# Council Decision (EU) 2020/1791 of 16 November 2020 authorising France to apply a reduced rate of certain indirect taxes on 'traditional' rum produced in Guadeloupe, French Guiana, Martinique and Réunion

## COUNCIL DECISION (EU) 2020/1791

## of 16 November 2020

## authorising France to apply a reduced rate of certain indirect taxes on 'traditional' rum produced in Guadeloupe, French Guiana, Martinique and Réunion

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 No 189/2014/EU[(2)] authorises France to apply to 'traditional' rum produced in Guadeloupe, French Guiana, Martinique and Réunion, 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 Council Directive 92/84/EEC[(3)] 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 144 000 hectolitres of pure alcohol. That authorisation expires on 31 December 2020.

(2) On 18 October 2019, the French authorities asked the Commission to submit a proposal for a Council Decision extending the time limit of the authorisation set out in Decision No 189/2014/EU, with a higher quota for another seven-year period, from 1 January 2021 until 31 December 2027.

(3) Given the small scale of the local market, the distilleries of the four outermost regions covered by that authorisation can only develop their activities if they have sufficient access to the market in the French mainland, which is the main outlet for their rum (65 % of rum). The difficulty for 'traditional' rum to compete on the Union market is attributable to two parameters: higher production costs and higher taxes per bottle as 'traditional' rum is typically marketed at higher levels of alcohol strength and in bigger bottles.

(4) Production costs of the cane-sugar-rum value chain in the four outermost regions are higher than in other regions of the world. In particular, the remoteness, difficult topography and climate of those four outermost regions significantly impact the cost

of ingredients and production. In addition, labour costs are higher than those in neighbouring countries as French social legislation is applicable in Guadeloupe, French Guiana, Martinique and Réunion. Those outermost regions are also subject to Union environment and safety standards, which entail important investments and costs which are not directly related to productivity, even if part of those investments is co-financed by Union structural funds. Furthermore, distilleries of those outermost regions are smaller than distilleries of international groups. This generates higher production costs per unit of output.

(5) 'Traditional' rum sold on the French mainland is typically marketed in bigger bottles (36 % of rum is sold in bottles containing 1 litre) and at higher levels of alcohol (ranging from 40° to 59°) than competing rum-based products, which are typically marketed in bottles of 0,7 litre at 37,5°. The higher levels of alcohol content trigger in turn higher excise duties, a higher '*cotisation sur les boissons alcooliques*' (also known as '*vignette sécurité sociale*') (VSS) and, in addition, a higher value added tax (VAT) per litre of rum sold. Thus, a reduced rate of excise duty, which is not more than 50 % lower than the standard national excise duty on alcohol, remains proportionate to the cumulative additional costs resulting from the higher production costs and higher excise duty, VSS and VAT.

(6) The extra costs stemming from the decade-long marketing practice of selling 'traditional' rum at higher levels of alcohol and, thus, triggering higher taxes should therefore also be taken into account.

(7) The fiscal advantage covering both the harmonised excise duties and the VSS to be authorised needs to remain proportionate so as not to undermine the integrity and the coherence of the Union legal order, including safeguarding undistorted competition in the internal market and state aid policies.

(8) The fiscal advantage has not, to date, impacted the internal market as the market share of 'traditional' rum has decreased by 11 % in recent years, due to the increasing consumption of rum-based alcoholic drinks.

(9) In order to avoid severely restraining the economic development of the French outermost regions and to ensure the continuation of the cane-sugar-rum industry and the jobs it provides in the French outermost regions, it is necessary to renew and increase the annual quota of the authorisation set out in Decision No 189/2014/EU.

(10) In order to ensure that this Decision does not undermine the internal market, the maximum quantities of rum originating in the French overseas departments eligible for the measure should be fixed at 153 000 hectolitres of pure alcohol per annum.

(11) Since the fiscal advantage does not go beyond what is necessary to offset additional costs, and since the volumes at stake remain modest and the fiscal advantage limited to consumption on the French mainland, the measure does not undermine the integrity and coherence of the Union legal order.

(12) In order to allow the Commission to assess whether the conditions justifying the authorisation continue to be fulfilled, France should submit a monitoring report to the Commission by 30 September 2025.

(13) This Decision is without prejudice to the possible application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU),

HAS ADOPTED THIS DECISION:

*Article 1*

By derogation from Article 110 TFEU, 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 on alcohol set in accordance with Article 3 of Directive 92/84/EEC and of a rate of the levy called '*cotisation sur les boissons alcooliques*' (VSS) lower than the full rate applicable according to the national legislation.

*Article 2*

The derogation set out in Article 1 of this Decision shall apply 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[4] until 24 May 2021 and to rum as defined in point 1(g)(i) of Annex I to Regulation (EU) 2019/787 of the European Parliament and of the Council[5] as of 25 May 2021, produced in Guadeloupe, French Guiana, Martinique and Réunion from sugarcane harvested at 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.

*Article 3*

1 The reduced rates of excise duty and of VSS referred to in Article 1 and applicable to the rum referred to in Article 2 shall be confined to an annual quota of 153 000 hectolitres of pure alcohol.

2 The reduced rates of excise duty and of VSS referred to in Article 1 of this Decision may each be lower than the minimum rate of excise duty on alcohol set by Directive 92/84/EEC, but shall not be more than 50 % lower than the full rate on alcohol set in accordance with Article 3 of Directive 92/84/EEC or the full rate on alcohol for the VSS.

3 The cumulative fiscal advantage authorised in accordance with paragraph 2 of this Article shall not be more than 50 % of the full rate on alcohol set in accordance with Article 3 of Directive 92/84/EEC.

*Article 4*

By 30 September 2025 at the latest, France shall submit a monitoring report to the Commission to enable it to assess whether the conditions justifying the authorisation set out in Article 1 continue to be fulfilled. The monitoring report shall contain the information set out in the Annex.

*Article 5*

This Decision shall apply from 1 January 2021 until 31 December 2027.

*Article 6*

This Decision is addressed to the French Republic.

Done at Brussels, 16 November 2020.

*For the Council*

*The President*

M. ROTH

# ANNEX

## INFORMATION TO BE INCLUDED IN THE MONITORING REPORT REFERRED TO IN ARTICLE 4

1. Estimated additional costs. Information shall be provided for each type of rum ('agricole rum' and 'sucrerie rum') benefiting from the reduced rate of the relevant indirect taxes. The French authorities shall complete Table 1 with at least the following information, where such information is available. The information provided in Table 1 shall be sufficient to evaluate the additional cost faced by the producers in the French outermost regions.

*Table 1*

| | **Guadeloupe (EUR)** | **French Guiana (EUR)** | **Martinique (EUR)** | **Réunion (EUR)** | **Notes (3)** |
|---|---|---|---|---|---|
| Sugarcane price (per 100 kg) | | | | | |
| Molasses price (per 100 kg) | | | | | |
| Freight cost (per kg) | | | | | |
| Workforce (per hlpa(1)) | | | | | |
| Other inputs (per hlpa(1)) | | | | | |
| Depreciation costs | | | | | |
| Compliance costs | | | | | |
| Other costs (2) | | | | | |

Notes to Table 1:

(1) Hectolitres of pure alcohol.

(2) Provide information on water, energy and waste-related costs, other relevant costs.

(3) Provide information on all the specifications and clarifications underpinning the calculation methods.

2. Other subsidies. The French authorities shall complete Table 2, listing all other aid and support measures addressing the additional operating costs of economic operators linked to the outermost region status.