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FOURTH MEETING OF THE PARTIES TO
THE MONTREAL PROTOCOL ON SUBSTANCES
THAT DEplete THE OZONE LAYER

Copenhagen, 23-25 November 1992

Circular to the Parties to the Montreal Protocol
-- A note regarding the Harmonized System customs code numbers
for the products listed in Annex D of the amended Montreal Protocol

1. Introduction

At the Third Meeting of the Parties to the Montreal Protocol that was held in Nairobi on 19-21 June 1991, a list of products containing the controlled substances was adopted as an Annex D to the Montreal Protocol. This is in accordance with Article 4, paragraph 3 of the Protocol, which states as follows:

"Within three years of the date of entry into force of this protocol, the Parties shall, following the procedure in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol."

The adoption of this Annex was notified by the Depositary on 27 November 1991. Thus, the Annex shall become effective on 27 May 1992, i.e., six months after the date of notification of its adoption by Depositary, unless it is objected to by any Party.

In accordance with Decision III/15 (b) of the meeting, the Ozone Secretariat of UNEP was requested "to identify the Customs Code Numbers for the items on the list from the Customs Co-operation Council", so as to facilitate the collection and comparison of data on the international movement of the products containing the controlled substances. "The Customs Code Numbers will be submitted for acceptance by the Fourth Meeting of the Parties".

In July 1991, the Ozone Secretariat wrote to the the Directorate of Nomenclature and Classification of the Customs Co-operation Council (CCC) in Brussels, requesting for assistance in the matter relating to the Decision III/15 (b).

A reply was received from the CCC in August 1991. According to the CCC, while a few of the Annex D products can be identified using the existing Harmonized System (HS) code numbers, it is impossible to do so for some products without further specifying their actual composition and presentation.

This brief note compiles the available HS code numbers for the Annex D products. It has been reviewed by the Directorate of Nomenclature and Classification of the CCC. Their suggestions have been incorporated in the note. However, it should be noted that the HS code numbers given below, as they stand, are for particular products, which may or may not contain controlled substances. The numbers given should be used as a guide and further verification is needed to establish whether or not the products contain controlled substances.

2. The Available HS Codes

Based on the existing Harmonized System, the following products under Annex D can be classified as follows:

1. Automobile and truck air conditioning units (whether incorporated in vehicles or not)

There are no separate HS code numbers for the air conditioning units specially used for automobiles and trucks. However, "air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated" are classified in heading 84.15. The Harmonized System Committee agreed to insert a new subheading: "8415.20 - Of a kind used for persons, in motor vehicles".

When these units are incorporated in vehicles, they have to be considered together with the vehicles in headings 87.01 to 87.06.

HS code	Description
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Tractors (other than tractors of heading No. 87.09)

- 8701.10 - Pedestrian controlled tractors
- 8701.20 - Road tractors for semi-trailers
- 8701.30 - Track-laying tractors
- 8701.90 - Other

Motor vehicles for the transport of ten or more persons, including the driver.

- 8702.10 - With compression-ignition internal combustion piston engine (diesel or semi-diesel)
- 8702.90 - Other

Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading No. 87.02), including station wagons and racing cars.

- 8703.10 - Vehicles specially designed for travelling on snow,; golf cars and similar vehicles
- Other vehicles, with spark-ignition internal combustion reciprocating piston engine:
 - 8703.21 -- Of a cylinder capacity not exceeding 1,000 cc
 - 8703.22 -- Of a cylinder capacity exceeding 1,000 cc but not exceeding 1,500 cc
 - 8703.23 -- Of a cylinder capacity exceeding 1,500 cc but not exceeding 3,000 cc
 - 8703.24 -- Of a cylinder capacity exceeding 3,000 cc
- Other vehicles, with compression-ignition internal combustion piston engine (diesel or semi-diesel):
 - 8703.31 -- Of a cylinder capacity not exceeding 1,500 cc
 - 8703.32 -- Of a cylinder capacity exceeding 1,500 cc but not exceeding 2,500 cc
 - 8703.33 -- Of a cylinder capacity exceeding 2,500 cc
- 8703.90 - Other

Motor vehicles for the transport of goods

- 8704.10 - Dumpers designed for off-highway use
- Other, with compression-ignition internal combustion piston engine (diesel or semi-diesel):
- 8704.21 -- g.v.w. not exceeding 5 tonnes
- 8704.22 -- g.v.w. exceeding 5 tonnes but not exceeding 20 tonnes
- 8704.23 -- g.v.w. not exceeding 20 tonnes
- Other, with spark-ignition internal combustion piston engine:
- 8704.31 -- g.v.w. not exceeding 5 tonnes
- 8704.32 -- g.v.w. exceeding 5 tonnes
- 8704.90 - Other

Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, crane lorries, fire fighting vehicles, concrete-mixer lorries, road sweeper lorries, spraying lorries, mobile workshops, mobile radiological units).

- 8705.10 - Crane lorries
- 8705.20 - Mobile drilling derricks
- 8705.30 - Fire fighting vehicles
- 8705.40 - Concrete-mixer lorries
- 8705.90 - Other

2. Domestic and commercial refrigeration and air conditioning/heat pump equipment (e.g. refrigerators, freezers, dehumidifiers, water coolers, ice machines, air conditioning and heat pump units).

As stated earlier, the air conditioning machines, whether domestically or commercially used, are classified in heading 84.15.

With the exception of dehumidifiers, other equipment are classified in heading 84.18, which covers "refrigerators, freezers and other refrigerating or freezing equipment, electric or other, heat pumps other than air conditioning machines of heading No. 84.15".

HS code	Description
	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading No. 84.15.
8418.10	- Combined refrigerator-freezers, fitted with separate external doors - Refrigerators, household type:
8418.21	-- Compression-type
8418.22	-- Absorption-type, electrical
8418.29	-- Other
8418.30	- Freezers of the chest type, not exceeding 800 l capacity
8418.40	- Freezers of the upright type, not exceeding 900 l capacity - Other refrigerating or freezing equipment; heat pumps:
8418.61	-- Compression type units whose condensers are heat exchangers
8418.69	-- Other (this may include water coolers, ice and machines)

The dehumidifiers, other than those appliances in headings 84.15 or 84.24, are classified as "machines and mechanical appliances having individual functions, not specified or included elsewhere in Chapter 84" in No. 8479.89.

3. Aerosol products, except medical aerosols.

The products are classified according to their intended use. No separate HS codes are given to aerosols among these products. Even if they are aerosols, they may or may not contain controlled substances. The numbers given below represent the most likely HS classifications which may contain controlled substances. They should only be taken as a guide for further scrutiny of the products listed.

For example, paint products, which may be used as aerosols, are classified in Chapter 32, in headings 32.08, 32.09 and 32.10.

HS code	Description
	Paints and varnishes (including enamels and lacquers) based on synthetic polymers or chemically modified natural polymer, dispersed or dissolved in a non-aqueous medium
3208.10	- Based on polyesters
3208.20	- Based on acrylic or vinyl polymers
3208.90	- Other
	Paints and varnishes (including enamels and lacquers) based on synthetic polymers or chemically modified natural polymers, dispersed or dissolved in an aqueous medium.
3209.10	- Based on acrylic or vinyl polymers
3209.90	- Other
3210.00	Other paints and varnishes (including enamels, lacquers and distempers) and prepared water pigments of a kind used for finishing leather.
3212.90	Dyes and other colouring matter put up in forms or packings for retail sale.

"Essential oils and resinoids; perfumery, cosmetic or toilet preparations" are classified in Chapter 33. Some of these products may be used in aerosols.

HS code	Description
3303.00	Perfumes and toilet waters
3304.30	- Manicure or pedicure preparations.
	Preparations for use on the hair
3305.10	- Shampoos
3305.20	- Preparations for permanent waving or straightening
3305.30	- Hair lacquers
3305.90	- Other

Preparations for oral or dental hygiene, including denture fixative pastes and powders.

- 3306.10 - Dentifrices
- 3306.90 - Other (this may include breath sprays)

Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included; prepared room deodorisers, whether or not perfumed or having disinfectant properties

- 3307.10 - Pre-shave, shaving or after-shave preparations
- 3307.20 - Personal deodorants and antiperspirants
- 3307.30 - Perfumed bath salts and other bath preparations
- Preparations for perfuming or deodorizing rooms, including odoriferous preparations used during religious rites:
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- 3307.49 -- Other (this may include room deodorants)
- 3307.90 - Other (this may include depilatory)

Heading 34.02 covers "organic surface-active agents (other than soap); surface-active preparations, washing preparations (including auxiliary washing preparations) and cleaning preparations, whether or not containing soap, other than those of heading No. 34.01. Subheading 3402.20 is used to classify for 'preparations put up for retail sale'".

Heading 34.03 covers "lubricating preparations (including cutting-oil preparations, bolt, or nut release preparations, anti-rust or anti-corrosion preparations and mould release preparations, based on lubricants) and preparations of a kind used for the oil or grease treatment of textile materials, leather, furskins or other materials, but excluding preparations containing, as basic constituents, 70% or more by weight of petroleum oils or of oils obtained from bituminous minerals".

For example, HS subheading 3403.11 is used to classify lubricants containing petroleum oils or oils obtained from bituminous minerals used for preparations for the treatment of textile materials, leather, furskins or other materials, while HS subheading 3403.19 is used to classify other preparations containing petroleum oils or oils obtained from bituminous minerals.

Household products such as footwear or leather polishes, and wooden furniture, floors or other woodwork polishes are classified in subheadings 3405.10 and 3405.20, respectively.

"Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations" are classified in Chapter 36. For example, subheading 3606.10 covers "Liquid or liquefied-gas fuels in containers of a kind used for filling or refilling cigarette or similar lighters and of a capacity not exceeding 300 cm³".

"Miscellaneous chemical products" are classified in Chapter 38. In particular, heading 38.08 covers "insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur-treated bands, wicks and candles, and fly papers).

HS code	Description
3808.10	- Insecticides
3808.20	- Fungicides
3808.30	- Herbicides, anti-sprouting products and plant growth regulators
3808.40	- Disinfectants
3808.90	- Other
3809.10	Finishing agents, dye carriers to accelerate the dyeing or fixing of dye-stuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included, with a basis of amyaceous substances.

Organic composite solvents and thinners (not elsewhere specified or included) and the prepared paint or varnish removers are classified in subheading 3814.00.

Silicones in primary forms are classified in the heading 3910.00. However, lubricating preparations consisting of mixtures containing silicone greases or oils fall in heading 27.10 or 34.03 as the case may be.

Arms and ammunition; parts and accessories thereof are classified in Chapter 93. For example, subheading 9304.00 covers "Other arms (for example, spring, air or gas guns and pistols, truncheons), excluding those of heading No. 93.07". Thus, aerosol spray cans containing tear gas may be classified under this subheading.

Additionally, other possible aerosol products are:

HS code	Description
0404.90	Products consisting of natural milk constituents whether or not containing added sugar or other sweetening matter, not elsewhere specified or included.
1517.90	Edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this Chapter, other than edible fats or oils or their fractions of heading No. 15.16.
2106.90	Food preparations not elsewhere specified or included.
2710.00	Preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations.

4. Portable fire extinguisher

The HS code for fire extinguishers, whether or not charged, is 8424.10.

The heading 84.24 also covers "*mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines*".

5. Insulation boards, panels and pipe covers.

These goods have to be classified according to their composition and presentation. The exact description of the products at issue is necessary before a HS code number can be given. For example, if the insulation materials are made of polyurethane, polystyrene, polyolefin and phenolic plastics, then they may be classified in Chapter 39, which is for "Plastics and articles thereof".

HS code	Description
3917.21 to 3917.39	Tubes, pipes and hoses of plastics.
3920.10 to 3920.99	Plates, sheets, film, foil and strip, of plastics, non-cellular and not reinforced, laminated, supported or similarly combined with other materials.
3921.11 to 3921.90	Other plates, sheets, film, foil and strip, of plastics.
3925.90	Builders' ware of plastics, not elsewhere specified or included.
3926.90	Articles of plastics, not elsewhere specified or included.

6. Pre-polymers.

According to the Explanatory Notes to the Harmonized Commodity Description and Coding System (No.2, p.552b), "prepolymers are products which are characterised by some repetition of monomer units although they may contain unreacted monomers. Prepolymers are not normally used as such but are intended to be transformed into higher molecular weight polymers by further polymerisation. Therefore the term does not cover finished products, such as di-isobutylenes or mixed polyethylene glycols with very low molecular weight. Examples of prepolymers are epoxides based on bisphenol-A or phenol-formaldehyde, epoxidised with epichlorohydrin, and polymeric isocyanates".

These are classified, according to their composition, in one of the HS headings 39.01 to 39.11.

For example, pre-polymers based on ethylene (in primary forms) are classified in heading 39.01, while those based on propylene or other olefins (in primary forms) are classified in 39.02.

Pre-polymers based on styrene (in primary forms), epoxide and phenols are classified in headings 39.03, 39.07 and 39.09, respectively.

The expression "copolymers" covers all polymers in which no single monomer contributes 95% or more by weight to the total polymer content. Co-polymers and polymer blends are to be classified in the heading covering polymers of that comonomer which predominates by weight over every other single comonomer.

3. Conclusions

In accordance with Decision III/15 (b) of the Third Meeting of the Parties to the Montreal Protocol, a set of the HS customs code numbers are compiled for the products containing controlled substances as listed in Annex D to the Montreal Protocol, so as to facilitate the implementation of Protocol. This task was achieved with the assistance of the Customs Co-operation Council.

While some products can be readily associated with HS codes, many products cannot be tied to HS classifications unless their exact composition and the presentation are known. It should be noted that the specified HS classifications represent the most likely headings and subheadings which may contain substances controlled by the Montreal Protocol. The codes given should only be used as a starting point; further verification is needed to ascertain whether or not the products actually contain controlled substances.

Appendix 1. Annex D: A list of products containing controlled substances specified in Annex A (adopted in accordance with Article 4, paragraph 3) of the Montreal Protocol.