

ITC Makes Affirmative Preliminary Determination in Trade Case Against Unfairly Traded Imports of Freight Rail Couplers from China, Wiley Reports

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Washington, DC – Today, the U.S. International Trade Commission (ITC) found that there is a reasonable indication that U.S. freight rail coupler producers are materially injured or threatened with material injury due to unfairly priced imports from China.

The Commission's vote is in response to a petition filed September 29, 2021 by the Freight Rail Coupler Coalition. The case alleges that unfairly dumped and subsidized imports of Chinese couplers are injuring the U.S. industry and its workers.

"Today's determination confirms that unfairly traded Chinese coupler imports are injuring the U.S. industry," said Daniel B. Pickard, a partner in the International Trade Practice at Wiley and lead counsel for the Freight Rail Coupler Coalition. "U.S. coupler producers and their workers may continue with seeking relief from these dumped and subsidized imports that have damaged the industry and cost American jobs."

The Wiley Rein LLP team representing the Coalition also includes partner Robert E. DeFrancesco, III; associate Jake Frischknecht; law clerk Nicole Hager; and international trade analyst Amy E. Sherman.

Background:

Antidumping and Countervailing Duties: Antidumping (AD) duties aim to offset the amount a product is sold at less than fair value, or "dumped," in the United States. The margin of dumping is calculated

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by the U.S. Department of Commerce. Estimated duties in the amount of the dumping are collected from importers at the time of importation. Countervailing duties (CVD) are intended to offset unfair subsidies that a foreign government provides in the production of a particular good. The ITC, an independent agency, determines whether the domestic industry is materially injured or threatened with material injury by reason of the unfairly traded imports.

Freight Rail Couplers: Freight rail couplers are used to connect freight rail cars together and absorb shock as the train brakes. Each train car typically has two couplers – one in front and one in back. Couplers are primarily made of cast steel parts, including coupler bodies, knuckles, coupler yokes, and follower blocks.

Next Steps: On October 25, 2021, the U.S. Department of Commerce (Commerce) initiated antidumping and countervailing duty investigations of imports of freight rail couplers from China. The ITC’s affirmative preliminary injury determination paves the way for Commerce to continue moving forward with these investigations. Commerce is expected to issue its preliminary CVD determinations in December 2021 and its preliminary AD determinations in March 2022. If Commerce reaches an affirmative preliminary determination in these cases, AD and CVD cash deposits will be collected based on the preliminary margins calculated, with possible retroactive application. The entire investigative process will take approximately one year, with final determinations of dumping, subsidization, and injury likely occurring in late 2022.

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