

Star Pipe Products v. United States and Anvil International  
Court No. 17-00236, Slip Op. 20-114 (August 11, 2020)  
**FINAL RESULTS OF REDETERMINATION**  
**PURSUANT TO COURT ORDER**

**I. SUMMARY**

The U.S. Department of Commerce (Commerce) has prepared these final results of redetermination pursuant to the remand order of the U.S. Court of International Trade (the Court) in *Star Pipe II*.<sup>1</sup> These final remand results pertain to the scope inquiry submitted by Star Pipe Products (Star Pipe)<sup>2</sup> regarding its ductile iron flanges in the antidumping duty (AD) order covering non-malleable cast iron pipe fittings (pipe fittings) from the People’s Republic of China (China).<sup>3</sup>

In *Star Pipe I*, the Court found that Commerce’s scope ruling was not supported by substantial evidence and remanded the ruling to Commerce for further consideration.<sup>4</sup> The Court remanded to Commerce to further consider whether the factors described in 19 CFR 351.225(k)(1), including the descriptions of subject merchandise contained in the Petition filed in the less-than-fair-value (LTFV) investigation of pipe fittings from China<sup>5</sup> and the determinations

---

<sup>1</sup> See *Star Pipe Products v. United States and Anvil International*, Court No. 17-00236, Slip Op. 20-114 (August 11, 2020) (*Star Pipe II*).

<sup>2</sup> See Star Pipe’s Letter, “Star Pipe Products Scope Request: Ductile Iron Flanges Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China (A-570-875),” dated June 21, 2017 (Star Pipe Scope Request).

<sup>3</sup> See *Notice of Antidumping Duty Order: Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China*, 68 FR 16765 (April 7, 2003) (*Order*).

<sup>4</sup> See *Star Pipe Products v. United States and Anvil International*, Court No. 17-00236, Slip Op. 19-20 (February 13, 2019) (*Star Pipe I*) at 9.

<sup>5</sup> See Petitioners’ Letter, “Petition for Imposition of Antidumping Duties: Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China,” dated February 21, 2002 (Petition).

of the International Trade Commission (ITC) in its investigation of pipe fittings from China,<sup>6</sup> are dispositive as to whether Star Pipe's ductile iron flanges are subject to the *Order*. In *Star Pipe II*, the Court concluded that Commerce misinterpreted information contained in the ITC Report, in response to the Court's previous opinion and order in *Star Pipe I*.<sup>7</sup> Accordingly, the Court ordered Commerce to issue a second decision upon remand, consistent with the Court's opinion, as described further below.<sup>8</sup>

## II. BACKGROUND

On August 17, 2017, Commerce issued its final scope ruling pertaining to Star Pipe's ductile iron flanges.<sup>9</sup> Commerce determined that Star Pipe's ductile iron flanges were covered by the scope of the *Order* because they were pipe fittings that did not fall under any of the exclusions to the scope.<sup>10</sup>

Star Pipe challenged Commerce's scope ruling in Court. Star Pipe argued that its ductile iron flanges were excluded from the *Order* because they were not pipe fittings and that, should the Court decline to reach such a finding, the Court should at least find that Commerce erred by not initiating a formal scope inquiry under 19 CFR 351.225(k)(2). Finally, Star Pipe argued that should Commerce's final scope ruling be sustained, the Court should find that Commerce acted unlawfully in issuing liquidation instructions to U.S. Customs and Border Protection (CBP) directing the assessment of duties on entries of its ductile iron flanges that were made prior to issuance of the final scope ruling.

---

<sup>6</sup> See *Non-Malleable Cast Iron Pipe Fittings from China*, Investigation No. 731-TA-990 (Final), USITC Pub. No. 3586, 2003 (ITC Report).

<sup>7</sup> See *Star Pipe II* at 2.

<sup>8</sup> *Id.* at 21.

<sup>9</sup> See Memorandum, "Final Scope Ruling on the Antidumping Duty Order on Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Request by Star Pipe Products," dated August 17, 2017 (Star Pipe Scope Ruling).

<sup>10</sup> *Id.*

The Court remanded the scope ruling to Commerce and ordered Commerce to further consider the description of subject merchandise contained in the Petition submitted in the LTFV investigation of pipe fittings from China, as well as in the ITC's investigation of pipe fittings from China.<sup>11</sup> The Court did not reach a finding regarding either of Star Pipe's two other claims: (1) that Commerce alternatively should have initiated a formal scope ruling under 19 CFR 351.225(k)(2); or (2) that Commerce's liquidation instructions were unlawful.<sup>12</sup>

On June 27, 2019, Commerce issued final results of redetermination pursuant to the remand order of the Court in *Star Pipe I*.<sup>13</sup> Commerce determined that Star Pipe's ductile iron flanges were covered by the scope of the *Order* because they were pipe fittings that did not fall under any of the exclusions to the scope.<sup>14</sup>

The Court remanded Commerce's decision issued in response to the Court's order in *Star Pipe I* to Commerce. Specifically, the Court ordered Commerce to issue a second remand redetermination that "recognize{s} that the ITC Report does not contain evidence supporting a conclusion that Star Pipe's flanges are within the scope of the Order and contains some evidence that detracts from such a conclusion."<sup>15</sup> Additionally, the Court "decline{d} to decide the question of whether or not the record evidence Commerce found in the Petition and {a prior scope determination<sup>16</sup>} is sufficient to support such a conclusion in light of all record evidence, including the record evidence detracting from such a conclusion."<sup>17</sup> The Court ordered

---

<sup>11</sup> See *Star Pipe I* at 16.

<sup>12</sup> *Id.*

<sup>13</sup> *Star Pipe Products v. United States*, 43 CIT, 365 F. Supp. 3d 1277 (2019); *Final Results of Redetermination Pursuant to Court Order* (June 27, 2019).

<sup>14</sup> *Id.*

<sup>15</sup> See *Star Pipe II* at 21.

<sup>16</sup> See Memorandum, "Final Scope Ruling on the Antidumping Duty Order on Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Request by U.V. International LLC," dated May 12, 2017 (*UV Ruling*).

<sup>17</sup> See *Star Pipe II* at 21.

Commerce to correct the errors identified by the Court, and make a determination in the first instance as to whether Star Pipes' flanges are within the scope of the *Order*.<sup>18</sup>

### III. ANALYSIS

The scope of the *Order* is as follows:

The products covered by this order are finished and unfinished nonmalleable cast iron pipe fittings with an inside diameter ranging from 1/4 inch to 6 inches, whether threaded or unthreaded, regardless of industry or proprietary specifications. The subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings. These pipe fittings are also known as "cast iron pipe fittings" or "gray iron pipe fittings." These cast iron pipe fittings are normally produced to ASTM A-126 and ASME B.16.4 specifications and are threaded to ASME B1.20.1 specifications. Most building codes require that these products are Underwriters Laboratories (UL) certified. The scope does not include cast iron soil pipe fittings or grooved fittings or grooved couplings.

Fittings that are made out of ductile iron that have the same physical characteristics as the gray or cast iron fittings subject to the scope above or which have the same physical characteristics and are produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 specifications, threaded to ASME B1.20.1 specifications and UL certified, regardless of metallurgical differences between gray and ductile iron, are also included in the scope of this petition. These ductile fittings do not include grooved fittings or grooved couplings. Ductile cast iron fittings with mechanical joint ends (MJ), or push on ends (PO), or flanged ends and produced to American Water Works Association (AWWA) specifications AWWA C110 or AWWA C153 are not included.<sup>19</sup>

Commerce determined in the Star Pipe Scope Ruling that Star Pipe's ductile iron flanges fell within the first clause of the first sentence of the second paragraph of the scope because they were "{f}ittings that are made out of ductile iron that have the same physical characteristics as the gray or cast iron fittings subject to the scope above."<sup>20</sup> Per the plain language of the scope, Commerce's consideration of whether Star Pipe's ductile iron flanges fall within this section of scope involves a two-step process. First, Commerce must consider whether Star Pipe's ductile iron flanges "have the same physical characteristics as the gray or cast iron fittings subject to"

---

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *See* Star Pipe Scope Ruling at 12.

the first paragraph of the scope. Second, Commerce must consider whether Star Pipe’s flanges are “fittings” within the meaning of the scope by reviewing the relevant sources under 19 CFR 351.225(k)(1). We consider each of these issues below.

**1. Star Pipe’s Ductile Iron Flanges Have The Same Physical Characteristics As Those Described In The First Paragraph Of The Scope**

The “physical characteristics” referred to in the first sentence of the second paragraph of the scope are those described in the first sentence of the first paragraph of the scope: (1) an inside diameter ranging from 1/4 inch to 6 inches; (2) whether threaded or unthreaded. Star Pipe’s eleven ductile iron flanges are threaded.<sup>21</sup> In addition, while Star Pipe did not provide the measurements of the inside diameter of its flanges, Star Pipe did provide the measurements of the outside diameter of the pipes onto which each of these flanges fits. For each of the eleven flanges, the outside diameters for the corresponding pipes onto which the flanges are attached measure between 2.5 and 4.8 inches.<sup>22</sup> Since flanges are fitted directly onto pipes, with little to no gap between the flange and the pipe, it is reasonable to assume that the inside diameters of Star Pipe’s eleven flanges are also within 2.5 and 4.8 inches. Accordingly, since the first paragraph of the *Order* covers pipe fittings with an inside diameter ranging from 1/4 inch to 6 inches, whether threaded or unthreaded, and Star Pipe’s threaded flanges are within this diameter range, Star Pipe’s flanges have the same “physical characteristics” as those subject to the first paragraph of the scope.

Furthermore, while the relevant analysis is whether Star Pipe’s flanges have the same physical characteristics as subject gray or cast iron fittings, as defined by the scope, we note that the first paragraph of the scope also states that fittings are covered “regardless of industry or

---

<sup>21</sup> See Star Pipe Scope Request at 8 and Exhibit 1.

<sup>22</sup> *Id.* at Exhibit 1.

proprietary specifications” and that “{t}he subject fittings *include* elbows, ells, tees, crosses, and reducers as well as flanged fittings.”<sup>23</sup> The word “include” indicates that the scope lists types of products that are covered, but does not limit coverage to only those products. The scope also states that subject pipe fittings are “*normally produced* to ASTM A-126 and ASME B.16.4 specifications and threaded to ASME B1.20.1 specifications. Most building codes require that these products are Underwriters Laboratories (UL) certified.”<sup>24</sup> The words “normally produced to” indicate that the scope does not require that all subject fittings meet the specifications listed in the scope. Thus, an argument that a lack of reference to flanges in the scope means they are not covered, or that subject fittings must meet the specifications listed in the scope, is not accurate, because the list of items covered by the scope, included in the first paragraph, is a non-exhaustive list. We continue to find that Star Pipe’s flanges have the same physical characteristics as those described in the first paragraph of the scope. We have further examined the sources under 19 CFR 351.225(k)(1) as discussed below.

## **2. Based on a Review of the Record as a Whole, Star Pipe’s Ductile Iron Flanges Are Pipe Fittings Within The Meaning Of The Scope**

Having determined that Star Pipe’s flanges meet the physical description included in the first paragraph of the scope, we turn to whether Star Pipe’s flanges are pipe fittings. The Court held that the Petition contains evidence supporting a finding that the petitioners considered flanges to be pipe fittings,<sup>25</sup> and that “Commerce must review the relevant evidence contained in the Petition (as well as the other sources) and fully and fairly consider that evidence in light of the record as a whole.”<sup>26</sup> The Court raised concerns with Commerce’s reliance on the ITC

---

<sup>23</sup> *See Order* (emphasis added).

<sup>24</sup> *Id.* (emphasis added).

<sup>25</sup> *See Star Pipe II* at 8.

<sup>26</sup> *Id.* at 11.

Report, concluding that “{t}he ITC report does not support {Commerce}’s decision as to scope and, as the court concluded in *Star Pipe I*, instead contains some evidence detracting from it.”<sup>27</sup> The Court also held that while the *UV Ruling* “provides support for a determination placing Star Pipe’s flanges with the scope of the Order ... the support it provides is limited by ... the same reliance on the description of “pipe fittings” in the ITC Report that the court finds to be misplaced in this case.”<sup>28</sup> Finally, the Court provides Commerce the opportunity to draw a meaningful distinction between Commerce’s determination in its Star Pipe Scope Ruling and a scope ruling issued in the course of this litigation, after briefing was completed, that found certain fittings are excluded from the scope of the orders on forged steel fittings from Italy, China, and Taiwan (forged steel fittings orders) because the standards of those fittings are essentially equivalent to a standard that is expressly excluded from the order.<sup>29</sup> We address each of these arguments in turn.

**a. The Petition**

Commerce and Star Pipe have placed the Petition on the record of this proceeding.<sup>30</sup> Certain evidence from the Petition establishes that the petitioners intended to cover flanges in the scope of the *Order*. Specifically, Exhibit 2 of the Petition contains product catalogues from Anvil International LLC (Anvil) and Ward Manufacturing Inc. (Ward), the petitioners in the

---

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 17.

<sup>29</sup> *Id.* at 19 (citing Memorandum, “Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Forged Steel Fittings: Request by ProPulse, A Scheiffer Company,” dated October 15, 2019 (ProPulse Ruling)). Concurrent with these draft results of redetermination, we have added the ProPulse Ruling to the record of this remand redetermination.

<sup>30</sup> See Memorandum, “Antidumping Duty Order on Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China: Star Pipe Products {sic} Scope Remand Redetermination,” dated May 9, 2019 (New Factual Information Memorandum) at Attachment I; see also Star Pipe’s Letter, “Star Pipe’s New Factual Information in the Scope Inquiry on Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China,” dated May 20, 2019 at Exhibit 1.

investigation, that reference flanges as a type of pipe fitting in several instances in the exhibit.<sup>31</sup> The Court found that “{b}oth brochures are evidence that the petitioners considered ‘flanges’ to be pipe fittings, and nothing in the Petition expressly excludes flanges from the proposed scope of the investigation.”<sup>32</sup> For example, the first page of Anvil’s brochure, titled “PIPE FITTINGS – Steel, Cast Iron, Malleable,” demonstrates that Anvil classifies all the products listed in its product brochure, including flanges, as types of pipe fittings.<sup>33</sup> Similarly, the cover page of Ward’s brochure, titled “PIPE FITTINGS,” demonstrates that Ward classifies all the products listed in its table of contents, including flanges, as pipe fittings.<sup>34</sup> The products listed in these brochures that meet the criteria of the plain language of the scope were accordingly considered by the petitioners to be subject to the investigation and any resulting order at the time the Petition was filed.

The Court also observed that the Anvil pipe fittings brochure in the Petition “depicts a ‘flange union gasket type’ appearing to be similar to the flanges under consideration ... {and} a ‘floor flange’ that resembles one of Star Pipe’s flanges.”<sup>35</sup> The images and text referring to these flanges are included in a section titled “Cast Iron Threaded Fittings Class 125, (Standard).”<sup>36</sup> In addition to these two flanges, a flange with threading appears on the cover page of Anvil’s pipe fittings product catalogue,<sup>37</sup> and a floor flange as well as a slip-on flange appear under the heading “Cast Iron Fittings” on another page in the Anvil product catalogue.<sup>38</sup> Moreover, the Ward brochure lists “flanges,” “flange unions,” and “companion flanges” as types of pipe

---

<sup>31</sup> See Petition at Exhibit 2.

<sup>32</sup> See *Star Pipe II* at 10.

<sup>33</sup> See Petition at Exhibit 2.

<sup>34</sup> *Id.*

<sup>35</sup> See *Star Pipe II* at 8 (citing Petition at Exhibit 2); see also *Star Pipe Scope Request* at Exhibit 2.

<sup>36</sup> See Petition at Exhibit 2, Anvil brochure, 12 and 14.

<sup>37</sup> *Id.* at Exhibit 2, Anvil brochure, 1.

<sup>38</sup> *Id.* at Exhibit 2, Anvil brochure, 4.



fittings.<sup>39</sup> The inclusion of flanges in the product catalogues indicates that the petitioners considered flanges to be pipe fittings, as a type of product that is similar to and is produced by the same industry as other subject pipe fittings. Based on this evidence, we find that the petitioners considered various types of flanges, including flanges that match the physical description of the products in Star Pipe’s scope request, to be fittings subject to the scope of the investigation.

We also note that flanges are not specifically identified as an exemplar in the Petition narrative, unlike other enumerated fittings and flanged fittings.<sup>40</sup> We have weighed this potentially detracting evidence against the record as a whole, including the express inclusion of flanges in the Petition product brochures. On balance, we agree with the Court that “{b}y itself, the absence of a reference to flanges in the body of the Petition does not establish that the petitioners intended that flanges would *not* be among the products subject to the investigation they were proposing.”<sup>41</sup> Additionally, the petitioners included flanges as pipe fittings in multiple instances in the Petition, and yet did not provide an exclusion for flanges.<sup>42</sup> Based on this information, we determine that substantial record evidence in the Petition, as well as the language of the scope of the *Order* described above, indicates that Star Pipe’s flanges are a type of pipe fitting subject to the scope of the *Order*.

#### **b. The ITC Report**

We respectfully disagree with the Court’s conclusion that Star Pipe’s flanges do not satisfy the ITC’s description of a pipe fitting, but are no longer relying on this description to support Commerce’s determination as to Star Pipe’s ductile iron flanges, under protest. As

---

<sup>39</sup> *Id.* at Exhibit 2, Ward brochure, 2.

<sup>40</sup> *Id.* at 3.

<sup>41</sup> *See Star Pipe II* at 10.

<sup>42</sup> *See* Petition at Exhibit 2.

described above, we find that Star Pipe’s flanges have the same physical characteristics as pipe fittings described in the first paragraph of the scope of the *Order*. Further, as described above, we find that the Petition indicates that Star Pipe’s flanges are a type of pipe fitting subject to the scope of the *Order*. We further evaluate the record as a whole as described below.

The ITC Report describes pipe fittings as iron castings that “generally are used to connect the bores of two or more pipes or tubes, connect a pipe to another apparatus, change the direction of fluid flow, or close a pipe.”<sup>43</sup> Star Pipe, in its scope ruling request, explained that “a flange is a casting that enables a non-flanged fitting or pipe to be attached with bolts to a flanged pipe or fitting.”<sup>44</sup> Additionally, Star Pipe argued that a single flange could not be used to connect the bores of two or more pipes in the manner described by the ITC, because “{a} flange may be used to modify the end of one pipe to connect to another flanged fitting, flanged pipe or pipe with another flange attached to it and then be connected with bolts.”<sup>45</sup> On the basis of this evidence, the Court concluded that Star Pipe’s flanges do not comport with the ITC’s description of pipe fittings.<sup>46</sup>

The Court further held that the ITC’s description of pipe fittings differentiates subject imports from Star Pipe’s flanges:

In its imported form, *i.e.*, prior to becoming part of an assembly, a Star Pipe flange cannot be used ‘to connect the bores of two or more pipes or tubes, connect a pipe to another apparatus, change the direction of fluid flow, or close a pipe, ‘... as, for example, can ‘elbows, ells, tee, crosses, and reducers *as well as flanged fittings*.’ ... Star Pipe’s flanges differ in this respect from each of the exemplars in the scope language.<sup>47</sup>

---

<sup>43</sup> See ITC Report at 4.

<sup>44</sup> See Star Pipe Scope Request at 3, n.2.

<sup>45</sup> *Id.* at 10-11.

<sup>46</sup> See *Star Pipe II* at 12-13.

<sup>47</sup> *Id.* at 13 (emphasis added).

Although we accept the Court’s holding, under respectful protest, that Star Pipe’s flanges do not satisfy the above general ITC description of a pipe fitting in their imported form, we have also examined additional language in the ITC Report and the record as a whole and make the following observations.

As an initial matter, we note that the ITC, in discussing non-malleable flanged fittings that are subject to the scope of the *Order*, stated that “the flanged connection is made by inserting a gasket in between the flanged end of two separate pieces and securing the ends with several bolts.”<sup>48</sup> We agree with Star Pipe that flanges are not flanged fittings, but note that Star Pipe’s description of the manner in which its flanges connect a pipe to another pipe or apparatus is indistinguishable from the manner in which a subject flanged fitting, as identified by the ITC Report, forms a connection within a pipe assembly (*i.e.*, aligning and securing two flanged ends with identical additional components). In fact, Star Pipe’s statement that “the ITC specifically defined fittings as directly connecting the ‘bores of two or more pipes, ‘ not connecting the bores using two flanges or flanged ends with bolts”<sup>49</sup> is plainly contradicted by this evidence in the ITC Report. Specifically, the ITC Report: (1) contains general language describing pipe fittings; and (2) explains that a subject flanged fitting, in its imported form, similarly could not connect a pipe to another pipe or apparatus without securing the fitting and a second flanged end with bolts. Accordingly, a single flanged fitting, like a single flange, could not independently be used to connect the bores of two or more pipes in the manner described by the ITC, but could only do so after installation into an assembly with a straight end pipe, by attachment to a second flanged end or flange using a gasket and bolts.

---

<sup>48</sup> See ITC Report at I-9.

<sup>49</sup> See Star Pipe Scope Request at 14.

Therefore, we note that a flange in its imported form, even by Star Pipe's own definition, connects a pipe within a pipe assembly in the same manner as at least one type of subject pipe fitting. Additionally, the scope of the *Order* and the ITC Report both expressly include non-malleable flanged fittings as subject pipe fittings even as the ITC acknowledged that a flanged fitting can only connect a pipe to another pipe or apparatus with a gasket inserted between it and a second flanged fitting or flange, that are aligned and then attached and secured together with bolts. The fact that the ITC explicitly included flanged fittings in its analysis of the product and domestic like product demonstrates that pipe fittings subject to the scope are not required to be a single piece that alone connects a pipe in an assembly, and nothing in the text of the *Order* compels such an interpretation. Moreover, nothing in the scope language in the *Order*, the ITC Report, or the Petition requires that subject flanges be in contact with the fluid in a pipe to which they connect. As noted above, under respectful protest, we accept the Court's holding that the ITC Report contains detracting evidence, however, we have weighed this detracting evidence in reviewing the totality of the record. Upon this review, a finding that flanges are not included in the scope of the *Order* because they cannot be used in the same manner as any of the examples of pipe fittings listed in the scope in their imported form is not supported by a reading of the record as a whole.

Additionally, in *Star Pipe II*, the Court held that Commerce failed to address the issue that Star Pipe's flanges are not used in traditionally non-malleable pipe fitting applications and misinterpreted a footnote in the ITC Report that refers to uses of certain non-malleable flanged fittings rather than flanges.<sup>50</sup> In *Star Pipe I*, the Court noted that the Petition, according to the Scope Ruling Request, stated that virtually all subject fittings are used in fire protection systems

---

<sup>50</sup> See *Star Pipe II* at 13-15.

and steam heat conveyance systems.<sup>51</sup> The Court also held that Commerce’s final scope ruling did not discuss the sentence in the ITC Report immediately preceding the one on which Commerce relied in reaching its determination.<sup>52</sup> The sentence on which Commerce relied states that “{p}ipe fittings generally are used to connect the bores of two or more pipes or tubes, connect a pipe to another apparatus, change the direction of fluid flow, or close a pipe.”<sup>53</sup> The preceding sentence states that “the subject imports include non-malleable cast iron pipe fittings as well as certain ductile cast iron pipe fittings, such as those that can be used in traditionally non-malleable pipe fitting applications.”<sup>54</sup>

In *Star Pipe I*, the Court further held that “Star Pipe’s flanges, rather than being suitable for use by pipe fitters, are suitable for use, and are used, by pipe fabricators, who distribute pipes that have been modified by the addition of the flanges.”<sup>55</sup> In reaching this finding, the Court relied on several pieces of evidence. The Court pointed to the definition of the AWWA C115 specification, to which Star Pipe’s ductile iron flanges conform, which states that “threaded flanges shall be individually fitted and machine tightened on the threaded pipe at the point of fabrication.”<sup>56</sup> The Court also explained that the AWWA specification also states that “flanges are not interchangeable in the field.”<sup>57</sup> The Court found that the installation of flanges involves more than “simply threading the plain end of the pipe.”<sup>58</sup> “A further indication that flanges are not intended for assembly to pipes in the field,” the Court stated, “is the requirement in the AWWA standard that a fabricator assembling flanges to both ends of a pipe standardize the

---

<sup>51</sup> See *Star Pipe I* at 9-10.

<sup>52</sup> *Id.* at 11.

<sup>53</sup> See ITC Report at 4.

<sup>54</sup> See *Star Pipe I* at 11 (citing ITC Report at 4).

<sup>55</sup> *Id.* at 18.

<sup>56</sup> *Id.* at 11-12 (citing *Star Pipe Scope Request* at Exhibit 3, Excerpts from AWWA C115, Sec. 4.4.1).

<sup>57</sup> *Id.* at 12.

<sup>58</sup> *Id.*

assembly by aligning the bolt holes in the flanges.”<sup>59</sup> Based on this evidence, the Court held that “{s}ubstantial evidence is not available on the administrative record to support a finding that Star Pipe’s flanges, in the form in which they are imported, are suitable for, or approved for, joining the bores of two pipes or joining a pipe to another apparatus.”<sup>60</sup>

Although we accept the Court’s holding, under respectful protest, we have also examined additional language in the ITC Report and the record as a whole and make the following observations. First, evidence on the record suggests that pipe fabrication is a subset of pipe fitting. The AWWA C115 specification, to which Star Pipe’s flanges conform, states that “threaded flanges shall be individually *fitted* and machine tightened on the threaded pipe at the point of fabrication.”<sup>61</sup> Moreover, as Anvil pointed out in its comments on Commerce’s draft results of redetermination in *Star Pipe I*, pipe fitters “do far more than just install and repair pipes – they ‘*fabricate*’ and ‘assemble’ entire ‘piping systems.’”<sup>62</sup> Anvil noted that “{p}ipe fitters plan and test piping and tubing layouts, cut, bend, or *fabricate* pipe or tubing segments and join those segments by threading them, using lead joints, welding, brazing, cementing, or soldering them together.”<sup>63</sup> Thus, the fact that flanges are individually fitted or machine tightened on the threaded pipe at the point of fabrication does not mean that they cannot be installed by pipe fitters. Furthermore, fabrication is not only performed in the shop, but also in the field.<sup>64</sup>

---

<sup>59</sup> *Id.* (citing Exhibit 3, Excerpts from AWWA C115, Sec. 4.4.4).

<sup>60</sup> *See Star Pipe I* at 16.

<sup>61</sup> *See Star Pipe Scope Request* at Exhibit 3, Excerpts from AWWA C115, Sec. 4.4.1 (emphasis added).

<sup>62</sup> *See Anvil’s Letter*, “Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China/Comments on Draft Results of Redetermination,” dated May 29, 2019 (Anvil Comments on Draft Results) at 3 (emphasis added).

<sup>63</sup> *Id.* (emphasis added).

<sup>64</sup> *Id.* at 4.

Attachment III of Commerce’s new factual information memorandum in *Star Pipe I*, a document that we added to the record of this proceeding, sheds further light on this issue.<sup>65</sup> Attachment III indicates that flanges and other types of pipe fittings are generally installed by the same type of professionals (pipe fitters/fabricators).<sup>66</sup> According to industry professionals, “{p}ipe fabrication is the process of welding piping components such as pipes, elbows, tees, flanges, *etc.*, into engineered piping systems ...”<sup>67</sup> Thus, not only does pipe fabrication involve working with piping components such as flanges, but it also involves working with other components such as elbows and tees. In the instant case, elbows and tees are explicitly covered by the scope of this *Order*.<sup>68</sup> In any event, the scope does not distinguish between fittings installed by pipe fitters or fabricators; all pipe fittings that meet the physical characteristics in the scope and are not specifically excluded are subject merchandise; nor, upon review of the record of the whole, do we find that interchangeability in the field is a requirement for “pipe fittings” to be found within the meaning of the scope. Thus, even if flanges are used by pipe fabricators rather than pipe fitters, the record, as a whole, does not preclude flanges from being included in the scope.

Second, we accept that the language on the uses of subject ductile iron pipe fittings in the preceding sentence of the ITC Report cited by the Court suggests that the ductile iron pipe fittings subject to the *Order* are generally used in traditionally non-malleable pipe fitting applications. Star Pipe’ flanges are used in water and wastewater systems,<sup>69</sup> which are not traditional non-malleable pipe fitting applications. However, the relevant sentence in the ITC

---

<sup>65</sup> See New Factual Information Memorandum at Attachment III.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> See *Order* (“The subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings.”).

<sup>69</sup> See *Star Pipe Scope Request* at 10.

Report states that “the subject imports *include* non-malleable cast iron pipe fittings as well as certain ductile cast iron pipe fittings, *such as* those that can be used in traditionally non-malleable pipe fitting applications.”<sup>70</sup> This language is not exclusionary. It simply states that pipe fittings that can be used in traditionally non-malleable pipe fitting applications are included within the scope. The Petition also confirms that the majority of subject pipe fittings are used in fire protection systems and steam heat conveyance systems, and “other uses” which are not identified make up less than 5 percent of shipments of subject pipe fittings.<sup>71</sup> We have considered this detracting evidence, but find, on balance, and based on our review of the record as a whole, that flanges used in water and wastewater systems may fall under the category of other uses, or non-traditional non-malleable pipe fitting applications. Therefore, we do not find that this evidence alone precludes the possibility that Star Pipe’s flanges are also included within the scope of the *Order*.

Third, we agree with the Court that a reference to floor flanges in a footnote of the ITC Report concerns certain non-malleable flanged fittings, not flanges. This footnote states:

Some of these other uses include use in industrial plants. Non-malleable flanged fittings, e.g., are primarily used in such applications as in piping systems for the conveyance of paint or molasses, whereas a smaller amount of such flanges are used in fire protection/sprinkler systems. Staff telephone call with \*\*\*, February 27, 2003. Another use for these non-malleable flanged fittings is as so-called floor flanges to affix pipes as hand (or other) railings to floors or other surfaces.<sup>72</sup>

This language does not directly reference flanges. However, this language does indicate that the uses for pipe fittings listed in the ITC Report are examples and not exhaustive (“{s}ome of these other uses {, }... {a}nother use ...”)

---

<sup>70</sup> See ITC Report at 4 (emphasis added).

<sup>71</sup> See Petition at 4.

<sup>72</sup> See ITC Report at I-6, n.28.



As discussed above, under respectful protest, we have accepted the Court's findings that the ITC Report contains detracting evidence which does not support a finding that Star Pipe's flanges are within the scope of the *Order*. We have reviewed and weighed this detracting evidence with the record as a whole. In addition to the above observations, we note that Commerce's (k)(1) analysis typically does not take end use into account, and we find that the manner in which a flange is used is not relevant to Commerce's determination of whether the item is within the scope. Even though Star Pipe's flanges can only be used in the water and wastewater industries, as discussed above, we find that the relevant analysis is the physical characteristics, as defined by the scope. Similarly, as the language of the scope and the (k)(1) sources do not distinguish between pipe fittings assembled in the field and pipe fittings assembled in a fabrication facility, we find the use to which Star Pipe's flanges is put is not relevant to this ruling. Based on a review of the record as a whole, including detracting evidence cited by the Court, we continue to find that Star Pipe's flanges are covered by the scope, despite the fact that they are not used in traditionally non-malleable pipe fitting applications listed in the ITC Report.

**c. Exclusions For Ductile Iron Fittings In The Scope**

The Court held that the fact that the ITC did not discuss flanges as products within the scope and considered all ductile iron flanged fittings to be excluded from the scope "casts doubt on a premise that the ITC considered ductile iron flanges to be within that scope."<sup>73</sup> We respectfully disagree with this conclusion, but are no longer relying on arguments made in the *Star Pipe I Final* on this issue to support Commerce's determination as to Star Pipe's ductile iron flanges, under protest. However, there is no evidence in the Petition that ductile iron flanges

---

<sup>73</sup> See *Star Pipe II* at 11.

were meant to be excluded from the scope of the investigation, and, as discussed above, the Petition contains substantial evidence indicating that the petitioners considered flanges to be pipe fittings subject to the scope. Thus, by itself, the absence of a reference to flanges that resemble Star Pipe's products from the ITC Report does not establish that flanges would not be among the products subject to the scope.

Furthermore, we note that the written description of the scope of the *Order* is dispositive, and once the language of an order is set, except in very limited circumstances, the order's language – including its scope – cannot be changed. The *Order* cannot be interpreted based on the (k)(1) sources (*i.e.*, the descriptions of the merchandise contained in the Petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the ITC Report) to exclude merchandise plainly covered by the scope language. The scope of the *Order* includes ductile iron fittings that have the same physical characteristics as the gray or cast iron fittings subject to the scope.<sup>74</sup> While the scope excludes ductile iron fittings with grooved fittings or grooved couplings, and ductile iron fittings with mechanical joints, or push on ends, or flanged ends that are produced to AWWA C110 or AWWA C153 specifications, it does not contemplate any general exclusion for ductile iron flanges.<sup>75</sup> The specific exclusion language in the scope of the *Order* makes it clear that the intent was to exclude only the products that meet the specific exclusion requirements. We discuss this issue in additional detail below. Accordingly, it is improper to conclude that all ductile iron *flanges* are excluded from the scope of the *Order* based on the ITC's discussion of the scope with regard to all ductile iron *flanged fittings*, which all parties agree are two separate and distinct products. The scope of the *Order* excludes flanged fittings that meet certain specifications. It does not exclude flanges.

---

<sup>74</sup> See *Order*.

<sup>75</sup> *Id.*

#### **d. Prior Scope Ruling**

In *Star Pipe II*, the Court noted that “neither the Taco Ruling nor the Napac Ruling supported a determination that Star Pipe’s flanges are pipe fittings within the meaning of the Order.”<sup>76</sup> Accordingly, we are no longer relying on arguments made in the *Star Pipe I Final* regarding these prior scope rulings to support Commerce’s determination as to Star Pipe’s ductile iron flanges, under protest.

Additionally, the Court explained that Commerce’s *UV Ruling*, “when considered according to 19 CFR 351.225(k)(1), provides support for a determination placing Star Pipe’s flanges within the scope of the Order.”<sup>77</sup> While the Court held that the support the *UV Ruling* provides is limited by its “reliance on the description of ‘pipe fittings’ in the ITC Report,”<sup>78</sup> we find that, like Star Pipe’s flanges, UV International’s flanges can become part of an assembly with a straight end pipe in the same manner as at least one other subject pipe fitting, in consideration of the ITC Report’s description of the flanged connection, discussed above.<sup>79</sup> Therefore, we continue to rely on the *UV Ruling* for the proposition that Commerce has previously found that certain ductile iron flanges similar to Star Pipe’s flanges are included within the scope of the *Order*.<sup>80</sup> That said, accepting the Court’s identified limitation of the *UV Ruling*, under protest, we have weighed the reliability of this source in light of the whole record, as discussed above.

---

<sup>76</sup> See *Star Pipe II* at 15-16; see also Memoranda, “Final Scope Ruling on the Black Cast Iron Flange, Green Ductile Flange, and the Twin Tee,” dated September 19, 2008 (*Taco Ruling*); Final Scope Ruling on the Antidumping Duty Order on Finished and Unfinished Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China: Request by Napac for Flanged Fittings,” dated September 19, 2016 (*Napac Ruling*).

<sup>77</sup> See *Star Pipe II* at 17.

<sup>78</sup> *Id.*

<sup>79</sup> See ITC Report at 4 and I-9 (explaining that subject flanged fittings connect the bores or two or more pipes or connect a pipe to another apparatus by inserting a gasket in between the flanged ends of two separate pieces and securing the ends with several bolts).

<sup>80</sup> See *UV Ruling*.

**e. Commerce’s Forged Steel Fittings Scope Ruling Is Not Relevant To Commerce’s Determination As To Star Pipe’s Ductile Iron Flanges**

The Court held that Commerce may take the opportunity to address an issue Star Pipe raised concerning a scope ruling issued in the course of this litigation, after briefing was completed.<sup>81</sup> In its *Notice of Supplemental Authority*, Star Pipe cites Commerce’s determination in its ProPulse Ruling that certain hydraulic hose fittings are outside the scope of the forged steel fittings orders.<sup>82</sup> Commerce found that the products at issue in the ProPulse Ruling were outside the scope of the forged steel fittings orders because: (1) they differed from subject merchandise in certain respects; and (2) they were produced to certain International Organization for Standardization (ISO) standards that “are essentially equivalent to {Society of Automotive Engineering (SAE)} J516, which is expressly excluded from the *Orders*.”<sup>83</sup> We find Star Pipe’s reliance on the ProPulse Ruling is misplaced.

As an initial matter, we note that while the scope of the *Order* narrowly excludes ductile iron flanged fittings produced to AWWA C110 or AWWA C153 specifications, it does not contemplate any general exclusion for ductile iron flanges, regardless of whether those flanges are produced to any AWWA specification.<sup>84</sup> We thus disagree with Star Pipe’s argument that the scope exclusion for ductile iron flanged fittings can be expanded beyond its plain language to encompass flanges that do not meet the listed AWWA specifications. Moreover, no information on the record of this proceeding identifies ductile iron flanges – produced to any AWWA standard – as non-subject merchandise. Further, Star Pipe does not point to any information on

---

<sup>81</sup> See *Star Pipe II* at 20.

<sup>82</sup> See *Star Pipe Products v. United States*, 69, CIT; *Notice of Supplemental Authority* (December 3, 2019) (*Notice of Supplemental Authority*) at 1-2; see also ProPulse Ruling, which has been added to the record of this remand.

<sup>83</sup> See ProPulse Ruling at 5.

<sup>84</sup> See *Order*, stating “{d}uctile cast iron fittings with mechanical joint ends (MJ), push on ends (PO), or flanged ends and produced to the American Water Works Association (AWWA) specifications AWWA C110 or AWWA C153 are not included.”

the record of this proceeding that further explains why these products were expressly excluded from the *Order* that might support a finding that its flanges should likewise be excluded.

Accordingly, we find that Star Pipe has not established that the express exclusion for ductile iron flanged fittings produced to AWWA C110 or AWWA C153 should be extended to its flanges produced to AWWA C115 based on either the scope language or information contained in the (k)(1) sources. Rather, Star Pipe has confused specifications for flanges and flanged fittings, which Commerce has maintained, and Star Pipe agrees, are distinct products.

Star Pipe has also failed to provide documentation that describes AWWA C115 as the companion specification to AWWA C110 and AWWA C153. Star Pipe placed excerpts of chapters for the AWWA C115 and AWWA C110 specifications on the record, but did not place any portion of the chapter for the AWWA C153 specification on the record. We, therefore, cannot evaluate its claim with respect to AWWA C153. Further, the AWWA C115 specification that Star Pipe put on the record does not support Star Pipe's assertion that AWWA C115 is equivalent to AWWA C110. This specification information only indicates that *flanged pipe* (a flange assembled onto a pipe) produced to AWWA C115 may be used with products produced to AWWA C110.<sup>85</sup> Thus, Commerce is unable to confirm whether the AWWA C110 specification for flanged fittings and the AWWA C115 specification for flanged pipe are equivalent based on these documents that are outside the (k)(1) sources. For example, we note that while various metallurgical standards may overlap, properties of lower quality iron may not correspond to properties of higher quality iron and, therefore, equivalency cannot be established on the basis of certain conforming standards alone. Nevertheless, any differences or similarities among AWWA C115 and the two excluded specifications for ductile iron flanged fittings in the scope are not

---

<sup>85</sup> See Star Pipe Scope Request at Exhibits 3 and 4.

relevant to this ruling on ductile iron flanges because, as discussed above, the scope exclusion only applies to ductile iron fittings with mechanical joint ends, push on ends, or flanged ends.

In contrast, the scope of the forged steel fittings orders at issue in the ProPulse Ruling contains general language regarding certain specifications – not limiting language as is the case with the exclusion at issue in the Star Pipe Scope Ruling. The scope of the forged steel fittings orders reads, in part,

While these fittings are generally manufactured to specifications ASME B16.11, MSS SP-79, MSS SP-83, MSS SP-97, ASTM A105, ASTM A350 and ASTM A182, the scope is not limited to fittings made to these specifications.... Also excluded are fittings certified or made to the following standards, so long as the fittings are not also manufactured to the specifications of ASME B16.11, MSS SP-79, MSS SP-83, MSS SP-97, ASTM A105, ASTM A350 and ASTM A182:... SAE J516...<sup>86</sup>

This language explains that any forged steel fitting that is not produced to the listed included specifications, but is otherwise subject to the orders, may be excluded if it is demonstrated that this fitting is produced to an excluded specification. The forged steel fittings orders do not preclude the possibility that products manufactured to certain specifications (*e.g.*, equivalent international specifications) may also be excluded. Consequently, the scope of the forged steel fittings order is dissimilar from the pipe fittings *Order*, because the latter does not contain a general exclusion for pipe fittings; in plain, there is no broad exclusion for ductile iron pipe fittings produced to AWWA C110 or AWWA C153 specifications. Moreover, Star Pipe has not argued that its flanges are produced to a foreign standard equivalent to the two excluded AWWA specifications like the respondent ProPulse, A Scheiffer Company (ProPulse), but rather seeks to impermissibly expand the exclusion for ductile iron flanged fittings in the scope of the *Order* to all ductile iron fittings. Ultimately, the language of the *Order* is dispositive and cannot be

---

<sup>86</sup> See *Forged Steel Fittings from Italy and the People's Republic of China: Antidumping Duty Orders*, 83 FR 60397 (November 26, 2018).

interpreted to exclude merchandise plainly covered by the scope language (*i.e.*, ductile iron fittings are included in the scope unless they meet the following criteria: they have mechanical joint, push on, or flanged ends and are produced to AWWA C110 or AWWA C153).

Additionally, in the ProPulse Ruling, Commerce found that ProPulse's products were excluded from the scope of the forged steel fittings orders because ProPulse provided clear record evidence from the forged steel fittings investigations demonstrating functional equivalency of its certain hydraulic hose fittings to an identical excluded product.<sup>87</sup> Commerce found that,

{A}'s part of the analysis that led to the language in the {forged steel fittings} *Orders*, Commerce determined that hydraulic hose fittings described by interested parties as used to connect hoses and tubes that convey noncorrosive fluid through machines that power pumps, motors, and engines, differ from the subject merchandise, which is primarily used to distribute high pressure or corrosive liquids in the end markets of oil and gas, natural gas, chemical plants, petrochemical plants, and power plants. Here, record evidence demonstrates that the hydraulic hose fittings which are the subject of this scope inquiry are made to connect hoses that carry noncorrosive fluid in hydraulic power systems.<sup>88</sup>

Fundamentally, the language of the forged steel fittings investigations scope memoranda identifies hydraulic hose fittings that convey noncorrosive fluid through machines as non-subject merchandise, and provides an explanation for why such fittings are excluded from the scope of the forged steel fittings orders. ProPulse cited this (k)(1) source from the investigations on forged steel fittings to demonstrate that the language of the scope of the forged steel fittings orders specifically excluded certain hydraulic hose fittings, the same type of product subject to ProPulse's scope ruling request.

---

<sup>87</sup> See ProPulse Ruling at 4 (citing Memorandum, "Certain Forged Steel Fittings from China, Italy, and Taiwan: Scope Comments Decision Memorandum for the Preliminary Determinations," dated March 7, 2018, unchanged in Memorandum, "Forged Steel Fittings from China, Italy and Taiwan: Final Scope Determination Decision Memorandum," dated July 23, 2018).

<sup>88</sup> *Id.* at 5.

Finally, no party disputed ProPulse’s claim as to the equivalency of the standards at issue in the ProPulse Ruling,<sup>89</sup> whereas Anvil rebutted Star Pipe’s argument regarding the AWWA C115 specification. Specifically, Anvil stated that the exclusion to the scope of the *Order* for certain pipe fittings that are produced to AWWA C110 or AWWA C153 does not apply to Star Pipe’s flanges because they are not made to AWWA C110 or AWWA C153.<sup>90</sup> As stated in the Star Pipe Scope Ruling, the petitioners were aware of the existence of the AWWA C115 specification at the time of the investigation of pipe fittings from China, and decided to specifically exclude only AWWA C110 and AWWA C153 from the scope.<sup>91</sup> Neither the petitioners nor the ITC made any mention of companion specifications for flanges that were to be excluded, despite the fact that substantial evidence in the Petition suggests that flanges were considered pipe fittings subject to the scope. Accordingly, Star Pipe’s flanges are included in the scope because they do not meet any exclusion for ductile iron fittings listed in the scope.

#### **IV. FINAL RESULTS OF REDETERMINATION**

As described above, we find that Star Pipe’s flanges have the same physical characteristics as pipe fittings described in the scope of the *Order*. Further, as described above, we find that the Petition indicates that Star Pipe’s flanges are a type of pipe fitting subject to the scope of the *Order*. We have accepted, under respectful protest, the Court’s findings regarding the ITC Report, and have weighed this detracting evidence against the record as a whole as described above. Further, we have accepted, under protest, the Court’s identified limitations of the *UV Ruling*, and have weighed this in our evaluation. Based on the above analysis, we conclude that Star Pipe’s flanges are within the scope of the *Order*.

---

<sup>89</sup> *Id.* at 2.

<sup>90</sup> See Anvil Comments on Draft Results at 7; see also Anvil’s Letter, “Non-Malleable Cast Iron Pipe Fittings from The People’s Republic Of China/Response To Scope Request By Star Pipe,” dated June 30, 2017 at 5-6.

<sup>91</sup> See Star Pipe Scope Ruling at 12.



Pursuant to 19 CFR 351.225(k)(1), Commerce must take into account the following factors when conducting a scope ruling under this provision: “(1) {t}he descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary {of Commerce} (including prior scope determinations) and the {U.S. International Trade} Commission.”<sup>92</sup> In this proceeding, pursuant to the Court’s order, Commerce has further elaborated on descriptions of the merchandise contained in the scope, the Petition and the ITC’s determination in its investigation. These materials, along with other information from the initial investigation, a prior scope determination, and Star Pipe’s scope inquiry request, are dispositive as to whether Star Pipe’s eleven ductile iron flanges that are the subject of the relevant scope inquiry are pipe fittings subject to the *Order*. Accordingly, we find it unnecessary to conduct an analysis under 19 CFR 351.225(k)(2).

## V. COMMENTS ON DRAFT RESULTS OF REDETERMINATION

On October 13, 2020, Commerce issued its draft results of redetermination and provide interested parties an opportunity to comment on the *Draft Results*.<sup>93</sup> Commerce received comments from Anvil<sup>94</sup> and Star Pipe.<sup>95</sup> These comments are addressed below. After considering Anvil’s and Star Pipe’s comments, we have not made any changes to our conclusion in the *Draft Results* in these final results of redetermination.

---

<sup>92</sup> See 19 CFR 351.225 (k)(1).

<sup>93</sup> See Draft Results of Redetermination Pursuant to Court Order: *Star Pipe Products v. United States and Anvil International*, Court No. 17-00236, Slip Op. 20-114 (August 11, 2020) (*Draft Results*).

<sup>94</sup> See Anvil’s Letter, “Non-Malleable Cast Iron Pipe Fittings from The People’s Republic Of China/Comments On Draft Results Of Second Redetermination,” dated October 26, 2020 (Petitioner Comments on Draft Results).

<sup>95</sup> See Star Pipe’s Letter, “Star Pipe’s Comments on Second Draft Remand Comments in the Scope Inquiry on Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China,” dated October 26, 2020 (Star Pipe Comments on Draft Results).

**Issue 1: Whether Ductile Iron Flanges are Covered by the Plain Language of the Scope of the Order**

**Star Pipe’s Comments:**

Star Pipe argues that as the scope lists examples of subject fittings and describes specifications to which these fittings are normally produced, the scope language “must be viewed in its totality” and Commerce may not limit its analysis of a product’s physical characteristics to the inside diameter and threading qualities of the product.<sup>96</sup> Further, Star Pipe asserts that its flanges are not pipe fittings, while they are not produced to the standards mentioned in the scope or are UL certified, they are produced to an AWWA standard that is required to comply with an AWWA standard that is excluded from the scope.<sup>97</sup> According to Star Pipe, if the petitioners or Commerce had intended for all products to be included in the scope based on outer dimensions and threading characteristics, the additional scope language pertaining to various fitting specifications would have been superfluous.<sup>98</sup> Thus, Star Pipe contends that the scope does not unambiguously cover Star Pipe’s flanges, which only meet the scope’s inside diameter and threading requirements.<sup>99</sup>

**Commerce’s Position:**

We disagree with Star Pipe. Commerce considers the entire written description of the scope of the *Order*. Accordingly, in conducting an analysis of whether a particular ductile iron product meets the physical characteristics of the gray or cast iron pipe fittings in the first paragraph of the scope, we first evaluate those physical characteristics (*i.e.*, material and diameter requirements), as well as whether the products in question meet any of the exclusions in

---

<sup>96</sup> *Id.* at 4.

<sup>97</sup> *Id.* at 4-5.

<sup>98</sup> *Id.* at 5.

<sup>99</sup> *Id.*

the scope. Per the second paragraph of the scope, ductile iron fittings are also covered if they either meet the physical characteristics listed in the first paragraph of the scope, or in addition to meeting those characteristics, they are produced and threaded to certain ASME specifications listed in the second paragraph of the scope, and are UL certified. The plain language of the scope does not require that in-scope fittings meet certain ASME and ASTM specifications listed in the scope, or be UL certified. Rather, the language of the scope makes clear that whether or not they meet those specifications, the fittings are included in the scope if they have the physical characteristics outlined in the first paragraph of the scope.

Nothing in our analysis of Star Pipe’s flanges suggests that we limited our evaluation to the diameter requirements of the scope and consideration of whether the products are threaded or unthreaded. We have established that Star Pipe’s flanges meet the description of pipe fittings contained in the first paragraph of the scope because they are a type of ductile iron fitting with an inside diameter between ¼ inch and six inches. Moreover, the first paragraph of the scope states that fittings are covered “regardless of industry or proprietary specifications.”<sup>100</sup> Therefore, there is no need to determine whether Star Pipe’s flanges are produced or threaded to any of the ASME and ASTM specifications listed in the scope, or are UL certified.

Additionally, as discussed further below, Star Pipe’s flanges do not meet any of the exclusions listed in the scope of the *Order* (i.e., for either non-malleable cast iron fittings or ductile iron fittings). Specifically, the scope excludes grooved fittings, and only excludes ductile iron fittings with mechanical joint ends, push on ends, or flanged ends that are made to either AWWA C110 or C153 specifications.<sup>101</sup> Star Pipe’s flanges do not meet any of these exclusions to the scope of the *Order*.

---

<sup>100</sup> See *Order*.

<sup>101</sup> *Id.*

## **Issue 2: Whether Commerce’s Scope Ruling is Supported by Evidence in the Petition**

### **Star Pipe’s Comments:**

Star Pipe contends that the references to, or depictions of, flanges in Anvil’s and Ward’s product catalogues at Exhibit 2, but not in the narrative, of the Petition are incidental and have limited probative value with respect to whether Star Pipe’s flanges fall within the scope.<sup>102</sup>

Additionally, Star Pipe notes that Exhibit 2 contains non-subject merchandise, as well as products that are not referenced elsewhere in the narrative of the Petition, which does not provide evidence that the petitioners chose to include flanges in the scope.<sup>103</sup> Star Pipe also claims that the flanges included in Exhibit 2 are different from, and are not necessarily relevant to, Commerce’s analysis of Star Pipe’s flanges.<sup>104</sup> Moreover, Star Pipe argues that a reference to flanges in Ward’s product catalogue is insufficient to support a finding that Ward’s flanges are the same type of products as Star Pipe’s flanges, as Ward’s “Section 7 – Flanges, Flange Unions, Companion Flanges, Flanged Fittings” is absent from Exhibit 2.<sup>105</sup>

Star Pipe further argues that Commerce must consider the end uses mentioned in the (k)(1) sources in its analysis.<sup>106</sup> Specifically, Star Pipe states that the Petition discusses specifications, characteristics, and uses for fittings that do not relate to Star Pipe’s flanges.<sup>107</sup> Therefore, Star Pipe speculates that the Petition did not contemplate that flanges such as Star Pipe’s products would be included in the scope.<sup>108</sup>

---

<sup>102</sup> See Star Pipe Comments on Draft Results at 6.

<sup>103</sup> *Id.* at 6-8.

<sup>104</sup> *Id.* at 7.

<sup>105</sup> *Id.* at 7-8.

<sup>106</sup> *Id.* at 8-9.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.* at 9.

### **Commerce's Position:**

We disagree with Star Pipe. In *Star Pipe II*, the Court held that evidence from the Petition indicates that the petitioners considered flanges to be pipe fittings.<sup>109</sup> Further, in light of our analysis above, we find that substantial record evidence demonstrates that the petitioners intended to cover flanges in the scope of the Petition and any resulting order. Specifically, Exhibit 2 of the Petition contains product catalogues from Anvil and Ward,<sup>110</sup> and both documents reference flanges as a type of pipe fitting.<sup>111</sup> Moreover, the Anvil product catalogue contains numerous depictions of flanges, including standalone (slip-on or threaded) flanges that resemble Star Pipe's products, that are explicitly labeled as pipe fittings.<sup>112</sup> Star Pipe's suggestion that the inclusion of these flanges in the Petition is incidental and not relevant to Commerce's analysis of Star Pipe's flanges is unsupported.

To Star Pipe's argument that the narrative of the Petition does not reference flanges, Exhibit 2 was explicitly included as part of the Petition's explanation of the "Specifications, Characteristics, and Uses" for subject pipe fittings, to address the types of products for which the petitioners were seeking relief at the time the Petition was filed.<sup>113</sup> It is not disconnected from the body of the Petition but, in fact, forms an integral component of it. Additionally, as the Court and Commerce hold that the product catalogues contained in Exhibit 2 constitute evidence that the petitioners considered flanges to be pipe fittings, it is reasonable to conclude that the petitioners would have provided an exclusion for flanges had they intended to exclude flanges from the scope. We note that the scope of a petition or order is neither required nor necessarily

---

<sup>109</sup> See *Star Pipe II* at 10.

<sup>110</sup> See Petition at Exhibit 2.

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*, Anvil brochure at 1 and 4.

<sup>113</sup> See Petition at 3-4.

able to enumerate every potential item covered by the scope, and it is unreasonable to suggest that Star Pipe's ductile iron flanges would only be considered subject to the scope if the (k)(1) sources expressly identified its products as within the scope. Thus, Commerce has reasonably interpreted the scope of the *Order* using substantial evidence in the Petition to find that the petitioners intended to cover various types of flanges, including standalone flanges, whether threaded or unthreaded, in the scope of the Petition and any resulting order.

Although it is true that the Petition only includes "Section 6" of Ward's product catalogue and not "Section 7" that is mentioned in the table of contents, we disagree with Star Pipe's contention that Ward's product catalogue is insufficient to support a finding that the petitioners intended to cover standalone threaded ductile iron flanges such as Star Pipe's products in the scope of the *Order*. The scope specifically covers flanged fittings, and yet flanged fittings are not among the items listed in "Section 6" but are rather listed in "Section 7." The lack of inclusion of "Section 7" from the Petition is, thus, not an indication that the products listed in "Section 7" are not covered by the scope. Moreover, the cover page of Ward's product brochure, titled "PIPE FITTINGS," demonstrates that Ward classifies all the products listed in its table of contents, including types of flanges, as pipe fittings.<sup>114</sup> The products listed and depicted in Anvil's and Ward's product catalogues that meet the criteria of the plain language of the scope were accordingly considered by the petitioners to be subject to the scope at the time the Petition was filed. Therefore, based on a review of the totality of record evidence contained in the (k)(1) sources, including the entirety of Exhibit 2 of the Petition containing references to, and depictions of, standalone and threaded flanges, we have determined that both petitioners in the

---

<sup>114</sup> See Petition at Exhibit 2.

original investigation intended for flanges to be considered a type of pipe fitting and, thus, such products are within the scope of the *Order*.

Finally, with regard to subject merchandise use identified in the Petition, Star Pipe is correct that the only two uses specifically named in the Petition are fire protection and steam heat conveyance systems.<sup>115</sup> However, the Petition also acknowledges that there are “other uses” that account for nearly five percent of subject fittings.<sup>116</sup> To Star Pipe’s argument that nothing in the Petition suggests that these other uses are for the water and wastewater industries, this claim is merely an inference based on an absence of a discussion about “other uses” for pipe fittings from the record. In fact, Star Pipe has argued that the ITC Report indicates that fittings are used in pipe assemblies in which fluid is conveyed<sup>117</sup> and nothing in the Petition precludes the possibility that subject fittings may also be used in water or wastewater systems. Finally, even though Star Pipe’s flanges are used in water and wastewater industries, the flanges are within the scope of the *Order* by virtue of the physical description of subject merchandise in the scope language.

Furthermore, the source of Star Pipe’s attempt to demonstrate a waterworks exclusion is derived from the ITC Report and taken out of context. As discussed in further detail below, the ITC Report actually indicates that waterworks pipes are outside the scope because they are generally larger than the in-scope merchandise.<sup>118</sup> The ITC did not exclude all pipe fittings used in waterworks, and only excluded those that fall outside the scope language. Moreover, the ITC Report indicates that only two AWWA specifications are excluded that are associated with

---

<sup>115</sup> *Id.* at 4.

<sup>116</sup> *Id.*

<sup>117</sup> *See* Star Pipe Comments on Draft Results at 21 (citing ITC Report at I-6, n.28).

<sup>118</sup> *See* ITC Report at 7.

waterworks uses.<sup>119</sup> These explicit exclusions are specifically included in the scope of the *Order*. Thus, the ITC did not exclude all pipe fittings for use in waterworks systems, and only excluded pipe fittings outside the scope diameter requirements and made to the specifications included in the specific scope exclusion language.

### **Issue 3: The ITC’s Understanding of the Flanged Connection**

#### **Star Pipe’s Comments:**

Star Pipe argues that in the *Draft Results* Commerce is selective in its reading of the ITC Report because, although it found that flanges connect a pipe within an assembly in the same manner as subject flanged fittings, the plain language of the scope and the ITC Report state that flanged fittings are within the scope but do not reference flanges.<sup>120</sup> Moreover, Star Pipe notes that there is no evidence that a flanged fitting cannot satisfy the ITC’s general description of pipe fittings.<sup>121</sup> However, according to Star Pipe, it is irrelevant whether flanged fittings, which the ITC stated “are cast with an integral rim, or flange, at the end of the fitting,” meet this definition; the relevant issue is that Star Pipe’s flanges – as imported, prior to assembly – do not meet either the ITC’s pipe fittings definition or its description of the flanged connection.<sup>122</sup> Therefore, Star Pipe contends that ductile iron flanges, which are external attachment devices, were never contemplated to be within the scope.<sup>123</sup> Finally, Star Pipe contests Commerce’s finding that neither the scope language nor the (k)(1) sources require that fittings have contact with the fluid in a pipe assembly to which they connect, as the ITC’s general definition of pipe fittings indicates that subject fittings would have contact with the fluid in a pipe.<sup>124</sup>

---

<sup>119</sup> *Id.* at 4, I-5, I-7 n.40, and I-8.

<sup>120</sup> *See* Star Pipe Comments on Draft Results at 12.

<sup>121</sup> *Id.* at 13-14.

<sup>122</sup> *Id.* at 12-13.

<sup>123</sup> *Id.* at 13.

<sup>124</sup> *Id.* at 14.



### **Commerce's Position:**

We disagree with Star Pipe. As an initial matter, we note that the Court in *Star Pipe II* ordered Commerce to recognize that Star Pipe's flanges do not satisfy the ITC's general description of a pipe fitting. Accordingly, under protest, in the *Draft Results* we did not continue to rely on this description to support Commerce's determination as to Star Pipe's ductile iron flanges. Contrary to Star Pipe's argument, we have not ignored the Court's holdings in accepting its conclusions and providing analysis based on additional evidence in the ITC Report. We weighed the evidence which the Court held detracts from an affirmative scope ruling for Star Pipe's flanges in light of the totality of the evidence in the (k)(1) sources. On balance, we continue to find that Star Pipe's flanges are a type of pipe fitting that are within the scope of the *Order*.

With respect to the ITC's understanding of the flanged connection, we find that it is relevant that Star Pipe's flanges form a connection in a pipe assembly in manner identical to the pipe fitting application of flanged fittings: the ITC identified that flanged fittings form a connection in a pipe assembly with a second flanged end,<sup>125</sup> and Star Pipe reported that its flanges require the same type of additional components to connect a pipe to another flanged end.<sup>126</sup> We continue to accept the Court's conclusion that Star Pipe's flanges do not meet the ITC's general description of pipe fittings, as well as maintain our agreement with the Court and Star Pipe that flanges are not cast with an integral rim, or flange, at the end of a fitting and are thus not flanged fittings. However, the position and function of Star Pipe's flanges in a pipe assembly, as interpreted by the ITC, are indistinguishable from at least one pipe fitting application identified in the ITC's discussion of the product/domestic like product. Accordingly,

---

<sup>125</sup> See ITC Report at I-9.

<sup>126</sup> See, e.g., Star Pipe Scope Request at 2.

we find that the relevance of the ITC's statement on the flanged connection undermines Star Pipe's assertion that flanges were not contemplated to be within the scope of the *Order*.

Moreover, Commerce has not argued that a flanged fitting cannot connect the bores of two or more pipes or connect a pipe to another apparatus. Rather, we have noted that the manner in which a flanged fitting connects a pipe is with the addition of a second flanged fitting, or flange attached to a pipe, and a gasket and bolts. In such an assembly, the face of the flanged fitting is in contact with the second flanged end, which is in contact with a second pipe bore or an apparatus. For example, a threaded flanged fitting, in its imported form prior to assembly, may form a connection in a pipe assembly by being threaded on one end to a threaded pipe and secured to a second flanged fitting or flanged pipe at its other end that is cast with an integral rim at the end of the fitting. Similarly, Star Pipe's ductile iron flanges, that are attached to a pipe, are in contact with a flanged fitting or second flange and pipe. Specifically, in their form as imported, Star Pipe's flanges must be threaded onto a pipe and aligned with a flanged fitting or flanged pipe, to modify the end of a pipe to enable its connection to something else. Therefore, the fact that this assembly step for flanges mirrors a routine assembly step for certain fittings listed in the scope of the *Order* is relevant to our analysis of Star Pipe's products.

Finally, we note that the ITC's general pipe fitting description does not require that a subject fitting be in contact with the fluid in a pipe. Star Pipe's interpretation of the ITC's general definition in this respect is unsupported and at best an inference, as nothing in the scope language, ITC Report, or Petition discusses any such requirement for subject fittings; nor do any of the (k)(1) sources contain an exclusion for fittings that are designed to be fitted onto the outside portion of a pipe. We, therefore, do not find that this characteristic is relevant for the purpose of this scope determination, pursuant to the (k)(1) factors.

#### **Issue 4: Whether Flanges Are Used in Pipe Fitting or Pipe Fabrication Applications**

##### **Star Pipe's Comments:**

Star Pipe disputes Commerce's finding in the *Draft Results* that the use to which Star Pipe's flanges is put does not preclude the flanges from being included within the scope.<sup>127</sup> First, Star Pipe takes issue with Commerce's reliance on a statement in the AWWA C115 specification that "threaded flanges shall be individually fitted and machine tightened on the threaded pipe at the point of fabrication," as according to Star Pipe, the word "fitted" in this context refers to a post-importation assembly and fabrication step.<sup>128</sup> Second, Star Pipe argues that Commerce's reliance on Anvil's claim that flanges may be installed by pipe fitters, who can fabricate pipe, is unsupported and irrelevant to Star Pipe's flanges or the AWWA C115 specification.<sup>129</sup>

Additionally, Star Pipe asserts that its flanges cannot be used in the traditional non-malleable pipe fitting applications discussed in the ITC Report.<sup>130</sup> Next, Star Pipe notes that its flanges are sold to fabricators and distributors in the water and wastewater industries, but not to pipe fitters.<sup>131</sup> Star Pipe also argues that Attachment III of Commerce's new factual information memorandum in *Star Pipe I*: (1) does not demonstrate that pipe fitters perform the same work as fabricators; and (2) is not probative to the question of whether Star Pipe's flanges may be used in pipe fitting applications.<sup>132</sup> In contrast, Star Pipe claims that the AWWA C115 specification to which its flanges conform demonstrates that the flanges can only be used in such applications after undergoing additional fabrication.<sup>133</sup> Finally, Star Pipe maintains that Commerce is

---

<sup>127</sup> See Star Pipe Comments on Draft Results at 16.

<sup>128</sup> *Id.* at 16-17.

<sup>129</sup> *Id.* at 17.

<sup>130</sup> *Id.* at 17.

<sup>131</sup> *Id.* at 18.

<sup>132</sup> *Id.*

<sup>133</sup> *Id.* at 19.

selective in its reading of the ITC Report, which suggests that subject fittings are those used in pipe fitting applications.<sup>134</sup>

**Anvil's Comments:**

Anvil states that the *Draft Results* comply with the Court's order in *Star Pipe II* that Commerce's "new decision must recognize that the ITC Report does not contain evidence supporting a conclusion that Star Pipe's flanges are within the scope of the Order and contains some evidence that detracts from such a conclusion."<sup>135</sup> Anvil goes on to argue that even though the ITC Report is not essential to Commerce's decision as to Star Pipe's flanges, it is relevant that the ITC understood that fabricators purchase subject fittings for use in fabrication applications.<sup>136</sup> Thus, Anvil suggests that the ITC would consider Star Pipe's flanges to be pipe fittings, irrespective of who purchases the flanges.<sup>137</sup>

**Commerce's Position:**

We disagree with Star Pipe. As discussed above, Commerce stated in the *Draft Results* that we have accepted, under respectful protest, the Court's conclusion that Star Pipe's flanges do not satisfy the ITC's general description of pipe fittings because the flanges do not directly connect a pipe to something else and require post-importation assembly onto a straight end pipe. Further, Star Pipe notes that the Court held that its flanges are suitable for use, and are used, by fabricators who distribute pipes that have been modified by the addition of flanges.<sup>138</sup> However, Commerce finds that there is nothing in the record evidence that indicates that Star Pipe's

---

<sup>134</sup> *Id.*

<sup>135</sup> See Petitioner Comments on Draft Results at 1-2.

<sup>136</sup> *Id.* at 2.

<sup>137</sup> *Id.* at 2-3.

<sup>138</sup> See Star Pipe Comments on Draft Results at 15.

flanges are unable to be assembled in the field, and Star Pipe's flanges can be used in the same application in which other traditionally non-malleable fittings are used.

Star Pipe states that it sells its flanges to fabricators and distributors in the waste and wastewater industries.<sup>139</sup> Regardless of whether Star Pipe's flanges are exclusively used by pipe fitters or pipe fabricators, we continue to find that the same type of end users purchase the subject fittings listed in the scope as well as Star Pipe's flanges, *i.e.*, fabricators and distributors. Our conclusion is consistent with the statement in the ITC Report that subject fittings, in the form imported, are sold to fabricators for use in fabricator applications,<sup>140</sup> as well as Commerce's finding in the *Draft Results* that purchasers of pipe fittings do far more than just install and repair pipes, but also fabricate and assemble entire piping systems. In fact, during the course of the ITC's material injury investigation, importers reported that fabricators are the end users of non-malleable cast iron and ductile iron pipe fittings.<sup>141</sup> Moreover, as described further below, there is no end use requirement in the scope, and Star Pipe's suggestion that the (k)(1) sources must be interpreted as to limit subject fittings to those used in traditional non-malleable cast iron pipe fitting applications is unsupported. Therefore, even if the flanges Star Pipe imports from China are sold to and used by pipe fabricators rather than pipe fitters, evidence on the record does not preclude the subject flanges from being within in the scope of the *Order*.

---

<sup>139</sup> See Star Pipe Scope Request at 18; *see also* Star Pipe Comments on Draft Results at 18 (citing Star Pipe's Letter, "Star Pipe's New Factual Information in the Scope Inquiry on Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China," dated May 20, 2019 at Exhibit 3).

<sup>140</sup> See ITC Report at II-1 ("In the U.S. market, producers' and importers' sales of such non-malleable/ductile cast iron pipe fittings are made primarily to distributors and fabricators. Fabricators purchase fittings and pipe, put threading on the pipe, and combine pipe and fittings to create semi-complete fire sprinkler systems.").

<sup>141</sup> *Id.*, n.3.

## **Issue 5: Whether Commerce Must Consider End Use in its (k)(1) Analysis**

### **Star Pipe's Comments:**

Star Pipe notes that the section of the Petition on “Specifications, Characteristics, and Uses” states that “virtually all” subject fittings are used in fire protection and steam conveyance systems, and does not suggest that the remaining “other uses” include water and wastewater industries.<sup>142</sup> According to Star Pipe, the ITC Report indicates that the “other uses” are in industrial plants, piping systems for the conveyance of paint or molasses, or to affix railings.<sup>143</sup> Additionally, Star Pipe notes that the Petition explains that it covers fittings meeting the physical description in its scope “when used or intended for use in the non-malleable cast iron pipe fittings applications” included in the “Specifications, Characteristics and Uses” section.<sup>144</sup> Star Pipe thus concludes that while the only enumerated pipe fittings applications in the Petition are in fire protection and steam heat conveyance systems, the Petition contains no reference to AWWA specifications covering any subject fitting.<sup>145</sup>

Star Pipe also asserts that the scope of the *Order* only addresses the AWWA in terms of an exclusion for certain fittings, and AWWA C115 is not referenced because the Petition did not consider ductile iron flanges to be a type of fitting that should be covered by its scope.<sup>146</sup> Moreover, Star Pipe observes that the ITC considered all ductile iron fittings used in waterworks applications to be non-subject merchandise.<sup>147</sup> Accordingly, Star Pipe argues that ductile iron flanges, which are not discussed in the scope language or (k)(1) sources, should similarly fall outside the scope.<sup>148</sup> Finally, Star Pipe maintains its argument that as diameter and threading

---

<sup>142</sup> See Star Pipe Comments on Draft Results at 20.

<sup>143</sup> *Id.* at 21.

<sup>144</sup> *Id.*

<sup>145</sup> *Id.* at 20-21.

<sup>146</sup> *Id.* at 21.

<sup>147</sup> *Id.* at 21-22.

<sup>148</sup> *Id.* at 22.

qualities are the only physical characteristics in the scope that match Star Pipe's flanges, Commerce must consider the other characteristics of subject fittings addressed in the scope language and (k)(1) sources, including the types of end use discussed in the (k)(1) sources, in Commerce's analysis.<sup>149</sup>

**Commerce's Position:**

We disagree with Star Pipe. There is no end use criterion in the scope, and therefore Star Pipe's argument that its flanges are not used in traditional non-malleable pipe fitting applications is irrelevant. We have considered the physical characteristics of Star Pipe's ductile iron flanges beyond their size and threading qualities, as Commerce has also weighed in its analysis the material requirements for merchandise subject to the scope of the *Order*, and considered that the scope does not restrict subject fittings to those produced to the few ASME and ASTM standards listed in its plain language. Although the Petition names only two industries in which subject fittings are used, it does not limit subject merchandise to non-malleable cast iron and ductile iron pipe fittings that are used in fire protection or steam heat conveyance systems. Moreover, the ITC Report does not state that the "other uses" for subject fittings are only in industrial plants, piping systems for the conveyance of paint or molasses, or to affix railings. Rather, the language of the ITC Report expresses that such applications are examples of other uses for subject fittings.<sup>150</sup>

We also disagree with Star Pipe's argument that the Petition's discussion of non-malleable cast iron pipe fitting applications is in contrast to ductile iron fitting applications. Commerce has reasonably interpreted the scope of the *Order* such that ductile iron fittings are covered by the scope and were analyzed as the same class or kind of merchandise as non-

---

<sup>149</sup> *Id.*

<sup>150</sup> *See* ITC Report at I-6, n.28.

malleable cast iron pipe fittings during Commerce’s AD investigation and the ITC’s material injury investigation.<sup>151</sup> Furthermore, in its discussion of the like product (*i.e.*, “non-malleable pipe fittings”), which the Petition states are “inter-changeable with, and substitutable for, U.S. produced fittings,” the Petition explains that malleable fittings are not sold in competition with non-malleable fittings and each serves different end users.<sup>152</sup> Thus, the Petition’s examination of subject pipe fitting applications is in contrast to malleable fitting applications, not ductile iron fitting applications. Accordingly, based on the record evidence, it is unreasonable to conclude that the Petition contemplates that all ductile iron fittings for waterworks applications or produced to AWWA standards are outside the scope of the *Order*.

The Petition also explicitly includes ductile iron fittings as subject merchandise and further states that its scope covers finished and unfinished non-malleable cast iron and ductile iron fittings “regardless of industry or proprietary specification.”<sup>153</sup> Further, identical language is included in the scope of the resulting *Order*,<sup>154</sup> and therefore is dispositive to the question of whether fittings produced to standards not specifically named in the (k)(1) sources may also be included in the scope. If the petitioners, or Commerce, or the ITC, in the course of their separate investigations, had not intended for ductile iron fittings for waterworks applications to be covered under the scope, then the resulting scope of the *Order* would have contained an exclusion for all ductile iron fittings produced to an AWWA standard. The scope of the *Order*

---

<sup>151</sup> See *Order*; see also ITC Report at 5-6.

<sup>152</sup> See Petition at 20-21 (“Non-malleable pipe fittings are distinguishable from malleable pipe fittings, which are also produced by the two domestic producers. The primary distinction between malleable and non-malleable fittings is that malleable fittings are much stronger than non-malleable fittings. The non-malleable fittings lack the strength imparted by heat treatment performed to produce malleable fittings. (Minor alloying differences also exist between the two products.) Malleable fittings are not sold in competition with non-malleable fittings and each serves different end users. Non-malleable fittings are not substitutable for malleable pipe fitting applications.”).

<sup>153</sup> *Id.* at 3 and 6.

<sup>154</sup> See *Order*.



does not contain such an exclusion, and thereby does not preclude fittings for waterworks applications from also being within the scope.

As discussed in greater detail below, the ITC also only indicated that ductile iron fittings produced to AWWA C110 or C153 are excluded from the scope of the product/domestic like product it examined in its material injury investigation.<sup>155</sup> Specifically, the ITC stated that pipe fittings for waterworks applications are typically very large and would otherwise exceed the inside diameter requirements of the scope.<sup>156</sup> This statement in the ITC Report does not exclude all pipe fittings used for waterworks applications. It only indicates that large pipe fittings that are typically used for waterworks do not meet the size requirements of the scope. Moreover, as discussed above, the ITC Report specifically addresses an exclusion of pipe fittings used in waterworks systems by identifying the two specific AWWA standards that are included as an explicit exclusion in the scope language by grade, not use. The fact that two standards are specifically excluded means that all other standards that meet the scope criteria are within the scope of the *Order*. Therefore, Star Pipe has identified no record evidence of a general exclusion for waterworks pipe fittings.

**Issue 6: Whether the ITC’s Interpretation of Ductile Iron Flanged Fittings May be Extended to Ductile Iron Flanges**

**Star Pipe’s Comments:**

Star Pipe notes that the Court held that Commerce’s final scope ruling failed to satisfactorily explain “how, if ductile iron flanged fittings were excluded from the scope of the antidumping duty investigation, ductile iron flanges nevertheless were intended to be treated as

---

<sup>155</sup> See ITC Report at 4, I-5, I-7 n.40, and I-8.

<sup>156</sup> *Id.* at 7.

subject merchandise during that investigation.”<sup>157</sup> Star Pipe also disputes Commerce’s finding in the *Draft Results* that there is no evidence that ductile iron flanges were meant to be excluded in the Petition.<sup>158</sup> Regarding the ITC Report, Star Pipe argues that there is no record evidence that ductile iron flanges were included in the domestic industry investigated by the ITC.<sup>159</sup> Thus, Star Pipe contends that Commerce may neither make an affirmative scope ruling on a product that is distinct from the domestic industry investigated by the ITC, nor make an affirmative finding based on an absence from the record.<sup>160</sup>

Star Pipe also disagrees with Commerce’s findings in the *Draft Results* that the language of the *Order* cannot be interpreted based on the (k)(1) sources to exclude merchandise covered by the scope and that the scope language plainly excludes *only* the ductile iron fittings that meet the specific AWWA exclusion requirements. Specifically, Star Pipe argues that Commerce may not disregard evidence contained in the (k)(1) sources and observes that the scope language is not dispositive as to Star Pipe’s flanges, as Commerce has previously relied on the ITC Report’s general description of pipe fittings because the scope of the *Order* does not provide a definition for pipe fittings.<sup>161</sup> Further, Star Pipe maintains that had the petitioners intended for diameter and threading qualities to be the only physical characteristics in the scope, the remaining sentences of the scope would be unnecessary.<sup>162</sup> Therefore, Star Pipe argues that the scope language does not unambiguously include Star Pipe’s flanges, and when considered in light of the record as a whole, the Petition and ITC Report establish that the flanges are outside the scope of the *Order*.<sup>163</sup>

---

<sup>157</sup> See Star Pipe Comments on Draft Results at 22-23.

<sup>158</sup> *Id.* at 24.

<sup>159</sup> *Id.*

<sup>160</sup> *Id.* at 24-25.

<sup>161</sup> *Id.* at 25-26.

<sup>162</sup> *Id.* at 26.

<sup>163</sup> *Id.*

**Anvil's Comments:**

Anvil notes that it is the responsibility of Commerce, not the ITC, to determine the class or kind of merchandise within the scope of an investigation.<sup>164</sup> Accordingly, Anvil contends that: (1) Commerce correctly interpreted the scope exclusion for certain ductile iron flanged fittings in the *Draft Results*; and (2) Commerce's analysis supersedes the ITC's theoretical understanding of ductile iron flanges.<sup>165</sup> Moreover, Anvil argues that there is no reason to extend the ITC's misinterpretation of all ductile iron flanged fittings to ductile iron flanges, as the Court acknowledged that flanged fittings and flanges are distinct products and nothing in the ITC Report identifies ductile iron flanges as non-subject merchandise.<sup>166</sup>

**Commerce's Position:**

We disagree with Star Pipe. As an initial matter, we note that the Court and Star Pipe both acknowledge that flanged fittings are different from flanges,<sup>167</sup> and Commerce agrees with this finding. Accordingly, it is unreasonable to extend the ITC's interpretation of the scope with respect to ductile iron flanged fittings to ductile iron flanges, which are distinct products. To Star Pipe's argument that because Commerce previously relied on the ITC general description of pipe fittings, we did not consider the language of the scope to be dispositive, we also disagree. Commerce has stated that we are no longer relying on the ITC's pipe fittings definition, and on balance continue to find that the record as a whole supports a finding that ductile iron flanges are included within the scope of the *Order*. Thus, we find that the plain language of the scope encompasses Star Pipe's flanges and, strengthened by the descriptions of the merchandise and

---

<sup>164</sup> See Petitioner Comments on Draft Results at 2.

<sup>165</sup> *Id.*

<sup>166</sup> *Id.* at 2-3.

<sup>167</sup> See *Star Pipe I* at 13; see also Star Pipe Scope Request at 10.

other record evidence contained in the (k)(1) sources, sufficiently describes the merchandise subject to the scope.

Additionally, although Star Pipe notes that there is no record evidence that the domestic industry investigated by the ITC produced ductile iron flanges, the Petition contains substantial evidence that the domestic industry at least produced ductile iron fittings as well as flanges.<sup>168</sup> Accordingly, the petitioners considered those products as similar to, and manufactured by, the same industry as other subject pipe fittings listed in the scope during the investigation period. Star Pipe argues that the multiple references to and depictions of flanges in the Petition are incidental; however, we disagree with this assertion, as described above. First, we find it reasonable to conclude that the ITC, which initiated its material injury investigation of non-malleable cast iron and ductile iron pipe fittings in response to the domestic industry's request for relief, would be aware during the course of the investigation that the petitioners produced flanges and considered those products to be pipe fittings. Second, we find that Star Pipe's argument that Commerce may not make an affirmative scope ruling on a product which the ITC did not investigate is misplaced, as the ITC specifically investigated ductile iron pipe fittings and did not exclude ductile iron flanges from its material injury investigation.

Finally, we note that both Commerce and the ITC initiated investigations on pipe fittings, in relevant part explicitly including ductile iron fittings. For the reasons enumerated above, the scope of the *Order*, which resulted from Commerce's AD investigation, reasonably includes ductile iron flanges. Specifically, the record as a whole, including the relevant (k)(1) sources, demonstrates that: (1) flanges are pipe fittings; and (2) there are no exclusions for ductile iron fittings for waterworks applications or made to any AWWA specification. Moreover, Star Pipe

---

<sup>168</sup> See Petition at Exhibit 2.

has not identified any record evidence that addresses a general exclusion of ductile iron fittings, including flanges. Consequently, Commerce continues to find that Star Pipe's flanges are subject to the scope of the *Order*.

**Issue 7: Whether Commerce's Scope Ruling is Supported by a Prior Scope Ruling**

**Star Pipe's Comments:**

Star Pipe states that the *UV Ruling* has no probative value to the instant proceeding on its flanges.<sup>169</sup> Specifically, Star Pipe notes that the support the *UV Ruling* provides is limited by errors in Commerce's analysis of the ITC Report in that ruling.<sup>170</sup> Star Pipe goes on to argue that as the *UV Ruling* was not appealed, the Court has not concluded whether that ruling was supported by substantial evidence.<sup>171</sup>

**Commerce's Position:**

We disagree with Star Pipe. While Commerce has not relied on the *UV Ruling* to determine how to interpret the scope of the *Order*, we find that certain findings in that scope ruling are relevant to Commerce's analysis of Star Pipe's flanges. Specifically, UV International's flanges can become part of an assembly with a straight end pipe in the same manner as subject flanged fittings.<sup>172</sup> Therefore, we continue to rely on the *UV Ruling* for the proposition that Commerce has previously found that certain ductile iron flanges similar to Star Pipe's flanges are within the scope of the *Order*.<sup>173</sup> Nevertheless, Commerce has stated that we have accepted the Court's identified limitation of the *UV Ruling*, under respectful protest, and

---

<sup>169</sup> See Star Pipe Comments on Draft Results at 27.

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> See ITC Report at 4 and I-9 (explaining that subject flanged fittings connect the bores or two or more pipes or connect a pipe to another apparatus by inserting a gasket in between the flanged ends of two separate pieces and securing the ends with several bolts).

<sup>173</sup> See *UV Ruling*.

have relied on record evidence in our analysis of the scope question presented in this case to determine whether Star Pipe's flanges are within the scope, pursuant to 19 CFR 351.225(k)(1).

**Issue 8: Whether Equivalency Can Be Established Between AWWA Specifications Listed in the Scope and the AWWA Specification for Star Pipe's Flanges**

**Star Pipe's Comments:**

Star Pipe notes that it has provided multiple arguments based on record evidence to demonstrate that its flanges should be excluded from the scope of the *Order* because they are produced to AWWA C115 for flanges, which is the companion, or complementary, to the AWWA C110 and C153 standards for flanged fittings.<sup>174</sup> However, Star Pipe asserts that Commerce has not considered this evidence, despite the Court's finding that "there is record evidence of the relationship between the standards."<sup>175</sup> Accordingly, Star Pipe disagrees with Commerce's analysis in the *Draft Results* that there is no exclusion for ductile iron flanges, based on its impression that flanges were never contemplated as products within the scope of the *Order*.<sup>176</sup>

Additionally, Star Pipe maintains that evidence from the ITC Report that ductile iron flanged fittings and ductile iron fittings made to AWWA specifications for use in waterworks systems are not within the scope of the *Order* establishes that ductile iron flanges should also be considered non-subject merchandise.<sup>177</sup> Star Pipe also argues that as the ITC Report states that none of the subject non-malleable cast iron fittings are made to AWWA specifications, Commerce's finding that ductile iron flanges made to AWWA specifications are within the scope is unsupported.<sup>178</sup> Further, Star Pipe contends that if Commerce was unable to establish

---

<sup>174</sup> See Star Pipe Comments on Draft Results at 27-29 and 32-33.

<sup>175</sup> *Id.* at 29.

<sup>176</sup> *Id.* at 30.

<sup>177</sup> *Id.* at 31-32.

<sup>178</sup> *Id.* at 32.

equivalency between AWWA C115 and AWWA C110 and C153 based on the information contained in Star Pipe's scope request, it was required to issue a supplemental questionnaire.<sup>179</sup> Star Pipe also disputes Commerce's position in the *Draft Results* that "equivalency cannot be established on the basis of certain conforming standards alone" and that "properties of lower quality iron may not correspond to properties of higher quality iron," as AWWA C115 states that "{f}langes shall conform to the respective chemical and physical properties for gray-iron and ductile-iron fittings, according to ANSI/AWWA C110.A21.10."<sup>180</sup>

According to Star Pipe, Commerce's ProPulse Ruling contains a similar issue wherein Commerce determined that ProPulse's fittings are excluded from the scope of the forged steel fittings orders because they are produced to standards that are "essentially equivalent" to a standard that is expressly excluded from those orders.<sup>181</sup> Specifically, Star Pipe argues that both the scope of the forged steel fittings orders and the scope of the pipe fittings *Order* contain exclusion language and do not limit subject merchandise to fittings made to specifications listed in the scope language.<sup>182</sup> Next, Star Pipe claims that Commerce does not sufficiently explain how its finding that there is no "broad exclusion for ductile iron pipe fittings produced to AWWA C110 or AWWA C153" distinguishes the pipe fittings scope from its ProPulse Ruling.<sup>183</sup> Moreover, Star Pipe asserts that it is irrelevant that Star Pipe has not argued that its flanges are "produced to a foreign standard equivalent" because the issue in both scope rulings is whether products manufactured to excluded standards have the same end use as products manufactured to another standard.<sup>184</sup>

---

<sup>179</sup> *Id.* at 32-33.

<sup>180</sup> *Id.* at 33.

<sup>181</sup> *Id.* at 27-28.

<sup>182</sup> *Id.* at 33-34.

<sup>183</sup> *Id.* at 34.

<sup>184</sup> *Id.*

Star Pipe also disagrees with Commerce’s finding that it “seeks to impermissibly expand” a scope exclusion “to all ductile iron fittings,” and argues that it did provide evidence of the equivalence between the AWWA standards based on information contained in the (k)(1) sources.<sup>185</sup> Finally, Star Pipe contends that it is irrelevant that Anvil has rebutted its arguments in this case, as neither Anvil nor Commerce has demonstrated that the Petition or ITC considered ductile iron flanges subject merchandise or that the petitioners chose not to expressly exclude products made to AWWA C115.<sup>186</sup> Star Pipe therefore maintains its argument that ductile iron flanges were never contemplated as part of the scope of the investigation and further states that the “absence of exclusionary language is not controlling.”<sup>187</sup>

#### **Commerce’s Position:**

We disagree with Star Pipe. In the investigation phase of an AD or countervailing duty (CVD) proceeding, Commerce has discretion to determine the appropriate scope of an order to ensure that it will be effective to remedy the dumping or CVD subsidies determined to exist during an investigation.<sup>188</sup> Absent a concern that a proposed scope cannot be effectively

---

<sup>185</sup> *Id.* at 34-35.

<sup>186</sup> *Id.* at 35.

<sup>187</sup> *Id.*

<sup>188</sup> See *Mitsubishi Electric Corporation v. United States*, 700 F. Supp. 538, 556 (CIT 1988), *aff’d* by *Mitsubishi Electric Corporation et al. v. United States*, 898 F.2d at 1583 (finding that Commerce “has the authority to define and/or clarify what constitutes the subject merchandise to be investigated as set forth in the petition ... taking into consideration such factors as ... the known tactics of foreign industries attempting to avoid a countervailing duty order”); see also *Mitsubishi Electric Corporation et al. v. United States* 898 F.2d at 1582, 1583 (the determination of the applicable scope of an antidumping order that will be effective to remedy the dumping that the Administration has found lies largely in the Administration’s discretion. *Cf. Smith–Corona Group v. United States*, 713 F.2d 1568, 1582 (Fed.Cir.1983). That discretion must be exercised in light of all the facts before the Administration and must reflect that agency’s judgment regarding the scope and form of an order that will best effectuate the purpose of the antidumping laws and the violation found); Senate Report on Trade Agreements Act of 1979, S. Rep. No. 96-249 (1979) at 45 (stating that “domestic petitioners and the administrators of the law have reasonable discretion to identify the most appropriate group of products for purposes of both the subsidy and injury investigations”); *Smith Corona Corp. v. United States*, 796 F. Supp. 1532, 1535 (CIT 1992); *Allegheny Bradford Corp. v. United States*, 342 F. Supp. 2d 1172, 1187-88 (CIT 2004); *Torrington v. United States*, 745 F. Supp. 718, 721 (CIT 1990), *aff’d* 938 F.2d 1276 (Fed. Cir. 1991) (holding that in certain circumstances Commerce may narrow the definition of the scope as proposed in a petition as long as such that modification is based on record evidence and not unreasonable; finding the existence of five classes or kinds of merchandise, rather than one, as alleged in the petition).



administered, that there is a potential for evasion or circumvention without amendment, or that the scope language is inconsistent with the intent of the petitioner or industry support, Commerce generally will accept the scope as defined in the petition.<sup>189</sup> The petitioners did not seek to exclude products made to any AWWA standard in the instant pipe fittings investigation.<sup>190</sup> The ITC also did not provide a general exclusion for fittings made to other AWWA specifications or for use in waterworks applications; rather, the ITC stated that only ductile iron fittings made to AWWA C110 or C153 are excluded.<sup>191</sup> Moreover, the fact that the scope of the *Order* specifies only two excluded AWWA standards indicates that Commerce allowed a narrow exclusion, consistent with Commerce's practice to defer to the intent of the petitioner in fulfilling its statutory mandate to provide, where appropriate, the relief requested by the petitioning industry.<sup>192</sup> This practice ensures that the scope both includes the specific products for which the petitioner has requested relief and excludes those products that would otherwise fall within the general scope physical description, but for which the petitioner does not seek relief.<sup>193</sup>

Although the scope of the *Order* does not contain an exclusion for pipe fittings made to any AWWA specification other than AWWA C110 or C153, Star Pipe argues that ductile iron fittings used in waterworks applications were excluded from the ITC's analysis. Star Pipe fails

---

<sup>189</sup> See, e.g., *Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 51788, 51789 (September 5, 2008), unchanged in *Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 4913 (January 28, 2009).

<sup>190</sup> See Petition, in general.

<sup>191</sup> See ITC Report at 4, I-5, I-7 n.40, and I-8.

<sup>192</sup> See *Large Residential Washers from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination*, 81 FR 48741 (July 26, 2016), and accompanying preliminary decision memorandum at 4, unchanged in the final determination; see also *Large Residential Washers from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances* 81 FR 90776 (December 15, 2016), and accompanying issues and decision memorandum at Comments 4 and 5.

<sup>193</sup> See, e.g., *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977, 33979 n.22 (June 16, 2008); *Initiation of Antidumping Duty Investigations: Spring Table Grapes from Chile and Mexico*, 66 FR 26831, 26832-33 (May 15, 2001) (*Spring Table Grapes*).

to acknowledge that the ITC Report does not support a general exclusion for pipe fittings used in waterworks applications. Rather, the ITC Report states:

Fittings larger than six inches in inside diameter typically are made to specifications of the AWWA and often are used in waterworks applications. This is in contrast to the smaller fittings within the scope, which typically are made to ASTM specifications and are used primarily in fire prevention/sprinkler applications.<sup>194</sup>

This language does not create an exclusion for pipe fittings used in waterworks systems. It is merely an observation that pipe fittings with an inside diameter larger than six inches are typically used for waterworks applications. These sentences do not indicate in any manner that pipe fittings meeting the criteria in the scope language are excluded because they are used in waterworks applications. Nowhere in the ITC Report does it state that pipe fittings used for waterworks applications are excluded with the exception of pipe fittings made to two specific standards.<sup>195</sup> The fact that there are certain pipe fittings that meet two specific standards associated with waterworks applications in the ITC Report indicates that pipe fittings made to other standards for waterworks applications are within the scope if they meet the criteria of the plain language of the scope.

Star Pipe's flanges have an inside diameter that is smaller than six inches and are made to ASTM A-536.<sup>196</sup> In other words, Star Pipe's flanges meet the material and diameter requirements of the merchandise subject to the scope of the *Order*. Therefore, neither the ITC Report, nor the Petition that was the underlying basis for Commerce's investigation, envisioned that products made to any AWWA specification other than AWWA C110 or C153 would be outside the scope, as such an exclusion would be unnecessary in consideration of the plain language of the scope.

---

<sup>194</sup> See ITC Report at 7.

<sup>195</sup> *Id.* at 4, I-5, I-7 n.40, and I-8.

<sup>196</sup> See Star Pipe Scope Request at Exhibit 1.

Star Pipe also relies on a section of the ITC Report to argue that ductile iron fittings used in waterworks applications were excluded from the ITC's analysis. Specifically, Star Pipe asserts that the ITC's statement that "{o}ther nonsubject ductile cast iron pipe fittings are used in the United States for soil pipe and waterworks applications" suggests that Star Pipe's ductile iron flanges would also be excluded from the scope. However, Star Pipe disregards the context of this sentence, as the exclusion for certain fittings made to specific waterworks standards is related to the ITC's discussion of fittings larger than six inches in inside diameter. Furthermore, the footnote to this sentence expresses that only "ductile fittings for use in waterworks applications meeting AWWA C110 and AWWA C153 specifications are excluded from the scope."<sup>197</sup> The statement in this footnote is consistent with the totality of the (k)(1) sources that explicitly state that only certain ductile iron fittings produced to AWWA C110 or C153 are excluded. Moreover, the scope of the *Order* states that it "does not include cast iron soil pipe fittings," and yet does not express any exclusion for fittings for waterworks applications.<sup>198</sup> Thus, the plain language of the scope indicates that in consideration of the ITC's analysis of ductile iron fittings, an exclusion for products made to additional AWWA specifications was unnecessary.

Notably, the ITC Report states that the scope of the product/domestic like product only excludes ductile iron fittings produced to AWWA C110 or C153 specifications,<sup>199</sup> and none of the (k)(1) sources discuss any excluded waterworks standard beyond those two specifications, despite the creation of the AWWA C115 standard several years prior to the initiation of the pipe

---

<sup>197</sup> See ITC Report at I-7, n.40.

<sup>198</sup> See *Order*.

<sup>199</sup> See ITC Report at 4, I-5, I-7 n.40, and I-8.

fittings investigation.<sup>200</sup> Nevertheless, it is irrelevant that Star Pipe claims that the ITC found that non-malleable cast iron pipe fittings are not used in waterworks applications, as Commerce determined that non-malleable cast iron pipe fittings and ductile iron fittings are a single class or kind of merchandise during the course of the investigation.<sup>201</sup> In fact, while the ITC stated that respondent testimony in the preliminary phase of its investigation indicated that none of the non-malleable fittings discussed in a conference are made to AWWA specifications,<sup>202</sup> the ITC also stated that non-malleable fittings over six inches are typically made to AWWA specifications and are used in waterworks applications.<sup>203</sup> Accordingly, ductile iron fittings are subject to the scope if they do not meet any exclusions for pipe fittings in the scope, regardless of the ITC's observation of large fittings for use in waterworks applications, which only pertains to fittings larger than six inches and is specifically limited to fittings made to AWWA C110 or C153. The statements in the ITC Report concerning AWWA specifications do not exclude ductile iron fittings that otherwise meet the plain language of the scope and, as described above, the ITC Report does not contain a general exclusion for fittings used in waterworks applications. We also find, on balance, and based on our review of the record as a whole, that fittings used in water and wastewater systems may fall under the category of "other uses," or non-traditional non-malleable pipe fitting applications.

Further, although Star Pipe has presented arguments as to the relationship between AWWA C115 and AWWA C110, it has only demonstrated that flanged pipe produced to AWWA C115 is compatible for use with flanged fittings made to AWWA C110.<sup>204</sup> Whereas the

---

<sup>200</sup> See Star Pipe Scope Request at Exhibit 3 (explaining that the proposed AWWA C115 specification for flanged pipe was adopted in 1975. In contrast, the *Order* was published in 2003).

<sup>201</sup> See *Order*.

<sup>202</sup> See ITC Report at I-9, n.54.

<sup>203</sup> *Id.* at 7.

<sup>204</sup> See Star Pipe Scope Request at Exhibits 3 and 4.

respondent in ProPulse cited to clear record evidence from scope memoranda in the forged steel fittings investigations addressing the purpose for a scope exclusion in the forged steel fittings orders,<sup>205</sup> Star Pipe did not previously provide information from the (k)(1) sources to explain a reason for why certain ductile iron fittings produced to AWWA C110 or C153 were excluded from the scope during the course of the investigation. Star Pipe has presented a new argument in its comments on the *Draft Results*, not previously raised in its scope ruling request or in the course of *Star Pipe I*, regarding a discussion in a (k)(1) source as to why certain ductile iron fittings produced to AWWA C110 or C153 were excluded from the scope of the *Order*. However, as discussed above, this information does not support a finding that Star Pipe’s flanges that have an inside diameter of less than six inches and are produced to ASTM A-536 should also be excluded from the scope. Moreover, while Star Pipe argues that Commerce should have issued a supplemental questionnaire about the relationship between the AWWA standards, we find that it is the responsibility of the party that requests a scope ruling to demonstrate how its products fall within or outside the scope of an order. Despite multiple opportunities to provide such information, Star Pipe has been unable to support its assertion that its flanges produced to AWWA C115 are equivalent to the flanged fittings produced to AWWA C110 or C153 that are expressly excluded from the scope of the *Order*.

Finally, we disagree with Star Pipe’s assertion that it has not sought to impermissibly extend an exclusion to the scope. The scope states that “{d}uctile cast iron fittings with mechanical joint ends (MJ), or push on ends (PO), or flanged ends and produced to American Water Works Association (AWWA) specifications AWWA C110 or AWWA C153 are not

---

<sup>205</sup> See ProPulse Ruling at 4 (citing Memorandum, “Certain Forged Steel Fittings from China, Italy, and Taiwan: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated March 7, 2018, unchanged in Memorandum, “Forged Steel Fittings from China, Italy and Taiwan: Final Scope Determination Decision Memorandum,” dated July 23, 2018).

included.”<sup>206</sup> Star Pipe speculates that there is no scope exclusion for ductile iron flanges produced to AWWA C115 because flanges were not contemplated by the Petition or ITC Report as an in-scope product. However, this contention is impermissibly based on the absence of information from the record and is additionally unsupported by the inclusion of numerous references to flanges as pipe fittings in an exhibit to the “Specifications, Characteristics, and Uses” section of the Petition, as described above.

Irrespective of Star Pipe’s claims that the petitioners never intended to include flanges within the scope, in arguing that flanges produced to AWWA C115 should also be excluded from the scope, Star Pipe has attempted to expand a narrow scope exclusion to cover other types of fittings produced to standards not expressly excluded from the scope. The scope of the *Order* directs this exclusion only to certain types of pipe fittings made from ductile iron. This is in contrast to the scope exclusion in the ProPulse Ruling, which excludes any general forged steel fitting made to excluded standards, and does not limit its exclusion to certain types of fittings.<sup>207</sup> Specifically, while the scope of the forged steel fittings orders lists specific standards that are excluded, it does not limit exclusion language to particular types of fittings as does the instant pipe fittings scope exclusion. Therefore, we continue to find that the analysis in the ProPulse Ruling is not relevant to Commerce’s analysis of Star Pipe’s ductile iron flanges.

## **VI. CONCLUSION**

Based on the above analysis, Commerce continues to find Star Pipe’s ductile iron flanges to be within the scope of the AD order on pipe fittings from China.

---

<sup>206</sup> See *Order*.

<sup>207</sup> See *Forged Steel Fittings from Italy and the People’s Republic of China: Antidumping Duty Orders*, 83 FR 60397 (November 26, 2018).

Dated: November 16, 2020

11/16/2020

X 

---

Signed by: JEFFREY KESSLER

---

Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance