

26 March 2025

TO ALL MEMBERS AND ASSURED

Dear Sir or Madam

Update to Circular dated 10th March 2025 regarding the recent sanctions against Russia: EU FAQs related to the Infrastructure Transaction Ban (Article 5ae of Council Regulation EU no. 833/2014)

We refer to our Circular dated 10th March 2025 (available [here](#)) on the 16th package of sanctions against Russia adopted by the EU. We noted in the Circular that the package included Article 5ae of Council Regulation 833/2014 introducing a ban to engage in any transaction with ports listed in Part A of Annex XLVII, namely: Ust-Luga, Primorsk, Novorossiysk, Astrakhan and Makhachkala. Paragraph 3 of the Article 5ae provided an exhaustive list of exemptions from this ban. We also noted that the International Group was seeking clarification on whether the transport of certain cargoes, that can still be exported from Russia, e.g. coal, is still permitted as there was no specific exemption for such cargoes.

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”.***

The FAQs further provide clarification that EU operators can continue to provide services to such non-EU vessels (including the provision of insurance):

“11. Does an EU operator engage indirectly with an entity targeted by Article 5ae if it provides services to a vessel calling into a port listed under Annex XLVII? Last update: 20 March 2025

The provision of services to a vessel which called into a port listed in Annex XLVII is not prohibited under Article 5ae as the provision of services to such a vessel is not a direct or indirect transaction with the listed port. Commission FAQs have already clarified for the transaction ban concerning state-owned entities in Art.5aa of Council Regulation 833/2014 that the provision of insurance to a vessel calling into a port owned by a listed entity is not a direct or indirect transaction with this entity (see Q.6 of G.5 of Consolidated FAQs). Like this, the provision of other services to a vessel calling at a listed port is not a direct or indirect transaction (e.g. providing bunkering services, loading/unloading

cargo, etc.)”.

The Club, however, will not be in a position to engage in any direct or indirect transaction with the listed ports (e.g. making payments in respect of claims) if an EU operator calls at a listed port when no exemption is applicable.

The EU also provided clarity on which entity would be considered to be the EU operator for the purpose of making a report after the port call, confirming at the same time that this requirement will not extend to insurance companies.

“14. Who is required to report

*According to Paragraph 5 of Article 5ae, EU operators must inform the competent authority of the Member State where they are incorporated or under whose law they are constituted of any transaction concluded pursuant to paragraph 3 or 4 of Article 5ae within 2 weeks of its conclusion. In general, **the operator who is engaging in the transaction is required to report, e.g. the management company of a vessel loading licit cargo in the listed port or the airline whose aircraft had to complete an emergency landing at one of the listed airports.***

*For EU importers of non-sanctioned goods from Russia, that are exempted pursuant to paragraph 3 of Article 5ae, **they are not required to report their imports if they are not considered as having direct or indirect transactions with the port (see question 11).** If they have a direct or indirect transaction with the listed port, they are required to report the transaction”.*

Trade involving Russia is subject to significant legal restrictions. Members are reminded that cover is not available for any trade that breaches applicable sanctions. Members are advised that they should conduct thorough due diligence throughout the trade on the parties, cargoes, vessels, and other service providers that are or may be involved before they engage in any trade with a high sanctions risk. Finally, Members are reminded to keep records of their due diligence investigations and findings.

All Clubs in the International Group have issued a similarly worded circular.

Yours faithfully

A BILBROUGH & CO LTD (MANAGERS)