

COUNCIL DECISION No 896/2011/EU**of 19 December 2011****amending Decision 2007/659/EC as regards its period of application and the annual quota benefiting from a reduced rate of excise duty**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Acting in accordance with a special legislative procedure,

Whereas:

(1) Council Decision 2007/659/EC of 9 October 2007 authorising France to apply a reduced rate of excise duty on 'traditional' rum produced in its overseas departments ⁽²⁾ authorises France to apply to 'traditional' rum produced in its overseas departments and sold on the French mainland a reduced rate of excise duty which may be lower than the minimum rate of excise duty on alcohol set by Council Directive 92/84/EEC of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages ⁽³⁾ but not more than 50 % lower than the standard national excise duty on alcohol. The 'traditional' rum to which the reduced rate of excise duty applies is now defined in point 1(f) of Annex II to Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks ⁽⁴⁾. The reduction in excise duty is confined to an annual quota of 108 000 hectolitres of pure alcohol. The derogation expires on 31 December 2012.

(2) In order to adapt the terms of Decision 2007/659/EC to Article 349 of the Treaty on the Functioning of the European Union and bearing in mind that 'traditional' rum is produced only in Guadeloupe, French Guiana,

Martinique and Réunion, therefore, a reference should be made in this amending Decision exclusively to those four outermost regions.

(3) On 29 June 2010, the French authorities sent the Commission the report provided for in Article 4 of Decision 2007/659/EC. The report contains two requests. First, the French authorities ask that the annual quota be increased from 108 000 hectolitres to 125 000 hectolitres of pure alcohol to reflect trends on the market for rum in the Union. Secondly, they request an extension by 1 year, i.e. to 31 December 2013, of the period of application of Decision 2007/659/EC so as to bring it into line with that of a State aid decision on the same issue adopted by the Commission on 27 June 2007 ⁽⁵⁾ (hereinafter: 'the State aid Decision').

(4) The information provided by the French authorities shows that quantities of 'traditional' rum coming onto the market at the reduced rate of excise duty have grown since the adoption of Decision 2007/659/EC, from 96 100 hectolitres of pure alcohol in 2007 to 105 700 hectolitres in 2010, i.e. an annual increase of 3,2 %. Provided that this trend continues, the quantities of 'traditional' rum coming onto the market should be around 109 100 hectolitres of pure alcohol in 2011, 112 600 hectolitres in 2012 and 116 200 hectolitres in 2013, thus exceeding the 108 000 hectolitre quota provided for by Decision 2007/659/EC.

(5) Recital 9 of Decision 2007/659/EC underlines that since the competitiveness of 'traditional' rum from the overseas departments needs to be supported on the market in mainland France in order to safeguard the activity of their sugar-cane rum sector, the quantities of traditional rum originating in the overseas departments eligible for a reduced rate of excise duty when released for consumption on that market should be reviewed. The 108 000 hectolitre annual quota established by Decision 2007/659/EC should be, therefore, increased to 120 000 hectolitres, including the quota for 2011 in order to ensure continuity, taking into account the increase forecasted for that year. This increase would cover annual growth of 4,3 %, i.e. a little more than the 3,2 % increase witnessed in 2007-10.

(6) It is also necessary to extend the period of application of Decision 2007/659/EC by 1 year so that it expires at the same time as that of the State aid Decision.

(7) Decision 2007/659/EC should be amended accordingly,

⁽¹⁾ Opinion of 1 December 2011 (not yet published in the Official Journal).

⁽²⁾ OJ L 270, 13.10.2007, p. 12.

⁽³⁾ OJ L 316, 31.10.1992, p. 29.

⁽⁴⁾ OJ L 39, 13.2.2008, p. 16.

⁽⁵⁾ OJ C 15, 22.1.2008, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

Decision 2007/659/EC is amended as follows:

(1) the title is replaced by the following:

'Council Decision of 9 October 2007 authorising France to apply a reduced rate of excise duty on 'traditional' rum produced in Guadeloupe, French Guiana, Martinique and Réunion';

(2) Article 1 is replaced by the following:

Article 1

By way of derogation from Article 110 of the Treaty on the Functioning of the European Union, France is authorised to extend the application on the French mainland, to 'traditional' rum produced in Guadeloupe, French Guiana, Martinique and Réunion, of a rate of excise duty lower than the full rate for alcohol set by Article 3 of Directive 92/84/EEC.;

(3) Article 2 is replaced by the following:

Article 2

The derogation referred to in Article 1 shall be confined to rum as defined in point 1(f) of Annex II to Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks (*) produced in Guadeloupe, French Guiana, Martinique and Réunion from sugar cane harvested in the place of manufacture, having a content

of volatile substances other than ethyl and methyl alcohol equal to or exceeding 225 grams per hectolitre of pure alcohol and an alcoholic strength by volume of 40 % or more.

(*) OJ L 39, 13.2.2008, p. 16.;

(4) Article 3(1) is replaced by the following:

'1. The reduced rate of excise duty applicable to the product referred to in Article 2 shall be confined to an annual quota of 108 000 hectolitres of pure alcohol for the period up to 31 December 2010. For the period between 1 January 2011 and 31 December 2013, it shall be confined to an annual quota of 120 000 hectolitres.;

(5) in Article 5, the date 31 December 2012 is replaced by that of 31 December 2013.

Article 2

This Decision shall enter into force on the day of its adoption.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, 19 December 2011.

For the Council
The President
M. KOROLEC