



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-145]

Certain Freight Rail Couplers and Parts Thereof from the People's Republic of China: Final Affirmative Determination of Sales at Less-Than-Fair Value and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain freight rail couplers and parts thereof (freight rail couplers) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less-than-fair value (LTFV) during the period of investigation, January 1, 2022, through June 30, 2022.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Drew Jackson or Zachary Shaykin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4406 or (202) 482-2638, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 2023, Commerce published in the *Federal Register* the *Preliminary Determination* in this investigation.¹ Commerce invited interested parties to comment on the *Preliminary Determination*.

¹ See *Certain Freight Rail Couplers and Parts Thereof from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances*, 88 FR 15372 (March 13, 2023) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

For a complete description of the events that followed the Preliminary Determination, see the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Period of Investigation

The period of investigation is January 1, 2022, through June 30, 2022.

Scope of the Investigation

The products covered by this investigation are freight rail coupler systems and certain components thereof from China. For a complete description of the scope of this investigation, *see* appendix I.

Scope Comments

During the course of this investigation and the concurrent LTFV and countervailing duty investigations of freight rail couplers from Mexico, and China, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Memorandum to address these comments and set aside a period of time for parties to address scope issues in scope case and rebuttal briefs.³ We received comments from interested parties on the Preliminary Scope Memorandum, which we address in the Final Scope Memorandum.⁴ As a result of these comments, we made certain changes to the scope of these investigations from that published in the *Preliminary Determination*. *See* appendix I.

² *See* Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Freight Rail Couplers and Parts Thereof from the People’s Republic of China,” dated concurrently with this notice (Issues and Decision Memorandum).

³ *See* Memorandum, “Preliminary Scope Decision Memorandum,” dated March 28, 2023 (Preliminary Scope Memorandum).

⁴ *See* Memorandum, “Final Scope Decision Memorandum,” dated concurrently with this notice (Final Scope Memorandum).

Final Affirmative Determination of Critical Circumstances

In accordance with section 733(e) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.206(h), Commerce determines that critical circumstances exist with respect to imports of freight rail couplers from China for the China-wide entity. For a full description of the methodology and results of Commerce’s critical circumstances analysis, *see* the Preliminary Decision Memorandum and the Issues and Decision Memorandum.

China-Wide Entity and Use of Adverse Facts Available (AFA)

For the purposes of this final determination, consistent with the *Preliminary Determination*,⁵ we relied solely on the application of AFA for the China-wide entity, pursuant to sections 776(a) and (b) of the Act. Further, because no companies are eligible for a rate separate from the China-wide entity, we continue to find that all exporters of Chinese freight rail couplers are part of the China-wide entity. There is no new information on the record that would cause us to revisit our decision in the *Preliminary Determination*. Thus, we made no changes to our analysis or to the China-wide entity’s dumping margin for the final determination. A detailed discussion of our application of AFA is provided in the *Preliminary Determination*.⁶

Combination Rates

Because no Chinese exporters qualified for a separate rate, producer/exporter combination rates were not calculated for this final determination.

Final Determination

Commerce determines that the following estimated weighted-average dumping margin exists for the POI:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)	Estimated Weighted-Average Dumping Margin Adjusted for Export Subsidy Offset(s) (percent)⁷
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⁵ *See Preliminary Determination* PDM at 6-9.

⁶ *Id.*

⁷ For the export subsidy offset calculation, see Commerce’s Memorandum, “Freight Rail Couplers from the People’s Republic of China: Export Subsidy Offset Calculation for the Final Determination,” dated concurrently with this notice.

China-Wide Entity	169.90	139.49
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Disclosure

Because Commerce continues to find that all Chinese exporters of freight rail couplers are part of the China-wide entity and continues to rely solely on the application of AFA for the China-wide entity, there are no calculations to disclose for this final determination.

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of subject merchandise as described in the “Scope of the Investigation” section entered, or withdrawn from warehouse, for consumption, on or after March 13, 2023, which is the date of publication of the affirmative *Preliminary Determination* in the *Federal Register*, at the cash deposit rate indicated above.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit for such entries of merchandise equal to the amount by which the normal value exceeds the U.S. price as follows: (1) for all Chinese exporters of subject merchandise, the cash deposit rate will be equal to the estimated dumping margin established for the China-wide entity; and (2) for all third country exporters of subject merchandise, the cash deposit rate is also the cash deposit rate applicable to the China-wide entity. These suspension of liquidation instructions will remain in effect until further notice.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we intend to issue an antidumping duty order and continue to require a cash deposit of estimated antidumping duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 736(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of freight rail couplers from China no later than 45 days after our final determination.

If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded or canceled, as Commerce determines to be appropriate. If the ITC determines that such injury does exist, Commerce intends to issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Order

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 735(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: May 22, 2023.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation covers certain freight railcar couplers (also known as “fits” or “assemblies”) and parts thereof. Freight railcar couplers are composed of two main parts, namely knuckles and coupler bodies but may also include other items (*e.g.*, coupler locks, lock lift assemblies, knuckle pins, knuckle throwers, and rotors). The parts of couplers that are covered by the investigation include: (1) E coupler bodies, (2) E/F coupler bodies, (3) F coupler bodies, (4) E knuckles, and (5) F knuckles, as set forth by the Association of American Railroads (AAR). The freight rail coupler parts (*i.e.*, knuckles and coupler bodies) are included within the scope of the investigation when imported separately. Coupler locks, lock lift assemblies, knuckle pins, knuckle throwers, and rotors are covered merchandise when imported in an assembly but are not covered by the scope when imported separately.

Subject freight railcar couplers and parts are included within the scope whether finished or unfinished, whether imported individually or with other subject or nonsubject parts, whether assembled or unassembled, whether mounted or unmounted, or if joined with nonsubject merchandise, such as other nonsubject parts or a completed railcar. Finishing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, machining, and assembly of various parts. When a subject coupler or subject parts are mounted on or to other nonsubject merchandise, such as a railcar, only the coupler or subject parts are covered by the scope.

The finished products covered by the scope of this investigation meet or exceed the AAR specifications of M-211, “Foundry and Product Approval Requirements for the Manufacture of Couplers, Coupler Yokes, Knuckles, Follower Blocks, and Coupler Parts” and/or AAR M-215 “Coupling Systems,” or other equivalent domestic or international standards (including any revisions to the standard(s)).

The country of origin for subject couplers and parts thereof, whether fully assembled, unfinished or finished, or attached to a railcar, is the country where the subject coupler parts were cast or forged. Subject merchandise includes coupler parts as defined above that have been further processed or further assembled, including those coupler parts attached to a railcar in third countries. Further processing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, painting, coating, priming, machining, and assembly of various parts. The inclusion, attachment, joining, or assembly of nonsubject parts with subject parts or couplers either in the country of manufacture of the in-scope product or in a third country does not remove the subject parts or couplers from the scope.

The couplers that are the subject of this investigation are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number 8607.30.1000. Unfinished subject merchandise may also enter under HTSUS statistical reporting number 7326.90.8688. Subject merchandise attached to finished railcars may also enter under HTSUS statistical reporting numbers 8606.10.0000, 8606.30.0000, 8606.91.0000, 8606.92.0000, 8606.99.0130, 8606.99.0160, or under subheading 9803.00.50. Subject merchandise may also be imported under HTSUS statistical reporting number 7325.99.5000. These HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Final Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Scope of the Investigation
- VI. Affirmative Determination of Critical Circumstances
- VII. Changes since the *Preliminary Determination*
- VIII. Adjustments to Cash Deposit Rates for Export Subsidies
- IX. Use of Facts Otherwise Available and Adverse Inferences
- X. Discussion of the Issues
 - Comment 1: Critical Circumstances
 - Comment 2: Termination of the Investigation
- XI. Recommendation

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