

## Freight Rail Couplers from China and Mexico Subject to New AD/CVD Petitions

October 3, 2022

### Key Points

- U.S. producers filed a new petition on freight rail couplers from China and Mexico that could subject those products to antidumping and countervailing duties.
- In 2021, China and Mexico made up a combined 75 percent of imports of freight rail couplers and component parts into the United States. The value of the subject merchandise imported in 2021 from China and Mexico was a combined \$55.4 million.
- If the ITC and DOC make preliminary affirmative determinations, U.S. importers will be required to post cash deposits in the amount of the AD and/or CVD duties for all entries on or after the date DOC's preliminary determination is published in the Federal Register.

### Introduction

On September 28, 2022, domestic producers filed petitions with the U.S. Department of Commerce (DOC) and the U.S. International Trade Commission (ITC), seeking antidumping (AD) duties on imports of certain freight rail couplers and parts thereof from China and Mexico and countervailing (CVD) duties on such imports from China.

The petitioner is the Coalition of Freight Coupler Producers, which includes domestic producer McConway & Torley LLC and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW). The USW represents unionized workers at Amsted Rail Company, which is not itself a petitioner in this case.

This petition follows a negative material injury determination by the ITC from July 2022 in a similar case on freight rail couplers and component parts from China, which had a slightly different scope. The underlying petition for that case was filed in September 2021 by the same Coalition. In its negative determination, the ITC concluded that subject imports did not significantly undersell the domestic like product, nor did they depress prices or prevent price increases, ultimately finding that the subject imports did not have a significant impact on the domestic industry. It appears that the present

### Contact Information:

**Bernd G. Janzen**

Partner

[bjanzen@akingump.com](mailto:bjanzen@akingump.com)

Washington D.C.

+1 202.887.4309

**Matthew R. Nicely**

Partner

[mnicely@akingump.com](mailto:mnicely@akingump.com)

Washington D.C.

+1 202.887.4046

**Yujin K. McNamara**

Partner

[ymcnamara@akingump.com](mailto:ymcnamara@akingump.com)

Washington D.C.

+1 202.887.4347

**Spencer S. Griffith**

Partner

[sgriffith@akingump.com](mailto:sgriffith@akingump.com)

Washington, D.C.

+1 202.887.4575

petition attempts to achieve a different result from the ITC by altering the scope language and adding imports from Mexico into the analysis.

Under U.S. law, a domestic industry can petition the government to initiate an AD investigation into the pricing of an imported product to determine whether it is sold in the United States (U.S.) at less than fair value (i.e., “dumped”). A domestic industry can also petition the initiation of a CVD investigation of alleged subsidization of foreign producers by a foreign government. Additional duties can be imposed if DOC determines that imported goods are dumped and/or subsidized and if the ITC also determines that the domestic industry is materially injured or threatened with such injury by reason of subject imports. Notably, in the prior AD and CVD investigations into freight couplers and parts thereof from China, DOC reached affirmative determinations of dumping and subsidization, though final AD and CVD orders were never imposed because of the ITC’s negative determination of material injury.

If the ITC and DOC make preliminary affirmative determinations, U.S. importers will be required to post cash deposits in the amount of the AD and/or CVD duties for all entries on or after the date DOC’s preliminary determination is published in the Federal Register. The preliminary AD/CVD rates can change in the final DOC determination, following further factual investigation, verification and briefing.

## Scope

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 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 are included within the scope of the investigation when imported individually.

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 9803.00.5000 if imported as an Instrument of International Traffic. Subject merchandise may also be imported under HTSUS statistical reporting number 7325.99.50. These HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the investigation is dispositive.

### Foreign Producers and Exporters of Subject Merchandise

A list of foreign producers and exporters of freight couplers and component parts, as identified in the petition, is provided in [Attachment 1](#).

### U.S. Importers of Subject Merchandise

A list of U.S. importers of freight couplers and component parts, as identified in the petition, is provided in [Attachment 2](#).

### Alleged Margins of Dumping/Subsidization

The petitioner did not publicly allege a dumping margin for China.

The petitioner alleged dumping margins ranging from 67.49 percent to 169.90 percent for China, and from 162.62 percent and 185.17 percent for Mexico. DOC generally assigns duties at these alleged dumping rates to exporters that fail to cooperate with the investigation. For example, in the recent AD/CVD investigation involving similar products from China, no Chinese producers cooperated, resulting in AD and CVD margins of 116.70 percent and 265.99 percent, respectively.

No specific subsidy rates for China are included in the petition.

### Potential Trade Impact

According to official U.S. import statistics, a total of 25.1 million kilograms of the subject merchandise was imported into the United States in 2021, with 15.2 million kilograms imported from China and 9.8 million kilograms imported from Mexico. In 2021, China and Mexico made up a combined 75 percent of imports of freight rail couplers and component parts into the United States. The value of the subject merchandise imported in 2021 from China and Mexico was a combined \$55.4 million.

### Estimated Schedule of Investigations

9/28/2022	Petition filed.
11/12/2022	ITC preliminary injury determination.
12/22/2022	DOC preliminary CVD determination, if not postponed.

- 2/25/2023 DOC preliminary CVD determination, if fully postponed.
- 3/7/2023 DOC preliminary AD determination, if not postponed.
- 4/26/2023 DOC preliminary AD determination, if fully postponed.
- 9/15/2023 DOC final AD and CVD determinations, if both preliminary and final determinations are fully postponed.
- 11/6/2023 ITC final injury determination, if DOC's determinations are fully postponed.
- 11/13/2023 AD/CVD orders published.

For questions about this update, please contact Bernd G. Janzen, Matthew R. Nicely, Yujin K. McNamara, Spencer S. Griffith or any of the lawyers in our trade remedies practice.

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