



DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-857]

Certain Freight Rail Couplers and Parts Thereof from Mexico: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative 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 Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2021, through June 30, 2022.

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

FOR FURTHER INFORMATION CONTACT: Jonathan Hall-Eastman, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1468.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 2023, Commerce published in the *Federal Register* its *Preliminary Determination* of the LTFV investigation of freight rail couplers from Mexico, in which it also postponed the final determination until September 15, 2023.¹ Commerce invited interested

¹ See *Certain Freight Rail Couplers and Parts Thereof from Mexico: Preliminary Affirmative Determination of Sales at Less Than Fair Value Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 88 FR 27864 (May 3, 2023) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

parties to comment on the *Preliminary Determination*.²

For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.³ 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>.

Scope of the Investigation

The products covered by this investigation are freight rail couplers from Mexico. For a full 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 the People's Republic of 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-specific case and rebuttal briefs.⁴ We received comments from interested parties on the Preliminary Scope Memorandum, which we address in the Final Scope Memorandum.⁵ We did not make any changes to the scope of the investigation from the scope published in the *Preliminary Determination*, as noted in appendix I.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in June and July 2023, we conducted verification of the sales and cost information submitted by ASF-K de

² *Id.*

³ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less Than Fair Value Investigation of Certain Freight Rail couplers from Mexico," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁴ See Memorandum, "Preliminary Scope Decision Memorandum," dated March 28, 2023.

⁵ See Memorandum, "Final Scope Decision Memorandum," dated May 15, 2023.

Mexico S. de R.L. de C.V. (ASF-K) and Amsted Rail Company, Inc. (Amsted Rail) for use in our final determination. We used standard verification procedures, including an examination of relevant sales and accounting records, and original source documents provided by ASF-K and Amsted Rail.⁶

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised in the Issues and Decision Memorandum is attached to this notice as appendix II.

Changes Since the *Preliminary Determination*

We have made certain changes to the margin calculations for ASF-K since the *Preliminary Determination*. See the Issues and Decision Memorandum for a discussion of these changes.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act.

In this case, Commerce calculated an individual estimated weighted-average dumping margin for ASF-K that is not zero, *de minimis*, or determined entirely under section 776 of the Act. Consequently, the rate calculated for ASF-K is also assigned as the rate for all other producers and exporters.

Final Negative Determination of Critical Circumstances

⁶ See Memoranda, “Verification of the Sales Responses of ASF-K de Mexico S. de R.L. de C.V. in the Antidumping Duty Investigation of Certain Freight Rail Couplers and Parts Thereof from Mexico,” dated July 12, 2023; and “Verification of the Cost Response of Amsted Rail Company, Inc. & ASF-K de Mexico S. de R.L. de C.V. in the Antidumping Duty Investigation of Certain Freight Rail Couplers from Mexico,” dated August 5, 2023.

In accordance with section 735(a)(3) of the Act and 19 CFR 351.206(h), Commerce finds that critical circumstances do not exist for ASF-K. For a full description of the methodology and results of Commerce’s critical circumstances analysis, see the “Final Negative Determination of Critical Circumstances” section of the Issues and Decision Memorandum.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist for the POI:

Producer/Exporter	Estimated Weighted-Average Dumping Margin (percent)
ASF-K de Mexico S. de R.L. de C.V.	48.10
All Others	48.10

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of the date of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of freight rail couplers from Mexico, as described in appendix I to this notice, which were entered, or withdrawn from warehouse for consumption on or after May 3, 2023, the date of publication of *Preliminary Determination* of this investigation in the *Federal Register*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon publication of this notice, Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is

not a respondent identified above but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) 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 or sales (or the likelihood of sales) for importation of freight rail couplers from Mexico no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise 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.

Administrative Protective Order

This notice will serve as a final reminder to the 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 return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: September 15, 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 Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Final Negative Determination of Critical Circumstances
- V. Changes Since the Post-Preliminary Determination
- VI. Discussion of the Issues
 - Comment 1: Whether ASF-K Has a Viable Mexican Home Market
 - Comment 2: Whether ASF-K's IMMEX Sales are U.S. Sales
 - Comment 3: Whether Commerce Should Disqualify Counsel to Petitioner and Dismiss the Petition Due to a Conflict of Interest
 - Comment 4: Whether Commerce Should Revoke the Initiation of an MNC Provision Investigation
 - Comment 5: Whether Commerce Should Disallow ASF-K's Reported Surcharges
 - Comment 6: Whether ASF-K's Technical Support Expenses are Indirect Selling Expenses
 - Comment 7: Whether ASF-K's Technical Support Expenses Should be Allocated to the U.S. Market
 - Comment 8: Whether to Incorporate Information from Verifications into the Final Calculations
- VII. Recommendation