

## H. Federal Awarding Agency Contacts

Any questions should be addressed to the contact information located in the **FOR FURTHER INFORMATION CONTACT** section of this FOA.

## I. Other Information

1. *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act of 1995, the information collection requirements associated with the ReConnect Program, as covered in this FOA, have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0572-0152. This funding announcement does not create any new information collection requirements nor does it change existing information collection requirements.

2. *Congressional Review Act.* Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA), 5 U.S.C. 801 *et seq.*, the Office of Information and Regulatory Affairs in the Office of Management and Budget designated this action as a major rule as defined by 5 U.S.C. 804(2), because it is likely to result in an annual effect on the economy of \$100,000,000 or more. Accordingly, there is a 60-day delay in the effective date of this action. Application selection will not begin until after December 27, 2021. Therefore, the 60-day delay required by the CRA is not expected to have a material impact upon the administration and/or implementation of the ReConnect Program.

3. *USDA Non-Discrimination Statement.* In accordance with Federal civil rights law and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, familial status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program Information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print,

audiotape, American Sign Language, etc.) should contact the responsible Mission Area, Agency, or staff office; the USDA TARGET Center at 202-720-2600 (voice and TTY); or the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, *USDA Program Discrimination Complaint Form*, which can be obtained online at <https://www.ocio.usda.gov/documents/ad-3027>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410; or

(2) *Fax:* (833) 256-1665 or (202) 690-7442; or

(3) *Email:* [program.intake@usda.gov](mailto:program.intake@usda.gov).

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**Christopher A. McLean,**

*Acting Administrator, Rural Utilities Service.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-143]

### Freight Rail Coupler Systems and Certain Components Thereof From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation

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

**DATES:** Applicable October 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** Mark Harrison, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0357.

#### SUPPLEMENTARY INFORMATION:

#### The Petition

On September 29, 2021, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD)

petition concerning imports of freight rail coupler systems and certain components thereof (freight rail couplers) from the People's Republic of China (China) filed in proper form on behalf of the Coalition of Freight Coupler Producers (the petitioner).<sup>1</sup> On October 6, 2021, the petitioner filed an amendment to the Petition, clarifying the identity of the members of the Coalition of Freight Coupler Producers, the members of which are, or represent, domestic producers of freight rail couplers.<sup>2</sup> The Petition was accompanied by a countervailing duty (CVD) petition concerning imports of freight rail couplers from China.<sup>3</sup>

On October 1, 4, 8, and 15, 2021, Commerce requested supplemental information pertaining to certain aspects of the Petition in both general and AD-specific separate supplemental questionnaires and phone calls with the petitioner.<sup>4</sup> On October 6, 12, and 18,

<sup>1</sup> See Petitioner's Letter, "Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Petitions for the Imposition of Antidumping and Countervailing Duties," dated September 29, 2021 (the Petition).

<sup>2</sup> See Petitioner's Letters, "Amended Entry of Appearance: A-570-143," dated October 6, 2021 (Amended EOA) and "Freight Rail Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to First Supplemental Questions for on Volume I General Issues and Injury Petition," dated October 6, 2021 (First General Issues Supplement). The petitioner notes that, per the Amended EOA, the members of the Coalition of Freight Coupler Producers are: McConway & Torley, LLC and the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Worker International Union, AFL-CIO, CLC (the USW). The petitioner further notes that Amsted Rail Company, Inc. (Amsted) is no longer a member of the petitioning coalition and that the USW represents the workers at Amsted's Granite, IL facility. See First General Issues Supplement at 8.

<sup>3</sup> See the Petition.

<sup>4</sup> See Commerce's Letters, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Supplemental Questions," dated October 4, 2021 (General Issues Supplemental); "Petition for the Imposition of Antidumping Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Supplemental Questions," dated October 4, 2021; Memorandum, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Phone Call with Counsel to the Petitioner," dated October 4, 2021 (October 4, 2021, Phone Call Memorandum); Memorandum, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Phone Call with Counsel to the Petitioner," dated October 8, 2021 (October 8, 2021, Phone Call Memorandum); and Memorandum, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Phone Call with Counsel to the Petitioner," dated October 15, 2021 (October 15, 2021, Phone Call Memorandum).

2021, the petitioner filed timely responses to these requests for additional information.<sup>5</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of freight rail couplers from China are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act and that imports of such products are materially injuring, or threatening material injury to, the domestic freight rail couplers industry in the United States. Consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting the allegation.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party, as defined in section 771(9)(E) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigation.<sup>6</sup>

#### Period of Investigation

Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) is January 1, 2021, through June 30, 2021.

#### Scope of the Investigation

The product covered by this investigation is freight rail couplers from China. For a full description of the scope of this investigation, see the appendix to this notice.

#### Comments on the Scope of the Investigation

On October 4, 8, and 15, 2021, Commerce requested further information from the petitioner regarding the proposed scope to ensure

<sup>5</sup> See Petitioner's Letters, "Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Responses to Supplemental Questions for on Volume I General Issues and Injury Petition," dated October 6, 2021 (First General Issues Supplement); "Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China: Response to Supplemental Questions for Volume II China Antidumping Duty Petition," dated October 6, 2021; "Freight Rail Car Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to Second Supplemental Questions on Volume I General Issues and Injury Petition," dated October 12, 2021 (Second General Issues Supplement); and "Freight Rail Car Coupler Systems and Certain Components Thereof from the People's Republic of China: Response to Third Supplemental Questions on Volume I General Issues and Injury Petition," dated October 18, 2021 (Scope Clarification).

<sup>6</sup> See "Determination of Industry Support for the Petition" section, *infra*.

that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.<sup>7</sup> On October 6, 12, and 18, 2021, the petitioner revised the scope.<sup>8</sup> The description of the merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications. In its October 18, 2021, submission, the petitioner provided additional explanation of the language in the scope of the investigation pertaining to the inclusion of freight rail couplers imported as part of a rail car ("when mounted on or to other non-subject merchandise, such as a rail car, only the complete coupler system is covered by the scope"), including freight rail couplers attached to rail cars in, and imported from, third countries ("subject merchandise includes coupler components as defined above that have been further processed or further assembled, including those coupler components attached to a rail car in third countries.").<sup>9</sup> While Commerce has adopted this provision for purposes of initiation, we invite parties to this proceeding to comment on this provision along with their scope comments (as detailed below).

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).<sup>10</sup> Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information, all such factual information should be limited to public information.<sup>11</sup> To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on November 8, 2021, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on November 18, 2021,

<sup>7</sup> See General Issues Supplemental; *see also* October 4, 2021, Phone Call Memorandum; October 8, 2021, Phone Call Memorandum; and October 15, 2021, Phone Call Memorandum.

<sup>8</sup> See First General Issues Supplement at 1–7 and Exhibit I–Supp–1; *see also* Second General Issues Supplement at 1–4 and Exhibit I–2Supp–1; *see also* Scope Clarification at 1–9 and Exhibit I–3Supp–1.

<sup>9</sup> See Scope Clarification.

<sup>10</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>11</sup> See 19 CFR 351.102(b)(21) (defining "factual information").

which is 10 calendar days from the initial comment deadline.<sup>12</sup>

Commerce requests that any factual information that parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All scope submissions must be filed on the records of the concurrent AD and CVD investigations.

#### Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's (E&C's) Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.<sup>13</sup> An electronically filed document must be received successfully in its entirety by the time and date it is due.

#### Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of freight rail couplers to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOPs) accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on November 8, 2021, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on November 18, 2021, which is 10 calendar days after the

<sup>12</sup> See 19 CFR 351.303(b).

<sup>13</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at [https://access.trade.gov/help/Handbook\\_on\\_Electronic\\_Filing\\_Procedures.pdf](https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf).

initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the AD investigation.

#### Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,<sup>14</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>15</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an

investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.<sup>16</sup> Based on our analysis of the information submitted on the record, we have determined that freight rail couplers, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.<sup>17</sup>

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the appendix to this notice. To establish industry support, the petitioner provided its own production of freight rail couplers in 2020.<sup>18</sup> The petitioner estimated production for the only other known producer of freight rail couplers in the United States.<sup>19</sup> The petitioner compared its production to the estimated total 2020 production of the domestic like product for the entire domestic industry.<sup>20</sup> We relied on data provided by the petitioner for purposes of measuring industry support.<sup>21</sup>

<sup>16</sup> See Petition at Volume I at 16–21 and Exhibits I–4, I–7, and I–15; see also First General Issues Supplement at 10–11; and Second General Issues Supplement at 6–7.

<sup>17</sup> For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see Checklist, “Antidumping Duty Investigation Initiation Checklist: Certain Freight Rail Coupler Systems and Components Thereof from the People’s Republic of China,” dated concurrently with this **Federal Register** notice (China AD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Freight Rail Coupler Systems and Components Thereof from the People’s Republic of China (Attachment II).

<sup>18</sup> See Petition at Volume I at 3–4; see also First General Issues Supplement at 8–10 and Exhibit I–Supp–2; and Second General Issues Supplement at 4–5.

<sup>19</sup> See Petition at Volume I at 3–4 and Exhibit I–5; see also First General Issues Supplement at 9–10 and Exhibit I–Supp–2; and Second General Issues Supplement at 5 and Exhibit I–2Supp–2.

<sup>20</sup> See Petition at Volume I at 3–4 and Exhibit I–5; see also First General Issues Supplement at 8–10 and Exhibit I–Supp–2; and Second General Issues Supplement at 5.

<sup>21</sup> See Petition at Volume I at 2–4 and Exhibits I–3 through I–5; see also First General Issues Supplement at 7–10 and Exhibits I–Supp–2 and I–Supp–3; and Second General Issues Supplement at 4–5 and Exhibit I–2Supp–2.

On October 7, 2021, we received comments on industry support from Wabtec Corporation (Wabtec), a U.S. importer of freight rail couplers.<sup>22</sup> On October 12, 2021, the petitioner responded to the comments from Wabtec.<sup>23</sup> On October 12, 2021, we received additional comments from Wabtec.<sup>24</sup> On October 13, 2021, we received comments on industry support from Strato, Inc. (Strato), a U.S. importer of freight rail couplers.<sup>25</sup> On October 14, 2021, the petitioner responded to the comments from Strato and Wabtec.<sup>26</sup>

Our review of the data provided in the Petition, the First General Issues Supplement, the Second General Issues Supplement, Petitioner Letters I and II, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.<sup>27</sup> First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>28</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.<sup>29</sup> Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act

<sup>22</sup> See Wabtec’s Letter, “Certain Freight Rail Coupler Systems and Components Thereof from the People’s Republic of China: Request for Department to Deny the Petitions for Imposition of Duties Filed by the Coalition of Freight Coupler Producers as Legally Infirm,” dated October 7, 2021.

<sup>23</sup> See Petitioner’s Letter, “Freight Rail Coupler Systems and Certain Components Thereof from the People’s Republic of China: Response to Wabtec,” dated October 12, 2021 (Petitioner Letter I).

<sup>24</sup> See Wabtec’s Letter, “Certain Freight Rail Coupler Systems and Components Thereof from the People’s Republic of China: Reply in Support of Request for Department to Deny the Petitions for Imposition of Duties Filed by the Coalition of Freight Coupler Producers,” dated October 12, 2021.

<sup>25</sup> See Strato’s Letter, “Strato Support for Rejecting Petition: Antidumping & Countervailing Duty Investigation of Freight Rail Coupler Systems and Components Thereof from the People’s Republic of China,” dated October 13, 2021.

<sup>26</sup> See Petitioner’s Letter, “Freight Rail Car Coupler Systems and Certain Components Thereof from the People’s Republic of China: Response to Strato and Wabtec,” dated October 14, 2021 (Petitioner Letter II).

<sup>27</sup> See China AD Initiation Checklist at Attachment II.

<sup>28</sup> *Id.*; see also section 732(c)(4)(D) of the Act.

<sup>29</sup> See China AD Initiation Checklist at Attachment II.

<sup>14</sup> See section 771(10) of the Act.

<sup>15</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F. 2d 240 (Fed. Cir. 1989)).

because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.<sup>30</sup> Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.<sup>31</sup>

### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>32</sup>

The petitioner contends that the industry's injured condition is illustrated by a significant volume of subject imports; reduced market share; underselling and price depression and/or suppression; lost sales and revenues; declines in production, U.S. shipments, and capacity utilization; decline in employment; decline in financial performance; and the magnitude of the estimated dumping margin.<sup>33</sup> We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.<sup>34</sup>

### Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate the AD investigation of imports of freight rail couplers from China. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the China AD Initiation Checklist.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> See Petition at Volume I at 27 and Exhibit I-27.

<sup>33</sup> *Id.* at 14–16, 22–44 and Exhibits I-3 through I-5, I-11, I-13, I-14, and I-17 through I-47; see also First General Issues Supplement at 11–13 and Exhibit I-Supp-3.

<sup>34</sup> See China AD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Freight Rail Coupler Systems and Components Thereof from the People's Republic of China.

### U.S. Price

The petitioner based export price (EP) on information from a quoted sales offer for freight rail couplers produced in and exported from China by a Chinese producer.<sup>35</sup> The petitioner made adjustments for foreign inland freight and foreign brokerage and handling to calculate an ex-factory U.S. price.<sup>36</sup>

### Normal Value

Commerce considers China to be an NME country.<sup>37</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of the initiation of this investigation. Accordingly, NV in China is appropriately based on FOPs valued in a surrogate market economy country, in accordance with section 773(c) of the Act.

The petitioner states that Brazil is an appropriate surrogate country because Brazil is a market economy country that is at a level of economic development comparable to that of China and is a significant producer of comparable merchandise.<sup>38</sup> The petitioner submitted publicly-available information from Brazil to value all FOPs.<sup>39</sup> Based on the information provided by the petitioner, we determine that it is appropriate to use Brazil as a surrogate country for China for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selections and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

### Factors of Production

The petitioner used the product-specific consumption rates of a U.S. producer of freight rail couplers as a surrogate to value Chinese manufacturers' FOPs.<sup>40</sup> Additionally,

<sup>35</sup> See the China AD Initiation Checklist.

<sup>36</sup> *Id.*

<sup>37</sup> See, e.g., *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum at "China's Status as a Non-Market Economy," unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

<sup>38</sup> See Petition at Volume II at 8–9.

<sup>39</sup> *Id.* at 10 and Exhibit II-15.

<sup>40</sup> *Id.* at 1 and 10–12 and Exhibits II-11 and II-14.

the petitioner calculated factory overhead; selling, general and administrative expenses; and profit based on the experience of a Brazilian producer of comparable merchandise (*i.e.*, steel components).<sup>41</sup>

### Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of freight rail couplers from China are being, or are likely to be, sold in the United States at LTFV. Based on a comparison of EP to NV, in accordance with sections 772 and 773 of the Act, the estimated dumping margins for freight rail couplers from China are 142.98 and 147.11 percent *ad valorem*.<sup>42</sup>

### Initiation of LTFV Investigation

Based upon our examination of the Petition on freight rail couplers from China and supplemental responses, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of freight rail couplers from China are being, or are likely to be, sold in the United States at LTFV. In accordance with section 773(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

### Respondent Selection

In the Petition, the petitioner named eight companies in China as producers and/or exporters of freight rail couplers.<sup>43</sup>

In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. Therefore, considering the number of producers and exporters identified in the Petition, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Because there are eight producers and/or exporters identified in the Petition, Commerce has determined that it will

<sup>41</sup> *Id.* at 17–18 and Exhibit II-23 and II-24.

<sup>42</sup> See China AD Initiation Checklist.

<sup>43</sup> See Petition at Volume I at 13 and Exhibit I-10.

issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on E&C's website at <https://enforcement.trade.gov/questionnaires/questionnaires-ad.html>. Producers/exporters of freight rail couplers from China that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from E&C's website. In accordance with the standard practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Chinese producers/exporters no later than 5:00 p.m. ET on November 2, 2021, which is two weeks from the signature date of this notice. All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above.

Interested parties must submit applications for disclosure under Administrative Protective Order (APO) in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on E&C's website at <http://enforcement.trade.gov/apo>. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

### Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.<sup>44</sup> The specific requirements for submitting a separate-rate application in a China investigation are outlined in detail in the application itself, which is available on E&C's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice. Producers/exporters who submit a separate-rate application and have been selected as mandatory respondents

will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that respondents from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

### Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that {Commerce} will now assign in its NME Investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.<sup>45</sup>

### Distribution of Copies of the AD Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the Government of China via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

### ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of freight rail couplers from China are

materially injuring, or threatening material injury to, a U.S. industry.<sup>46</sup> A negative ITC determination will result in the investigation being terminated.<sup>47</sup> Otherwise, the investigation will proceed according to statutory and regulatory time limits.

### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted<sup>48</sup> and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.<sup>49</sup> Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301 or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by

<sup>44</sup> See Policy Bulletin 05.1: "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation Involving NME Countries," (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

<sup>45</sup> See Policy Bulletin 05.1 at 6 (emphasis added).

<sup>46</sup> See section 733(a) of the Act.

<sup>47</sup> *Id.*

<sup>48</sup> See 19 CFR 351.301(b).

<sup>49</sup> See 19 CFR 351.301(b)(2).

which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule*, prior to submitting factual information in this investigation.<sup>50</sup>

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>51</sup> Parties must use the certification formats provided in 19 CFR 351.303(g).<sup>52</sup> Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)).<sup>53</sup> Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.<sup>54</sup>

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

<sup>50</sup> See 19 CFR 351; see also *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

<sup>51</sup> See section 782(b) of the Act.

<sup>52</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>53</sup> See *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008).

<sup>54</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Dated: October 19, 2021.

### Ryan Majerus,

*Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

### Appendix—Scope of the Investigation

The scope of this investigation covers freight rail car coupler systems and certain components thereof. Freight rail car coupler systems are composed of, at minimum, four main components (knuckles, coupler bodies, coupler yokes, and follower blocks, as specified below) but may also include other items (e.g., coupler locks, lock lift assemblies, knuckle pins, knuckle throwers, and rotors). The components covered by the investigation include: (1) E coupler bodies; (2) E/F coupler bodies; (3) F coupler bodies; (4) E yokes; (5) F yokes; (6) E knuckles; (7) F knuckles; (8) E type follower blocks; and (9) F type follower blocks, as set forth by the Association of American Railroads (AAR). The freight rail coupler components are included within the scope of the investigation when imported individually, or in some combination thereof, such as in the form of a coupler fit (a coupler body and knuckle assembled together), independent from a coupler system.

Subject freight rail car coupler systems and components are included within the scope whether finished or unfinished, whether imported individually or with other subject or non-subject components, whether assembled or unassembled, whether mounted or unmounted, or if joined with non-subject merchandise, such as other non-subject system parts or a completed rail car. Finishing includes, but is not limited to, arc washing, welding, grinding, shot blasting, heat treatment, machining, and assembly of various components. When a subject coupler system or subject components are mounted on or to other non-subject merchandise, such as a rail car, only the coupler system or subject components 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" 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 coupler systems and components, whether fully assembled, unfinished or finished, or attached to a rail car, is the country where the subject coupler components were cast or forged. Subject merchandise includes coupler components as defined above that have been further processed or further assembled, including those coupler components attached to a rail car 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 components. The inclusion, attachment, joining, or assembly of non-subject components with subject components or coupler systems either in the country of

manufacture of the in-scope product or in a third country does not remove the subject components or coupler systems from the scope.

The coupler systems 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 rail cars 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. These HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the investigation is dispositive.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-557-823]

### Polyester Textured Yarn From Malaysia: Final Affirmative Determination of Sales at Less-Than Fair-Value

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

**SUMMARY:** The Department of Commerce (Commerce) determines that polyester textured yarn (yarn) from Malaysia is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is October 1, 2019, through September 30, 2020.

**DATES:** Applicable October 25, 2021.

**FOR FURTHER INFORMATION CONTACT:** Daniel Alexander, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4313.

### SUPPLEMENTARY INFORMATION:

#### Background

On June 3, 2021, Commerce published in the **Federal Register** the preliminary affirmative determination in the LTFV investigation of yarn from Malaysia.<sup>1</sup>

<sup>1</sup> See *Polyester Textured Yarn from Malaysia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 86 FR 29748 (June 3, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).