EUROPEAN COURT OF AUDITORS

Special Report

EU trade sanctions against the Russian Federation:

strong co-ordination efforts, but implementation remains uneven and limits overall impact

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To sum up:

Commission has worked hard to establish the framework and coordinate the implementation,

BUT, almost 5 years on:

unclear rules and weaknesses in enforcement dampen the impact of sanctions and make it easier to bypass them

Sanctions will deliver the intended impact if all MSs apply them in a uniform and co-ordinated way,

therefore our main message is **a call for uniform implementation of our common decisions**

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01 What we looked at and why

02 What we found

03 What we recommend

01 What we looked at

Commission’s (COM) role, politics aside, in:

- Establishing a strong implementation framework
- Monitoring implementation & identifying weaknesses/loopholes & taking pro-active steps to address any shortcomings,
- Assessing the overall impact / effectiveness of the trade sanctions

And why?

- because trade sanctions are expected to play a crucial role in limiting Russia’s export and import capabilities & by extension degrade its industrial capacity needed to wage the war



Important to note

- Distinct EU policy domains for trade sanctions:
  - Common Foreign and Security Policy
  - Trade policy and Customs union
- Different objectives & competences between EU and MSs

How much more can COM and MSs do?



02 What we found

Extensive coordination tools to support effective implementation of trade sanctions

- Considerable efforts made by COM to coordinate implementation of sanctions within COM, with other EU institutions, MSs & countries outside EU (e.g. Sanctions Envoy)
- However, complexity of decision making, large number of working groups, overlaps between their responsibilities, largely consultative role & voluntary participation by MSs
- Administrative burden for both –MSs and COM

02 What we found

Ambiguities & divergences in EU's legal framework undermine uniform implementation

- Lack of alignment:
  divergences between use of terms in customs legislation and sanctions' rules
- Imprecise terminology:
  instances of terms used in sanctions' legislation being vague and inconsistent
- Criminal offences /penalties for infringements not yet fully harmonised across MSs

"Best efforts"

"By **way of derogation** from paragraphs 1 to 4, the competent authorities may authorise, under such conditions **as they deem appropriate**, activities which are **strictly necessary** for…"

"transfer"

"Strictly necessary" –used 63 times in Regulation

"country of origin"

02 What we found

COM’s guidance is comprehensive, but not legally binding

- Extensive COM’s guidance:
  - Guidelines, FAQs and direct outreach to businesses

- But guidance not always well developed or clear, also issues of timing.

Good example for this - recognition of derogation authorisations

Can there be better alternatives - for timeliness, coverage and legal status?

02 What we found

Information Systems are not used uniformly across MSs

- Customs Risk Management System (CRMS) and (new) Sanctions Information Exchange Repository (SIER) not used uniformly & generally underused:

  - CRMS: Risk information forms (RIFs) by MS vary in volume, no formal mechanism for feedback exists; + resource implications
  - In SIER form and amount of information not clear, hence difficult to verify validity of derogations authorisation
  - Not all customs have access to SIER = choice of MSs; no access in real time
  - Exchange of info insufficient, for example on ownership/control

How to enhance value added of IS

02 What we found

Varying national practices in enforcing EU trade sanctions

- Customs authorities applied divergent practices:
  - Non-uniform customs controls,
  - Divergences in dealing with exemptions & in recognition of export authorisations - “forum-shopping”
- Differences in MSs administrative capacities
- Implication for Internal Market and Customs policy?

How much more can be done by the COM to remedy?



02 What we found

EXAMPLES of varying practices

Differences in number of non-compliance cases for goods originating from other MS - since 2022, BG no cases, LV – up to 2 100

Customs authorities from Baltics under certain conditions require a declaration issued by the manufacturer of exported or re-exported sanctioned goods to be submitted; other MSs do not impose such a requirement

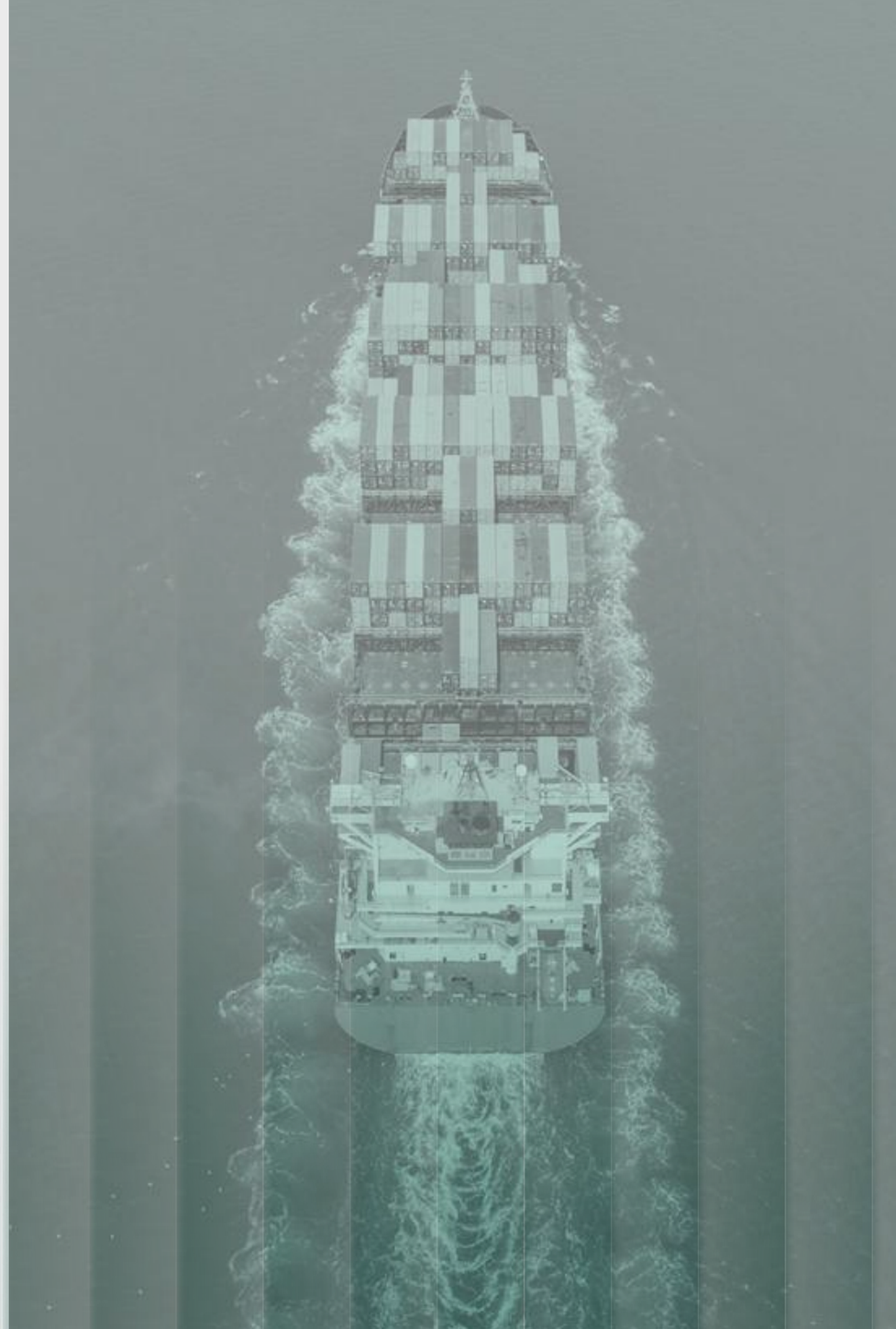
….**inconsistencies** in the way that NCAs granted derogation authorisations for the export of sanctioned goods.

…cases where goods had been **stopped** at customs of exit in LT &PL, although the goods were **accepted** for export to RU (exempted without an export authorisation from IT)

02 What we found

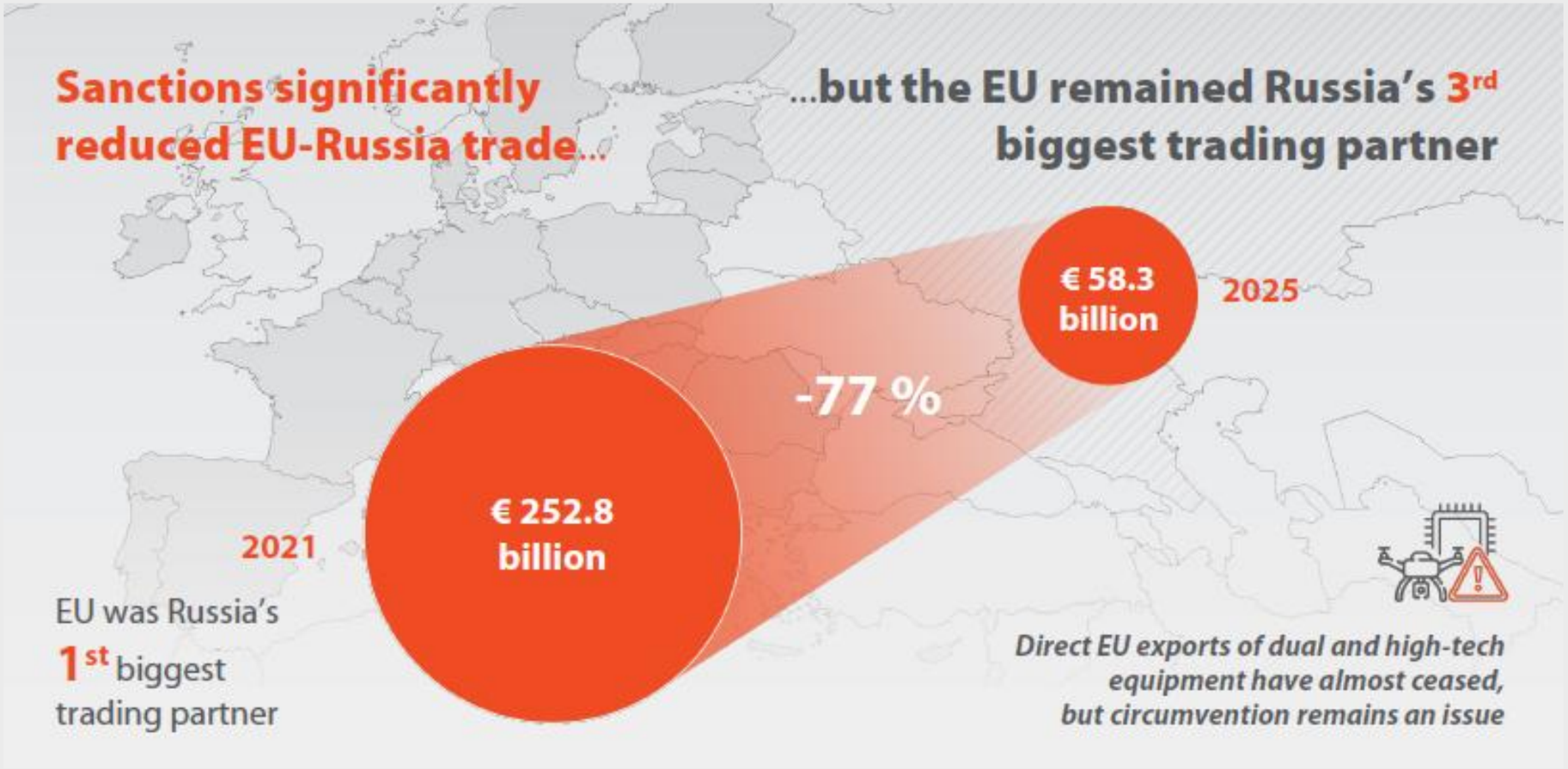
Existing opportunities for further harmonisation

- The Baltic Customs Initiative - a cooperative agreement between Estonia, Croatia, Latvia, Lithuania, Poland and Finland
- Efforts within upcoming EU customs reform (new EU customs authority, EU Customs data hub)



02 What we found

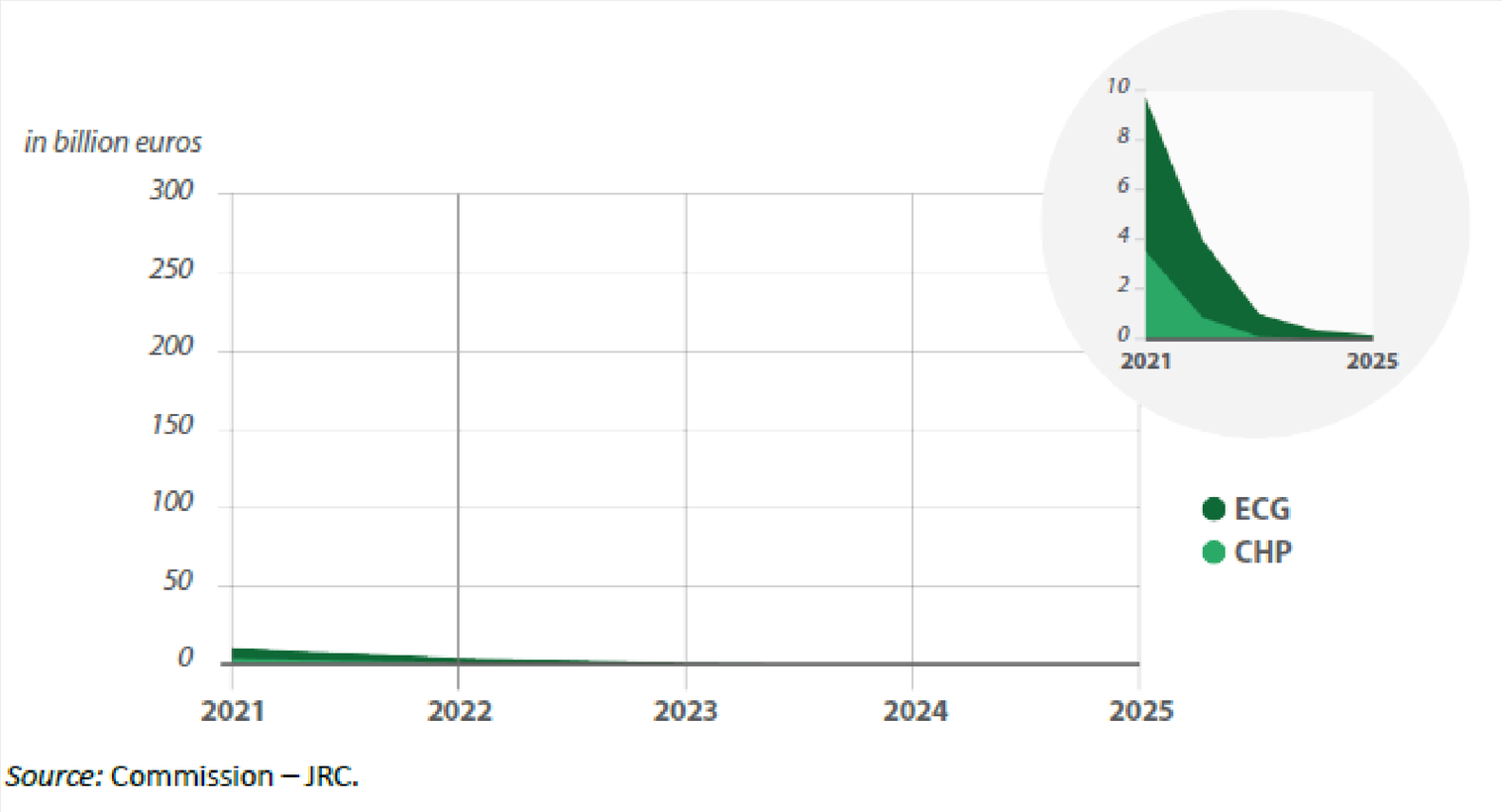
Trade sanctions together with anti-circumvention measures have significantly reduced trade between the EU and Russia .....



02 What we found

….common high-priority (CHP) and economically critical goods (ECG) particularly affected

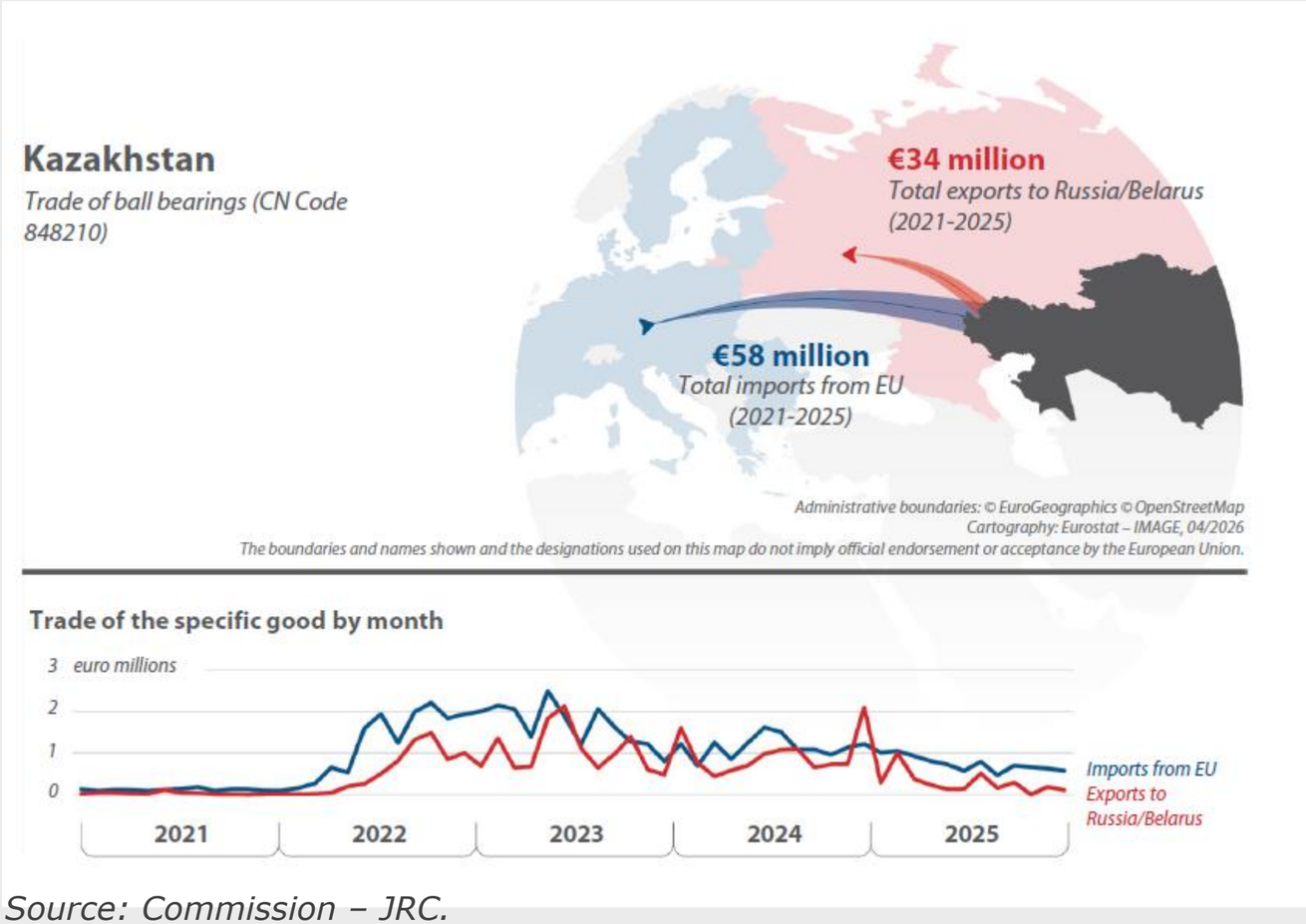
Exports of CHP and ECG from EU to Russia , 2021-2025



Source: Commission – JRC.

02 What we found

…trade in selected common HPG (between EU and selected non-EU countries, and between those countries and Russia/Belarus), 2021-2025

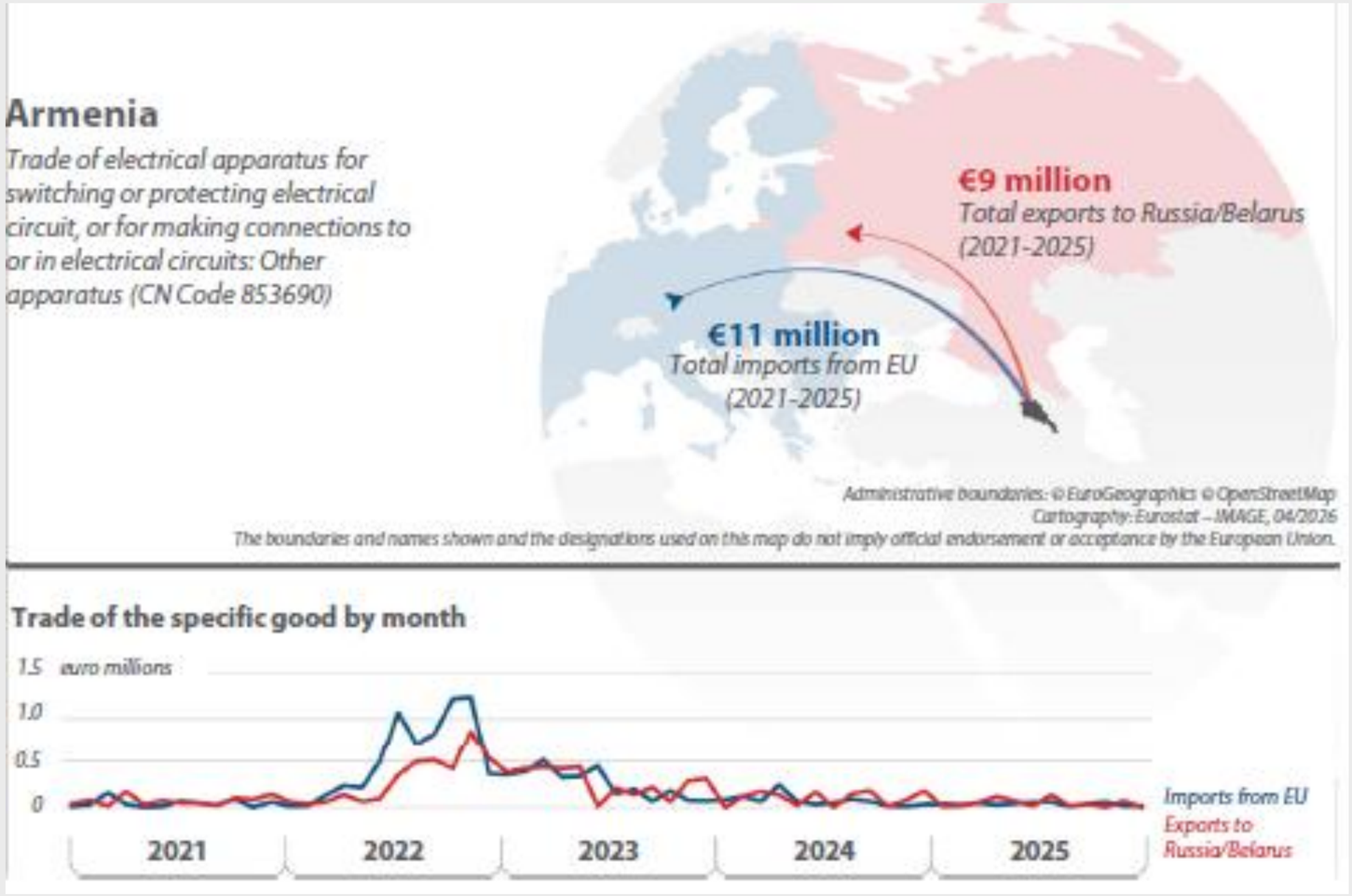


i.e. increase in 2022, followed by gradual return to pre-war levels by 2025

Source: Commission – JRC.

02 What we found

...continued



Source: Commission – JRC.

i.e. increase in 2022, followed by return to pre-war levels by 2025

02 What we found

The EU has put in place a range of measures to prevent circumvention

- Specific anti-circumvention measures adopted by the Council
- EU Sanctions Envoy
- EU sanctions whistleblower tool (2600, 10%, NCA/EEAS?)
- Analysis of circumvention trends / calibration
- Sanctions Coordination Forum

02 What we found

Monitoring of effectiveness focuses on impact on Russian economy& trade flows, and not on intra-EU aspects:

- Monitoring/data spread across various COM’s departments
- No common criteria how to measure effectiveness
- COM’s analysis informative, but decisions political
- Impact on the sanctioning entity (EU)



03 What we recommend to Commission

	COM's reaction:
• Improve the regulatory framework: avoid use of ambiguous terms & mitigate issues arising from terminological distinctions (customs vs CFSP)	+
• Conduct an in-depth analysis of how uniformly MSs implement and enforce EU trade sanctions	+/-
• Incentivise the full use of information-exchange systems by MSs	+
• Improve the monitoring and assessment of EU trade sanctions	+/-

THANK YOU!

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