

TRANSIT OF LISTED GOODS VIA RUSSIA

RELATED PROVISIONS: ARTICLES 2, 2a, 3, 3b, 3c, 3f, 3g, 3h, 3i, 3j, AND 3k OF COUNCIL REGULATION NO. 833/2014

FREQUENTLY ASKED QUESTIONS – AS OF 21 DECEMBER 2022

1. Are the restrictions in Articles 3g, 3i and 3j of Council Regulation No. 833/2014 applicable to goods listed in Annexes XVII, XXI and XXII from third countries transiting through Russian territory to the Union or to a third country?

Last update: 21 December 2022

No, as long as the goods are not considered ‘originating’ or ‘exported’ from Russia. Goods are not considered “exported from Russia” in the sense of the import prohibitions in Articles 3g, 3i and 3j of Council Regulation No. 833/2014 if they originate in a third country and are only transiting through Russia on their way to the Union or to a third country.

However, the listed goods will be considered ‘exported from Russia’, and thus subject to the prohibition irrespective of their non-Russian origin, if they are already physically located in Russia and intended for export or re-export to the Union or to a third country. Examples of goods which would be considered ‘exported from Russia’ are:

- Goods originating in a third country that were imported in Russia, processed or not, and are now exported to the Union or to a third country;
- Goods originating in a third country that were bought by an economic operator in Russia, were kept in warehouse in Russia and are now intended to be re-exported.

All sanctions prohibitions must be read in conjunction with Article 12 of Council Regulation No. 833/2014 which prohibits to participate knowingly and intentionally in activities the object or effect of which is to circumvent prohibitions in the Regulation. Additionally, all funds and economic resources of operators in third countries facilitating infringements of the prohibitions against circumvention in Council Regulation No. 833/2014 can be frozen according to Article 3(1)(h) of Council Regulation No. 269/2014.

One element to be considered is the high risk of diversion during transit through Russia or any other possible risk of circumvention of the sanctions, therefore in all cases economic operators must conduct appropriate due diligence and prove to the national competent authorities that the goods are not ‘originating’ or ‘exported from Russia’, and are only transiting through Russia. Depending on the concrete case, the conditions to be proven include, in particular:

- Goods are not originating in Russia;
- Transit through Russia is only a portion of a complete journey beginning and terminating beyond Russia;
- Goods were not subject to any sale, processing, change of ownership after their export from the third country;

- Clear identification of the goods.

The possibility to transit via Russia is without prejudice to the right of the EU customs authorities to control the goods in accordance with Article 46(1) of the Union Customs Code, including to verify that the goods in question are not subject to any other restrictive measure that might be applicable (e.g. prohibition related to Russian road transport undertakings in Article 31 of Council Regulation No. 833/2014).

2. Are the restrictions in Articles 2, 2a, 3, 3b, 3c, 3f, 3h and 3k of Council Regulation No. 833/2014 applicable to goods and technologies listed in Annexes II, VII, X, XI, XVI, XVIII, XX and XXIII transiting through Russian territory from the Union to a third country?

Last update: 21 December 2022

No, as long as the goods and technologies subject to export prohibitions (such as in Articles 2, 2a, 3, 3b, 3c, 3f, 3h and 3k of Council Regulation No. 833/2014) and listed in the corresponding Annexes (Annexes II, VII, X, XI, XVI, XVIII, XX and XXIII) are only transiting via Russia to a third country.

All sanctions prohibitions must be read in conjunction with Article 12 of Council Regulation No. 833/2014 which prohibits to participate knowingly and intentionally in activities the object or effect of which is to circumvent prohibitions in the Regulation. Additionally, all funds and economic resources of operators in third countries facilitating infringements of the prohibitions against circumvention in Council Regulation No. 833/2014 can be frozen according to Article 3(1)(h) of Council Regulation No. 269/2014.

One element to be considered is the high risk of diversion during transit through Russia or any other possible risk of circumvention of the sanctions. Therefore, economic operators must conduct appropriate due diligence in all cases and prove to the national competent authorities that the goods and technologies are only transiting through Russia and are not for “use in Russia” or are sold or supplied to any natural or legal person, entity or body in Russia. Depending on the concrete case, the conditions to be proven include, in particular:

- Transit through Russia is only a portion of a complete journey beginning and terminating beyond Russia;
- Goods were not subject to any sale, processing, change of ownership after their export from the EU;
- Clear identification of the goods;
- Clear identification of the final user and final use in the third country.

Member States' national competent authorities could also impose reporting obligations on the exporter to verify, ex post, that the conditions were complied with.

The possibility to transit via Russia is without prejudice to the right of the EU customs authorities to control the goods in accordance with Article 46(1) of the Union Customs Code, including to verify that the goods in question are not subject to any other restrictive measure that might be applicable (e.g. prohibition related to Russian road transport undertakings in Article 31 of Council Regulation No. 833/2014)