

Circulars 202501
Tuesday, March 25, 2025

16th EU Sanctions Package against Russia - Infrastructure Transaction Ban - Update

Dear Members:

On 20 March 2025 the EU published FAQs on infrastructure transaction ban introduced in Article 5ae. The FAQs clarify that - unless specifically exempt under paragraph 3 of Article 5ae - goods cannot be exported from the listed ports:

“4. Can the listed ports and locks in Russia be used for the transit of goods originating in Russia and not subject to an import ban? Last update: 20 March 2025

Article 5ae provides for a broad transaction ban. In principle, EU operators cannot engage in transactions if this concerns products not explicitly exempted in Art. 5ae paragraph 3. This also covers goods that are not subject to an import ban. Other Russian ports that are not listed in Annex XLVII can be used for the transit to a third country or for the import into the Union (if the good in questions is not subject to an import restriction)”.

And the same position is confirmed specifically in relation to coal:

“5. Can the listed ports and locks in Russia be used for the transit of Russian-origin coal to third countries? Last update: 20 March 2025

The Union is committed to preventing that EU sanctions have a negative impact on legitimate trade or people-to-people contacts, or that they impact food and energy security of third countries around the globe, in particular the least developed ones. In addition, recital 29 of Council Regulation 395/2025 (“16th sanctions package”) refers to the prevention of negative impact on legitimate trade. Article 5ae of Council Regulation (EU) 833/2014 (as amended by Council Regulation (EU) 2025/395 of 24 February 2025) needs to be interpreted in light of these objective. EU operators are allowed to transport Russian coal to a third country to secure global energy security (see also Q. 2 of the FAQs on Import, Purchase & Transfer of Listed Goods). Nevertheless, EU operators cannot engage in transactions with the listed ports and must divert to a non-listed port for this purpose.”

We also note that the FAQs provide an important clarification with respect to the transport of sulphur:

“8. Does the exemption provided under Art. 5ae paragraph 3(d) also apply to the purchase, import or transport of raw materials or components, such as sulphur, for the production of fertilisers? Last update: 20 March 2025

Yes, to the extent raw materials or components, including sulphur, are either used as fertilisers or as raw material to produce fertilisers, and provided further that their purchase, import or transport is not otherwise prohibited under Regulation EU 833/2014, transactions under art. 5ae paragraph 3 (d) are allowed”.

The FAQs also confirm the EU’s position not to apply their sanctions extraterritorially, therefore, permitting non-EU operators to engage in transactions with the listed ports:

“9. Does the transaction ban also cover transactions between third country nationals or entities and the listed ports and airports in Russia? Last update: 20 March 2025

No. The scope of application of the Sanctions Regulation is set out in Article 13 of Regulation 833/2014; EU sanctions do not apply extraterritorially. The provision applies, inter alia, to any person inside or outside the territory of the Union who is a national of an EU Member State, and to any legal person, entity or body, inside or outside the territory of the EU, which is incorporated or constituted under the law of an EU Member State. This means that transactions outside the Union between a third country national or entity and one of the ports and airports listed in Annex XLVII do not fall within the scope of EU sanctions”.

Copy from Gard P&I Club