

United States Imposes New 200% Tariffs on Russian Aluminum, Further Expands Sanctions on Russia, and Warns of New Third Country Sanctions

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On February 24, the U.S. Government issued a series of tariff and sanctions related announcements to coincide with the anniversary of Russia's invasion of Ukraine. The White House issued a proclamation¹ ("Proclamation") to impose 200% ad valorem tariffs on Russian-origin aluminum products and derivative products and other articles made from Russian primary aluminum or Russian aluminum castings. President Biden is adding these new tariffs under Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. § 1862), the same statute used by President Trump in 2018 when he placed a 10% ad valorem tariff on a broad range of aluminum products imported from most countries.

The new tariffs on Russian-sourced primary aluminum will take effect in two closely spaced tranches. First, beginning on March 10, 2023, the new tariff will apply to aluminum articles that are produced in Russia and derivative aluminum articles that are produced in Russia. Next, beginning on April 10, 2023, the new tariff will also apply to aluminum articles in which any amount of primary aluminum used in their manufacture has been smelted or cast in Russia and to any derivative aluminum articles where any amount of primary aluminum used in their manufacture has been smelted or cast in Russia. The second tranche of these new tariffs will imposed on articles made anywhere in the world – not just in Russia itself – in which "any amount" of primary aluminum in their production has been sourced from aluminum smelted or cast in Russia. The full list of goods that will be subject to this Proclamation will appear in an [Annex](#).

President Biden cited a new 2023 report and recommendation from U.S. Secretary of Commerce Gina Raimondo as the justification for these new tariffs on Russian aluminum. The President's Proclamation said in relevant part:

... The Secretary has informed me that the capacity utilization in the domestic aluminum industry remains well below the target capacity utilization level recommended in the January 2018 report [from her predecessor to President Trump]. The Secretary has also informed me that two of the five remaining aluminum smelters in the United States are in

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danger of closing as a result of continued high levels of aluminum imports and high energy prices.

... In the Secretary's January 2018 report, the Secretary recommended that the President consider applying a higher tariff to a list of specific countries should the President determine that all countries should not be subject to the same tariff. One of the countries on that list was the Russian Federation (Russia). As the Secretary explained in that report, Russia is among the major exporters of aluminum to the United States for domestic consumption. While aluminum imports from Russia have declined from the volume in the Secretary's 2018 report, Russia remains the fifth largest source of imported aluminum in the United States, and the imports of aluminum from Russia have increased in both 2021 and 2022. Distortions that result from overcapacity threaten market-oriented aluminum industries and Russia's aluminum industry in particular is extremely export oriented, with Russia being the largest exporter of unwrought aluminum in 2021 and Russian domestic consumption accounting for just 22 percent of Russian production across 2021 and 2022. United States imports of Russian aluminum increased by 53 percent between March and July 2022.

... Russia continues its unjustified, unprovoked, unyielding, and unconscionable war against Ukraine. The Russian aluminum industry is a key part of Russia's defense industrial base and has played a major role in supplying Russia with weapons and ammunition used in the war. In addition, Russia's war against Ukraine has caused global energy prices to rise, causing direct harm to the United States aluminum industry.

For purposes of these new tariffs, the Proclamation defines "primary aluminum" as new aluminum metal that is produced from alumina or aluminum oxide by the electrolytic Hall-Heroult process, the world's most common technique used to make aluminum from bauxite ore. After alumina or aluminum oxide has been chemically separated from its source bauxite, then electrolysis is used to produce pure aluminum metal.

The Proclamation also recognizes the profound effect these new tariffs will have on third countries that have traditionally sourced primary aluminum from Russia and that then make various goods that may be exported from those third countries into the U.S. market. Accordingly, the Proclamation encourages third countries to take similar action against imports of Russian aluminum. The Proclamation states that "... concerns about aluminum imports from Russia and their impact on our national security are shared by other countries....Any country that imposes a tariff of 200 percent or more on its imports of aluminum articles that are products of Russia may be exempt from the tariff imposed by this proclamation."

Also on February 24, President Biden issued a separate Proclamation to increase the general basic import duties on a broad range of Russian-origin products. Effective April 1, 2023, a 70% ad valorem will apply to a broad range of products made of aluminum, copper, iron, lead, steel, and other base metals. The Proclamation also imposes 35% basic import tariff on a variety of Russian-origin chemicals, diamonds, nickel, and platinum. President Biden issues these tariffs under the same statutory authority that repealed Russia's "Normal Trade Relations" status. Because these tariffs are cumulative

of other import tariffs, certain Russian aluminum goods could be subject to import duties in excess of 270% after adding any other applicable U.S. import duties.

Expanded Russian-Related Sanctions

Also on February 24, the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") imposed yet further sanctions² on more than 250 companies, banks, individuals, and vessels.³ OFAC has named these targeted persons to its Specially Designated Nationals List ("SDN List"), freezing any of their assets within U.S. jurisdiction and barring any financial transactions through the U.S. financial system with these SDNs (or with any entity that is 50% or more owned by such SDNs). OFAC's February 24 statement said: "OFAC today is designating over a dozen financial institutions in Russia, including one of the top-ten largest banks by asset value. Sanctioned actors have been known to turn to smaller banks as well as wealth-management firms in an attempt to evade sanctions as Russia seeks new ways to access the international financial system." The list of newly named SDN Russian banks includes:

- Credit Bank of Moscow Public JSC
- JSC Commercial Bank Lanta Bank
- Public JSC Commercial Bank Metallurgical Investment Bank
- Public JSC MTS Bank
- Novosibirsk Social Commercial Bank Levoberezhny JSC
- Bank Saint-Petersburg Public JSC
- JSC Commercial Bank Primorye
- SDM-Bank Public JSC
- Public JSC Ural Bank for Reconstruction and Development
- Public JSC Bank Uralsib
- Bank Zenit Public JSC

OFAC also added to the SDN List a number of named Russian companies that are part of the Russian military-industrial complex and that are direct or indirect suppliers of munitions and other equipment for the Russian armed forces. The named Russian firms include companies active in the development and production of advanced materials such as carbon fiber, aerospace, electronics and military-grade personal protective equipment.

In addition, OFAC named as SDNs several dozen individuals and entities based in third countries such as Switzerland, Germany and the Middle East who are deemed to have assisted in Russia's evasion of earlier U.S. sanctions against Russia or to have in provided financial support to Russia for its invasion of Ukraine. As is common practice, OFAC also issued a series of short-term general licenses to allow U.S. persons to wind down their business activities with some of these newly named SDNs. Consistent with previous U.S. sanctions of this type, the Treasury Department has coordinated these latest sanctions with other allied nations, particularly the G7 countries, who also oppose the Russian war in Ukraine, and so parallel sanctions targeting these same companies, banks and individuals are expected in other jurisdictions as well. (OFAC's February 24 announcement noted that several of the above-listed SDN Russian banks have already

been concurrently named by Canada or the United Kingdom to their own national sanctions lists.)

In addition, OFAC also issued a new determination on February 24 that will allow OFAC in the future to impose yet further economic sanctions on any firm in the Russian metals or mining sectors.⁴ The February 24 SDN designations included four entities under this new determination. It remains to be seen how expansively such further sanctions will be applied, but the form of this OFAC announcement suggests the U.S. Government is focused on applying broader and more intense pressure upon the Russian economy to increase the effective cost of the Russian war in Ukraine and, in particular, to reduce the Russian government's revenues.

U.S. Warns of Third-Country Sanctions

These stiff new U.S. measures were foreshadowed in a major policy speech by Deputy Secretary of the Treasury Wally Adeyemo to the Council on Foreign Relations in Washington, DC, on February 21.⁵ Deputy Secretary Adeyemo is the No. 2 official in the Treasury Department and is essentially its chief operating officer. In particular, he leads the Treasury Department's law enforcement and national security operations, including all of OFAC's economic sanctions programs. After reviewing the history and progress of U.S. sanctions against Russia, he said in his remarks:

The final element of our approach [on economic sanctions] will be to put pressure on the companies and jurisdictions we know are allowing or facilitating evasion. Russia's invasion of Ukraine is unconscionable.

But even some of the countries who have publicly agreed with that sentiment are falling short of their obligations to enforce the sanctions we and our coalition have imposed in response. We have seen troubling patterns in several countries, including several of Russia's neighbors, where the Kremlin has deepened its financial ties and trade flows as other markets have been closed off. We are providing intelligence and actionable information to enable countries to stamp out sanctions evasion in their jurisdictions. And if they fail to do so, we and our partners are prepared to use the various economic tools at our disposal to act on our own.

Officials from the U.S. and the governments of our coalition partners are also engaging with companies and banks in these jurisdictions to tell them directly that if they do not enforce our sanctions and export controls, we will cut them off from access to our markets and financial systems.

The cost of doing business with Russia in violation of our policies is a steep one, and companies and financial institutions should not wait for their governments to make the decision for them.

The Russian war in Ukraine is now moving into its second year, and Russia continues to search for alternative foreign sources of goods, materials, technology and finance to compensate for the disruption to its vital supply chains brought about by U.S. and allied

sanctions regimes, Deputy Secretary Adeyemo's words thus appear to be a stern warning to the other countries and their companies about their potential exposure to enhanced export controls and economic sanctions if they tacitly or overtly support Russia's war and faltering economy.

¹ <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/02/24/a-proclamation-on-adjusting-imports-of-aluminum-into-the-united-states-4/>

² <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20230224>

³ On February 24, the U.S. Department of the Commerce also issued four final rules that expanded export controls and trade restrictions targeting Belarus and Russia. That separate sanctions action includes the addition of 86 entities to the Entity List, expansion to the Entity List, expansion of industry sector and luxury goods sanctions, and a new foreign direct product rule targeting goods used to make Iranian drones.

⁴ https://home.treasury.gov/system/files/126/determination_02242023_eo14024.pdf⁵
<https://home.treasury.gov/news/press-releases/jy1286>