

Star Pipe Products v. United States and Anvil International
Court No. 17-00236, Slip Op. 19-20 (February 13, 2019)
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 Products*.¹ These final remand results pertain to the scope inquiry submitted by Star Pipe Products (Star Pipe)² regarding its ductile iron flanges and the antidumping duty (AD) order covering non-malleable cast iron pipe fittings (pipe fittings) from the People’s Republic of China (China).³

In *Star Pipe Products*, the Court found that Commerce’s scope ruling was not supported by substantial evidence and remanded the ruling to Commerce for further consideration.⁴ The Court found that Commerce’s ruling could not have complied with a requirement in 19 CFR § 351.225(k)(1) to “take into account ... {t}he descriptions of the merchandise in the petition” in part because Commerce did not place the Petition on the administrative record of the

¹ See *Star Pipe Products v. United States and Anvil International*, Court No. 17-00236, Slip Op. 19-20 (February 13, 2019) (*Star Pipe Products*).

² See Letter from Star Pipe Products to Wilbur L. Ross, Jr., Secretary of Commerce, “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).

³ 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*).

⁴ See *Star Pipe Products* at 9.

proceeding.⁵ The Court also 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 China⁶ and the determinations of the International Trade Commission (ITC) in its investigation of pipe fittings from China,⁷ are dispositive as to whether Star Pipe’s ductile iron flanges are subject to the *Order* on pipe fittings from China.

II. **BACKGROUND**

On August 17, 2017, Commerce issued its final scope ruling pertaining to Star Pipe’s ductile iron flanges.⁸ Commerce determined that Star Pipe’s ductile iron flanges are covered by the scope of the *Order* because they are pipe fittings that do not fall under any of the exclusions to the scope.⁹

Star Pipe challenged Commerce’s scope ruling in Court. Star Pipe argued that its ductile iron flanges are excluded from the *Order* because they are 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)

⁵ *Id.* at 9-10.

⁶ See Letter from the petitioners, “Petition for Imposition of Antidumping Duties: Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China,” dated February 21, 2002 (Petition), appended to these draft results of redetermination at Attachment I.

⁷ See *Non-Malleable Cast Iron Pipe Fittings from China*, Investigation No. 731-TA-990 (Final), USITC Pub. No. 3586, 2003 (ITC Investigation Final).

⁸ See Commerce 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).

⁹ *Id.*

directing the assessment of duties on entries of its ductile iron flanges that were made prior to issuance of the final scope ruling.

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.¹⁰ 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.¹¹

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.¹²

¹⁰ *Star Pipe Products* at 16.

¹¹ *Id.*

¹² *Id.*

Commerce determined in its Final 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.”¹³ 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” the first paragraph of the scope. Second, Commerce must consider whether Star Pipe’s flanges are “fittings” within the meaning of the scope. 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.¹⁴ In addition, while Star Pipe did not provide the measurement of the inside diameter of its flanges, Star Pipe did provide the measurement 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.¹⁵ 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

¹³ See Star Pipe Scope Ruling at 12.

¹⁴ *Id.* at 8 and Exhibit 1.

¹⁵ *Id.* at Exhibit 1.

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.

2. 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 Commerce did not properly consider ““{t}he descriptions of the merchandise contained in the petition...and the determinations of the... Commission”” when “deciding whether certain merchandise is within the scope of an order.”¹⁶ The Court also raised concerns with Commerce’s reliance on certain prior scope rulings.¹⁷ We address each of these arguments in turn.

a. Commerce’s Scope Ruling Is Supported by Evidence from The Petition.

Commerce has placed the Petition on the record of this proceeding. Evidence from the Petition indicates that the petitioners intended to cover flanges in the scope of the *Order*. Exhibit 2 of the Petition contains product brochures from Anvil International LLC (Anvil) and Ward Manufacturing Inc. (Ward), the petitioners in the investigation.¹⁸ Both brochures reference flanges as a type of pipe fitting.¹⁹ Anvil’s brochure lists a “flange union gasket” and a “floor flange” as types of pipe fittings.²⁰ Ward’s brochure lists “flanges,” “flange unions,” and “companion flanges ” as types of pipe fittings.²¹ In addition, Commerce has also placed another document on the record of this proceeding titled “What Every Member of the Trade Community

¹⁶ See *Star Pipe Products* at 16 (quoting 19 CFR § 351.225(k)(1)).

¹⁷ *Id.* at 14, fn. 8.

¹⁸ See Petition at Exhibit 2.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

Should Know About: Classification and Marking of Pipe Fittings under Heading 7307.” This document describes how CBP defines pipe fittings, as classified under HTS heading 7307. The document states:

‘{A} piece (as a coupling or elbow) used to connect pipes or as an accessory to a pipe.’ In addition to connecting pieces of pipe, pipe fittings are also commonly used to change the direction of pipe or to close off the end of a pipe... The explanatory Notes (ENs) to Heading 7307 further describe a pipe fitting for the purpose of classification within this heading. They state, ‘This heading covers fittings of iron or steel, mainly used for connecting the bores of two tubes together, or for connecting a tube to some other apparatus, or for closing the tube aperture.’... {T}his heading includes, among other things, *flanges*, elbows, bends, reducers, tees, crosses, caps and plugs, stub-ends, fittings for tubular railings and structural elements, multi-branch pieces, nipples, unions, clamps and collars.²²

Based on this information, we determine that evidence in the petition indicates that the flanges are a type of pipe fitting subject to the scope of the *Order*.

In its decision, the Court explained another possible distinction between flanges and pipe fittings in the Petition. Specifically, the Court pointed out that according to the Petition, “virtually all subject fittings are used in fire protection systems and steam heat conveyance systems,”²³ whereas Star Pipe stated that its flanges “are for the water and wastewater industries and are not generally used in fire protection systems or steam heat conveyance systems.”²⁴

While the Petition stated that virtually all fittings subject to the scope are used in fire protection systems and in steam heat conveyance systems, the Petition also noted that there are “other uses” in which subject fittings may be employed.²⁵ The fact that Star Pipe’s flanges are “generally” used in the water and wastewater industries, therefore, does not solely disqualify them as subject pipe fittings. Furthermore, while Star Pipe claims that its flanges are “generally” used for water

²² See Attachment II, page 7 (emphasis added).

²³ See Petition at 4.

²⁴ See Star Pipe Scope Request at 10.

²⁵ See Petition at 4.

and wastewater industries, Star Pipe has not claimed in its briefs before the Court that its flanges are *only* suitable for water and waste water industries.²⁶ Therefore, Star Pipe’s flanges are not excluded from the *Order* merely because there is record evidence that they are not “generally” used in fire protection or steam heat conveyance systems.

b. Commerce’s Scope Ruling Is Supported by Evidence from the ITC Report.

Neither the scope of the *Order* nor the Petition define pipe fittings or flanges. The ITC report, however, defines a pipe fitting as an iron casting “generally used to connect the bores of two or more tubes, connect a pipe to another apparatus, change the direction of fluid flow, or close a pipe.”²⁷ Star Pipe claimed in its *Scope Ruling Request* that a flange is “an iron casting used to modify a straight end pipe to enable its connection either to a flanged pipe, a flanged pipe fitting or another flange attached to the otherwise straight end of another pipe, in order to connect pipes, valves, pumps and other equipment to form a piping system.”²⁸

We continue to find that, by Star Pipe’s own definition of a flange, a flange meets the ITC’s definition of a pipe fitting. According to Star Pipe, a flange is an iron casting that modifies a straight end pipe to enable its connection to another pipe or flange – in other words, it connects a pipe to another “apparatus.” Pipes and flanges are types of apparatus.²⁹ Based on Star Pipe’s definition, then, a flange is used to connect a pipe to a type of apparatus. The ITC describes one of the functions of a pipe fitting as connecting a pipe to an apparatus. Therefore, a flange, even by Star Pipe’s own definition, is a pipe fitting.

²⁶ See Star Pipe’s Br. at 20 (“{T}he flanges that are the subject of Star Pipe’s request are for use by the water and wastewater industries and are not generally used in fire protection systems or steam heat conveyance systems.”); and Star Pipe’s Reply Br. at 10 (stating only that “Star Pipe’s products are for the water and wastewater industries.”).

²⁷ See ITC Investigation Final at 4.

²⁸ Star Pipe Scope Request at 3.

²⁹ See Merriam Webster Online, “apparatus” is defined as “a set of materials or equipment designed for a particular use,” <https://www.merriam-webster.com/dictionary/apparatus> (last visited April 26, 2019).

In addition, like the Petition, the ITC report also specifically references certain types of flanges as being included within its definition of a pipe fitting. A footnote on page I-6 of the ITC Investigation Final states that “{a}nother use for these {subject} non-malleable flanged fittings is as so-called floor flanges to affix pipes as hand (or other) railings to floors or other surfaces.”³⁰ Clearly, the ITC considered at least one type of flange to be a type of pipe fitting. Accordingly, we do not agree with the argument made by Star Pipe before the Court that the ITC report made no mention of any type of flange.³¹

c. Flanges Are Pipe Fittings According to Industry Professionals and the ITC

The Court raised several concerns with Commerce’s analysis in the Star Pipe Scope Ruling, which we address below. First, the Court distinguished between “flanges” as installed by pipe fabricators, and “pipe fittings” as installed by pipe fitters.³² Second, the Court held that Commerce failed to consider that the ITC report stated that all ductile flanged fittings are excluded from the scope, and that the ITC did not include any ductile fittings in its definition of “domestic like product.”³³

i. Star Pipe’s Flanges May Be Included Within the Scope Regardless of Whether They Are Installed by Pipe Fabricators or By Pipe Fitters.

The Court held that Commerce’s final scope ruling did not discuss the sentence in the ITC Investigation Final immediately preceding the one on which Commerce relied in reaching its determination. 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,

³⁰ See ITC Investigation Final at I-6.

³¹ See Star Pipe’s Br. at 2.

³² See *Star Pipe Products* at 11-13.

³³ *Id.* at 14-16.

change the direction of fluid flow, or close a pipe.”³⁴ 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.”³⁵

The Court 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.”³⁶ In reaching this finding, the Court relied on several pieces of evidence. First, the Court pointed to the definition of the AWWA C115 standard, 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.”³⁷ The Court also explained that AWWA standard also states that “flanges are not interchangeable in the field.”³⁸ The Court found that the installation of flanges involves more than “simply threading the plain end of the pipe.”³⁹ “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 assembly by aligning the bolt holes in the flanges.”⁴⁰ 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.”⁴¹

³⁴ See ITC Investigation Final at 4.

³⁵ See *Star Pipe Products* at 11 (citing ITC Investigation Final at 4) (emphasis added).

³⁶ See *Star Pipe Products* at 18.

³⁷ *Id.* at 11-12 (citing *Star Pipe’s Scope Ruling Request* at Ex. 3 (“Excerpts from AWWA C115”), Sec. 4.4.1).

³⁸ *Id.* at 12.

³⁹ *Id.*

⁴⁰ *Id.* (citing Excerpts from AWWA C115 at Sec. 4.4.4).

⁴¹ See *Star Pipe Products* at 16.

Commerce respectfully disagrees with these conclusions for several reasons. First, Commerce respectfully disagrees that there is sufficient evidence on the record to support finding that flanges are used by pipe fabricators and not by pipe fitters. The AWWA C115 standard, 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.”⁴² This standard refers to flanges as being “fitted...at the point of fabrication.” It does not rule out the possibility that the “fitting” of a flange at the point of fabrication is conducted by a pipe fitter.

The Court also held that another distinguishing characteristic between flanges and pipe fittings is that, as described by the AWWA, “flanges are not interchangeable in the field.”⁴³ Attachment III of these draft results of redetermination, a document that we have added to the record of this proceeding, sheds further light on this issue.⁴⁴ Attachment III indicates that flanges and other types of pipe fittings are generally installed by the same type of professionals (pipe fitters/fabricators).⁴⁵ 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....”⁴⁶ According to Attachment III, 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. Elbows and tees are explicitly covered by the scope of this *Order*.⁴⁷ We respectfully find that there is no compelling record evidence that demonstrates that pipe fitters do not have the ability to install flanges as equally as pipe fabricators. Furthermore, we respectfully find that there is no compelling record evidence that demonstrates that

⁴² See Star Pipe Scope Request at Ex. 3 (“Excerpts from AWWA C115”), Sec. 4.4.1.

⁴³ See *Star Pipe Products* at 12.

⁴⁴ See Attachment III.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ See *Order* (“The subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings.”).

interchangeability in the field is a requirement for “pipe fittings” within the meaning of the scope.

Finally, we respectfully find that there is no compelling record evidence as to what pipe fitters are capable of installing, or what they ordinarily install. We therefore cannot support a determination that pipe fitters cannot or do not “standardize...assembly by aligning the bolt holes in the flanges,” or that the work of a pipe fitter is limited “simply threading the plain end of the pipe.”

In addition, the Court held that pipe fabricators “distribute pipes that have been modified by the addition of the flanges.”⁴⁸ This description appears to apply to floor flanges, which the ITC report states are used “to affix pipes as hand (or other) railings to floors or other surfaces.”⁴⁹ Under the ITC’s definition, floor flanges modify pipes so that they can be distributed as railings to floors or other surfaces. Within the Court’s definition of pipe fabrication, floor flanges would therefore probably be installed by pipe fabricators. Both the ITC report and the Petition specifically contemplate that floor flanges are subject pipe fittings.⁵⁰

Finally, we respectfully determine that even if flanges are used by pipe fabricators rather than pipe fitters, flanges may still be included in the scope of the *Order*. The language in the preceding sentence of the ITC report cited by the Court does not suggest that the pipe fittings subject to the *Order* are only those used in traditionally pipe fitting applications. Instead, the ITC report states that subject imports include certain types of non-malleable and ductile cast iron pipe fittings “such as those that can be used in traditional non-malleable pipe fitting applications.”⁵¹ This language is not exclusionary. It simply states that pipe fittings that can be

⁴⁸ See *Star Pipe Products* at 18.

⁴⁹ See ITC Investigation Final at I-6.

⁵⁰ *Id.*; Petition at Exhibit 2 (listing a “floor flange” as a type of pipe fitting in Anvil’s brochure).

⁵¹ See ITC Investigation Final at 4.

used in traditionally pipe fitting applications are included within the scope. It does not preclude the possibility that pipe fittings that are not used in traditional pipe fitting applications may nonetheless also be included within the scope.

ii. The ITC’s Interpretation of the Scope of the *Order* and its Definition of the Domestic Like Product Do Not Detract from Commerce’s Determination.

The Court held that Commerce failed to address the fact that “the ITC considered all flanged ductile cast iron fittings to be excluded from the scope, regardless of specification.”⁵² The Court cited a passage from the ITC report stating that although “flanged ductile fittings are excluded from the scope of the investigation, flanged non-malleable fittings are within the scope.”⁵³ The Court also explained that “the ITC, observing that no domestic producer filed a questionnaire response indicating that it produced ductile cast iron flanged fittings, expressly declined to broaden the domestic like product beyond the scope of the investigation to add this class of products.”⁵⁴ Based on this evidence, the Court held that “{b}ecause ductile flanged fittings are excluded from the scope of the domestic like product (which the ITC defined as identical to the scope of the investigation), it cannot be concluded that the ITC reached an affirmative injury or threat determination as to them.”⁵⁵

We note that the ITC only excluded flanged fittings from its interpretation of the scope and its definition of the domestic like product.⁵⁶ Star Pipe and Commerce both agree that Star

⁵² See *Star Pipe Products* at 14.

⁵³ See ITC Investigation Final at I-9, n. 54.

⁵⁴ See *Star Pipe Products* at 14.

⁵⁵ *Id.* at 15.

⁵⁶ We disagree with the ITC’s interpretation of the exclusionary language in the scope pertaining to ductile flanged fittings because the ITC’s interpretation is contradicted by the plain language of the scope. The scope of the *Order* states that “{d}uctile cast iron fittings with ... flanged ends *and* produced to the American Water Works Association (AWWA) specifications AWWA C110 or AWWA C153 are not included.” See *Order* (emphasis added). The only exclusion for ductile cast iron flanged fittings contemplated in the scope are for those that are produced to AWWA specifications AWWA C110 or AWWA C153. If Commerce had intended for the scope of the *Order* to be limited

Pipe’s flanges are not the same as flanged fittings.⁵⁷ As the Court explained in its decision, “Star Pipe’s flanges do not conform to the description of ‘flanged fittings’ in the ITC Report because they are not ‘cast with an integral rim, or flange, at the end of the fitting.’”⁵⁸ Flanged fittings are one type of pipe fitting, and Commerce maintains that flanges are a separate type of pipe fitting. The ITC did not exclude ductile iron *flanges* from the scope or the domestic like product. It only excluded ductile iron *flanged fittings*, which both Commerce and Star Pipe agree are not at issue in this scope ruling. The ITC’s determinations with respect to ductile iron flanged fittings – which are not the same as Star Pipe’s ductile iron flanges – are therefore not relevant to this ruling.

iii. Commerce’s Determination is Supported by its Prior Scope Rulings.

The Court explained that the prior scope rulings cited by Commerce to support this contention either do not relate to products similar to Star Pipe’s flanges, or the Court was “unable to conclude from the descriptions therein that the remaining articles were identical to Star Pipe’s flanges.”⁵⁹

As noted by the Court, Commerce relied on several prior scope rulings in its determination, including the *Taco Ruling* and the *Napac Ruling*.⁶⁰ The *Taco Ruling* involved

in the way interpreted by the ITC, the specific exclusions for AWWA C110 and AWWA C153 flanged fittings would have been superfluous. *See DynaEnergetics U.S. Inc. v. United States*, 298 F. Supp. 3d 1363, 1373 (CIT 2018) (finding that “express exclusions would be superfluous” if the category of merchandise to which the exclusions applied were not included in the scope); *see also Power Train Components, Inc. v. United States*, 911 F. Supp. 2d 1338, 1343 (CIT 2013), *aff’d* 565 Fed. Appx. 899 (Fed. Cir. 2014) (“Scope inclusions are written in broad terms and then specific exclusions are carved out from the general terms.”).

⁵⁷ *See* Star Pipe Scope Ruling at 11; Star Pipe’s Br. at 2 (“The scope of the Order covers “fittings” and “flanged fittings” but not ‘flanges’ themselves.”).

⁵⁸ *See Star Pipe Products* at 13.

⁵⁹ *Id.* at 14, fn. 8.

⁶⁰ *Id.*

black cast iron flanges, green ductile iron flanges, and cast iron “Twin Tees.”⁶¹ The *Napac Ruling* involved gray iron flanged fittings, couplings, flange adapters, flange reducers, and flange converters.⁶² We continue to rely on the *Taco Ruling* for the proposition that Commerce has previously found certain types of flanges to be included in the scope, even though they were different than Star Pipe’s flanges. Likewise, we continue to rely on the *Napac Ruling* for the proposition that Commerce has previously found that ductile iron fittings are covered by the scope of the *Order* unless they meet AWWA C110 or AWWA C153. Finally, we also 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 were included within the scope of the *Order*.⁶³ Commerce’s scope rulings with respect to this *Order* have therefore been consistent and Commerce’s present ruling is supported by its prior rulings.

IV. DRAFT RESULTS OF REDETERMINATION

As demonstrated above, the Petition and ITC report both refer to certain types of flanges as subject pipe fittings. In addition, the definition of its own flanges provided by Star Pipe, in conjunction with the definition of a pipe fitting in the ITC report, establish that Star Pipe’s flanges are a type of subject pipe fitting. Pipe fittings are covered by the scope of the *Order*, regardless of whether they are made of non-malleable or ductile iron, and ductile flanged fittings are only excluded when they meet AWWA C110 or AWWA C153 specifications. Star Pipe’s ductile iron flanges meet the physical description in the first paragraph and are made to AWWA

⁶¹ See Final Scope Ruling, Attachment IV, Department Mem., “*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 (*Taco Ruling*) at 13.

⁶² See Final Scope Ruling, Attachment V, Department Mem., “*Final Scope Ruling on the Black Cast Iron Flange, Green Ductile Flange, and the Twin Tee*,” dated September 19, 2008 (*Napac Ruling*) at 10.

⁶³ See Final Scope Ruling, Attachment VI, Department Mem., “*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*).

C115. Accordingly, Star Pipe’s ductile iron flanges are included in the *Order*. This ruling is supported by prior scope rulings, including the *Taco Ruling*, the *Napac Ruling*, and the *UV Ruling*.

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 {(ITC)}.”⁶⁴ In this proceeding, pursuant to the Court’s order, Commerce has further elaborated on descriptions of the merchandise contained in the Petition and the ITC’s determination in its investigation. These materials, along with other information from the initial investigation, prior scope determinations, and Star Pipe’s scope inquiry request, are dispositive as 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 May 9, 2019, Commerce released new factual information and provided interested parties an opportunity to submit information to rebut, clarify, or correct the factual information.⁶⁵ On May 20, 2019, Star Pipe⁶⁶ and Anvil⁶⁷ submitted new factual information in response to Commerce’s New Factual Information Memo.

⁶⁴ See 19 CFR § 351.225 (k)(1).

⁶⁵ See Commerce Memorandum, “Antidumping Duty Order on Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China: Star Pipe Products Scope Remand Redetermination,” dated May 9, 2019 (New Factual Information Memo).

⁶⁶ See Letter from Star Pipe, “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 (Star Pipe NFI).

⁶⁷ See Letter from Anvil, “Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China/Submission of Factual Information,” dated May 20, 2019 (Petitioner NFI).

On May 13, 2019, Commerce issued its draft results of redetermination and provided interested parties an opportunity to comment on its draft results.⁶⁸ Commerce received comments from Star Pipe⁶⁹ and Anvil International, LLC (Anvil or the petitioner).⁷⁰ These comments are addressed below. After considering Star Pipe and Anvil’s comments, we have not made any changes to our conclusion in the *Draft Results* in these final results of redetermination.

Issue 1: Whether Ductile Iron Flanges Have the Same Physical Characteristics as Those of the Subject Fittings Described in the First Paragraph of the Scope

Star Pipe’s Comments:

Star Pipe argues that the fact that flanges are not referenced in the first paragraph of the scope, which does reference flanged fittings, indicates that flanges are not covered by the scope.⁷¹

Commerce’s Position:

We disagree with Star Pipe. The first paragraph of the scope states that “subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings.”⁷² The word “include” indicates that the scope lists types of products that are covered, but does not limit coverage to only those products. Furthermore, the scope 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

⁶⁸ See Draft Results of Redetermination Pursuant to Court Order: *Star Pipe Products v. United States and Anvil International*, Court No. 17-00236, Slip Op. 19-20 (CIT February 13, 2019) (*Draft Results*).

⁶⁹ See Letter from Star Pipe, “Star Pipe’s Comments on Draft Remand Comments in the Scope Inquiry on Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China, dated May 29, 2019 (Star Pipe Comments on Draft Results).

⁷⁰ See Letter from Anvil International, LLC, “Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China/Comments on Draft Results of Redetermination,” dated May 29, 2019 ” (Petitioner Comments on Draft Results).

⁷¹ See Star Pipe Comments on Draft Results at 5.

⁷² See *Order*.

Laboratories (UL) certified.”⁷³ The words “normally produced to” indicate that the scope does not require that all subject fittings meet the specifications listed in the scope. In fact, Star Pipe acknowledges this fact in its comments.⁷⁴ Therefore, Star Pipe’s 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.

Issue 2: Whether Ductile Iron Flanges Meet the Requirements Listed in the Second Paragraph of the Scope

Star Pipe’s Comments:

Star Pipe claims that its flanges do not fit the remainder of the description contained within the second paragraph of the scope because its flanges are not produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 and are not required to be UL/FM certified.⁷⁵ Star Pipe also argues that AWWA C115 flanges should be excluded from the scope because AWWA C115 flanges are required to comply with the AWWA C110 specification, which is specifically excluded from the scope.⁷⁶

Anvil’s Comments:

Anvil argues that the scope’s exclusion of ductile pipe fittings that are produced to AWWA C110 or AWWA C153 does not apply to Star Pipe’s flanges because Star Pipe’s flanges are not made to AWWA C110 or AWWA C153.⁷⁷ According to Anvil, a flange is a “ring-shaped plate at the end of a pipe, at right angles to the pipe, provided with holes for bolts to

⁷³ *Id.*

⁷⁴ *See* Star Pipe Comments on Draft Results at 6 (stating that in “its Final Scope Ruling, Commerce dismisses the importance of these factors because the scope language does not require fittings be produced to the specifications listed above.”).

⁷⁵ *Id.* at 5-6.

⁷⁶ *Id.* at 6.

⁷⁷ *See* Petitioner Comments on Draft Results at 7.

allow fastening the pipe to similarly equipped adjoining pipe.”⁷⁸ Anvil asserts that a flanged fitting “refers to any other fitting type (*e.g.*, elbows, tees) ‘which utilizes a radically extended collar for sealing.’”⁷⁹ According to Anvil, any exclusion for flanged fittings, therefore, would not necessarily apply to flanges.⁸⁰

Commerce’s Position:

We do not agree with Star Pipe. Specifically, the second paragraph of the scope of the *Order* states the following:

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...are also included in the scope of this petition.⁸¹

In order for fittings to be covered under this scope, they either need to meet the physical characteristics of the gray or cast iron fittings listed in the first paragraph of the scope, or in addition to meeting those characteristics, they are also 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. In this instance, we found that Star Pipe’s flanges meet the physical characteristics of the gray or cast iron fittings listed in the first paragraph because they are a type of pipe fitting with an inside diameter between 1/4 inch and 6 inches. Therefore, there is no need to determine whether Star Pipe’s flanges are produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 specifications, threaded to ASME B1.20.1 specifications, or are UL certified.

Aside from the ASME and ASTM specifications, the second paragraph of the scope also references AWWA specifications. According to Star Pipe, the AWWA C115 specification is the

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *See Order.*

companion specification to AWWA C110. The second paragraph of the scope states that ductile iron flanges made to AWWA C110 or AWWA C153 are excluded. Accordingly, Star Pipe argues that its AWWA C115 flanges must also be excluded. We disagree. The scope excludes only those ductile iron flanges that are made to either AWWA C110 or AWWA C153 specifications. The scope contains no language regarding the exclusion of products meeting any other specifications. It is irrelevant that one specification is the companion to another specification. Based on a plain reading of the scope, the only specifications excluded are AWWA C110 and AWWA C153, not AWWA C115 (*i.e.*, the specification for Star Pipe's products). Further, 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 non-malleable cast iron pipe fittings from China and deliberately decided to exclude only AWWA C110 and AWWA C153 from the scope.⁸² The petitioners made no mention of companion specifications that were to be excluded similarly. Accordingly, Star Pipe's flanges are not excluded from the scope.

Issue 3: Whether Commerce's Scope Ruling is Supported by Evidence from the Petition

Star Pipe's Comments:

Star Pipe argues that the fact that flanges are not by themselves referenced anywhere in the narrative portion of the Petition indicates that they were not intended to be considered part of the scope.⁸³ According to Star Pipe, the Anvil and Ward Manufacturing Inc. (Ward) product brochures that Commerce included in its New Factual Information Memo⁸⁴ do not establish that

⁸² See Star Pipe Scope Ruling at 12.

⁸³ See Star Pipe Comments on Draft Results at 7.

⁸⁴ *Id.*

flanges were intended to be covered by the scope of the *Order* for multiple reasons. First, Star Pipe claims that there is no indication that the product brochures from Anvil and Ward include only merchandise that was intended to be subject to the *Order*.⁸⁵ Second, Star Pipe notes that the only reference to flanges in Ward’s product brochure is in the table of contents.⁸⁶ The table of contents for Ward’s product brochure states that “Section 6” of the product brochure is for “Cast Iron Pipe Fittings Class 125” while “Section 7” is for “Flanges, Flange Unions, Companion Flanges, Flanged Fittings.”⁸⁷ Star Pipe claims that the fact that the petitioners did not include in the Petition “Section 7 – Flanges, Flange Unions, Companion Flanges, Flanged Fittings” demonstrates that the petitioners never intended for flanges to be within the scope.⁸⁸

Commerce’s Position:

We disagree with Star Pipe. On May 9, 2019, Commerce placed the Petition on the record of this proceeding.⁸⁹ Evidence from the Petition indicates that the petitioners intended to cover flanges in the scope of the *Order*. Specifically, Exhibit 2 of the Petition contains product brochures from Anvil and Ward (*i.e.*, the petitioners in the investigation),⁹⁰ and both brochures reference flanges as a type of pipe fitting.⁹¹ Anvil’s brochure lists a “flange union gasket” and a “floor flange” as types of pipe fittings.⁹² Ward’s brochure lists “flanges,” “flange unions,” and “companion flanges ” as types of pipe fittings.⁹³ In addition to the Petition, Commerce placed another document on the record of this proceeding titled “What Every Member of the Trade

⁸⁵ *Id.*

⁸⁶ *Id.* at 8.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *See* New Factual Information Memo.

⁹⁰ *Id.* at 11-39.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

Community Should Know About: Classification and Marking of Pipe Fittings under Heading 7307.”⁹⁴ This document describes how CBP defines pipe fittings, as classified under HTS

heading 7307. The document states:

‘{A} piece (as a coupling or elbow) used to connect pipes or as an accessory to a pipe.’ In addition to connecting pieces of pipe, pipe fittings are also commonly used to change the direction of pipe or to close off the end of a pipe... The explanatory Notes (ENs) to Heading 7307 further describe a pipe fitting for the purpose of classification within this heading. They state, ‘This heading covers fittings of iron or steel, mainly used for connecting the bores of two tubes together, or for connecting a tube to some other apparatus, or for closing the tube aperture.’... {T}his heading includes, among other things, *flanges*, elbows, bends, reducers, tees, crosses, caps and plugs, stub-ends, fittings for tubular railings and structural elements, multi-branch pieces, nipples, unions, clamps and collars.⁹⁵

Based on the record, we determine that evidence in the Petition indicates that flanges are a type of pipe fitting subject to the scope of the *Order*.

Although it is true that the Petition only includes “Section 6” of Ward’s product brochure and not “Section 7,” we disagree with Star Pipe’s contention. 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.” However, the lack of inclusion of “Section 7” from the Petition is not an indication that the products listed in “Section 7” are not covered by the scope.

Nevertheless, the cover page of Ward’s product brochure, with the title “PIPE FITTINGS” demonstrates that Ward classifies all the products listed in its table of contents, including flanges, as pipe fittings. Similarly, the first page of Anvil’s product 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. Therefore, based on record evidence, we have determined that Ward and Anvil, both petitioners in the original investigation

⁹⁴ *Id.* at 41.

⁹⁵ *Id.* at 47 (emphasis added).

on non-malleable cast iron pipe fittings from China, intended for flanges to be considered types of pipe fittings, and thus, such products are subject to the scope of the *Order*.

Issue 4: Whether Commerce’s Scope Ruling is Supported by Evidence from the ITC

Star Pipe’s Comments:

Star Pipe asserts that it “did not define a flange as an iron casting that modifies a straight end of a pipe ‘to enable its connection to another pipe.’”⁹⁶ Rather, Star Pipe notes that it stated that a flange is “used to ‘modify a straight end pipe to enable its connection either to a flanged pipe, a flanged pipe fitting or another flange attached to the otherwise straight end of another pipe, in order to connect pipes, valves, pumps, and other equipment to form a piping system.’”⁹⁷ According to Star Pipe, Commerce’s reliance on the statement in the ITC Investigation Final that pipe fittings “connect a pipe to another apparatus” was not supported by substantial evidence.⁹⁸ Lastly, Star Pipe argues that the ITC’s passing reference to “floor flanges” in the ITC Investigation Final is not sufficient to support Commerce’s determination that Star Pipe’s ductile iron flanges are in scope pipe fittings.⁹⁹

Anvil’s Comments:

According to Anvil, evidence on the record shows that “flanges are used to connect two pipes together” and this is exactly the purpose of Star Pipe’s flanges.¹⁰⁰ Furthermore, Anvil notes that flanges were included in the Petition as examples of pipe fittings.¹⁰¹ Therefore, according to Anvil, the record confirms that flanges in general, and Star Pipe’s flanges specifically, are pipe fittings subject to the *Order*.¹⁰²

⁹⁶ See Star Pipe Comments on Draft Results at 12.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ See Petitioner Comments on Draft Results at 6.

¹⁰¹ *Id.*

¹⁰² *Id.*

Commerce's Position:

We disagree with Star Pipe. The purpose of Star Pipe's flanges is to modify pipes in such a way as to enable their connection to other pipes or other objects within a piping system.

Commerce has relied on the ITC's definition of pipe fitting to determine what constitutes a pipe fitting. In the ITC Investigation Final, the ITC stated that pipe fittings "generally are used to connect the bores of two or more pipes or tubes, connect a pipe or another apparatus, change the direction of fluid flow, or close a pipe."¹⁰³ Based on our analysis and record evidence, the purpose and function of Star Pipe's flanges meets that of pipe fittings as defined by the ITC.

The ITC also stated that "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."¹⁰⁴ The Court interpreted this statement to mean that subject ductile pipe fittings are only those that are used in traditionally non-malleable pipe fitting applications.¹⁰⁵ We disagree with this interpretation. The presence of the word "include" indicates that subject ductile pipe fittings are not limited to only those that are used in traditionally non-malleable pipe fitting applications. Therefore, Star Pipe's ductile iron flanges are covered by the scope despite the fact that they are not used in traditional non-malleable pipe fitting applications.

¹⁰³ See ITC Investigation Final at 4.

¹⁰⁴ *Id.*

¹⁰⁵ See *Star Pipe Products* at 11.

Issue 5: The Difference Between Flanges Covered by the Scope and Those Not Covered by the Scope

Star Pipe’s Comments:

Star Pipe asserts that even if Anvil intentionally included “flanged union gaskets” and “floor flanges” among the products it considers to be in the scope, these flanges are different from Star Pipe’s ductile iron flanges.¹⁰⁶ In contrast to Star Pipe’s flanges, Anvil’s flange union gaskets and floor flanges are produced to ASME B.16.4 or ASME B.16.3, respectively, and are UL certified.¹⁰⁷ Furthermore, Star Pipe notes that Anvil’s flanged union gasket comes assembled with a gasket, which distinguishes it from Star Pipe’s flanges, which are imported only as a flange.¹⁰⁸

Commerce’s Position:

We disagree with Star Pipe. The scope of the *Order* covers fittings such as elbows, tees, crosses, and flanged fittings. The scope excludes ductile iron fittings that have the same physical characteristics as the gray or cast iron fittings subject to the scope. The scope also excludes ductile iron fittings with flanged ends that are produced to AWWA C110 or AWWA C153. While the scope excludes flanged fittings or fittings with flanged ends, it says nothing about flanges. Flanged fittings are distinct from flanges. A flanged fitting, according to the ITC, is “cast with an integral rim, or flange, at the end of the fitting.”¹⁰⁹ Therefore, a flanged fitting is a fitting that is cast with a flange at the end. An example of this is elbows and tees that are cast with flanges at the ends of the elbows and tees, as depicted on page 9 of Attachment 1 of the petitioner’s new factual information submission.¹¹⁰ In contrast, a flange is a piece of metal with

¹⁰⁶ See Star Pipe Comments on Draft Results at 8.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 9.

¹⁰⁹ See ITC Investigation Final at I-9.

¹¹⁰ See Petitioner NFI at Attachment 1.

a hole in it, that attaches onto a pipe, and has additional holes drilled into it that allow for its attachment onto other pipes and fittings. An individual flange is not cast together with something else. Flanges are depicted on page 9 of Attachment 1 of the petitioner's new factual information submission¹¹¹ as well as in Star Pipe's Scope Request.¹¹² Therefore, the definition of "flanged fitting," that is excluded from the order, does not include flanges and other fittings together.

To Star Pipe's argument about whether the petitioner's flanged union gaskets and floor flanges are the types of flanges covered by the scope, we find that the use to which a flange fitting is put is not relevant. The relevant analysis is of the physical characteristics, as defined by the scope. In conducting our analysis, we reviewed the Petition to understand whether the Petition meant for flanges to be considered a type of pipe fitting. Second, based on our analysis, as stated above, we found that flanges are a type of pipe fitting. The product brochures in the Petition establish that the petitioners considered flanges to be a type of pipe fitting.¹¹³ Moreover, there is nothing in the scope that states that only fittings produced to ASME B.16.4 or ASME B.16.3 and that are UL certified are covered by the scope. Therefore, even though Star Pipe's flanges are not produced to ASME B.16.3 or ASME B.16.4 and are not UL certified, they are nevertheless covered by the scope because they are pipe fittings that meet the physical dimensions of the scope.

Issue 6: The Documents Placed on the Record by Commerce in its New Factual Information Memorandum

Star Pipe's Comments:

¹¹¹ *Id.*

¹¹² *See* Star Pipe Scope Request at Exhibits 1 and 2.

¹¹³ *See* New Factual Information Memo at 12 and 27.

In its New Factual Information Memo, Commerce included a document published by CBP, titled “What Every Member of the Trade Community Should Know About: Classification and Marking of Pipe Fittings Under Heading 7307.”¹¹⁴ Star Pipe argues that since this document was not included in the Petition, it has limited persuasive value as evidence that the Petition was intended to include flanges.¹¹⁵ Additionally, Star Pipe asserts that this document is merely a description of products that fall within the HTS subheading for 7307, and references both subject and non-subject merchandise.¹¹⁶ According to Star Pipe, simply because flanges are listed as products that fall under the subheading 7307 does not render them pipe fittings subject to the *Order*.¹¹⁷

Commerce’s Position:

In our analysis for this final remand redetermination, we are not relying on the CBP document included in our New Factual Information Memo because that information is outside the scope of 19 CFR 351.225 (k)(1).

Issue 7: Flanges Used in the Water and Wastewater Industries

Star Pipe’s Comments:

Star Pipe contends that in its decision, the Court explained another possible distinction between flanges and pipe fittings in the Petition. Specifically, the Court pointed out that according to the Petition, “virtually all subject fittings are used in fire protection systems and steam heat conveyance systems,”¹¹⁸ whereas Star Pipe stated that its flanges “are for the water and wastewater industries and are not generally used in fire protection systems or steam heat

¹¹⁴ *Id.* at 41.

¹¹⁵ *See* Star Pipe Comments on Draft Results at 9.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *See* Star Pipe Comments on Draft Results at 10.

conveyance systems.”¹¹⁹ In its comments on the *Draft Results*, Star Pipe claims that Commerce ignored the statement that “virtually all” subject fittings are used for fire protection and steam heat conveyance systems and focused on the fact that there are “other uses” in which subject fittings may be employed.¹²⁰ According to Star Pipe, nothing in the Petition suggests that these “other uses” are for the water or wastewater industries.¹²¹ Star Pipe also notes that the Petition states that the scope covers “all non-malleable cast iron pipe fittings meeting the physical description set forth in subsection 1 above when used or intended for use in the non-malleable cast iron pipe fittings applications listed in subsection 2 above, regardless of specification.”¹²²

Commerce’s Position:

Star Pipe is correct that the only two uses specifically named in subsection 2 are fire protection systems and steam heat conveyance systems. However, subsection 2 also acknowledges that there are “other uses” that account for a small percentage of subject fittings. Nevertheless, Commerce’s (k)(1) analysis generally does not take end use into account. Moreover, even if we accept that Star Pipe’s flanges can only be used in the water and wastewater industries, as discussed above, Star Pipe’s flanges are within the scope of the *Order* by virtue of the physical description of subject merchandise in the scope language.

Issue 8: Whether Flanges are Installed by Pipe Fabricators or Pipe Fitters

Star Pipe’s Comments:

Star Pipe argues that Commerce’s *Draft Results* did not adequately address the deficiencies identified by the Court with regard to record evidence from the ITC Investigation

¹¹⁹ *Id.* at 11.

¹²⁰ *Id.* at 10.

¹²¹ *Id.*

¹²² *Id.*

Final that Star Pipe’s flanges are used by pipe fabricators, not pipe fitters.¹²³ In its *Draft Results*, Commerce disagrees that there is sufficient evidence on the record to find that flanges are used by pipe fabricators and not by pipe fitters, but provides no reason or basis for this disagreement other than its belief that the AWWA C115 specification “does not rule out the possibility that the ‘fitting’ of a flange at the point of fabrication is conducted by a pipe fitter.”¹²⁴ Approximately [] of Star Pipe’s flanges are sold to fabricators, not to pipe fitters, while the remaining are sold to distributors in the water and wastewater industries.¹²⁵

Anvil’s Comments:

Anvil argues that the Court’s premises and inferences regarding the difference between the work done by pipe fitters versus the work done by pipe fabricators are mistaken.¹²⁶

According to Anvil, pipe fitters “do far more than just install and repair pipes – they ‘fabricate’ and ‘assemble’ entire ‘piping systems.’”¹²⁷ Anvil also asserts that pipe fabricators are a subset of pipe fitters even if their work is performed in the shop rather than at the point of installation.¹²⁸

However, Anvil also notes that “contrary to the court’s assumption, ‘fabrication’ is not performed only in the shop – it is also performed in the field.”¹²⁹ Also contrary to the Court’s assumption, Anvil argues that “Star Pipe’s flanges may, in fact, be furnished by the fabricator, consistent with AWWA C115, ““with loose, pre-faced flanges for assembly of the flanges on the pipe in the field.””¹³⁰ Furthermore, Anvil claims that even if we accept that fabrication occurs only at the shop and cannot be performed by pipe fitters, that supposition is irrelevant because

¹²³ See Star Pipe Comments on Draft Results at 13.

¹²⁴ *Id.* at 14.

¹²⁵ *Id.* at 11.

¹²⁶ See Petitioner Comments on Draft Results at 3.

¹²⁷ *Id.*

¹²⁸ *Id.* at 4.

¹²⁹ *Id.*

¹³⁰ *Id.*

the ITC treated fabricators as purchasers of subject fittings in its injury analysis.¹³¹ Lastly, Anvil argues that “there is no textual basis in the scope language or in the petition to conclude that fittings sold to ‘fabricators’ are not intended to be in scope.¹³² The scope is defined by physical characteristics, not customer type.”

Commerce’s Position:

We disagree with Star Pipe. As the petitioner pointed out in its comments on the *Draft Results*, pipe fitters “do far more than just install and repair pipes -- they ‘fabricate’ and ‘assemble’ entire ‘piping systems.’”¹³³ The petitioner noted the following:

Pipe 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.¹³⁴

Thus, pipe fabricators are a subset of pipe fitters. 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.¹³⁵ Moreover, there is no record evidence that demonstrates that pipe fittings subject to the *Order* must be interchangeable with other pipe fittings when they are being installed in the field. Therefore, there is no record evidence that pipe fitters are less able to install flanges than pipe fabricators.

Moreover, as the petitioner points out, 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.

¹³¹ *Id.* at 5.

¹³² *Id.*

¹³³ *Id.* at 3.

¹³⁴ *Id.*

¹³⁵ *Id.* at 4.

Issue 9: Whether All Ductile Iron Pipe Fittings are Excluded from the Scope of the Order

Star Pipe's Comments:

Star Pipe argues that since ductile iron flanged fittings are excluded from the scope of the *Order*, ductile iron flanges should also be excluded.¹³⁶ According to Star Pipe, there is no record evidence in this case that the domestic ductile iron flange industry was ever investigated by the ITC.¹³⁷ Consequently, Star Pipe argues that where the product subject to a scope request is entirely distinct from the industry investigated in the ITC's material injury investigation, Commerce may not make an affirmative scope ruling.¹³⁸ Star Pipe claims that Commerce fails to provide a compelling explanation as to why ductile iron flanged fittings would be excluded from the scope of the *Order* but ductile iron flanges would not.¹³⁹

Commerce's Position:

We disagree with Star Pipe's argument that because the ITC excluded ductile flanged fittings from its analysis, ductile flanges should also be excluded from the scope of the order. While Star Pipe is correct that the ITC did not investigate ductile flanged fittings in its investigation of non-malleable cast iron pipe fittings from China, Commerce has always maintained that flanged fittings are distinct from flanges. A flange is a type of fitting, separate from a flanged fitting. Furthermore, Star Pipe has provided no evidence demonstrating that the ITC excluded flanges from its analysis in its investigation. Therefore, the fact that the ITC did not include ductile flanged fittings in the domestic like product, does not mean that ductile

¹³⁶ See Star Pipe Comments on Draft Results at 17.

¹³⁷ *Id.* at 18.

¹³⁸ *Id.*

¹³⁹ *Id.*

flanges were similarly excluded from the like product analysis. Finally, ductile fittings were included in the ITC's like product analysis in its investigation and Star Pipe's flanges are a type of ductile fitting.

VI. FINAL RESULTS OF REDETERMINATION

Based on the above analysis, Commerce continues to find Star Pipe's ductile iron flanges to be subject to the scope of the antidumping duty order on non-malleable cast iron pipe fittings from the People's Republic of China.

6/27/2019

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance