

US And UK Tighten Restrictions on Trade and Use of Russian Metals

April 22, 2024

On April 12, 2024 the United States, in coordination with the United Kingdom, issued new prohibitions with respect to Russian aluminium, copper and nickel.

The new actions prohibit the import of Russian-origin aluminum, copper and nickel into the United States and limit their use on global metal exchanges and in over-the-counter derivatives trading. In the UK, metals not on warrant before/at 23:59 on 12 April 2024 became subject to certain restrictions, including that post-12-April warrants cannot be cancelled or withdrawn by a UK person, or anyone located in the UK, in order to take physical delivery of the metal, and that a UK person, or anyone located in the UK, is prevented from changing the location of the metal.

The release of the new metal-focused sanctions has driven the base metals prices upwards.¹ Russian aluminum company Rusal is reported by Bloomberg² to forecast that these measures may result in the reduction of its export sales by one third, the biggest output reduction since 2008, but Goldman Sachs is reported to not expect an immediate supply-demand shock.³

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¹ Financial Times, “Aluminum and nickel prices jump after sanctions on Russian supply”, April 15, 2024, accessible [here](#).

² Bloomberg, “Rusal Fears New Russia Metal Sanctions Put 36% of Sales at Risk”, April 15, 2024, accessible [here](#).

³ Reuters, “‘No immediate supply-demand shock’ from LME ban on Russian metals, Goldman says”, April 15, 2024, accessible [here](#).



I. United States

On April 12, 2024, the U.S. Department of the Treasury, Office of Foreign Assets Control (“OFAC”) issued two determinations.

The first, “Prohibitions Related to Imports of Aluminum, Copper, and Nickel of Russian Federation Origin” (the “**Metals Import Determination**”⁴), which was issued pursuant to Executive Order (“E.O.”) 14068, as amended by E.O. 14114, prohibits the importation and entry into the United States, including importation for admission into a foreign trade zone located in the United States, of Russian-origin aluminium, copper, and nickel. Pursuant to the determination, the importation into the United States of Russian-origin aluminium, copper, and nickel that was produced prior to April 13, 2024 is not prohibited. In connection with issuing the Metals Import Determination, OFAC also issued a number of frequently asked questions (“FAQs”). FAQs 1019⁵ and 1170⁶ provide additional clarification regarding the precise scope of the terms “Russian Federation origin,”⁷ “aluminum,” “nickel,” and “copper.”⁸

The second, “Prohibitions on Certain Services for the Acquisition of Aluminum, Copper, or Nickel of Russian Federation Origin” (the “**Metals Services Determination**”⁹), which was issued pursuant to E.O. 14071, prohibits the exportation, reexportation, sale, or

supply, directly or indirectly, from the United States, or by a United States person, wherever located, of the following categories of services to any person located in Russia: warranting services¹⁰ for Russian-origin aluminium, copper, or nickel on a global metal exchange and services to acquire Russian-origin aluminium, copper, or nickel, as part of the physical settlement of a derivative contract (collectively, “**Covered Metals Acquisition Services**”). This determination does not apply to services related to Russian-origin aluminium, copper, or nickel that was produced prior to April 13, 2024. See OFAC FAQs 1169,¹¹ 1170, 1128,¹² 1019, and FAQ 1058¹³ for more information.

According to FAQ 1169, to ensure compliance with the Metals Services Determination, U.S. global metal exchanges should not accept Russian-origin aluminium, copper, or nickel produced on or after April 13, 2024 (“**covered Russian metals**”). The FAQ goes on to say that U.S. global metal exchanges can further comply with the Metal Services Determination by: (i) halting the warranting of covered Russian metals on the exchange; (ii) removing brands that produce covered Russian metals from their list of accepted brands; (iii) abstaining from adding additional brands of covered Russian metals to their list of accepted brands; (iv) ceasing providing clearing services for covered Russian

⁴ The Metals Import Determination is accessible [here](#).

⁵ FAQ 1019 is accessible [here](#).

⁶ FAQ 1170 is accessible [here](#).

⁷ FAQ 1019 indicates that OFAC anticipates publishing regulations defining the term “Russian Federation origin” to include goods produced, manufactured, extracted, or processed in the Russian Federation, excluding any Russian Federation origin good that has been incorporated or substantially transformed into a foreign-made product.

⁸ FAQ 1170 indicates that OFAC anticipates publishing regulations defining “aluminum,” “nickel,” and “copper” to include articles or products defined at the following Harmonized Tariff Schedule of the United States (HTSUS) chapter headings:

- “Aluminum”: defined at HTSUS Chapter 76.
- “Nickel”: defined at HTSUS Chapter 75.
- “Copper”: defined at HTSUS Chapter 74.

⁹ The Metals Services Determination is accessible [here](#).

¹⁰ According to FAQ 1128, “[w]arranting services’ refers to issuing, registering, accepting, or acquiring a warrant or the underlying metal on a global metal exchange (i.e., a commodities exchange that provides infrastructure and services for the international trading of base metal derivatives contracts). Examples of such global metal exchanges include, but are not limited to, the Chicago Mercantile Exchange, the London Metal Exchange, and the Shanghai Futures Exchange. ‘Warrant’ means an electronic record or physical document of title to, possession of, or rights in respect of a specified lot of metal (including where such metal is held in a third country within a global metal exchange-approved warehouse). A warrant is created or issued in accordance with the rules of a global metal exchange.”

¹¹ FAQ 1169 is accessible [here](#).

¹² FAQ 1128 is accessible [here](#).

¹³ FAQ 1058 is accessible [here](#).

metals; and (v) halting acting as a central counterparty to the trade of covered Russian metals.

Further, FAQ 1169 indicates that U.S. persons are also prohibited from providing services to acquire covered Russian metals as part of a physically settled derivative contract (i.e., the expiration of the contract results in a transfer of ownership of the physical commodity, as opposed to a cash settled derivatives contract in which the derivative expires directly into cash on the maturity date of the trade). In addition, a U.S. trader that is a counterparty to a derivative contract cannot take physical delivery of covered Russian metals when it comes time to settle that contract, even if the importation of the metal would not be into the United States.

According to OFAC, market participants and traders may reasonably rely on the Certificate of Analysis and Certificate of Origin of the relevant Russian metal, or other documentation available to them in the ordinary course of business, with respect to the date of production, but should exercise caution if they have reason to believe such documentation has been falsified or is otherwise erroneous.

In FAQ 1172, OFAC makes clear that processing, clearing, or sending of payments related to Russian metals by a U.S. bank on behalf of non-U.S. persons is not prohibited by the Metals Services Determination where the bank: (1) is operating solely as an intermediary; and (2) does not have any direct relationship with the person providing a service covered by the Metals Services Determination (i.e., the person

is a non-account party) as it relates to the relevant transaction.

II. United Kingdom

a) *Context*

Chapter 4CB¹⁴ of the UK Russia Regulations imposes wide ranging restrictions in respect of certain specified metals, specifically:

- the import of such metals consigned from, or originating in, Russia;¹⁵
- the direct or indirect acquisition of such metals originating in, or located in, Russia;¹⁶ and
- the supply to a third country of such metals from a place in Russia.¹⁷

The scope of metals which are subject to these restrictions is set out in Schedule 3BA to the UK Russia Regulations.¹⁸ It extends, amongst other things, to the following metals (and articles thereof): copper, nickel, aluminium, lead, zinc, tin.¹⁹

These restrictions, which are subject to certain exceptions and Trade Licences, were introduced in December 2023,²⁰ alongside a trade licence, issued on 13 December 2023 by the Department for Business & Trade, for the acquisition of metals (the “**Metals Licence**”).²¹

The Metals Licence was initially issued to allow the persons specified in the Licence (LME Clear Limited; the London Metal Exchange; global metal exchange members; and clients of global metal exchange

¹⁴ Chapter 4CB was inserted into the UK Russia Regulations by Regulation 7 of The Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023 (S.I. 2023/1364).

¹⁵ UK Russia Regulations, Regulation 46IG.

¹⁶ UK Russia Regulations, Regulation 46IH.

¹⁷ UK Russia Regulations, Regulation 46II.

¹⁸ Schedule 3BA of the UK Russia Regulations is accessible [here](#).

¹⁹ Other metals/products included in Schedule 3BA are: (i) Tungsten (wolfram) and articles thereof, including waste and scrap; (ii) Molybdenum and articles thereof, including waste and scrap; (iii) Tantalum and articles thereof, including waste and scrap; (iv) Magnesium and articles thereof, including waste and scrap; (v) Cobalt mattes and other intermediate products of cobalt metallurgy, cobalt and articles thereof, including waste and scrap; (vi) Bismuth

and articles thereof, including waste and scrap; (vii) Zirconium and articles thereof, including waste and scrap; (viii) Antimony and articles thereof, including waste and scrap; (ix) Manganese and articles thereof, including waste and scrap; (x) Beryllium, chromium, hafnium, rhenium, thallium, cadmium, germanium, vanadium, gallium, indium and niobium (columbium) and articles of these metals, including waste and scrap; (xi) Cermets and articles thereof, including waste and scrap; (xii) Tools, implements, cutlery, spoons and forks of base metal; parts thereof of base metal; (xiii) Miscellaneous articles of base metal.

²⁰ See, Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023, Regulation 7 and Schedule 2.

²¹ The Trade licence for acquisition of metals, as amended on 12 April 2024, is accessible [here](#).

members) to acquire a warrant relating to Russian metal located in a third country on a global metal exchange, subject to certain conditions.²²

b) Recent tightening of metals restrictions

The Metals Licence was amended on 12 April 2024.

As regards metals on warrant before/at 23:59 on 12 April 2024:

- trade in the warrants for these metals may continue on global metal exchanges;
- these metals can be taken off warrant;
- once taken off warrant, these metals can be moved and taken delivery of *outside the UK*;
- once taken off warrant, these metals can subsequently be re-warranted on a global metal exchange;
- these metals remain banned for import into the UK.

Notably, a person who cancels or withdraws (or requests or orders the cancellation or withdrawal of) a warrant under the authority of the Metals Licence in order to take physical delivery of the metal to which the warrant relates must notify the Secretary of State for the Department for Business and Trade, and keep certain records, as specified in the Metals Licence.²³

As regards metals not on warrant before/at 23:59 on 12 April 2024:

²² See paragraph 2 of the Trade Licence.

²³ Metals Licence, paragraphs 7 to 10.

²⁴ The condition in the Metals Licence that metal was produced before 23:59 on 12 April 2024 will be met: (i) where the warrant being acquired was issued before that time; or (ii) where the date of production of the metal being before 23:59 on 12 April 2024 can be demonstrated through a Certificate of Analysis aligning with the physical metal (for example, the date of production is specified on the Certificate of Analysis, or the Certificate of Analysis was issued before 23:59 on 12 April 2024, or the date of inspection of the metal for the purposes of issuing the Certificate of Analysis (as specified therein) is before 23:59 on 12 April 2024), save where the person knows or has reasonable cause to suspect that the metal was produced after 23:59 on 12 April 2024; or (iii) where the date of production of the metal being before 23:59 on 12 April 2024 can be demonstrated through other equivalent evidence (save where the person knows or has reasonable cause to suspect that the metal was produced after 23:59 on 12 April 2024).

²⁵ For example, Annex XXI to Regulation 833/2014 lists the following goods: aluminium bars, rods and profiles; aluminium wire; aluminium plates, sheets and strip, of a thickness exceeding

- any warrant in relation to that metal cannot be cancelled or withdrawn by a UK person, nor anyone located in the UK, in order to take physical delivery of the metal;
- a UK person and anyone located in the UK is also prevented from changing the location of the metal;
- if the metal was produced before 23:59 on 12 April 2024,²⁴ it may still be warranted and placed on a global metal exchange, but the above restrictions would apply.

Metals produced after 23:59 on 12 April 2024 cannot be warranted nor placed on a global metal exchange.

III. European Union

The EU has not, so far, imposed general metals related bans in the way the UK has.

Article 3i restricts the purchase, import, or transfer of certain specified goods which generate significant revenues for Russia, as well as related services. The list of goods specified for this purpose includes certain metal items, such as, for example, unwrought lead and certain aluminium goods; however, it does not include aluminium, copper or nickel more broadly.²⁵

Moreover, there are certain metal related *export* restrictions, e.g., relating to copper and nickel related items.²⁶

0,2 mm; aluminium foil (whether or not printed or backed with paper, paperboard, plastics or similar backing materials), of a thickness (excluding any backing) not exceeding 0,2 mm; aluminium tubes and pipes.

²⁶ Regulation 833/2014, Article 3k and Annex XXIII. Examples of items listed in Annex XXIII include: copper bars, rods and profiles; copper wire; copper plates, sheets and strip, of a thickness exceeding 0,15 mm; copper tubes and pipes; copper tube or pipe fittings (for example couplings, elbows, sleeves); stranded wire, cables, plaited bands and the like, of copper (not electrically insulated); washers, (incl. spring washers and spring lock washers), of copper; nickel bars, rods, profiles and wire; nickel plates, sheets, strip and foil; tubes, pipes and tube or pipe fittings (e.g., couplings, elbows, sleeves), of nickel; other articles of nickel; aluminium wire; aluminium plates, sheets and strip, of a thickness exceeding 0,2 mm; aluminium foil, backed, of a thickness (excl. any backing) of <= 0,2 mm (excl. stamping foils of heading 3212, and foil made up as christmas tree decorating material); aluminium tubes and pipes; aluminium tube or pipe fittings (for example couplings, elbows, sleeves); structures and parts of structures (e.g., bridges and bridge-sections, towers, lattice masts, pillars and columns, roofs, roofing

However, general restrictions on metal imports have not so far been imposed by the EU and, in fact, the EU sanctions regime includes a number of exceptions and derogations that seem to facilitate the import of metals.²⁷ In fact, it has been suggested that, as the EU imports a significant proportion of metals such as aluminium, nickel or copper from Russia, switching to imports from different countries could be challenging and costly.²⁸

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frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades), of aluminium (excl. prefabricated buildings of heading 9406); plates, rods, profiles, tubes and the like, prepared for use in structures, of aluminium; reservoirs, tanks, vats and similar containers, of aluminium, for any material (other than compressed or liquefied gas), of a capacity of > 300 l, not fitted with mechanical or thermal equipment, whether or not lined or heat-insulated (excl. containers specifically constructed or equipped for one or more types of transport); casks, drums, cans, boxes and similar containers, incl. rigid or collapsible tubular containers, of aluminium, for any material (other than compressed or liquefied gas), of a capacity of <= 300 l, not fitted with mechanical or thermal equipment, whether or not lined or heat-insulated, n.e.s.; aluminium containers for compressed or liquefied gas; nails, tacks, staples

(other than those of heading 8305), screws, bolts, nuts, screw hooks, rivets, cotters, cotter pins, washers and similar articles; lead plates, sheets, strip and foil; lead powders and flakes; zinc plates, sheets, strip and foil; unwrought tin; tin bars, rods, profiles and wire; articles of tin; tungsten powders; molybdenum and articles thereof, including waste and scrap; articles of cobalt; zirconium and articles thereof, including waste and scrap.

²⁷ See, e.g., Regulation 833/2014, Article 3a(5) and Annex XXX, Article 3ea(5)(a), Article 3l(4)(a), Article 5aa(3)(a), Article 5k(2)(e), Article 5n(10)(d).

²⁸ Reuters, “Europe to battle with US for aluminium if EU opts for Russian ban”, March 4, 2024, accessible [here](#).