



EUROPEAN COMMISSION

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Proposal for a

COUNCIL DECISION

**amending Decision 2007/659/EC as regards its period of application and the annual
quota benefiting from a reduced rate of excise duty**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Article 349 of the Treaty on the Functioning of the European Union (TFEU), which applies to the EU's outermost regions, including the French overseas departments (FOD) provides that, taking account of the structural social and economic situation of the outermost regions, compounded by their remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development, the Council, on a proposal from the Commission and after consulting the European Parliament, will adopt specific measures aimed, in particular, at laying down the conditions of application of the Treaties to those regions, including common policies. One of the areas concerned by these specific measures is fiscal policy. The Council adopts the measures referred to in the first paragraph taking into account the special characteristics and constraints of the outermost regions without undermining the integrity and the coherence of the Union legal order, including the internal market and common policies.

Council Decision 2007/659/EC of 9 October 2007, adopted on the basis of Article 299(2) of the EC Treaty (now Article 349 TFEU), 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 set by Directive 92/84/EEC but not more than 50% lower than the standard national excise duty on alcohol. The reduction in excise duty is limited to an annual quota of 108 000 hl of pure alcohol. The derogation expires on 31 December 2012.

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 developments on the market for rum in the EU. Secondly, they request an extension by one 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 the State aid decision on the same issue taken by the Commission on 27 June 2007 (State aid No N 530/2006).

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

There was no need for external expertise and no impact analysis has been carried out. The French authorities have provided statistics on the quantities of rum released for consumption, however, and these have been examined carefully.

Developments in this regard have been as follows:

Trends on the European rum market

Year	Total	Rum from third countries	Rum from the FOD	FOD share (%)
1986	313 459	152 252	161 207	51%
1987	300 152	158 117	142 035	47%
1988	252 877	130 976	121 901	48%
1989	293 462	161 485	131 977	45%
1990	368 913	227 975	140 938	38%
1991	336 252	221 861	114 391	34%
1992	332 145	223 522	108 623	33%
1993	322 743	231 059	91 684	28%
1994	357 936	253 215	104 721	29%
1995	284 178	184 835	99 343	35%
1996	359 295	249 239	110 056	31%
1997	453 050	354 858	98 192	22%
1998	500 295	395 031	105 264	21%
1999	567 449	428 790	138 659	24%
2000	645 237	495 625	149 612	23%
2001	695 033	534 316	160 717	23%
2002	734 249	557 458	176 791	24%
2003	880 653	713 535	167 118	19%
2004	727 772	569 278	158 494	22%
2005	726 876	571 317	155 559	21%
2006	791 542	626 157	165 385	21%
2007	785 695	608 449	177 246	23%
2008	851 748	657 725	194 023	23%

Source: Eurostat

**Trends in the release for consumption of rum in mainland France
(hectolitres of pure alcohol)**

	Released for consumption at the reduced rate of excise duty	Non-quota	From third countries	Total
2010	105 700	40 600	20 000	166 300
2009	102 400	32 400		
2008	99 500	33 000		
2007	96 100	33 500		
2006	90 000	33 500		
2005	90 000	35 500	5 500	131 000
2004	87 900	30 800		
2003	86 400	26 200		
2002	86 900	37 000		
2001	86 200	26 500		
2000	78 300	30 000	1 000	109 300

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%. If 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. A similar upward trend in the consumption of rum has been seen on the EU market as a whole since 2005.

Third-country rum released for consumption has a minor share of the French market compared with its share of the EU market as a whole. Its share of the French market has grown, however, from less than 1% in 2000 to 4.2% in 2005 and 12% in 2010. The most recent figures for the EU as a whole show that third-country rum has a market share of 77% against 23% for FOD rum.

3. LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed measures

Adjusting the quota of 108 000 hectolitres of pure alcohol in line with the above findings. It is proposed that the 108 000 hectolitre quota established under Decision 2007/659/EC be increased to 120 000 hectolitres. Judging by the 3.2% increase between 2007 and 2010, the volume of rum coming onto the market should reach 116 200 hectolitres in 2013. Increasing the quota to 120 000 hectolitres would cover annual growth of 4.3%, i.e. a little more than the 3.2% increase recorded in 2007-10.

Extending by one year the period of application of Decision 2007/659/EC so as to bring it into line with that of the State aid decision on the same issue taken by the Commission on 27 June 2007 (State aid No N 530/2006).

Legal basis

Article 349 TFEU.

Subsidiarity principle

Only the Council is authorised, on the basis of Article 349 TFEU, to adopt specific measures to adjust the application of the Treaties to the outermost regions, including the common policies, because of the permanent handicaps which affect the economic and social conditions of those regions.

The proposal therefore complies with the subsidiarity principle.

Proportionality principle

The proposal complies with the proportionality principle for the following reasons.

It aims to amend Decision 2007/659/EC only in so far as is necessary. The new annual quota of rum qualifying for the reduced rate of excise duty has been calculated on the basis of the quantities marketed between 2007 and 2010.

The findings justify extending the period of application of Decision 2007/659/EC by one year, to 31 December 2013, so as to bring it into line with that of the State aid decision on the same issue taken by the Commission on 27 June 2007 (State aid No N 530/2006).

Choice of instrument

Proposed instrument: Council Decision.

Other instruments would not have been appropriate for the following reasons.

The text to be amended is itself a Council Decision, adopted on the same legal basis (what was Article 299(2) of the EC Treaty).

4. BUDGETARY IMPLICATIONS

The proposal has no impact on the budget of the European Union.

Proposal for a

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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 Parliament¹,

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 and repealing Decision 2002/166/EC² authorises the French authorities 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 set by Directive 92/84/EEC 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 at point 1(f) in Annex II of Regulation (EC) No 110/2008 of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89. The reduction in excise duty is confined to an annual quota of 108 000 hl of pure alcohol. The derogation expires on 31 December 2012.
- (2) 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, as provided for in Article 4, 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 EU. Secondly, they request an extension by one year, i.e. to 31 December 2013, of the period of application of Decision 2007/659/EC so as to

¹ OJ C , , p. .

² OJ L 270, 13.10.2007, p. 12.

bring it into line with that of the State aid decision on the same issue taken by the Commission on 27 June 2007 (State aid No N 530/2006).

- (3) 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%. If 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. The 108 000 hectolitre quota established by Decision 2007/659/EC should be increased to 120 000 hectolitres. This increase would cover annual growth of 4.3%, i.e. a little more than the 3.2% increase witnessed in 2007-10.
- (4) This analysis also justifies extending the period of application of Decision 2007/659/EC by one year so that it ends at the same time as that of the above-mentioned State aid decision.

HAS ADOPTED THIS DECISION:

Article 1

Decision 2007/659/EC is amended as follows:

- 1) The title is replaced by the following title:

'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:

'By way of derogation from Article 90 of the Treaty, 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:

'The derogation referred to in Article 1 shall be confined to rum as defined at point 1(f) in Annex II of Regulation (EC) No 110/2008 of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89³ 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%/volume or more.'

³ 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, the annual quota shall be 120 000 hectolitres.'

5) In Article 5, '31 December 2012' is replaced by '31 December 2013'.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels,

For the Council
The President