

On 7 January 2025, the UK issued a new guidance for businesses involved in exporting Common High Priority Items and other goods critical to Russian weapons systems and military development.

This guidance aims to support exporters in strengthening their due diligence processes and encourages the inclusion of contractual clauses that prohibit buyers or importers from re-exporting goods to Russia. While such clauses are not a legal requirement, they can play a significant role in mitigating the risk of breaching sanctions and ensuring compliance with UK law.

UK sanctions against Russia, which encompass financial, trade, aircraft, shipping and immigration measures, are designed to pressure Russia to cease activities that destabilise Ukraine and undermine its sovereignty. Although direct trade between the UK and Russia has declined significantly since the introduction of sanctions, there is evidence that Russia is seeking to acquire restricted goods through indirect and complex supply chains. This heightens the risk of circumvention and diversion, requiring businesses to adopt robust measures to prevent their goods from being redirected to Russia.

To address this risk, some exporters are already incorporating “no re-export to Russia” clauses into their contracts. These clauses explicitly prohibit the re-export or indirect transfer of goods to Russia and act as an additional layer of deterrence, particularly in transactions involving non-UK parties or jurisdictions that continue to trade with Russia. Including such clauses may reduce the risk of goods being diverted to Russia and provides an extra safeguard for exporters seeking to comply with UK sanctions regulations. The guidance also provides a template clause, recognised as thorough and effective by UK authorities, to assist businesses in drafting these contractual provisions.

It is important to note that contractual clauses alone are not sufficient to ensure compliance. Businesses must maintain strong due diligence frameworks to identify and mitigate risks effectively. Regular checks on counterparties, including assessments of their ownership structures, trade practices and any potential links to sanctioned entities, are essential. Due diligence should be an ongoing process, as changes in counterparties’ directors, ownership or operations can significantly alter the risk profile.

The UK government takes breaches of sanctions seriously, with enforcement led by HM Revenue and Customs (HMRC) and the Office of Trade Sanctions Implementation (OTSI).

Non-compliance can result in severe financial penalties or criminal prosecution. Exporters who suspect that their goods have been diverted to Russia or discover that they have engaged in trade without the necessary licenses are strongly encouraged to report these issues promptly to HMRC or OTSI. Reporting can often be done voluntarily and may mitigate the consequences of any unintentional breaches.

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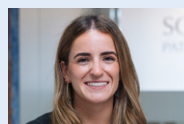
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