrocarbons, halogenated with fluorine and bromine (HBFCs)
- 3824.74 -- Containing other derivatives of acyclic hydrocarbons, halogenated with fluorine and chlorine (HCFCs), whether or not containing perhalogenated fluorocarbons (PFCs) or hydrofluorocarbons (HFCs) but not containing chlorofluorocarbons (CFCs)
- 3824.75 -- Containing carbon tetrachloride
- 3824.76 -- Containing 1,1,1-trichloroethane (methyl chloroform)
- 3824.77 -- Containing methyl bromide or bromochloromethane
- 3824.78 -- Containing other derivatives of acyclic hydrocarbons, halogenated only with fluorine (PFCs or HFCs), but not containing chlorofluorocarbons (CFCs) or hydrochlorofluorocarbons (HCFCs)
- 3824.79 -- Other.