

TRANSIT OF LISTED GOODS VIA RUSSIA

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

FREQUENTLY ASKED QUESTIONS – AS OF 26 JULY 2023

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

Last update: 26 July 2023

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 prohibitions in Articles 3g and 3i 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 3, 3b, 3f, 3h and 3k of Council Regulation No. 833/2014 applicable to goods and technologies listed in Annexes II, XI, XVI, XVIII and XXIII transiting through Russian territory from the Union to a third country?

Last update: 26 July 2023

No, as long as the goods and technologies subject to prohibitions (such as in Articles 3, 3b, 3f, 3h and 3k of Council Regulation No. 833/2014) and listed in the corresponding Annexes (Annexes II, XI, XVI, XVIII and XXIII) are only transiting via Russia to a third country and the transit is not prohibited otherwise (see below).

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)

Please note that Council Regulation No. 427/2023 ("10th sanctions package") introduced a prohibition to transit via Russian territory dual-use goods and technology as well as firearms exported from the Union.

Council Regulation No. XXX/2023 ("11th sanctions package") has extended the prohibition to transit via Russian territory to goods and technology which might contribute to Russia's military and technological enhancement, or the development of the defence and security sector, as well as to goods and technologies suited for use in aviation or the space industry, jet fuel and fuel additives exported from the Union, see Question 3.

3. Is the transit of goods mentioned in Articles 2, 2a, 2aa, and 3c of Council Regulation No. 833/2014 from the Union through Russian territory to a third country allowed?

Last update: 26 July 2023

No, as paragraphs 1a in Articles 2, 2a, 2aa, and 3c of Council Regulation No. 833/2014 prohibit the transit via the territory of Russia of the following goods and technologies when those are exported from the Union:

- Dual-use goods and technology (Article 2);
- Goods and technology which might contribute to Russia's military and technological enhancement, or the development of the defence and security sector, as listed in Annex VII of Council Regulation No. 833/2014 (Article 2a);
- Firearms, their parts and essential components and ammunition as listed in Annex I to Regulation No. 258/2012 of the European Parliament and of the Council and firearms and other arms as listed in Annex XXXV of Council Regulation No. 833/2014 (Article 2aa);
- Goods and technology suited for use in aviation or the space industry, as listed in Annex XI, and of jet fuel and fuel additives, as listed in Annex XX of Council Regulation No. 833/2014 (Article 3c).

The direct export to third countries (e.g. from the Union to a third country by air) or a transit through third countries other than Russia is not prohibited. The transit via the territory of the Union of goods mentioned in Articles 2, 2a, 2aa, and 3c exported from third countries to third countries is also not prohibited if not subject to other restrictions.

This “transit ban” aims to minimise the risk of circumvention for those particular sensitive items (e.g. goods destined for third countries are getting diverted when in transit through Russia).