

Guidance to EU Member States

1. In response to Russia's aggression against Ukraine, the EU has adopted a series of far-reaching restrictive measures against Russia in 2022. In particular, Council Regulation (EU) 833/2014 ('the Regulation') sets out a number of specific and targeted import and export restrictions in relation to certain goods originating in Russia.
2. These sanctions are justified and fully compatible with the security exceptions in the relevant international agreements. Under Article 19 and Article 99 of the PCA prohibitions or restrictions on goods in transit can be imposed if justified, inter alia, on grounds of public security or protection of health and life of humans, or protection of intellectual, industrial or commercial property, and to protect essential security interests.
3. At the same time, Article V GATT and Article 12 of the PCA, as well as the 2004 EU-Russia Declaration, establish a general principle of freedom of transit.
4. The question has now arisen whether these restrictive measures prohibit the transport of essential goods in *transit* through the European Union between non-contiguous parts of the Russian Federation. In particular, this question has come up for a number of sanctioned products, such as iron and steel, cement and wood, coal and crude oil and oil products.
5. This Guidance Note does not affect the guidance provided by the Commission with respect to the application of sanctions in other cases.
6. The relevant EU trade sanctions in the Regulation regularly prohibit "*to purchase, import/export or transfer, directly or indirectly [the goods in question], if they originate in Russia or are exported from/to Russia*".
7. Under Article 3(1) of the Regulation, *road* transport undertakings established in Russia are prohibited to transport goods by road within the territory of the Union, including in transit. However, this ban does not apply to the transport of goods in transit through the Union between the Kaliningrad Oblast and Russia, provided that the transport of such goods is not otherwise *prohibited* under the Regulation. Transit of sanctioned goods by *road* is therefore not allowed.
8. No such specific regime applies to *rail* transport on the same route, without prejudice to Member States' obligation to perform effective controls as set out below, in conformity with EU law.
9. The transit of sanctioned military and dual use goods and technology, as defined in Regulation (EU) 2021/821, is prohibited in any event.

10. Member States must also ensure that sanctioned goods that have illegally arrived in any part of Russia cannot be transported *onwards* via the EU customs territory.
11. Member States are under the legal obligation to prevent all possible forms of circumvention of EU restrictive measures. For that purpose, it is necessary for Member States to continue monitoring the two-way trade flows between the non-contiguous parts of the Russian Federation. Targeted, proportionate and effective controls and other appropriate measures to prevent violation of the EU Regulations should be carried out by Member States authorities.
12. Member States shall check whether transit volumes remain within the historical averages of the last 3 years, in particular reflecting the real demand for essential goods at the destination, and that there are no unusual flows or trade patterns which could give rise to circumvention. In such a case, Member States shall take all necessary measures provided for under EU law, including where appropriate the refusal of transit and the holding of the goods in question.
13. Member States authorities and the European Commission shall continue to cooperate and coordinate closely on this matter. The Commission stands ready to provide further guidance, guidelines for monitoring the two way flows and administrative best practices and advice to Member States, to ensure uniform implementation.