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(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 4128/87

of 9 December 1987

laying down conditions for the entry of flue-cured Virginia type, light air-cured Burley type (including Burley hybrids), light air-cured Maryland type and fire-cured tobacco, falling within subheadings 2401 10 10 to 2401 10 49 and 2401 20 10 to 2401 20 49 of the combined nomenclature

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (1), and in particular Article 11 thereof;

Whereas Council Regulation (EEC) No 950/68 of 28 June 1968 on the Common Customs Tariff (2), as last amended by Regulation (EEC) No 3529/87 (3), established the Common Customs Tariff on the basis of the nomenclature of the Convention of 15 December 1950 concerning the nomenclature to be used for the classification of goods in customs tariffs;

Whereas on the basis of Council Regulation (EEC) No 97/69 of 16 January 1969 on measures to be taken for the uniform application of the nomenclature of the Common Customs Tariff (4), as last amended by Regulation (EEC) No 2055/84 (5), Commission Regulation (EEC) No 3035/79 (6), as last amended by Regulation (EEC) No 2946/86 (7), laid down conditions for the entry of flue-cured Virginia type, light air-cured Burley type (including Burley hybrids), light air-cured Maryland type and fire-cured tobacco, falling within subheading 24.01 A of the Common Customs Tariff;

Whereas Regulation (EEC) No 2658/87 has repealed and replaced, on the one hand, Regulation (EEC) No 950/68 in adopting the new tariff and statistical nomenclature (combined nomenclature) based on the International Convention on the Harmonized Commodity Description and Coding System and, on the other hand, Regulation (EEC) No 97/69; whereas it is consequently appropriate, for reasons of clarity, to replace Regulation (EEC) No 3035/79 by a new regulation taking over the new nomenclature as well as the new legal base; whereas, for the same reasons, it is appropriate to incorporate in this new text all the amendments made to date;

Whereas Regulation (EEC) No 2658/87 refers in subheadings 2401 10 10 to 2401 10 49 and 2401 20 10 to 2401 20 49 of the combined nomenclature to flue-cured Virginia type and light air-cured Burley type (including Burley hybrids), light air-cured Maryland type and fire-cured tobacco; whereas entry under this subheading is subject to conditions laid down in the relevant Community provisions; whereas, in order to ensure uniform application of the nomenclature of the combined nomenclature, provisions specifying those conditions must be laid down;

Whereas identification of the above products presents certain difficulties; whereas it can be considerably simplified if the exporting country gives an assurance that the product exported corresponds to the description of the product in question; whereas, consequently, entry of a product under the subheading mentioned above should be authorized only where such product is accompanied by a certificate of authenticity which is delivered by an issuing authority recognized as such by the exporting country and which provides such assurance;

Whereas it is appropriate to provide that tobacco having the characteristics indicated in the text of subheadings 2401 10 10 to 2401 10 49 and 2401 20 10 to 2401 20 49 of the combined nomenclature shall be classified in those subheadings even if it is not accompanied by a certificate of authenticity, provided that it can be put into free circulation without payment of customs duty by virtue of another Community provision;

Whereas it is appropriate to forbid the issue or acceptance of certificates of authenticity, especially because of the difficulties it could cause in the application on the combined

(1) OJ No L 256, 7. 9. 1987, p. 1.
(2) OJ No L 172, 22. 7. 1968, p. 1.
(3) OJ No L 336, 26. 11. 1987, p. 3.
(4) OJ No L 14, 21. 1. 1969, p. 1.
(5) OJ No L 191, 19. 7. 1984, p. 1.
(6) OJ No L 341, 31. 12. 1979, p. 26.
(7) OJ No L 275, 26. 9. 1986, p. 8.

nomenclature, when various types of the abovementioned tobacco are presented in the same immediate packing;

Whereas it is appropriate to specify the form which such a certificate must take and the conditions for its use; whereas, furthermore, measures must be introduced to enable the Community to keep check upon the conditions of issue of the said certificate; whereas accordingly certain obligations should be imposed on the issuing authority;

Whereas the certificate of authenticity should be drawn up in an official Community language and, where appropriate, an official language of the exporting country;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Nomenclature Committee,

HAS ADOPTED THIS REGULATION:

Article 1

1. The entry under subheadings 2401 10 10 to 2401 10 49 and 2401 20 10 to 2401 20 49 of the combined nomenclature of flue-cured Virginia type and light air-cured Burley type (including Burley hybrids), light air-cured Maryland type and fire-cured tobacco, shall be subject to presentation of a certificate of authenticity meeting the requirements specified in this Regulation.

However, tobacco as described in the first subparagraph which, by virtue of a Community provision, is free of customs duty at the time of its entry into free circulation, shall be classified under subheadings 2401 10 10 to 2401 10 49 and 2401 20 10 to 2401 20 49 of the combined nomenclature without a certificate of authenticity.

The aforementioned certificate may be neither issued nor accepted for the types of tobacco referred to above when more than one of them are put in the same immediate packing.

2. For the purposes of this Regulation:

(a) flue-cured Virginia type tobacco means tobacco which has been cured under artificial atmospheric conditions by a process of regulating the heat and ventilation without allowing smoke and fumes to come in contact with the tobacco leaves; the colour of the cured tobacco normally ranges from lemon to very dark orange or red. Other colours and combinations of colours frequently result from variations in maturity of cultural and curing techniques;

(b) light air-cured Burley type tobacco (including Burley hybrids) means tobacco which has been cured under natural atmospheric conditions and does not carry the odour of smoke or fumes if supplemental heat or air circulation has been applied; the leaves normally range from light tan to reddish colour. Other colours and combinations of colours frequently result from variations in maturity or cultural and curing techniques;

(c) light air-cured Maryland type tobacco means tobacco which has been cured under natural atmospheric conditions and does not carry the odour of smoke or fumes if supplemental heat or air circulation has been applied; the leaves normally range from a light-yellow to deep cherry red colour. Other colours and combinations of colours frequently result from variations in maturity or cultural and curing techniques;

(d) fire-cured tobacco means tobacco which has been cured under artificial atmospheric conditions by the use of open fires from which wood smoke has been partly absorbed by the tobacco. Fire-cured tobacco leaves are normally thicker than leaves of Burley, flue-cured, or Maryland from the corresponding stalk position. Colours normally range from yellowish-brown to very dark brown. Other colours and combinations of colours frequently result from variations in maturity or cultural and curing techniques.

Article 2

1. The certificate corresponding to the specimen in Annex I shall be printed and drawn up in one of the official languages of the European Economic Community and, where appropriate, an official language of the exporting country. The size of the certificate shall be approximately 210 × 297 millimetres. The paper used shall be white and weigh not less than 40 grams per square metre.

2. Each certificate shall bear an individual serial number given by the issuing authority.

3. The customs authorities of the Member State in which the tobacco is presented may require a translation of the certificate.

Article 3

The certificate shall be completed either in typescript or in manuscript. In the latter case, it must be completed in ink and block letters.

Article 4

The certificate or, where the consignment has been split, a photocopy of the certificate, as provided for in Article 9, shall be presented within 24 months of the date of issue of the certificate to the customs authorities of the importing Member State, together with the goods to which it relates.

Article 5

1. A certificate shall be valid only if it is duly authenticated by an authority appearing on the list in Annex II.

2. A duly authenticated certificate is one which shows the place and date of issue, and bears the stamp of the issuing authority and the signature of the person or persons authorized to sign it.

Article 6

1. An issuing authority can appear on the list only if:

(a) it is recognized as such by the exporting country;

(b) it undertakes to verify the particulars shown in certificates;

(c) it undertakes to provide the Commission and Member States, on request, with all appropriate information to enable an assessment to be made of the particulars shown in the certificates.

2. This list shall be revised when the condition specified in paragraph 1 (a) is no longer satisfied or when an issuing authority fails to fulfil one or more of the obligations incumbent upon it.

Article 7

Invoices produced in support of declarations of entry for free circulation shall bear the serial number of the corresponding certificate.

Article 8

The countries listed in Annex II shall send the Commission specimens of the stamps used by their issuing authorities and where appropriate their authorized agents. The Commission shall forward this information to the customs authorities of the Member States.

Article 9

Where a consignment is split, the original certificate shall be photocopied for each part consignment. The photocopies and the original certificate shall be presented to the customs office at which the goods are situated.

Each photocopy shall indicate the name and address of the consignee and be marked in red 'Extract valid for ... kg' (in figures and letters) together with the place and date of the splitting. These statements shall be authenticated by the customs office stamp and the signature of the customs official responsible. The original certificate shall be inscribed with the particulars relating to the splitting of the consignment and shall be retained by the competent customs office.

Article 10

Regulation (EEC) No 3035/79 is hereby repealed.

Article 11

This Regulation shall enter into force on 1 January 1988.

However, until 31 December 1989, the abovementioned tobacco shall be admitted under the relevant subheadings listed in Article 1 on presentation of a certificate of authenticity of the kind used until 31 December 1987.

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

Done at Brussels, 9 December 1987.

For the Commission
COCKFIELD
Vice-President

ANNEX I

1 Exporter	2 Number	ORIGINAL
	3 ISSUING AUTHORITY	
4 Consignee		
6 Means of transport	5 **CERTIFICATE OF AUTHENTICITY** **TOBACCO** (Subheadings 2401 10 10 to 2401 10 49 and 2401 20 10 to 2401 20 49 of the combined nomenclature)	

7 Marks and numbers, number and kind of packages	8 Gross weight (kg)	9 Net weight (kg)

10 Net weight (kg) (in words)

11 CERTIFICATE OF THE ISSUING AUTHORITY

I hereby certify that the tobacco described in this certificate is flue-cured Virginia type tobacco — light air-cured Burley type tobacco (including Burley hybrids) — light air-cured Maryland type tobacco — fire-cured tobacco (1) within the meaning of Article 1 (2) of Regulation (EEC) No 4128/87

Place .....

Date .....

Stamp (or printed seal) and signature

(1) Delete as appropriate.

ANNEX II

Exporting country	Issuing authority	
	Name	Place where established (main office)
1	2	3
United States of America	Tobacco Association of the United States or its authorized agents (1)	Raleigh, North Carolina
Canada	Directorate General Food Production and Inspection, Agriculture Branch, Canada or its authorized agents (1)	Ottawa
	Direction générale de la production et de l'inspection, Section Agriculture Canada or its authorized agents (1)	
Argentina	Cámara del Tabaco del Salta or its authorized agents (1)	Salta
Bangladesh	Tobacco Development Board or its authorized agents (1)	Dacca
Brazil	Carteira de Comércio Exterior do Banco do Brasil or its authorized agents (1)	Rio de Janeiro
China	Shanghai Import and Export Commodity Inspection Bureau of the People's Republic of China or its authorized agents (1)	Shanghai
	Shandong Import and Export Commodity Inspection Bureau of the People's Republic of China or its authorized agents (1)	Qingdao
	Hubei Import and Export Commodity Inspection Bureau of the People's Republic of China or its authorized agents (1)	Hankou
	Guangdong Import and Export Commodity Inspection Bureau of the People's Republic of China or its authorized agents (1)	Guangzhou
	Liaoning Import and Export Commodity Inspection Bureau of the People's Republic of China or its authorized agents (1)	Dalian
	Yunnan Import and Export Commodity Inspection Bureau of the People's Republic of China or its authorized agents (1)	Kunming
	Shenzhen Import and Export Commodity Inspection Bureau of the People's Republic of China or its authorized agents (1)	Shenzhen
	Hainan Import and Export Commodity Inspection Bureau of the People's Republic of China or its authorized agents (1)	Hainan
Colombia	Superintendencia de Industria y Comercio — División de Control de Normas y Calidades or its authorized agents (1)	Bogota
Guatemala	Dirección de Comercio Interior y Exterior del Ministerio de Economía or its authorized agents (1)	Guatemala City
India	Tobacco Board or its authorized agents (1)	Guntur

Exporting country	Issuing authority	
	Name	Place where established (main office)
1	2	3
Indonesia	Lembaga Tembakau or its authorized agents (1):	
	— Lembaga Tembakau Sumatra Utara	Medan
	— Lembaga Tembakau Jawa Tengah	Sala
	— Lembaga Tembakau Jawa Timur I	Surabuya
	— Lembaga Tembakau Jawa Timur II	Jembery
Mexico	Secretaría de Comercio or its authorized agents (1)	Mexico-City
Philippines	Philippine Virginia Tobacco Administration or its authorized agents (1)	Quezon City
South Korea	Office of Korean Monopoly Corporation or its authorized agents (1)	Sintanjin
Sri Lanka	Department of Commerce or its authorized agents (1)	Colombo
Thailand	Ministry of Commerce or its authorized agents (1)	Bangkok
Yugoslavia	Institut za Duvan or its authorized agents (1)	Belgrad

(1) When the office of an 'authorized agent' is in a place other than that given in column 3 as the place where the main office of the relevant issuing authority is established, the State concerned shall send the name and address of this authorized agent to the Commission of the European Communities, which shall inform the customs authorities of the Member States thereof.