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**Sixteenth Meeting of the Parties
to the Montreal Protocol on
Substances that Deplete the
Ozone Layer**
Prague, 22–26 November 2004
Item 10 of the provisional agenda *

Other matters

**Relationship between the Montreal Protocol and the World
Trade Organization**

Note by the Secretariat

1. In its decision XIV/11, on the relationship between the Montreal Protocol and the World Trade Organization (WTO), the Fourteenth Meeting of the Parties to the Montreal Protocol requested the Secretariat to monitor the negotiations on trade and environment at WTO, attend the special sessions of its Committee on Trade and Environment and report back to the Parties on those issues.
2. The tenth special session of the Committee on Trade and Environment, which took place on 12 and 13 October 2004, was well attended by representatives of most of the WTO member countries, as well as by representatives from the following organizations invited to the Committee on an ad hoc basis: the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Convention on Biological Diversity, the United Nations Framework Convention on Climate Change, the United Nations Conference on Trade and Development (UNCTAD), the Organization for Economic Cooperation and Development (OECD), the Ozone Secretariat, the United Nations Environment Programme (UNEP) and the World Customs Organization (WCO).
3. The Committee's agenda for its tenth special session included the following three issues of the Doha Development Agenda, as set out in paragraph 31 of the Ministerial Declaration adopted at Doha on 14 November 2001:
 - (a) Relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements;
 - (b) Procedures for regular information exchange between multilateral environmental agreement secretariats and the relevant WTO committees and the criteria for the granting of observer status; and

* UNEP/OzL.Pro.16/1.

(c) Reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

4. Some members of WTO have called on the Committee on Trade and Environment to clarify the concept of “environmental goods”, mentioned in the third item under paragraph 31 of the Doha Development Agenda. At previous sessions the Committee had debated various criteria for the definition or identification of such environmental goods. Reference was made to the OECD list of environmental goods, which is based on the World Customs Organization (WCO) Harmonized System, and to the specific list of environmental goods of the Asia-Pacific Economic Cooperation Forum (APEC).

5. The tenth special session of the Committee on Trade and Environment was preceded by a one-day workshop focusing on the issue of environmental goods. Presentations were given on the APEC and OECD lists of environmental goods and WCO presented its Harmonized System as a tool used by some multilateral environmental agreements (including the Montreal Protocol) to define products of environmental interest. WCO reported to the workshop on the current situation of customs codes allocated under the Harmonized System to mixtures of ozone-depleting substances. Its report is reproduced in the annex to the present note.

6. The discussions at the tenth special session itself, which followed the workshop, also undertook to clarify the definition or identification of environmental goods for the purpose of the negotiations of the WTO members.

7. The Ozone Secretariat was not invited to attend the regular session of the WTO Committee on Trade and Environment that took place the following day, 14 October 2004, since its request for observer status at meetings of the Committee on Trade and Environment is still pending. Some 25 intergovernmental organizations, which had previously participated on an ad hoc basis in the Committee’s meetings as observers, were granted observer status at the regular sessions of the Committee on Trade and Environment: these include such organizations as the Commission on Sustainable Development, the United Nations Development Programme (UNDP), UNEP, the United Nations Industrial Development Organization (UNIDO), WCO and the World Bank, and such multilateral environmental agreements as the Convention on Biological Diversity, the Convention on International Trade in Endangered Species and the United Nations Framework Convention on Climate Change. Since, however, negotiations in the General Council of WTO on the issue of observer status ended in political deadlock, the Committee on Trade and Environment is currently not considering any of the nine further requests for observer status at its regular sessions (see WTO document WT/CTE/INF/6/Rev.1, of 31 August 2004).

Annex

A. Customs Codes now in Effect Under the World Customs Organization Harmonized System, for Mixtures of Ozone Depleting Substances (2002 Amendment)

Heading	H.S.	Commodity Description
38.24		Prepared binders for foundry moulds or cores: chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included.
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	.	
	.	
	3824.60	-... - Mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens;
	3824.71	-- Containing acyclic hydrocarbons perhalogenated only with fluorine and chlorine
	3824.79	-- Other
	3824.90	- Other

B. Proposed Customs Codes Under the World Customs Organization Harmonized System, for Mixtures of Ozone Depleting Substances (2007 Amendment)*

Heading	H.S.	Commodity Description
		<u>Subheadings 3824.7 to 3824.79</u>
		Delete and substitute :
		“ - Mixtures containing halogenated derivatives of methane, ethane or propane :
	3824.71	-- Containing chlorofluorocarbons (CFCs), whether or not containing hydrochlorofluorocarbons (HCFCs), perfluorocarbons (PFCs) or hydrofluorocarbons (HFCs)
	3824.72	-- Containing bromochlorodifluoromethane, bromotrifluoromethane or dibromotetrafluoroethanes
	3824.73	-- Containing hydrobromofluorocarbons (HBFCs)
	3824.74	-- Containing hydrochlorofluorocarbons (HCFCs), whether or not containing perfluorocarbons (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 bromomethane (methyl bromide) or

	bromochloromethane
3824.78	-- Containing perfluorocarbons (PFCs) or hydrofluorocarbons (HFCs), but not containing chlorofluorocarbons (CFCs) or hydrochlorofluorocarbons (HCFCs)
3824.79	-- Other.”

* Comment: This proposal will be formally approved by the Contracting Parties of the WCO in their meeting in January 2005, and will then enter into force in 2007.
