

OIL IMPORTS

RELATED PROVISION: ARTICLE 3m OF COUNCIL REGULATION 833/2014
FREQUENTLY ASKED QUESTIONS – AS OF 22 JUNE 2022

1. Does paragraph 1 of Article 3m prohibit the transport of goods listed in Annex XXV of Council Regulation (EU) 833/2014 also to third countries?

Last update: 22 June 2022

No, as clarified in recital 15 of Council Regulation (EU) 2022/879, the transport of the goods in Annex XXV is only prohibited into the Union. It is therefore still possible to ship those goods to third countries, provided this does not entail any risk of circumvention of the measures set out in Article 3m. However, as set out in Article 3n, the technical assistance, financing or any financial assistance in relation to maritime transport of such products to third countries is prohibited.

2. Does Article 3m prohibit imports into the Union of goods listed in Annex XXV which originate in Russia but are blended for transport with goods listed in the Annex and which originate in a third country?

Last update: 22 June 2022

Article 3m paragraph 1 prohibits, subject to certain exceptions and derogations, imports of goods set out in Annex XXV if such goods originate from Russia or are exported from Russia.

It is therefore necessary to determine if the product originates in Russia. For this purpose, the non-preferential rules of origin of the EU apply.

Russian oil transported together with oil of other origin in mixed fashion is subject to the prohibition: As oil is a fungible material that cannot be physically segregated depending on its origin, Russian originating oil imported, transferred or purchased in the EU together with oil of other origin is subject to the sanctions, unless the exact share of the product which does not originate in Russia can be clearly demonstrated to the national authorities of the Member State. In such a case, the exact portion not originating in Russia can be allowed into the Union.

3. Does Article 3m prohibit the import into the EU of petroleum products falling under HS 2710 which have been produced using crude oil originating in Russia?

Last update: 22 June 2022

As regards petroleum products under HS 2710, only those which originate in Russia or are exported from Russia fall under the general prohibition set out in Article 3m paragraph 1.

An analysis of the production process and proportion of the components used is needed to determine the origin. For example, refined petroleum products obtained in a third country **falling under HS 2710** from Russian crude oil **falling in HS 2709** and exported from that country or another third country would not be subject to the sanctions as it is not of Russian origin.

Petroleum products **falling under HS 2710** obtained in a third country mixing Russian oil **falling under HS 2710** and locally produced oil exported from that third country could be subject to the sanction depending on the proportion of the Russian component. A case-by-case analysis is needed to see if the rule of origin is satisfied.

4. In Article 3m paragraph 9, could you clarify what is meant by the “essential needs of the purchaser in Russia”?

Last update: 22 June 2022

The exception laid down in paragraph 9 allows EU natural or legal persons situated in Russia, which are bound by the sanctions by application of Article 13(c) and (d) of Regulation 833/2014, to purchase goods listed in Annex XXV for their own daily consumption, for instance to refuel their car or heat their homes. This would typically apply to EU tourists visiting Russia, EU expats living in Russia, EU humanitarian aid providers etc. It would also apply to a branch of an EU company in Russia which would need to purchase the goods for its own use. It would not cover however purchases of such goods for resale or refining for example.

5. Can an EU operator resell goods set out in Annex XXV which were imported into the Union prior to 4 June 2022?

Last update: 22 June 2022

Yes, the prohibition set out in Article 3m does not apply to goods which were already released for free circulation within the territory of the Union prior to 4 June 2022.

6. What sort of situation does the exception set out in article 3m paragraph 3c) cover?

Last update: 22 June 2022

This provision clarifies that the import prohibition as set out in paragraph 1 and 2 of Article 3m does not apply to goods listed in Annex XXV which do not originate in Russia and are not owned by a Russian natural or legal person, but which for the purpose of their export to the EU have been loaded in Russia or have departed or transited through Russia.

7. How can the prohibitions to resell, transfer or transport set out in paragraph 7 and 8 of article 3m be enforced, in particular as regards resales, transfers or transport to other Member States?

Last update: 22 June 2022

EU operators and national authorities must conduct appropriate due diligence before purchasing goods listed in Annex XXV from other Member States which benefit from the exceptions laid down in Article 3m(3)(d) (crude imports by pipeline) or from the specific derogations set out in paragraphs 5 and 6 (for Bulgaria) and (Croatia). When purchasing such goods, they should do the necessary checks to ensure that such goods do not originate from Russia, are not exported from Russia or are not petroleum products (CN 2709 10) which are obtained from crude oil originating or exported from Russia.

- 8. Does the prohibition to transfer or transport to other Member States or third countries refined petroleum products as from 5 February 2023 obtained from crude oil imported by pipeline also cover blended products, which are the result of refining of Russian crude oil and crude oil from another country?**

Last update: 22 June 2022

The same approach specified in question 2 should be followed.

- 9. Does Article 3m allow the import into the EU of oil from a third country other than Russia by a pipeline which would transit through Russia using its infrastructure?**

Last update: 22 June 2022

For the time being, there are no restrictions of import by pipeline of oil from Russia, and hence neither from third countries transiting through Russia. However, if such oil from a third country is blended with oil originating in Russia, the approach specified in question 2 should be followed to determine if the resulting product can be transferred or transported onwards to other Member States or third countries.

- 10. Does the prohibition to transfer or transport crude oil delivered by pipeline to other Member States or third countries also prohibit the purchase of oil by a Member State via an intermediary company based in another Member State?**

Last update: 22 June 2022

The prohibition of resale set out in paragraph 8 of Article 3m does not apply to situations where a Member State purchases its crude oil using a company based in another Member State provided that this intermediary does not receive the physical delivery of the oil. Indeed, Article 8 prohibits the transfer or transport of crude oil delivered by pipeline into Member States to other Member States. If there is no delivery of the oil into the Member State where the intermediary is based, the use of an intermediary does not fall under the resale prohibition set out in paragraph 8.

- 11. Does the notification obligation of contracts executed during the transitory periods laid out in Articles 3m (3)(a) and (b) in particular regarding ‘ancillary contracts’ require also the notification of insurance contracts or contracts for the services accompanying the maritime transport ?**

Last update: 22 June 2022

No, such an interpretation would create an unreasonable administrative burden on EU operators involved as well as on national competent authorities. Only contracts for the import of the goods should be notified.

12. Does Article 3m allow the transfer or transport to other Member States or to third countries of crude oil originating in or exported from Russia and delivered by pipeline during the transitory periods set out in Article 3m paragraph 3(a) and (b)? How about refined products obtained from such crude oil?

Last update: 22 June 2022

As regards crude oil (CN 2709 00), the transfer or transport of such crude imported by pipeline to another Member State or third countries is prohibited from the entry into force of the Regulation (4 June 2022) as set out in paragraph 8. For petroleum products (CN 2710) obtained from such crude oil, the prohibition only applies as of 5 February 2023, with a longer transition time concerning Czechia (see also question 8 above).

The transfer or transport of petroleum products (CN 2710) refined from crude oil imported by pipeline to another Member State or third country during the transition period of 8 months is not prohibited.

13. How shall the term ‘one-off transaction for near-term delivery’ be understood?

Last update: 22 June 2022

‘One-off transaction for near-terms delivery’ should be understood as spot market transactions. The contract concluded cannot foresee multiple deliveries and the oil should be delivered within 30 days maximum after the transaction has been concluded.

14. Regarding such one-off transactions, when should these be notified?

Last update: 22 June 2022

The Regulation foresees their notification within 10 days of their completion. This should be understood as within 10 days of the final delivery of the goods.

15. Is the purchase of Russian seaborne crude oil by an EU company allowed when the goods are exported from Russia towards a third country and are not transiting Union territory?

Last update: 14 June 2022

Yes. Contrary to Articles 3g, 3i and 3j of Council Regulation 833/2014, Article 3m of Council Regulation 833/2014 prohibits only the purchase, import, transfer of Russian seaborne crude oil that is destined for import into Member States, as highlighted in recital 15 by Council Regulation 2022/879 of 3 June 2022 amending Council Regulation 833/2014. An EU company is still allowed to transport Russian crude oil to a third country.