



**Conference of the Parties to the
Minamata Convention on Mercury
Fourth meeting**

Online, 1–5 November 2021*

Item 4 (a) (iii) of the provisional agenda**

**Matters for consideration or action by the Conference of
the Parties: mercury-added products and manufacturing
processes in which mercury or mercury compounds are
used: customs codes****Customs codes****Note by the secretariat****I. Introduction**

1. The Conference of the Parties to the Minamata Convention on Mercury, at its second meeting, considered a proposal from a number of parties to develop draft customs codes for the mercury-added products covered in annex A pursuant to article 4 of the Convention, in order to facilitate the implementation of article 4, improve national reporting under article 21 and foster better communication among trading partners. The Conference of the Parties adopted decision MC-2/9 in which it requested the secretariat, in collaboration with the Global Mercury Partnership and in consultation with relevant organizations, to suggest approaches for customs codes to identify and distinguish non mercury-added products and mercury-added products listed in annex A to the Convention, including approaches for their possible harmonization.

2. The Conference of the Parties considered a report¹ by the secretariat on the matter at its third meeting and, in decision MC-3/3, requested the secretariat to continue its work, in collaboration with the Global Mercury Partnership and involving relevant experts, to:

- (a) Draft a guidance document that included:
 - (i) For the mercury-added products listed in annex A to the Convention, a list of possible customs nomenclature codes of more than six digits that could be used by parties;
 - (ii) For mercury-added products not listed in annex A to the Convention, a compilation of examples provided by national experts of customs nomenclature codes of more than six digits currently in use by parties;
 - (iii) Examples of good practice where the use of customs nomenclature codes at the national level had been supplemented by the use of other control tools for the purpose of implementing trade provisions, such as those found in article 4 of the Convention;

* The resumed fourth meeting of the Conference of the Parties to the Minamata Convention on Mercury is to convene in person in Bali, Indonesia, and is tentatively scheduled for the first quarter of 2022.

** UNEP/MC/COP.4/1.

¹ UNEP/MC/COP.3/INF/12, as summarized in document UNEP/MC/COP.3/5.

(b) Provide an assessment of whether the subsequent development of six-digit harmonized codes would be a useful complement to the outcome of the work undertaken under (a) (i) above for the mercury-added products listed in annex A or under (a) (ii) above for mercury-added products not listed in annex A.

II. Work undertaken by the secretariat

3. As requested by the Conference of the Parties in decision MC-3/3, the secretariat invited parties, non-parties and other stakeholders, including relevant organizations, to identify experts familiar with the use of national customs codes to participate in the open-ended process. One party identified an expert, who submitted information as described in paragraph 2 (a) (i)–(iii) of the present note.

4. The secretariat developed a draft guidance document, which was posted on the Convention website on 18 June 2021 for comment by 19 July 2021. Comments were received from Canada, the European Union, Japan, Mauritius, Montenegro, New Zealand and the Natural Resources Defense Council. The secretariat further developed the document on the basis of the comments, in cooperation with the Global Mercury Partnership. Some parties also submitted information on customs codes for mercury, mercury compounds or mercury waste, which was not incorporated into the guidance document.

5. The draft guidance document is set out in the annex to the present note. The document includes proposed statistical codes of more than six digits for mercury-added products listed in annex A to the Convention, an overview of customs codes for mercury-added products not listed in annex A to the Convention, an overview of other measures in support of the trade provisions of the Convention and an assessment of six-digit harmonized customs codes following up on the analysis² presented to the Conference of the Parties at its third meeting. Examples of customs codes used by parties are presented in document UNEP/MC/COP.4/INF/5.

III. Suggested action by the Conference of the Parties

6. The Conference of the Parties may wish to note the work undertaken by the secretariat, invite parties to use the guidance in implementing the trade provisions of the Convention and request the secretariat to keep the guidance under review and provide support to parties in using the guidance, in cooperation with the Global Mercury Partnership.

² UNEP/MC/COP.3/INF/12.

Annex

Draft guidance document on the use of customs codes under the Minamata Convention

I. Document overview

1. This guidance document was developed at the request of the Conference of the Parties to the Minamata Convention on Mercury, building on a previous document submitted to the Conference of the Parties at its third meeting.¹ It is intended to provide support to parties wishing to use customs codes for monitoring and controlling the import and export of mercury-added products pursuant to article 4 of the Convention. The document was developed based on the submissions of national experts and stakeholders with relevant knowledge of customs codes.

2. The Minamata Convention is a global legally binding instrument with the objective to protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds. The Convention addresses the life cycle of mercury, including supply, trade, mercury-added products, industrial processes using mercury, artisanal and small-scale gold mining, emissions to air, releases to land and water, interim storage, waste and contaminated sites. Article 4 of the Convention addresses mercury-added products by controlling the manufacture, import and export of products listed in part I of annex A to the Convention and specifying measures to be taken for products listed in part II of the same annex.

3. At its third meeting, the Conference of the Parties considered the use of customs codes for identifying mercury-added products, referring to the following four potential approaches:

- (a) Develop internationally harmonized six-digit codes pursuant to the established World Customs Organization (WCO) process;
- (b) Develop statistical codes of more than six digits;
- (c) Deliver a combination of those two approaches, essentially comprising interim statistical codes of more than six digits in the near term, some or all of which could ultimately be superseded by six-digit Harmonized Commodity Description and Coding System (HS) codes;
- (d) Do not explore new customs codes under the Convention.

4. In decision MC-3/3, the Conference of the Parties requested the secretariat, in collaboration with the Global Mercury Partnership and involving relevant experts, to draft a guidance document on the use of customs codes for monitoring the import and export of mercury-added products, including:

- (a) For the mercury-added products listed in annex A to the Convention, possible customs nomenclature codes of more than six digits that could be used by parties;
- (b) For mercury-added products not listed in annex A to the Convention, a compilation of examples provided by national experts of customs nomenclature codes of more than six digits currently in use by parties;
- (c) Examples of good practice where the use of customs nomenclature codes at the national level has been supplemented by the use of other control tools for the purpose of implementing trade provisions, such as those found in article 4 of the Convention.

5. The secretariat was further requested to provide an assessment of whether the subsequent development of six-digit harmonized codes would be a useful complement to the outcome of the work undertaken under paragraph 4 (a) and (b) above.

6. This guidance document was drafted in the light of the discussion and relevant documents considered at the third meeting of the Conference of the Parties regarding the consideration of possible approaches to customs codes to distinguish non-mercury-added and mercury-added products listed in annex A, based on a collaborative process between the Global Mercury Partnership's Mercury in Products partnership area and in consultation with relevant organizations and other stakeholders. The secretariat has organized the inputs as submitted by the parties, as well as proposed statistical codes for a range of annex A products in cases where none were presented by parties. Keeping in mind that different countries have different preferences and approaches when dealing with customs codes and

¹ UNEP/MC/COP.3/INF/12.

statistics, national experts and stakeholders were invited to consider an early draft of this guidance and provide examples focusing on identifying readily implementable commodity codes and supporting measures (i.e., examples of codes and strategies already in place, examples of good practice, etc.). The information received was incorporated into this revised draft.

II. Codes of more than six digits for products listed in annex A

7. Up to the six-digit level, contracting parties to the International Convention on the Harmonized Commodity Description and Coding System have agreed to use the Harmonized System nomenclature for chapters, headings and subheadings, including relevant legal notes. Management of HS codes at this level is the responsibility of WCO, and changes are implemented every five or six years in accordance with the WCO submission and approval process. Therefore, with very few exceptions, all countries use the same six-digit nomenclature.

8. Customs codes with more than six digits may be revised or created unilaterally (i.e., without consulting WCO) by any country according to its own procedures. Eight-digit codes are typically used for tariff purposes and ten digits (and above) are typically used for statistical purposes.

9. To arrive at codes of eight digits and more, governments generally build on existing six-digit HS codes. Most countries using the Harmonized System have established procedures for generating and implementing customs codes of more than six digits.

10. All customs code submissions from parties prior to the third meeting of the Conference of the Parties are presented in appendix 1.² Those identifying annex A mercury-added products have been extracted from the list in appendix 1 and organized in the table on page 5 under the following categories:

- (a) Batteries
- (b) Switches and relays
- (c) Compact fluorescent lamps
- (d) Linear fluorescent lamps
- (e) High-pressure mercury vapour lamps
- (f) Cold cathode fluorescent lamps
- (g) External electrode fluorescent lamps
- (h) Cosmetics
- (i) Pesticides, biocides and topical antiseptics
- (j) Measuring devices
- (k) Dental amalgam

11. Although the manufacture of most of the products in annex A has been or is being phased out as a general matter, it would be beneficial to have codes for such products to assist parties that may have registered exemptions and parties that are implementing their obligations under paragraph 2 of article 4, as well as non-parties to the Convention that may be interested.

12. In the submissions from various parties, eight-digit tariff codes were provided in most cases; there were very few ten-digit statistical codes proposed or already in use for these products. Considering relevant product descriptions, the following table proposes ten-digit customs nomenclature codes for annex A products in cases where none were indicated by parties. The ten-digit codes were proposed both for consistency and to minimize the need for parties to reconsider their current eight-digit codes. A number of parties provided comments on this table during the final comment period. Some indicated that their national system (beyond the six-digit HS code in the eight to ten digit spaces) already had products listed under the proposed codes that were different than those proposed in this document. Others noted that consideration may not have been given to parties that use a nine-digit statistical system at the national level. These details need to be further considered by the secretariat and the Global Mercury Partnership's Mercury in Products partnership area. For now, the table remains mostly unchanged pending further consideration of these issues.

² UNEP/MC/COP.4/INF/5.

13. Noting these challenges, the Conference of the Parties may generally agree that nomenclature codes such as these can be implemented by parties that wish to use them.

Proposed statistical codes of more than six digits for annex A mercury-added products (codes based on the Harmonized System)

In the following table, the first column shows existing codes used by some parties and the second column provides proposed codes to distinguish mercury-added products from other products. The proposed codes and descriptions are shown in shaded cells.

Batteries

<i>Existing code</i>	<i>Proposed statistical codes</i>	<i>Description</i>
8506.10.10		Alkaline manganese dioxide primary cells
	8506.10.10.10	With added mercury
	8506.10.10.90	Others
8506.10.20		(Other) manganese dioxide primary cells
	8506.10.20.10	With added mercury
	8506.10.20.90	Others
8506.10.30		Manganese dioxide batteries
	8506.10.30.10	With added mercury
	8506.10.30.90	Others
8506.30.00		Mercuric oxide batteries
	8506.30.00.00	Mercuric oxide primary cells and batteries (excluding spent)
8506.40.10		Silver oxide primary cells with external volume less than or equal to 300 cm ³
	8506.40.10.10	With added mercury
	8506.40.10.11	Button batteries with mercury content less than 2% by weight
	8506.40.10.90	Others
8506.40.90		(Other) silver oxide primary cells
	8506.40.90.10	With added mercury
	8506.40.90.90	Others
8506.60.10		Air-zinc primary cells (with external volume less than or equal to 300 cm ³)
	8506.60.10.10	With added mercury
	8506.60.10.11	Button batteries with mercury content less than 2% by weight
	8506.60.10.90	Others
8506.60.90		(Other) air-zinc batteries
	8506.60.90.10	With added mercury
	8506.60.90.90	Others
8506.80.01		Other primary cells and batteries
	8506.80.10.10	With added mercury
	8506.80.10.90	Others

Switches and relays

<i>Existing code</i>	<i>Proposed statistical codes</i>	<i>Description</i>
		Isolating switches and make-and-break switches, for a voltage exceeding 1,000 volts
8535.30.01		Make-and-break switches
	8535.30.01.10	With added mercury
	8535.30.01.90	Others
8535.30.13		Switches for rated current less than or equal to 1,600 amps, vacuum cut-off without actuating device (vacuum bottles or ampoules)
	8535.30.13.10	With added mercury
	8535.30.13.90	Others
8535.30.18		Disconnectors and switches for rated current less than or equal to 1,600 amps and others with automatic actuation device except for contacts immersed in liquid medium
	8535.30.18.10	With added mercury
	8535.30.18.90	Others
8535.30.19		Other disconnectors and switches for rated current less than or equal to 1,600 amps
	8535.30.90.10	With added mercury
	8535.30.90.90	Others
8535.30.27		Switches for rated current greater than 1,600 amps and others with non-automatic actuation device
	8535.30.27.10	With added mercury
	8535.30.27.90	Others
8535.30.28		Switches for rated current greater than 1,600 amps and others with automatic actuation device except for contacts immersed in liquid medium
	8535.30.28.10	With added mercury
	8535.30.28.90	Others
		Electrical apparatus for switching, protecting or making connections for a voltage exceeding 1,000 volts
8535.90.04		Starter relays
	8535.90.04.10	With added mercury
	8535.90.04.90	Others
8535.90.05		Thermal or induction relays
	8535.90.05.10	With added mercury
	8535.90.05.90	Others
8535.90.06		High sensitivity relays, with laminated core, inverting monopole, as exclusively designed for telephone equipment
	8535.90.06.10	With added mercury
	8535.90.06.90	Others
8535.90.13		Secondary electromagnetic relays, powered exclusively through current and / or voltage transformers
	8535.90.13.10	With added mercury
	8535.90.13.90	Others
8535.90.14		Automatic differential relays, up to 60 amps with differential protection up to 300 milliamps
	8535.90.14.10	With added mercury
	8535.90.14.90	Others
8535.90.22		Relays other than those included in subheadings 8535.90.04, 8535.90.05, 8535.90.06, 8535.90.13 and 8535.90.14.
	8535.90.22.10	With added mercury
	8535.90.22.90	Others

<i>Existing code</i>	<i>Proposed statistical codes</i>	<i>Description</i>
		Relays, for a voltage not exceeding 1,000 volts
	8536.40.00.10	With added mercury
	8536.40.00.90	Others
		Relays for a voltage not exceeding 60 volts
8536.41.01		For speakers
	8536.41.01.10	With added mercury
	8536.41.01.90	Others
8536.41.02		6- and 12-volt solenoids, for automotive starter motors
	8536.41.02.10	With added mercury
	8536.41.02.90	Others
8536.41.03		Thermal or induction
	8536.41.03.10	With added mercury
	8536.41.03.90	Others
8536.41.04		Certified for aircraft
	8536.41.04.10	With added mercury
	8536.41.04.90	Others
8536.41.05		High sensitivity, with laminated core, inverter monopole, designed and certified for telephone equipment
	8536.41.05.10	With added mercury
	8536.41.05.90	Others
8536.41.06		Electromagnetic secondaries, powered exclusively through current and / or voltage transformers
	8536.41.06.10	With added mercury
	8536.41.06.90	Others
8536.41.07		Automatic differential, up to 60 amps with differential protection up to 300 milliamps
	8536.41.07.10	With added mercury
	8536.41.07.90	Others
8536.41.08		Photoelectric relays
	8536.41.08.10	With added mercury
	8536.41.08.90	Others
8536.41.09		Directional indicators for manoeuvring indicator lights, for automotive use
	8536.41.09.10	With added mercury
	8536.41.09.90	Others
8536.41.10		For start-up functions, other than those included in section 8536.41.02
	8536.41.10.10	With added mercury
	8536.41.10.90	Others
8536.41.11		Manual or electrical reset multiple contact lockout auxiliary relays rated less than or equal to 60 amps
	8536.41.11.10	With added mercury
	8536.41.11.90	Others
8536.41.99		Other
	8536.41.99.10	With added mercury
	8536.41.99.90	Others
		Relays for a voltage greater than 60 volts and not exceeding 1,000 volts
8536.49.01		For start-up functions
	8536.49.01.10	With added mercury
	8536.49.01.90	Others

<i>Existing code</i>	<i>Proposed statistical codes</i>	<i>Description</i>
8536.49.02		Thermal or induction
	8536.49.02.10	With added mercury
	8536.49.02.90	Others
8536.49.03		Electromagnetic secondaries, powered exclusively through current and / or voltage transformers
	8536.49.03.10	With added mercury
	8536.49.03.90	Others
8536.49.04		Automatic differential, up to 60 amps with differential protection up to 300 milliamps
	8536.49.04.10	With added mercury
	8536.49.04.90	Others
8536.49.05		Multi-contact block auxiliary relays, manual or electrical reset, rated less than or equal to 60 amps and 480 volts maximum voltage
	8536.49.05.10	With added mercury
	8536.49.05.90	Others
8536.49.99		Other
	8536.49.99.10	With added mercury
	8536.49.99.90	Others
Switches, for a voltage not exceeding 1,000 volts		
8536.50.01		Switches other than those included in subheadings 8536.50.05, 8536.50.06, 8536.50.07, 8536.50.10, 8536.50.11 and 8536.50.15
	8536.50.01.10	With added mercury
	8536.50.01.90	Others
8536.50.05		Certified for aircraft
	8536.50.05.10	With added mercury
	8536.50.05.90	Others
8536.50.06		Switches, by pressure of liquids for level controls in washing machines for domestic use
	8536.50.06.10	With added mercury
	8536.50.06.90	Others
8536.50.07		Thermoelectric automatic switches for priming the discharge in fluorescent lamps or tubes
	8536.50.07.10	With added mercury
	8536.50.07.90	Others
8536.50.10		Switches designed and certified exclusively for radio or television, other than those included in section 8536.50.15
	8536.50.10.10	With added mercury
	8536.50.10.90	Others
8536.50.11		Loose or grouped switches, actuated by buttons, weighing up to 250 grams, or single or multiple push-button or keyboard switches, designed and certified exclusively for electronics, other than those included in section 8536.50.15
	8536.50.11.10	With added mercury
	8536.50.11.90	Others
8536.50.15		Dual, foot or pull-type light switches; start button; designed and certified exclusively for automotive use
	8536.50.15.10	With added mercury
	8536.50.15.90	Others

Thermostats^a

<i>HS reference</i>	<i>Proposed statistical codes</i>	<i>Description</i>
9032.10.20		Electronic thermostats
9032.10.80		Other thermostats
	9032.10.80.10	Containing mercury
	9032.10.80.90	Others

Linear fluorescent lamps

<i>Existing code</i>	<i>Proposed statistical codes</i>	<i>Description</i>
Fluorescent, hot cathode discharge lamps, other than ultraviolet lamps		
8539.31.00.10		Linear fluorescent lamps (LFLs) for general lighting purposes
	8539.31.00.11	Triband phosphor less than 60 watts with a mercury content not exceeding 5 mg per lamp
	8539.31.00.12	Halophosphate phosphor less than 40 watts with a mercury content not exceeding 10 mg per lamp
8539.31.00.90		Other

Compact fluorescent lamps

<i>Existing code</i>	<i>Proposed statistical codes</i>	<i>Description</i>
8539.31.00		Discharge lamps, fluorescent and hot cathode
8539.31.10		Compact fluorescent lamps (CFLs) for general lighting purposes
	8539.31.10.10	CFLs less than 30 watts with a mercury content not exceeding 5 mg per lamp
	8539.31.10.90	Other CFLs

High-pressure mercury vapour lamps

<i>Existing code</i>	<i>Proposed statistical codes</i>	<i>Description</i>
8539.32.00		Mercury or sodium vapour lamps; metal halide lamps
	8539.32.00.10	High-pressure mercury vapour lamps for general lighting purposes

Cold cathode and external electrode fluorescent lamps

<i>Existing code</i>	<i>Proposed statistical codes</i>	<i>Description</i>
8539.39.00		Electrical discharge lamps, other than fluorescent (hot cathode), mercury or sodium vapour, metal halide or ultraviolet lamps
	8539.39.00.10	Cold cathode fluorescent lamps and external electrode fluorescent lamps (CCFL and EEFL) for electronic displays: short length (less than 500 mm) with mercury content no more than 3.5 mg per lamp
	8539.39.00.20	Cold cathode fluorescent lamps and external electrode fluorescent lamps (CCFL and EEFL) for electronic displays: medium length (greater than 500 mm and less than 1,500 mm) with mercury content no more than 5 mg per lamp
	8539.39.00.30	Cold cathode fluorescent lamps and external electrode fluorescent lamps (CCFL and EEFL) for electronic displays: long length (greater than 1,500 mm) with mercury content no more than 13 mg per lamp

Cosmetics

<i>Existing code</i>	<i>Proposed statistical codes</i>	<i>Description</i>
3304.10.01		Lip make-up preparations
	3304.10.01.10	With mercury content less than or equal to 1 ppm
	3304.10.01.20	With mercury content more than 1 ppm
3304.20.01		Eye make-up preparations
	3304.20.01.10	With mercury content less than or equal to 1 ppm
	3304.20.01.20	With mercury content more than 1 ppm and mercury is used as a preservative
	3304.20.01.30	With mercury content more than 1 ppm and mercury is not used as a preservative
3304.30.00		Manicure or pedicure preparations
	3304.30.00.10	With mercury content less than or equal to 1 ppm
	3304.30.00.20	With mercury content more than 1 ppm
3304.90.00		Other
	3304.90.00.10	With mercury content less than or equal to 1 ppm
	3304.90.00.20	With mercury content more than 1 ppm
3304.91.01		Powders, including compacts
	3304.91.01.10	With mercury content less than or equal to 1 ppm
	3304.91.01.20	With mercury content more than 1 ppm
3304.99.01		Skin creams
	3304.99.01.10	With mercury content less than or equal to 1 ppm
	3304.99.01.20	With mercury content more than 1 ppm
3304.99.99		Other
	3304.99.99.10	With mercury content less than or equal to 1 ppm
	3304.99.99.20	With mercury content more than 1 ppm
		Soap and organic surface-active products and preparations, in the form of bars, cakes, moulded pieces or shapes, and paper, wadding, felt and nonwovens, impregnated, coated or covered with soap or detergent
		For toilet use (including medicated products)
3401.11.01		Soaps for toilet use (incl. medicated)
	3401.11.01.10	With mercury content less than or equal to 1 ppm
	3401.11.01.20	With mercury content more than 1 ppm
3401.19.00		Other
	3401.19.00.10	With mercury content less than or equal to 1 ppm
	3401.19.00.20	With mercury content more than 1 ppm
3401.20.01		Soap in other forms
	3401.20.01.10	With mercury content less than or equal to 1 ppm
	3401.20.01.20	With mercury content more than 1 ppm
3401.30.01		Organic surface-active products and preparations for washing the skin, in the form of liquid or cream and put up for retail sale, whether or not containing soap
	3401.30.01.10	With mercury content less than or equal to 1 ppm
	3401.30.01.20	With mercury content more than 1 ppm

Pesticides, biocides and topical antiseptics

<i>Existing code</i>	<i>Proposed statistical codes</i>	<i>Description</i>
		Other medicaments consisting of mixed or unmixed products for therapeutic or prophylactic uses, for retail sale
3004.90.1000		Containing antigens or hyaluronic acid or its sodium salt
	3004.90.2000	[Topical antiseptics] containing mercury compounds
		Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant growth regulators, disinfectants and similar products
3808.50.01		Goods containing a range of substances as specified in Subheading Note 1 to Chapter 38, of which one is mercury compounds
3808.50.10		Specified goods containing any aromatic or modified aromatic pesticide
	3808.50.10.10	Containing mercury compounds
	3808.50.10.90	Not containing mercury compounds
3808.50.50		Other pesticides
	3808.50.50.10	Containing mercury compounds
	3808.50.50.90	Not containing mercury compounds
3808.91.00		Insecticides
	3808.91.00.10	Containing mercury compounds
	3808.91.00.90	Not containing mercury compounds
3808.92.00		Fungicides
	3808.92.00.10	Containing mercury compounds
	3808.92.00.90	Not containing mercury compounds
3808.93.00		Herbicides, anti-sprouting products and plant-growth regulators
	3808.93.00.10	Containing mercury compounds
	3808.93.00.90	Not containing mercury compounds
3808.99.00		Other
	3808.99.00.10	Containing mercury compounds
	3808.99.00.90	Not containing mercury compounds
	[To be considered] ^b	Paints and varnishes to which a mercury compound has been added for its biocidal or fungicidal properties
3208.00		Paints and varnishes, including enamels and lacquers, based on synthetic polymers, dispersed or dissolved in a non-aqueous medium (excluding those based on polyesters and acrylic or vinyl polymers)
3209.00		Paints and varnishes, including enamels and lacquers, based on synthetic polymers or chemically modified natural polymers, dispersed or dissolved in an aqueous medium

Measuring devices

<i>Existing code</i>	<i>Proposed statistical codes</i>	<i>Description</i>
		Other instruments and appliances, including sphygmomanometers
9018.90.92		Devices for measuring blood pressure
	9018.90.92.10	Sphygmomanometers containing mercury
	9018.90.92.90	Other
9025.11.10		Clinical thermometers, liquid filled, for direct reading
	9025.11.10.10	Containing mercury
	9025.11.10.90	Other

<i>Existing code</i>	<i>Proposed statistical codes</i>	<i>Description</i>
9025.11.40		Liquid-filled thermometers, for direct reading, not combined with other instruments, other than clinical thermometers
	9025.11.40.10	Containing mercury
	9025.11.40.90	Other
9025.80.01		Other instruments, including barometers
	9025.80.01.10	Barometers containing mercury
	9025.80.01.90	Other
9025.80.02		Other instruments: hygrometers
	9025.80.02.10	Hygrometers containing mercury
	9025.80.02.90	Other
9026.20.10		Instruments and apparatus for pressure measurement or control, manometers
	9026.20.10.10	Manometers containing mercury
	9026.20.10.90	Other

Dental amalgam

<i>Existing code</i>	<i>Proposed statistical codes</i>	<i>Description</i>
2843.90.00		Amalgams of precious metals; etc.
	2843.90.00.10	Amalgams [containing mercury] of precious metals in capsule or other form for dental use
	2843.90.00.90	Other amalgams of precious metals
2853.90.00		Amalgams, other than amalgams of precious metals; etc.
2853.90.90		Other
	2853.90.90.10	Amalgams [containing mercury], other than amalgams of precious metals, in capsule or other form for dental use
	2853.90.90.90	Other amalgams not containing precious metals

^a Mercury-added thermostats used to control room temperature use a mercury-added switch to turn on and off heating and cooling equipment, and thus the switch is the sole mercury-added component of the product. Parties may therefore consider such thermostats to be included under the listing of switches and relays in annex A. On the other hand, other parties may consider such products a measuring device, in which case parties may not consider such thermostats to be included in the products listed in annex A.

^b Customs codes for paint and varnishes are subdivided into those using non-aqueous or aqueous medium, etc. Further information is needed on which types of products are likely to contain mercury compounds.

III. Codes for mercury-added products not listed in annex A

14. Based on the submissions from the parties and others, mercury-added products that are not listed in annex A of the Convention have been extracted and organized in a table, which is available in appendix 2.³ The list is organized into the following categories:

- (a) Miscellaneous chemical products
- (b) Batteries
- (c) Electrical/electronic apparatus and equipment
- (d) Lamps
- (e) Thermionic, cold cathode or photocathode tubes and parts
- (f) Diagnostic apparatus and measuring/control instruments

15. About half of the products in the table are identified with eight-digit codes and about a dozen show ten-digit codes. All customs code submissions from parties prior to and during the third meeting of the Conference of the Parties have been compiled in appendix 1.

³ UNEP/MC/COP.4/INF/5.

IV. Other measures in support of trade provisions

16. Customs codes may be used to facilitate the implementation of article 4 of the Convention, improve national reporting under article 21 and foster better communication among trading partners. The use of such codes may also be supplemented with other trade controls to help customs authorities to effectively address mercury products that, despite being listed in annex A, may nevertheless find their way into a party's territory.

17. The secretariat has been requested to provide examples of good practices where the use of customs nomenclature codes at the national level have been supplemented by the use of other control measures or strategies for the purpose of implementing trade provisions.

18. The European Union provided the following example. The combined nomenclature (CN) established by Council Regulation (EEC) No 2658/87 are usually more general and wider than the descriptions in annex A to the Convention and annex II to the European Union regulation on mercury. The CN codes are accompanied by information on the legal regime applicable to the product in question, which may assist importers and exporters and the customs authorities of the European Union member States to define whether the import or export of mercury-added products is allowed. This information is provided by the importer or exporter in its import or export declaration to the customs authorities and indicates:

(a) That the declared product is not covered by annex II to the European Union regulation on mercury (corresponds to annex A to the Convention); or

(b) That the import or export of a given mercury-added product may be allowed if the purpose of the import or export is civil protection, military use, research, calibration of instrumentation or use as reference standard.

19. If neither of these two circumstances are declared, the import or export is not allowed.

20. Parties that do not have customs codes of more than six digits for mercury-added products can still use the list of proposed statistical codes (i.e., the ten-digit codes above). Thus, if customs officials find import or export of goods with the six-digit codes included in the list, they may request information from the importers or exporters on whether the goods are mercury-added products listed in annex A to the Convention. For example, if HS code 8539.31 (electric discharge lamps (other than ultraviolet lamps), fluorescent, hot cathode) is encountered, then customs officials may request information on whether they are compact fluorescent lamps for general lighting purposes less than 30 watts with a mercury content exceeding 5 mg per lamp (i.e., the nomenclature used in annex A).

V. Follow-up assessment of six-digit Harmonized System codes

21. Decision MC-3/3 requests an assessment of whether the development of six-digit harmonized codes for mercury-added products would be a useful complement to the listing of possible customs codes of more than six digits.

22. Using six-digit HS codes to differentiate mercury-added products from non-mercury-added products would necessarily build on the established WCO structure and formal procedures (e.g., rules of origin, monitoring of controlled goods, etc.). In line with the formal HS practice, this approach would imply near "automatic" international harmonization, as all countries using the Harmonized System are obliged under the WCO process to adopt the same HS codes. International harmonization could enhance collection of data (for better responding to reporting obligations) and comparisons with other parties, including data cross-checking between imports and exports.

23. Six-digit HS codes are currently being used in at least one multilateral environmental agreement. In collaboration with WCO, a number of six-digit HS codes were developed in support of the Montreal Protocol in order to help Governments track trade in ozone-depleting substances; however, it is necessary to understand and plan for the time required to follow the formal WCO procedure and the likelihood of WCO pursuing the development of such codes, as well as the technical meetings that would need to precede such an effort.

24. Regarding timing issues, WCO has a formal process for creating and amending six-digit HS codes, which operates on a five-year cycle for proposal, review, approval and implementation. For example, because the sixth Harmonized System review cycle is targeting January 2022 for entry into force, the earliest possible year for adopting six-digit HS codes for differentiating mercury-added products from non-mercury-added products would be 2027. As such, the WCO process does not appear to be sufficiently dynamic to readily accommodate future amendments to annex A, should there be any.

25. To take a specific example, in April/May 2017, the Conference of the Parties to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade decided to amend annex III to the Rotterdam Convention to list certain industrial chemicals. In November 2017, the secretariat of the Basel, Rotterdam and Stockholm conventions proposed that WCO assign separate customs codes to those chemicals and, in the same month, the Harmonized System Review Sub-Committee began to discuss the proposal. In November 2018, the Review Sub-Committee agreed to amendments for these chemicals and forwarded them to the Harmonized System Committee for possible adoption. In March 2019, the Harmonized System Committee agreed to provisionally adopt the amendments, which were submitted for final adoption by the WCO Council in June 2019. They will be included in the 2022 edition of the Harmonized Commodity Description and Coding System and enter into force on 1 January 2022.

26. In addition, the trade volumes of certain products are a critical factor in the decision of WCO to create new six-digit subheadings. WCO generally prioritizes products where trade is significant in order to manage the functionality of the codes (the greater the number of codes included in the HS, the more complex its structure and the greater the burden for HS users). Products listed in annex A should, by definition, be very limited in their trade.
