

The "no Russia clause" and the Swiss exporter

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Article 12g of Regulation (EU) No 833/2014, inserted by Council Regulation (EU) 2023/2878 of 18 December 2023, requires exporters in the Union to prohibit by contract the re-exportation to Russia, and for use in Russia, of certain goods sold to third countries. The goods are those in Annexes XI, XX and XXXV, the common high priority items in Annex XL and firearms. The clause has applied since 20 March 2024, and contracts concluded before 19 December 2023 could be performed without it until 20 December 2024 or their expiry. Exporters must include adequate remedies for breach and must notify the competent authority as soon as they become aware of a breach.¹

The obligation does not apply to exports to the partner countries listed in Annex VIII of the regulation, which include Switzerland.² An Italian manufacturer that sells machine tools to a Lugano trader is therefore not obliged to impose the clause. If the Lugano trader resells the same machine tools to a buyer in Turkey or Kazakhstan, Article 14f of the Swiss Ukraine Ordinance obliges it to include an equivalent clause in its own contract. The system thus relies on the partner countries to close the chain. In practice Italian suppliers often include the clause or an end-use declaration in their contracts with Swiss buyers as well, because they cannot verify where the goods will go next and because their banks and insurers ask for it. A Ticino trader should expect such clauses and should pass them on to its own buyers.

1 Notes

1. Council Regulation (EU) 2023/2878 of 18 December 2023, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32023R2878> (Art. 12g paras 1–5). ↩

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2. Regulation (EU) 2023/2878 (above), Art. 12g ("Paragraph 1 shall not apply [...] to partner countries listed in Annex VIII"); Regulation (EU) No 833/2014, Annex VIII, inserted by Council Regulation (EU) 2022/328 of 25 February 2022, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022R0328>, and extended by later regulations (Japan by Regulation (EU) 2022/576, above). ↩

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