

IMPORT, PURCHASE & TRANSFER OF LISTED GOODS

RELATED ARTICLES: ARTICLE 3g, ARTICLE 3i, ARTICLE 3j OF COUNCIL REGULATION 833/2014

FREQUENTLY ASKED QUESTIONS – AS OF 7 OCTOBER 2022

1. Is the purchase of goods listed in Annexes XVII, XXI and XXII of Council Regulation 833/2014 by an EU company allowed when the goods are destined for a third country and are not transiting Union territory?

Last update: 29 August 2022

No. Articles 3g, 3i and 3j of Council Regulation 833/2014 prohibit the purchase, import, or transfer, directly or indirectly, of the goods listed in Annexes XVII, XXI and XXII if they originate in Russia or are exported from Russia. The prohibition on purchase applies irrespective of the final destination of the goods. Provided the purchase falls within the scope of Article 13 of Regulation 833/2014, it is not relevant whether the goods are destined for the EU or not. This supports the aim of the sanctions which is to significantly weaken Russia's economic base, depriving it of critical markets for its products and to significantly curtail its ability to wage war. Any other interpretation would render the prohibition largely devoid of purpose and create significant loopholes.

Please note that the situation is different for the purchase of Russian seaborne crude oil (question n°15 of the FAQ on “oil imports”).

2. Is the transfer of goods listed in Annexes XVII, XXI and XXII of Council Regulation 833/2014 by an EU company allowed when the goods are destined for a third country and are not transiting Union territory?

Last update: 7 October 2022

No. Articles 3g, 3i and 3j of Council Regulation 833/2014 prohibit the purchase, import, or transfer, directly or indirectly, of the goods listed in Annexes XVII, XXI and XXII if they originate in Russia or are exported from Russia. The prohibition on transfer applies irrespective of the final destination of the goods, whereas the prohibition on the import applies by nature to goods moving “into the Union”. Provided the transfer falls within the scope of Article 13 of Council Regulation 833/2014, it is not relevant whether the goods are destined for the EU or not. This supports the aim of the sanctions which is to significantly weaken Russia's economic base, depriving it of critical markets for its products and to significantly curtail its ability to wage war. Any other interpretation would render the prohibition largely devoid of purpose and create significant loopholes.

However, the Union is committed to avoiding that its sanctions impact food and energy security of third countries around the globe, in particular of the least developed ones. In light of this

commitment, which is clearly stated in recitals 11 and 12 of Council Regulation 2022/1269, the transfer to third countries of certain goods listed in Annex XXI and XXII should be allowed “to combat food and energy insecurity around the world” and “in order to avoid any potential negative consequences therefor” in third countries.

In order to ensure energy security, transfer to third countries of specific energy-related goods, as well as the financing or financial assistance related to such transfer, carried out by EU operators should be allowed. Given their specific supply chains and the available transport options, such transfer should only be permitted from point to point (eg, from Russia to a third country), without transiting via the EU territory. The relevant goods are the following:

- Energy goods falling under CN codes 4401 (fuel wood) and 4402 (charcoal), as listed in Annex XXI
- All the items listed in Annex XXII (coal and related products).

Recital 12 of Council Regulation 2022/1269 further clarifies that EU sanctions “do not target in any way the trade in agricultural and food products, including wheat and fertilisers, between third countries and Russia”. It follows that the transfer to third countries, as well as the financing or financial assistance related to such transfer, carried out by EU operators or via the EU territory (including in transit) should not in any way be hindered for the following goods:

- Fertilisers falling under CN codes 310420, 310520; 310560; ex31059020 and ex31059080 related, as listed in Annex XXI;
- Animal feed falling under CN code 2303, as listed in Annex XXI.

The above is without prejudice to the guidance on transit of goods to and from Kaliningrad and to the ability of Member States to take the necessary measures to protect their national security interests.

3. Does “purchase” or “transfer” also refer to restricted goods that are already released for free circulation within the territory of the Union before the restrictive measures?

Last update: 10 August 2022

No. The restrictions envisaged in Articles 3g, 3i, 3j and 3m of Council Regulation 833/2014 do not concern goods which are already released for free circulation within the territory of the Union (i.e. usually already placed on the market) at the time when the respective measure becomes applicable.

4. What is the scope of the prohibition on relevant services (e.g. financial assistance, including brokering or insurance) as stated in Articles 3g, 3i and 3j of Council Regulation 833/2014 for the transport or transfer of goods or products listed in Annexes XVII, XXI or XXII to third countries?

Last update: 7 October 2022

The provision of insurance, brokering services or other financing or financial assistance by EU operators for the transport or transfer of good or products listed in Annexes XVII, XXI or XXII to third countries is prohibited. Regardless of whether the transfer of these goods or products is performed by an EU or a non-EU operator, where the provider of assistance related to such a shipment is an EU operator, they remain bound by the prohibition.

However, the Union is committed to avoiding that its sanctions impact food and energy security of third countries around the globe, in particular of the least developed ones. In light of this commitment, which is clearly stated in recitals 11 and 12 of Council Regulation 2022/1269, the transfer to third countries of certain goods listed in Annex XXI and XXII should be allowed “to combat food and energy insecurity around the world” and “in order to avoid any potential negative consequences therefor” in third countries.

In order to ensure energy security, transfer to third countries of specific energy-related goods, as well as the financing or financial assistance related to such transfer, carried out by EU operators should be allowed. Given their specific supply chains and the available transport options, such transfer should only be permitted from point to point (eg, from Russia to a third country), without transiting via the EU territory. The relevant goods are the following:

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5. Does a purchase, import or transfer restriction in Council Regulation (EU) 833/2014 which provides for an exception allowing the execution of a prior contract until a specified date allow for the payment on the basis of such contract by the EU operator to its Russian counterpart after this date?

Last update: 26 August 2022

It is the Commission's view that an exception to a purchase, import or transfer restriction allowing for the execution of prior contracts until a specified date would not allow for a payment to be made to the Russian counterpart beyond that date. Since the payment is part of the execution of the contract, EU operators are prohibited from making such a payment thereafter, even if the goods originating in Russia have already been received. Questions on the concrete application of EU sanctions in specific cases should be addressed to the relevant national competent authority.