

The impact of the EU Russia Sanctions Regime on the logistics industry Transport logistics during the war

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Agenda

1. Brief overview: *what are sanctions?*
 - Sanctions imposed against Russia (and Belarus) in response to the illegal aggression against Ukraine.
2. Relevant sanctions against Russia for the logistics sector:
 - Import and export prohibitions: does it cover transport?
 - Transit through Russia;
 - Circumvention;
 - Asset freeze;
 - Access to EU ports;
 - Russian (and Belarussian) road undertakings in the EU;
 - Aircraft.

1.1 What are Sanctions?

Sanctions

- (Political) instruments
- International community or national
- Preventive: steering, inducing change and deterring behaviour
- In order to maintain or restore international peace and security

1.2 General overview of restrictive measures



Trade sanctions

- General *trade sanctions*: import and export bans regarding certain government bodies, companies and officials;
- Specific *trade sanctions*: focussed on trade in certain goods or activities relating to such trade;
- *Specific ban on transport: Air? Road? Ship? Rail?*



Prohibition on circumvention:

- Prohibition on activities which have the purpose or effect of *circumventing sanctions*;

Financial sanctions:



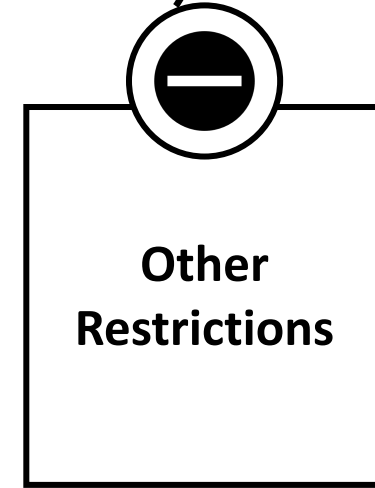
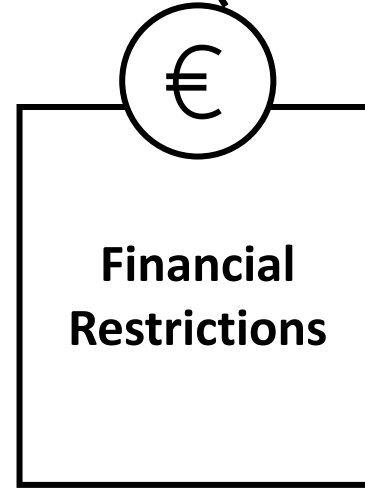
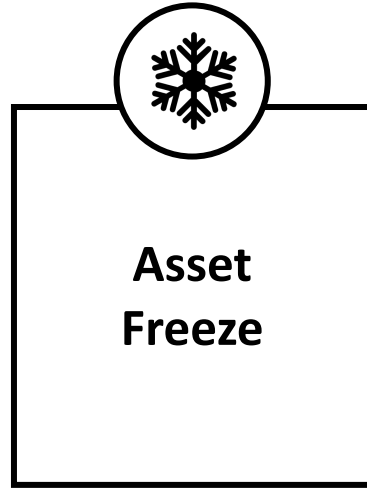
- *Asset freeze*: an obligation to freeze funds and economic resources and a prohibition to make funds or economic resources available;
- Investment restrictions;
- Restrictions relating to financial markets and services.

Additional sanctions:



- Entry or visa restrictions;
- Diplomatic sanctions.

1.3 EU sanctions against Russia (and Belarus)



(most) relevant EU Regulations:

- Regulation 765/2006 of May 18, 2006 (Belarus)
- Regulation 269/2014 of 17 March 2014 (Russia – *asset freeze*)
- Regulation 833/2014 of 31 July 2014 (Russia – *trade and financial restrictions*)
- Regulation 692/2014 of 23 June 2014 (Crimea / Sevastopol)
- Regulation 2022/263 of 23 February 2022 (Donetsk / Luhansk)

2.1 Trade restrictions with Russia

Export, import, *transfer* restrictions in respect of certain goods and technologies:

- In respect of, for example:
 - Military goods;
 - Dual-use goods;
 - Maritime industry;
 - Luxury goods;
 - Oil and gas.

Ban on related services:

- It is prohibited to:
 1. directly or indirectly provide "technical assistance, brokering services or other services" in relation to sanctioned goods and technology; or
 2. directly or indirectly provide "financing or financial assistance" in relation to sanctioned goods and technology.

2.2 Trade restrictions drafted broadly

- The trade-related restrictions against Russia are drafted broadly;
- The transfer of the relevant products, as well as brokering services, technical and financial assistance in relation to their purchase, sale, import, export, are also prohibited.

Article 2a

1. It shall be prohibited to sell, supply, **transfer** or export, directly or indirectly, 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, whether or not originating in the Union, to any natural or legal person, entity or body in Russia or for use in Russia.

- However, what defines a transfer? Does this cover transport of sanctioned products?

2.3 The guidance published by the European Commission: transfer = transport

- The Frequently Asked Questions on the implementation of Council Regulation No 833/2014 and Council Regulation No 269/2014;

Specifically, transfer is a broad concept covering a wide range of operations: 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 transfer prohibition applies not only in relation to an actual import or export (e.g. with the goods entering or exiting the EU customs territory), but also when those products do not enter the EU, but are transferred between Russia and a third country (and vice-versa). In such a case, EU operators are prohibited from providing transfer services as described above.

2.4 Role for an EU transporter

- ““Transfer” is a broader concept than “transport”, covering a wide range of operations, not only the movement of goods through customs controls, but also the transport of goods, including the loading, transport, and trans-shipment of goods”
- In essence: the transport of sanctioned products is also restricted under the applicable trade-related restrictive measures.

2.5 Transit *through* Russia

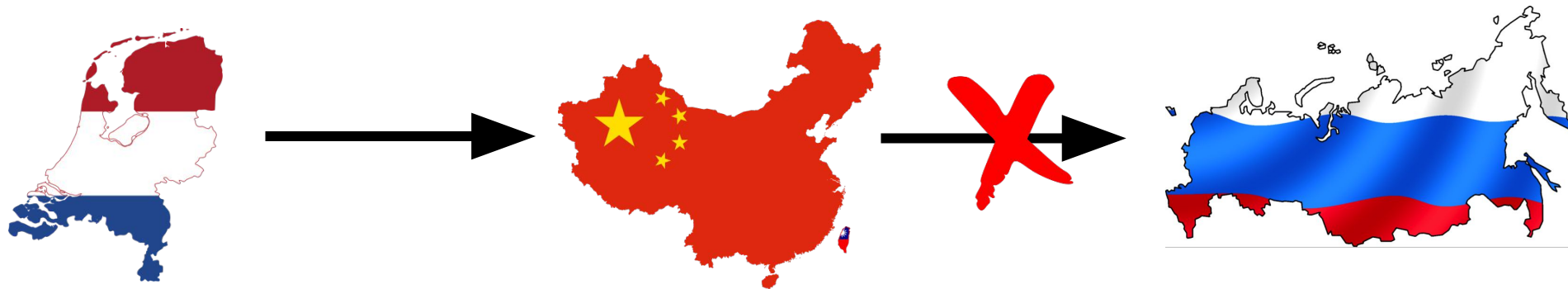
- In order to minimise the risk of circumvention, the transit of the following goods and technologies through Russia is restricted by Regulation 833/2014:
 - Dual-use goods and technologies;
 - Firearms, their parts and essential components and ammunition, as listed in Annex I to Regulation (EU) No 258/2012;
 - Goods and technology which might contribute to Russia's military and technological enhancement or to the development of its defence and security sector, as listed in Annex VII to Regulation 833/2014;
 - Goods and technology suited for use in aviation or the space industry, as listed in Annex XI to Regulation 833/2014;
 - Jet fuel and fuel additives, as listed in Annex XX to Regulation 833/2014.

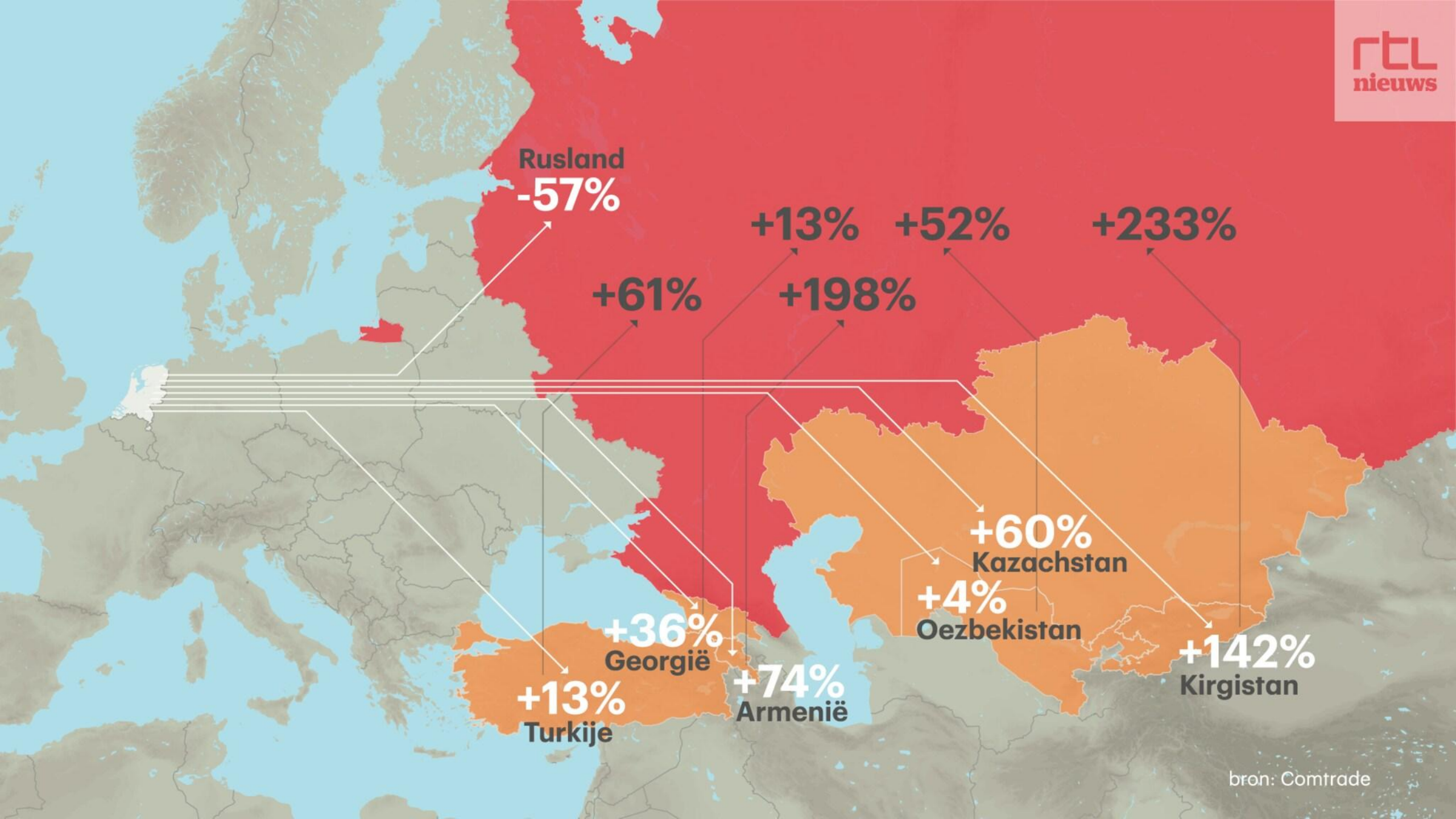
2.6 Transit *through* Russia

- The transit of other sanctioned goods and technology through Russia is, in principle, not prohibited.
- 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, EU operators must conduct appropriate due diligence, and be able to prove:
 - 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.

3 Circumvention

- EU sanctions prohibit engaging in activities that have the purpose or effect of circumventing the sanctions.
- Example: it is prohibited to transport or ship goods to a party in China, knowing that those goods or services are ultimately destined for end-users in Russia in violation with the relevant sanctions.





4.1 Asset freeze

Persons:

- Politicians involved in the invasion of Ukraine:
 - Vladimir Poetin, Sergei Lavrov, members of the Douma
- Various oligarchs:
 - Roman Abramovich, Alexey Mordashov, Mikhail Fridman.

Entities:

- Financial institutions/banks:
 - Bank Rossiya, Promsvyabank, VEB Bank, etc...
- Other entities:
 - SOGAZ, Mostotrest, several shipyards and airline manufacturers
- Several hundred persons/entities listed, but indirectly many more sanctioned

4.2 Asset freeze

Two elements: an obligation and a prohibition

1. You are obliged to freeze:

- all *funds or economic resources* belonging to, *owned, held or controlled by* [...] shall be frozen.

2. You are prohibited from making available:

- No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of ...

Services are economic resources prohibited to make transport services available to sanctioned individuals and entities.

4.3 Asset freeze

'Owned' or 'controlled' by...

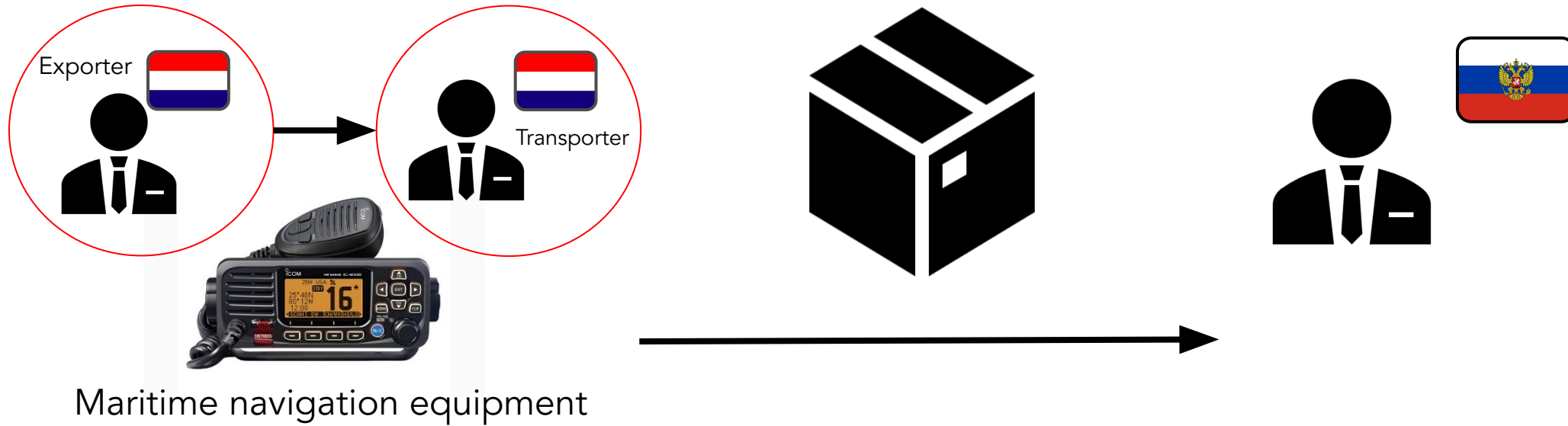
1. Ownership: more than 50% of proprietary rights. Percentages of sanctioned parties are aggregated.
2. Control: depends on factual analysis, assumed to be present if the sanctioned party, for example:
 - has the right to appoint or dismiss members of the management or supervisory body of an entity.
 - has the right to use all or certain assets of the entity;

THEREFORE, ALWAYS CHECK THE OWNERSHIP STRUCTURE OF THE COUNTERPARTY!

5 Restrictions on access to the EU

- The EU has imposed various restrictions on the Russian transport and logistics sector through Regulation 833/2014. The EU prohibits:
 - Russian flagged vessels from accessing EU ports and locks;
 - Road transport undertaking established in Russia to transport goods by road in the territory of the EU, including in transit; and
 - Russian operated, registered, owned, controlled, or chartered aircraft from landing in, taking off from, or overflying the territory of the EU.

6.1 Case trade restrictions



Being the transporter: are you allowed to transport the navigation equipment to Russia?

6.2 Case trade restrictions

Article 3f

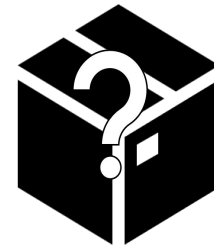
1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, maritime navigation goods and technology, as listed in Annex XVI, whether or not originating in the Union, to any natural or legal person, entity or body in Russia, for use in Russia, or for the placing on board of a Russian-flagged vessel.



6.3 Case trade restrictions

What steps should you take?

1. Verify whether the (Russian) counterparty and other involved parties such as the end-user are sanctioned.
2. Verify whether restrictive measures are in place against the product:
 - Is the product dual-use?
 - Is the product a military good?
 - Is the product listed on an annex of Regulation 833/2014?



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