

# Clarification on the scope of EU Ban on Russian Coal and Fertilisers

On the 10th August 2022, the EU published new FAQs with the aim to clarify the application of provisions regarding the carriage of coal and other solid fossil fuels as well as certain types of fertiliser.

Through these clarifications, it has become clear that the sanctions will have a much wider impact on the entities involved in the carriage of these commodities than initially presumed.

The ban was adopted by the EU on 8 April 2022, as part of a fifth package of sanctions against Russia in response to Russia's military aggression against Ukraine, following a wind-down period of four months. The package was implemented by amendments of Council Regulation (EU) No 833/2014 ("Reg 833") and contains the following restrictive measures :

- Purchase, import, or transfer bans on goods listed in Annex XXI pursuant to Art 3i of Reg 833 (e.g. Russian coal and other solid fossil fuels, wood);
- Purchase, import or transport bans on goods listed in Annex XXII rt 3j of Reg 833 (e.g. coal products)

The texts of Annex XXI and Annex XXII as referred to above can be found in Council Regulation 2022/576.

[https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=OJ%3AL%3A2022%3A111%3ATOC&uri=uriserv%3AOJ.L\\_.2022.111.01.0001.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=OJ%3AL%3A2022%3A111%3ATOC&uri=uriserv%3AOJ.L_.2022.111.01.0001.01.ENG)

It was widely interpreted at the time the regulations were adopted that these restrictions only prohibited the purchase, import or transfer of the mentioned products where they were destined for an EU Member State. The actual scope is wider as clarified below.

On 17 April 2022, the EU issued a FAQ. Whilst it made clear the definition of 'transfer', which includes "not only the movement of goods through customs controls, but also the transport of goods, including (but not exhaustively) their loading and trans-shipment", the prohibition still ostensibly required goods to be **destined for the EU**.

On 14 June 2022, the EU published a further FAQ which sought to clarify that EU companies were restricted from purchasing restricted Russian-origin goods regardless of its destination. This was interpreted that only that EU entities were prohibited from **purchasing** such Russian cargoes intended for delivery both into and outside the EU, but not otherwise being involved in their carriage.

However on 10 August 2022, the EU issued a revised FAQ which states "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.**"

## SINGAPORE

EF Marine Pte. Ltd.

7 Temasek Boulevard #20-01  
Suntec Tower One  
Singapore 038987



+65 62 59 75 02



info@efmarinegroup.com

## ROTTERDAM

EF Marine B.V.

Willemswerf Building  
Boompjes 40  
3011 XB Rotterdam  
The Netherlands



+31 10 79 86 990



info@efmarinegroup.com

The scope of Article 13 of Council Regulation 833/2014 as referred to above is: within the territory of the Union;

- a) on board any aircraft or any vessel under the jurisdiction of a Member State;
- b) to any person inside or outside the territory of the Union who is a national of a Member State;
- c) to any legal person, entity or body, inside or outside the territory of the Union, which is incorporated or constituted under the law of a Member State;
- d) to any legal person, entity or body in respect of any business done in whole or in part within the Union.

This means, with immediate effect, EU persons are now clearly prohibited from:

- purchasing coal products (as listed in Annex XXII) and certain fertiliser products (as listed in Annex XXI) of Russian origin or that are exported from Russia;
- transporting such goods irrespective of their destination; and
- importing such goods into the EU.

As an entity subject to the jurisdiction of the EU, EF Marine is prevented from providing insurance and reinsurance for the carriage of any of the above mentioned type of cargoes as “insurance and reinsurance service” are included by the EU in the provision of “financial assistance” in sections (2)(b) of both Article 3i and 3j.

We strongly advise shipowners and charterers’ to conduct self-checks on all parties involved in the transport of coal, fossil fuel and fertilisers, especially shippers, consignees and cargo owners, to ensure there is no exposure to sanction risks.

#### QUESTIONS?

Should you have any questions following this information, please do not hesitate to contact us.

#### ABOUT EF MARINE

EF Marine provides Fixed Premium P&I solutions to Shipowners, Charterers and MultiModal operators. EF Marine has a global client base and offices in Singapore and Rotterdam. EF Marine provides ‘AA-’rated security from Swiss Re Corporate Solutions with limits up to USD 500m. Through our partnership with Swiss Re Corporate Solutions we provide our clients with first class security combined with EF Marine’s extensive knowledge of the P&I market.

#### SINGAPORE

EF Marine Pte. Ltd.

7 Temasek Boulevard #20-01  
Suntec Tower One  
Singapore 038987

 +65 62 59 75 02

 [info@efmarinegroup.com](mailto:info@efmarinegroup.com)

#### ROTTERDAM

EF Marine B.V.

Willemswerf Building  
Boompjes 40  
3011 XB Rotterdam  
The Netherlands

 +31 10 79 86 990

 [info@efmarinegroup.com](mailto:info@efmarinegroup.com)