



A-570-875
Scope Inquiry
Public Document
EC/OIV: MK, AG

September 18, 2017

MEMORANDUM FOR: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

FROM: Abdelali Elouaradia
Office Director
AD/CVD Operations, Office IV

SUBJECT: Final Scope Ruling on the Antidumping Duty Order on Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Request by Continental Automotive Systems, Inc.

Summary

In accordance with 19 CFR 351.225(d) and 351.225(k)(1), we recommend that the Department of Commerce (Department) determine that the automotive engine component known as the EEGR base, described in Continental Automotive Systems, Inc.'s (CAS) scope ruling request, is not within the scope of the antidumping (AD) duty order (*Order*) on non-malleable cast iron pipe fittings from the People's Republic of China (PRC).¹

Background

On May 23, 2017, the Department received a scope ruling request from CAS, a U.S. importer, to determine whether the automotive engine component known as the EEGR base, identified by the product code GM-EEGR Base 440-389136, it imports from the PRC is subject to the scope of the antidumping duty order on non-malleable cast iron pipe fittings from the PRC.² The Department reviewed CAS's submission and identified areas that required additional

¹ 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).

² See Continental Automotive System, Inc.'s May 23, 2017 letter requesting a scope ruling (CAS Scope Ruling Request); see also Department Letter re: CAS First Supplemental Questionnaire Response, dated June 22, 2017 (CAS First SQR), at 2.

information. Therefore, on June 12, 2017, the Department issued a supplemental questionnaire. On June 22, 2017, CAS submitted its response to the Department's supplemental questionnaire. On July 24, 2017, the Department issued a second supplemental questionnaire. On August 3, 2017, CAS submitted its response to the Department's second supplemental questionnaire. No other parties submitted comments.

Scope of the Order

The scope of the *Order* is as follows:

The products covered by this *Order* are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from ¼ 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.

Imports of covered merchandise are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60 and 7307.19.30.85. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this *Order* is dispositive.

Legal Framework

When a request for a scope ruling is filed, the Department examines the scope language of the order(s) at issue and the description of the product contained in the scope ruling request.³ Pursuant to the Department's regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from an investigation, and relevant prior scope determinations made for the same product.⁴ If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling stating whether the merchandise is covered by an order.⁵

³ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁴ See 19 CFR 351.225(k)(1).

⁵ See 19 CFR 351.225(d).

Conversely, where these descriptions of the merchandise described in 19 CFR 351.225(k)(1) are not dispositive, the Department will consider the five additional factors set forth in section 351.225(k)(2) of the Department's regulations. These factors are: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope proceeding is made on a case-by-case basis after consideration of all evidence before the Department.

Product Description

The EEGR base is a component of an automotive engine system known as the exhaust gas recirculation (EGR) cooler. The EEGR base regulates the quantity of exhaust gas re-entering the engine. The EGR cooler consists of a welded stainless steel housing, winglet tubes, an inlet and outlet for coolant and exhaust gas. Hot gas enters the EGR cooler exhaust inlet and travels through parallel tubes that contain coolant. The EGR cooler acts to cool exhaust gas prior to re-entering the engine, which reduces combustion temperature and emissions.

The EEGR base is composed of ductile cast iron. The base has four unthreaded bores and one threaded bore. The larger round bore is attached to the exhaust inlet, a steel tube. The oblong port is attached to the engine manifold. The round port has a diameter of 0.65 inch. The diameter of the oblong bore is 0.77 inch by 0.43 inch. A cavity at the top of the base attaches to a valve seat and pin-pintle or plunger. The cavity opening is 1 inch, reducing to 0.82 inch in three steps. Exhaust gas enters the cavity and by operation of the pin-pintle is released into the combustion chamber or exits to the manifold.

The unthreaded bores to either side of the oblong port are used to install the base into the engine with screws or bolts. The small threaded bore above the larger round bore is the site of the fastener attachment for the exhaust inlet.

The cast iron used in the EEGR base is produced to SAE specifications that apply to automotive ductile iron castings. Specifically, it is composed of ductile cast iron described in SAE J433 D451.2.⁶ This SAE specification incorporates ASTM A536, which applies to ductile iron castings.⁷ The base is not produced to the ASME or ASTM specifications.⁸

The base is not used in its condition as imported. After importation, the base is painted with anti-corrosion paint and exported to Mexico where it is assembled with the balance of the EGR system and shipped to the United States for delivery to various automobile manufacturers. The sole use of the EEGR base is in the EGR valve manufactured by CAS.

⁶ See Department Letter re: CAS Second Supplemental Questionnaire Response, dated August 3, 2017 (CAS Second SQR), at 1.

⁷ *Id.* at 2.

⁸ *Id.*

Relevant Prior Scope Rulings

Star Pipe Products⁹

Star Pipe Products (Star Pipe) requested that the Department determine whether certain ductile iron flanges it imports from the PRC are covered by the *Order*.

Star Pipe described the flanges as made of ductile iron that meet the AWWA C115 specifications. Additionally, Star Pipe provided the following specifications:

	Nom. Size	Product Code	OD Pipe	Flange THK. A	Flange THK. B	Thread Length	OD Flange O.D.	HUB DIA. C	Bolt Circle B.C.	WT (LBS)
1	2	FLD02SP	2.5	1.62	1.25	1	6	3.06	4.75	4
2	3	FLD03SP	3.96	0.75	1.69	1.25	7.5	4.45	6	7
3	4	FLD04SP	4.8	0.94	1.81	1.37	9	5.32	7.5	12
4	4 x 3	FLD0403	3.96	0.94	1.37	0.94	9	4.45	7.5	16
5	6 x 4	FLD0604	4.8	1	1.56	1	11	5.32	9.5	25
6	8 x 4	FLD0804	4.8	1.12	1.75	1	13.5	5.32	11.75	40
7	2	FLDTFS02	2.5	0.62	1.25	1	6	3.06	4.75	4
8	3	FLDTFS03	3.96	0.75	1.69	1.25	7.5	4.45	6	7
9	4	FLDTFS04	4.8	0.94	1.81	1.37	9	5.32	7.5	12
10	3	FL25003	3.96	1.12	1.56	1.19	8.25	4.62	6.62	10
11	4	FL250D04	4.8	1.25	1.75	1.31	10	5.75	7.88	19

Star Pipe argued that its ductile iron pipe flanges fall outside the scope of the *Order* because they do not meet the definition of subject ductile products. Specifically, Star Pipe noted that its flanges are not produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 specifications, are not required to be certified by Underwriters Laboratories (UL) and are not fittings. Ductile cast iron fittings with flanged ends that are produced to AWWA C110 or AWWA C153 specifications are specifically excluded from the scope. Star Pipe contended that AWWA C115 is a companion specification to AWWA C110 and C153. Star Pipe further argued that the fact that its flanges are produced to AWWA C115 specifications meant that its flanges are produced to the same specifications that are specifically excluded from the scope of the *Order* and, therefore, must also be found to fall outside the scope of the *Order*.

The Department determined that since Star Pipe neither demonstrated that its flanges have different physical characteristics from the ductile iron used to make fittings subject to the scope, nor that its flanges fall within the exclusions to the scope, it provided no basis for the Department to determine that its flanges fall outside the scope of the *Order*. The Department found it irrelevant whether specification AWWA C115 meets the same specifications as AWWA C110 or AWWA C153 because the *Order* only excludes C110 and C153 and does not mention any

⁹ See Department 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" (Star Pipe Scope Ruling Request), dated August 17, 2017), appended to this memorandum as Attachment 1.

companion specifications. Therefore, the Department found Star Pipe's flanges to be within the scope of the *Order*.

U.V. International LLC¹⁰

U.V. International LLC (UV) requested that the Department determine whether certain ductile iron flanges it imports from the PRC are covered by the *Order*.

UV described the flanges as made of ductile iron and flat-faced and furnished smooth or with shallow serrations. Additionally, UV provided the following specifications:

Model Number	Nom Pipe Size	Flange Outer Diameter	Bolt Circle	B. Hole Diameter	No. of Holes	Flange Thickness	Length Through Hub	Weight	Inner Diameter
DPF003	3	7.5	6	.75	4	.75	1.69	7	3.969
DPF004	4	9	7.5	.75	8	.94	1.81	12	4.528

UV argued that its ductile iron pipe flanges fall outside the scope of the *Order* because they do not meet the definition of subject ductile products. Specifically, UV stated that the flanges are not produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 specifications, nor are they certified by UL. Furthermore, UV argued that its flanges are physically the same as other ductile iron products that are excluded from the scope of the *Order*. Ductile cast iron fittings with flanged ends that are produced to AWWA C110 or AWWA C153 are specifically excluded from the scope. UV contended that its flanges are produced according to AWWA C115 specifications and argued that AWWA C115 is the companion specification to AWWA C110 and AWWA C153. Therefore, UV argued that its flanges are produced according to the same specifications that are specifically excluded from the scope and must themselves be found to fall outside the scope of the *Order*.

The Department determined that since UV neither demonstrated that its flanges have different physical characteristics from the ductile iron used to make fittings subject to the scope, nor that its flanges fall within the exclusions to the scope, it provided no basis for the Department to determine that its flanges fall outside the scope of the *Order*. The Department found it irrelevant whether specification AWWA C115 meets the same specifications as AWWA C110 or AWWA C153 because the *Order* only excludes C110 and C153 and does not mention any companion specifications. Therefore, the Department found UV's flanges to be within the scope of the *Order*.

¹⁰ See Department 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" (UV Scope Ruling Request), dated February 13, 2017), appended to this memorandum as Attachment 2.

Napac, Inc.¹¹

Napac, Inc. (Napac) requested that the Department determine whether certain gray iron flanged fittings are covered by the *Order*.

Napac described the gray iron flanged fittings as made to AWWA specifications C110 and C153 in 3 inch to 12 inch sizes. AWWA C110 and AWWA C153 are the AWWA standard specifications for fittings that transfer water. Ductile cast iron fittings with mechanical joint ends (MJ), or push on ends (PO), or flanged ends and produced to AWWA C110 or AWWA C153 are specifically excluded from the scope.

Napac argued that because its gray iron flanged fittings can perform to the same AWWA C110 standards as its ductile iron flanged fittings, its gray iron flanged fittings should also be excluded from the scope of the *Order*.

The Department determined that it is irrelevant whether gray iron flanged fittings can perform to the same standards as ductile iron flanged fittings. The specific exclusion language in the scope of the *Order* only references ductile iron flanged fittings which, makes it clear that the intent was to exclude only the products that meet the specific exclusion requirements. Moreover, there is no specific exclusion language in the scope of the *Order* for gray iron flanged fittings. Therefore, the Department found Napac's flanges to be within the scope of the *Order*.

SIGMA Corporation¹²

SIGMA Corporation (SIGMA) requested that the Department determine whether 94 different types of ductile iron threaded fittings it imports from the PRC are covered by the *Order*.

The subject products are fittings that consist of ductile iron threaded elbows, straight tees, crosses, coupling, bushing, caps, and reducers. These fittings have an inside diameter greater than 1/4 inch and less than 6 inches and are produced to ANSI B16.3 Class 150 specifications. Additionally, the fittings are threaded to ANSI/ASME B1.20.1 specifications and general National Pipe Thread specifications. The fittings are listed by UL and Underwriters Laboratories of Canada and are Factory Mutual approved for 500 pounds per square inch service. Finally, the fittings are produced to ASTM A-536 grade 65-45-12 specifications and are primarily used in fire protection, sprinkler systems, and some plumbing applications.

Based on the record evidence, the Department determined that all of SIGMA's 94 types of ductile iron pipe fittings met the size dimensions outlined in the scope of the *Order*. Additionally, the Department found that the 94 various ductile iron pipe fittings SIGMA imports are all UL listed, meet ASME B16.3 standards, are threaded to ASME B1.20.1 specifications

¹¹ See Department Memorandum, "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" (Napac Scope Ruling), dated September 19, 2016, appended to this memorandum as Attachment 3.

¹² See Department 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 SIGMA Corporation" (SIGMA Scope Ruling), dated January 13, 2016, appended to this memorandum as Attachment 4.

and, therefore, match the material requirements outlined in the scope of the *Order*. The Department determined that all 94 imported ductile iron fittings subject to SIGMA's scope inquiry fall within the scope of the *Order*.

Taco, Inc.¹³

Taco, Inc. (Taco) requested that the Department determine whether two flanges and a Twin Tee pipe fitting it imports from the PRC are covered by the *Order*. The subject products are a black cast iron flange (black flange) and a green ductile iron flange (green ductile flange). These flanges range in size from three quarters of an inch to one and a half inches.

The Department determined that the subject flanges satisfied the material and diameter requirements of the scope and did not satisfy any of the exclusions provided in the scope. Furthermore, the Department found that the subject flanges should be considered pipe fittings within the meaning of the scope of the *Order*.

Interested Party Comments

CAS argues that the EEGR base it imports is not a pipe fitting and therefore, should not be covered by the scope of the *Order*.¹⁴ According to CAS, although the EEGR base is connected to the exhaust inlet tube, the purpose of the base is not to connect two pipes.¹⁵ CAS states that the base does not connect the inlet tube to some other apparatus, nor does it change the direction of fluid flow and does not close a pipe.¹⁶ Additionally, CAS points out that the *Order* indicates that pipe fittings include elbows, ells, tees, crosses, and reducers. The subject EEGR base is none of these.¹⁷

Lastly, CAS states that the EEGR base is not produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 specifications and is also not UL certified.¹⁸

Analysis

For this scope proceeding, the Department examined the language of the *Order*, the description of the products contained in CAS's scope ruling request and supplemental questionnaire response, and prior scope determinations. We find that these factors are, together, dispositive as to whether the product at issue is subject merchandise in accordance with 19 CFR 351.225(k)(1). Accordingly, for this scope determination, the Department finds it unnecessary to consider the additional factors specified in 19 CFR 351.225(k)(2). For the reasons set forth below, we find that the EEGR base subject to CAS's scope ruling request is not covered by the scope of the *Order* on non-malleable cast iron pipe fittings from the PRC.

¹³ See Department Memorandum, "Final Scope Ruling on the Black Cast Iron Flange, Green Ductile Flange, and the Twin Tee" (Taco Scope Ruling), dated September 19, 2008, appended to this memorandum as Attachment 4.

¹⁴ See CAS Scope Ruling Request at 5.

¹⁵ *Id.* at 5.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

The scope of the *Order* covers cast iron pipe fittings, including fittings made out of ductile iron that have the same physical characteristics as the gray or cast iron fittings subject to the scope 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. Moreover, imports of merchandise covered under the scope of this *Order* are classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60 and 7307.19.30.85.

CAS's EEGR base is not a pipe fitting. While the subject EEGR base is made from ductile iron, its function goes beyond that of a pipe fitting. Although the scope of the *Order* does not provide a definition of the term "pipe fittings," as noted in the Taco scope ruling, the International Trade Commission (ITC) does define the term in its final injury determination. Specifically, the ITC 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."¹⁹ The EEGR base is a functioning part of the EGR cooler, not merely an attachment device that connects the EGR cooler to something else. The EEGR base regulates the quantity of exhaust gas re-entering the engine.²⁰ Although the EEGR base attaches to the EGR cooler, its function is not 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.²¹ Instead, it regulates the quantity of exhaust gas re-entering the engine manifold. In reviewing the EEGR base product description and images submitted by CAS, the Department finds that CAS's EEGR base does not conform to the ITC's definition of pipe fittings.

Since CAS's EEGR base does not fit the ITC's definition of a fitting, it does not have the same physical characteristics as the products subject to the scope of the *Order*.

Recommendation

For the reasons discussed above, we recommend finding that CAS's EEGR base identified by the product code GM-EEGR Base 440-389136 is not within the scope of the *Order* on non-malleable cast iron pipe fittings from the PRC.

¹⁹ See Taco Scope Ruling, at 8 (citing *Non-Malleable Cast Iron Pipe Fittings from China*, Investigation No. 731-TA-990 (Final), Pub. No. 3586 (March 2003) (ITC Final Determination), at 5).

²⁰ See CAS Scope Ruling Request, at 3.

²¹ *Id.* at 3-4.

Therefore, we recommend finding that this scope request does not present an issue of significant difficulty within the meaning of 19 CFR 351.225(f)(3) and, thus, we further recommend that this scope ruling constitutes a final ruling as provided under 19 CFR 351.225(f)(4).

Agree

Disagree

9/18/2017

X *James Maeder*

Signed by: JAMES MAEDER

James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

Attachment 1



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-570-875
Scope Inquiry
Star Pipe Products – Non-Malleable Cast Iron Pipe Fittings
Public Document
EC/OIV: MK

August 17, 2017

MEMORANDUM FOR: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary for
Antidumping and Countervailing Duty Operations

FROM: Abdelali Elouaradia
Office Director
AD/CVD Operations, Office IV

SUBJECT: 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

Summary

In accordance with 19 CFR 351.225(d) and 351.225(k)(1), we recommend that the Department of Commerce (Department) determine that the flanges described in Star Pipe Products’ (Star Pipe) scope ruling request, are subject to the scope of the antidumping (AD) duty order on non-malleable cast iron pipe fittings from the People’s Republic of China (PRC).¹

Background

On June 21, 2017, the Department received a scope ruling request from Star Pipe, a U.S. importer, to determine whether the ductile iron flanges, identified by the product codes FLD02SP, FLD03SP, FLD04SP, FLD0403, FLD0604, FLD0804, FLDTFS02, FLDTFS03, FLDTFS04, FL250D03, and FL250D04, it imports from the PRC are subject to the scope of the *Order*.²

¹ 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*).

² See Star Pipe’s June 21, 2017, letter requesting a scope ruling (Star Pipe’s Scope Ruling Request).

On June 30, 2017, Anvil International, LLC (the petitioner), submitted comments on Star Pipe's scope ruling request.

Scope of the Order

The scope of the *Order* is as follows:

The products covered by this order are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from ¼ 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.

Imports of covered merchandise are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60 and 7307.19.30.85. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.³

Legal Framework

When a request for a scope ruling is filed, the Department examines the scope language of the order(s) at issue and the description of the product contained in the scope ruling request.⁴ Pursuant to the Department's regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from an investigation, and relevant prior scope determinations made for the same product.⁵ If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling stating whether the merchandise is covered by an order.⁶

³ See *Order*.

⁴ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁵ See 19 CFR 351.225(k)(1).

⁶ See 19 CFR 351.225(d).

Conversely, where these descriptions of the merchandise described in 19 CFR 351.225(k)(1) are not dispositive, the Department will consider the five additional factors set forth in section 351.225(k)(2) of the Department's regulations. These factors are: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope proceeding is made on a case-by-case basis after consideration of all evidence before the Department.

Product Description

The flanges to which this scope ruling pertains are all made from ductile iron and meet the AWWA C115 specification. The subject flanges are made from ASTM A536 grade ductile iron. The following are the specifications for each subject flange:

	Nom. Size	Product Code	OD Pipe	Flange THK. A	Flange THK. B	Thread Length	OD Flange O.D.	HUB DIA. C	Bolt Circle B.C.	WT (LBS)
1	2	FLD02SP	2.5	1.62	1.25	1	6	3.06	4.75	4
2	3	FLD03SP	3.96	0.75	1.69	1.25	7.5	4.45	6	7
3	4	FLD04SP	4.8	0.94	1.81	1.37	9	5.32	7.5	12
4	4 x 3	FLD0403	3.96	0.94	1.37	0.94	9	4.45	7.5	16
5	6 x 4	FLD0604	4.8	1	1.56	1	11	5.32	9.5	25
6	8 x 4	FLD0804	4.8	1.12	1.75	1	13.5	5.32	11.75	40
7	2	FLDTFS02	2.5	0.62	1.25	1	6	3.06	4.75	4
8	3	FLDTFS03	3.96	0.75	1.69	1.25	7.5	4.45	6	7
9	4	FLDTFS04	4.8	0.94	1.81	1.37	9	5.32	7.5	12
10	3	FL25003	3.96	1.12	1.56	1.19	8.25	4.62	6.62	10
11	4	FL250D04	4.8	1.25	1.75	1.31	10	5.75	7.88	19

Relevant Prior Scope Rulings

U.V. International LLC⁷

U.V. International LLC (UV) requested that the Department determine whether certain ductile iron flanges it imports from the PRC are covered by the *Order*.

UV described the flanges as made of ductile iron and flat-faced and furnished smooth or with shallow serrations. Additionally, UV provided the following specifications:

⁷ See Department 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" (UV Scope Ruling), dated May 12, 2017), appended to this memorandum as Attachment 1.

Model Number	Nom Pipe Size	Flange Outer Diameter	Bolt Circle	B. Hole Diameter	No. of Holes	Flange Thickness	Length Through Hub	Weight	Inner Diameter
DPF003	3	7.5	6	.75	4	.75	1.69	7	3.969
DPF004	4	9	7.5	.75	8	.94	1.81	12	4.528

UV argued that its ductile iron pipe flanges fell outside the scope of the *Order* because they do not meet the definition of subject ductile products. Specifically, UV stated that the flanges were not produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 specifications, nor were they certified by UL. Furthermore, UV argued that its flanges were physically the same as other ductile iron products that are excluded from the scope of the *Order*. Ductile cast iron fittings with flanged ends that are produced to AWWA C110 or AWWA C153 are specifically excluded from the scope. UV contended that its flanges were produced according to AWWA C115 specifications and argued that AWWA C115 was the companion specification to AWWA C110 and AWWA C153. Therefore, UV argued that its flanges were produced according to the same specifications that are specifically excluded from the scope and must themselves be found to fall outside the scope of the *Order*.

The Department determined that because UV neither demonstrated that its flanges had different physical characteristics from the ductile iron used to make fittings subject to the scope, nor that its flanges fell within the exclusions to the scope, it provided no basis for the Department to determine that its flanges fell outside the scope of the *Order*. The Department found it irrelevant whether specification AWWA C115 met the same specifications as AWWA C110 or AWWA C153 because the *Order* only excludes C110 and C153 and does not mention any companion specifications. Therefore, the Department found UV's flanges to be within the scope of the *Order*.

Napac, Inc.⁸

Napac, Inc. (Napac) requested that the Department determine whether certain gray iron flanged fittings were covered by the *Order*.

Napac described the gray iron flanged fittings as made to AWWA specifications C110 and C153 in 3 inch to 12 inch sizes. AWWA C110 and AWWA C153 are the AWWA standard specifications for fittings that transfer water. Ductile cast iron fittings with mechanical joint ends (MJ), or push on ends (PO), or flanged ends and produced to AWWA C110 or AWWA C153 are specifically excluded from the scope.

Napac argued that because its gray iron flanged fittings could perform to the same AWWA C110 standards as its ductile iron flanged fittings, its gray iron flanged fittings should also be excluded from the scope of the *Order*.

⁸ See Department Memorandum, "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" (Napac Scope Ruling), dated September 19, 2016, appended to this memorandum as Attachment 2.

The Department determined that it was irrelevant whether gray iron flanged fittings could perform to the same standards as ductile iron flanged fittings. The specific exclusion language in the scope of the *Order* only references ductile iron flanged fittings, which makes it clear that the intent was to exclude only the products that meet the specific exclusion requirements. Moreover, there is no specific exclusion language in the scope of the *Order* for gray iron flanged fittings. Therefore, the Department found Napac's flanges to be within the scope of the *Order*.

SIGMA Corporation⁹

SIGMA Corporation (SIGMA) requested that the Department determine whether 94 different types of ductile iron threaded fittings it imports from the PRC were covered by the *Order*.

The subject products were fittings that consist of ductile iron threaded elbows, straight tees, crosses, coupling, bushing, caps, and reducers. These fittings have an inside diameter greater than 1/4 inch and less than 6 inches and are produced to ANSI B16.3 Class 150 specifications. Additionally, the fittings are threaded to ANSI/ASME B1.20.1 specifications and general National Pipe Thread specifications. The fittings are listed by UL and Underwriters Laboratories of Canada and are Factory Mutual approved for 500 pounds per square inch service. Finally, the fittings are produced to ASTM A-536 grade 65-45-12 specifications and are primarily used in fire protection, sprinkler systems, and some plumbing applications.

Based on the record evidence, the Department determined that all of SIGMA's 94 types of ductile iron pipe fittings met the size dimensions outlined in the scope of the *Order*. Additionally, the Department found that the 94 various ductile iron pipe fittings SIGMA imports are all UL listed, meet ASME B16.3 standards, were threaded to ASME B1.20.1 specifications and, therefore, matched the material requirements outlined in the scope of the *Order*. The Department determined that all 94 imported ductile iron fittings subject to SIGMA's scope inquiry fall within the scope of the *Order*.

Taco, Inc.¹⁰

Taco, Inc. (Taco) requested that the Department determine whether two flanges and a Twin Tee pipe fitting it imported from the PRC were covered by the *Order*. The subject products were a black cast iron flange (black flange) and a green ductile iron flange (green ductile flange). These flanges ranged in size from three quarters of an inch to one and a half inches.

The Department determined that the subject flanges satisfied the material and diameter requirements of the scope and did not satisfy any of the exclusions provided in the scope. Furthermore, the Department found that the subject flanges should be considered pipe fittings within the meaning of the scope of the *Order*.

⁹ See Department 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 SIGMA Corporation" (SIGMA Scope Ruling), dated January 13, 2016, appended to this memorandum as Attachment 3.

¹⁰ See Department Memorandum, "Final Scope Ruling on the Black Cast Iron Flange, Green Ductile Flange, and the Twin Tee" (Taco Scope Ruling), dated September 19, 2008, appended to this memorandum as Attachment 4.

Interested Party Comments

Star Pipe argues that its ductile iron pipe flanges fall outside the scope of the *Order* because they do not meet the definition of subject ductile products. Specifically, Star Pipe notes that subject flanges are not produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 specifications and are not required to be UL certified. Additionally, Star Pipe argues that subject flanges are not fittings. Star Pipe states that while “fittings are defined by the scope to include ‘flanged fittings,’ the scope does not include ‘flanges’ themselves.”¹¹ Star Pipe notes that the International Trade Commission (ITC) described the physical characteristics of subject fittings as follows: “Pipe fittings are generally used for connecting the bores of two or more pipes or tubes, connecting a pipe to some other apparatus, changing the direction of fluid flow, or closing a pipe.”¹² Star Pipe argues that, in contrast to these characteristics and uses, “flanges do not contact flow media, are not transition items, and do not change the direction of flow, or close a pipe. Moreover, a flange cannot be used to connect the ‘bores of two or more pipes or tubes.’”¹³ Furthermore, “only fittings can be used to connect the bores of two or more pipes. 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. Additionally, a flange by itself cannot be used to close a pipe.¹⁴ However, a single flange could never be used in the manner described by the ITC; only a fitting could be so used.”¹⁵ In the UV scope ruling, the Department stated that flanges do meet the ITC’s definition of fittings because “flanges can be threaded onto the ends of two pipes, and then those flanges can be bolted together so as to connect the pipes.”¹⁶ However, Star Pipe argues that “the ITC specifically defined the fittings as directly connecting the ‘bores of two or more pipes,’ not connecting the bores using two flanges or flanged ends with bolts.”¹⁷

Star Pipe contends that the flanges subject to this scope request are produced to AWWA C115 specifications. Ductile iron fittings with flanged ends that are produced to AWWA C110 or AWWA C153 are specifically excluded from the scope. Star Pipe contends that AWWA C115 is the companion specification to AWWA C110 and AWWA C153. Star Pipe explains that “C110 and C153 were developed first and provided the standards for flanged fittings. C115 was developed because the Subcommittee on Standards realized that a standard was needed for flanges used in pipe systems to accompany C110 and C153 flanged fittings ... {i}n other words, a flange that complies with the standards set forth in C115 is suitable for use with (non-scope) C110 or C153 fittings.”¹⁸

Star Pipe argues that subject flanges are produced to the same specifications that are specifically excluded from the scope and, therefore, must themselves be found to fall outside the scope of the *Order*.¹⁹ According to Star Pipe, “nothing in the original investigation or in subsequent

¹¹ See Star Pipe’s Scope Ruling Request at 7.

¹² See Taco Scope Ruling, at 8 (citing *Non-Malleable Cast Iron Pipe Fittings from China*, Investigation No. 731-TA-990 (Final), Pub. No. 3586 (March 2003) (ITC Final Determination) at 5).

¹³ See Star Pipe’s Scope Ruling Request at 13.

¹⁴ *Id.*

¹⁵ *Id.* at 10-11.

¹⁶ See U.V. International, LLC’s February 13, 2017 letter requesting a scope ruling (UV Scope Ruling Request) at 8.

¹⁷ See Star Pipe’s Scope Ruling Request at 14.

¹⁸ *Id.* at 15.

¹⁹ *Id.* at 8-9.

Department scope rulings ... support[s] a finding that C115 ductile iron flanges should be or have been ever considered in scope.”²⁰ Star Pipe also states that in the “original investigation, the ITC’s Final Determination addressed flanged fittings, but there is no indication that the ITC’s investigation also covered flanges themselves.”²¹ Lastly, Star Pipe argues that “the fact that there is no explicit exclusion in the scope for C115 is irrelevant”²² because “{e}ven when merchandise is facially covered by the literal language of the order, it may still be outside the scope if ‘the order can reasonably be interpreted so as to exclude it.’”²³

Additionally, Star Pipe points out that its flanges are not produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 specifications and are not required to be UL certified. Therefore, Star Pipe argues, its flanges do not meet the requirements of the scope of the *Order*.²⁴

Star Pipe points out that the ductile iron flanges subject to this scope request are similar to the ductile iron flanges that were the subject of the scope request filed by UV on February 13, 2017. However, Star Pipe contends that the Department’s ruling on UV’s scope request “was not supported by substantial evidence and misconstrued the true nature of a ductile iron flange.”²⁵ Accordingly, Star Pipe states that the UV scope ruling should be revisited and rejected.²⁶

Star Pipe distinguishes subject flanges from the products at issue in several prior scope rulings. With regard to the SIGMA ruling, Star Pipe states that the Department found that the ductile fittings were subject to the *Order* because they were UL certified, met ASME B.16.3 standards, and were threaded to ASME B.1.20.1 specifications. In contrast, Star Pipe argues that subject flanges are out of scope because they are not UL certified and do not meet ASME B.16.3 standards.²⁷ Also, Star Pipe argues that subject flanges are distinguished from the products at issue in the Napac scope ruling because the products in the Napac scope ruling were fittings, whereas subject products are flanges.²⁸ Lastly, Star Pipe distinguishes the Taco scope ruling by stating that “{u}nlike Star Pipe’s ductile iron flanges, the flanges at issue in TACO and found to be in-scope were not manufactured to AWWA C110 or C153 standards.”²⁹

Lastly, Star Pipe argues that the Department may not retroactively assess duties on shipments prior to a final scope ruling on this case or initiation of a formal scope ruling.³⁰

On June 30, 2017, the petitioner submitted comments on Star Pipe’s scope ruling request. In these comments, the petitioner disputes Star Pipe’s assertion that its flanges fall outside the scope

²⁰ *Id.* at 9.

²¹ *Id.* at 10.

²² *Id.* at 15.

²³ *Id.* (citing *A.L. Patterson, Inc. v. United States*, 585 Fed. Appx. 778, 783 (Fed. Cir. 2014)).

²⁴ *Id.* at 8.

²⁵ *Id.* at 4.

²⁶ *Id.*

²⁷ *Id.* at 11.

²⁸ *Id.*

²⁹ *Id.* at 12.

³⁰ *Id.* at 18 (citing *AMS Assocs. v. United States*, 737 F.3d 1338 (Fed. Cir. 2013), *aff’g* 881 F. Supp. 2d 1374 (Ct. Int’l Trade 2012)).

of the *Order* because they are not fittings. The petitioner also argues that there is no exclusion for fittings made to AWWA C115 specifications.

The petitioner states that Star Pipe's claim about the impossibility of using a flange "to connect two or more pipes" is incorrect.³¹ The petitioner points out that Star Pipe does not dispute the proposition that "flanges can be threaded onto the ends of two pipes, and then those flanges can be bolted together so as to connect the pipes," as the Department explained in the UV Scope Ruling.³² Furthermore, the petitioner states that nothing in the text of the *Order* or the ITC's definition states that a fitting must be a "single piece that by itself connects the pipes" as Star Pipe suggests.³³ The petitioner goes on to state that pipe fittings are not limited to connecting two pipes; according to the ITC, they can also "connect a pipe to another apparatus."³⁴ As the Department stated in the UV Scope Ruling, "a flange may be threaded onto one pipe and then used to connect that pipe to an apparatus with a compatible connector."³⁵ According to the petitioner, Star Pipe does not dispute that a single flange can be used for this purpose.³⁶

The petitioner argues that the scope exclusions for AWWA C110 and AWWA C153 are specific and must be read narrowly. Star Pipe argues that AWWA C115 is the companion specification to AWWA C110 and C153, however, the petitioner points out that the Department rejected an identical argument made by UV in its scope ruling request.³⁷ The petitioner points out that the "AWWA C115 standard was created in 1975, long before the petition was filed in 2002. If petitioners had intended to exclude products made to AWWA C115, they would have so stated. Similarly, if the petitioners had intended more broadly to exclude products made to any and all AWWA standards, they easily could have done so."³⁸ According to the petitioners, there "is no basis, therefore, to create an additional exclusion for products made to AWWA C115 specifications."³⁹

While Star Pipe argue that subject flanges are not produced to ASME B.16.3, ASME B.16.4, or ASTM A-395, the petitioner notes that Star Pipe makes no argument that the ductile iron used to make the subject flanges has different physical characteristics than gray iron.⁴⁰ The petitioner points out that in this regard, the flanges at issue here "are made from ASTM A536 grade ductile iron, and they are drilled in accordance with ANSI B16.1 Class 125. In those respects, Star Pipe's models are identical to those found subject to the scope in both the *Napac Scope Ruling* and the *UV Scope Ruling*."⁴¹

³¹ See "Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China/Response to Scope Request by Star Pipe," (Petitioner's Comments on Star Pipe Scope Request) dated June 30, 2017, at 3.

³² *Id.*

³³ *Id.*

³⁴ See Taco Scope Ruling, at 8 (*citing Non-Malleable Cast Iron Pipe Fittings from China*, Investigation No. 731-TA-990 (Final), Pub. No. 3586 (March 2003) (ITC Final Determination) at 5).

³⁵ See Petitioner's Comments on Star Pipe Scope Request at 3.

³⁶ *Id.*

³⁷ *Id.* at 6.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* at 7.

⁴¹ *Id.*

Lastly, the petitioner disputes Star Pipe's assertion that even if its flanges are found subject to the scope, the Department is required to apply its determination prospectively only. The petitioner states that the cases cited by Star Pipe in support of this proposition "apply only when the scope is unclear and requires clarification; they do not apply where a scope ruling 'add{s} no new products to the scope' and merely 'confirms that a product is, and has been, the subject of an order.'" Because the Department has already determined in prior scope rulings that ductile iron flanges fall within the scope of the *Order*, the petitioner states that a ruling against Star Pipe would merely confirm the existing construction of the scope and, therefore, the Department should apply duties retrospectively to all suspended entries.

On August 1, 2017, Star Pipe submitted a response to the petitioner's comments. Star Pipe rejects the petitioner's argument that flanges are pipe fittings and requests that the Department reject the definitions established by the ITC during its investigation of non-malleable cast iron pipe fittings from the PRC.⁴² Star Pipe argues that the correct interpretation of the *Order* or the ITC's definition suggests that "a fitting must be a 'single piece that by itself' connects two or more pipes."⁴³ Star Pipe expands on this by stating that the proposition that "the ITC considered fittings to be a single piece is evidenced by its explanation that 'flanged fittings are cast with an integral rim, or flange, at the end of the fitting.' Nowhere in the investigation did the Petition, ITC, or DOC state that the flange itself was also considered a fitting. In other words, fittings cast with flanged ends are fittings. A flange by itself is not."⁴⁴

Star Pipe states that the ITC distinguishes flanged fittings from threaded fittings and argues that the ITC's statement that 'flanged fittings are cast with an integral rim' is made in the context of distinguishing flanged fittings from threaded fittings..."⁴⁵ Star Pipe argues that this statement demonstrates that the ITC does not consider a separate flange to be a flanged fitting.

Star Pipe also argues that the Department should dismiss the petitioner's claim that flanges are fittings because they can be used to connect a pipe to some other apparatus. Star Pipe reiterates its argument that "if a flange is screwed on one end to a pipe, it can only be connected to another apparatus if that apparatus has a flange or flanged end, and the two flanges can be connected using bolts and a gasket. In contrast, a fitting may be threaded on both ends and a single unit can be used to connect a pipe to some other apparatus."⁴⁶

Regarding the issue of AWWA C115 being the companion specification to C110 and C153, Star Pipe reiterates its argument and asserts that this is true because C115 shares all the relevant product characteristics of C110 and C153. Star Pipe also states that the language of the scope and initial investigation demonstrate that AWWA C115 flanges were never part of the scope.

Finally, Star Pipe refutes the petitioner's argument that Star Pipe's flanges should be considered part of the scope because they have the same physical characteristics as gray iron fittings.⁴⁷ Star

⁴² See "Star Pipe Products' Response to Petitioner's Comments: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China (A-570-875)," (Star Pipe Response to Pet Comments) dated August 1, 2017, at 2).

⁴³ *Id.* at 2.

⁴⁴ *Id.*

⁴⁵ *Id.* at 5.

⁴⁶ *Id.* at 3.

⁴⁷ *Id.* at 8.

Pipe argues that the statement that “{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...are also included within the scope of this petition”⁴⁸ applies only to the “pipe fittings” and “flanged fittings” mentioned earlier in the *Order*. Star Pipe argues that because its flanges are not pipe fittings or flanged fittings, this statement does not apply to Star Pipe’s flanges.⁴⁹

Analysis

For this scope proceeding, the Department examined the language of the *Order*, the description of the products contained in Star Pipe’s scope ruling request, and prior scope determinations. We find that these factors are, together, dispositive as to whether the product at issue is subject merchandise, in accordance with 19 CFR 351.225(k)(1). Accordingly, for this determination, the Department finds it unnecessary to consider the additional factors specified in 19 CFR 351.225(k)(2). For the reasons set forth below, we find that the ductile iron flanges subject to Star Pipe’s scope ruling request are covered by the scope of the *Order* on non-malleable cast iron pipe fittings from the PRC.

First, we disagree with Star Pipe’s claim that its flanges do not meet the definition of pipe fittings. While the scope of the *Order* does not provide a definition of the term “pipe fittings,” as noted in the Taco scope ruling, the ITC does define the term in its final injury determination. Specifically, the ITC 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.”⁵⁰ Based on our analysis, Star Pipe’s ductile iron flanges can 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.⁵¹ In other words, Star Pipe’s ductile iron flanges can modify a pipe to connect it to another apparatus, such as a flanged fitting, flanged pipe, or pipe with another flange attached to it.

We note that this issue was also addressed by the Department in the Taco scope ruling. In that scope ruling request, Taco stated that its flanges were “used to connect a Taco manufactured circulator pump to a threaded pipe or to threaded fittings.”⁵² The Department found that the circulator pump satisfied the definition of an apparatus and, therefore, Taco’s flanges did conform to the ITC’s definition of subject fittings.⁵³

Furthermore, we disagree with Star Pipe’s assertion that it is “impossible to use a flange to connect two or more pipes.”⁵⁴ Star Pipe writes 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.”⁵⁵ According to Star Pipe, this suggests that a fitting must be a single piece that by itself connects two pipes. However, there is nothing in the text of the *Order* or the

⁴⁸ *Order*.

⁴⁹ See Star Pipe Response to Pet Comments at 8.

⁵⁰ See Taco Scope Ruling, at 8 (citing *ITC Final Determination* at 5).

⁵¹ See Star Pipe’s Scope Ruling Request at 11.

⁵² See Taco Scope Ruling at 8.

⁵³ *Id.* at 8-9.

⁵⁴ *Id.* at 3.

⁵⁵ *Id.* at 14.

ITC's definition that compels such an interpretation. Star Pipe disputes the idea that a single flange can be used for the purpose of connecting a pipe to another apparatus because the flange can only be connected to another apparatus if that apparatus has a flange or flanged end, and the two flanges can be connected using bolts and a gasket. Star Pipe contrasts this with the fact that a fitting can be threaded on both ends and a single unit can be used to connect a pipe to some other apparatus. While it is true that a fitting may be threaded, it is not necessary that a fitting be threaded in order for it to be within the scope of the *Order*. The scope of the *Order* explicitly includes "threaded" and "unthreaded" fittings.⁵⁶ The *Order* also says nothing about the way in which a fitting may connect a pipe to another apparatus. Nothing in the *Order* suggests that a fitting must connect a pipe to another apparatus on its own, without the use of a third apparatus. Therefore, we disagree with Star Pipe's argument that a fitting must be a single piece that by itself connects two pipes.

In its response to the petitioner's comments, Star Pipe argues that the ITC does not consider a flange to be a flanged fitting and that this demonstrates that flanges are different from fittings. We disagree with this argument. While the ITC's statement does demonstrate that flanges are different from flanged fittings, it does not demonstrate that flanges are not fittings. Having reviewed the record evidence (*i.e.*, product documentation submitted by Star Pipe), the Department finds that Star Pipe's flanges conform to the ITC's definition of pipe fittings because the flanges can be used to connect a pipe to another apparatus.

While the scope of the *Order* does mention that "{m}ost building codes require" that subject fittings are UL certified, the scope does not require that all subject fittings be UL certified.⁵⁷ Similarly, the scope mentions that subject fittings "are normally produced to ASTM A – 126 and ASME B.16.4 specifications:" however, it does not require that fittings be produced to those specifications.⁵⁸ Therefore, Star Pipe's claim that its flanges are outside the scope because they are not produced to ASME B.16.4 specification and are not UL certified is incorrect.

Second, we also disagree with Star Pipe's assertion that specification AWWA C115 is the companion specification to AWWA C110 and C153. The scope of the *Order* explicitly excludes "ductile cast iron fittings with ... flanged ends and produced to the American Water Works Association (AWWA) specifications AWWA C110 or AWWA C153..." Star Pipe's flanges are produced to AWWA C115 specifications, which Star Pipe claims is the companion specification to AWWA C110 and C153. While Star Pipe demonstrates in its submission that products made to AWWA C115 specifications are suitable for use with products made to AWWA C110 and C153 specifications, Star Pipe nevertheless did not provide any record evidence or demonstrate how AWWA C115 is the companion specification to the AWWA C110 or C153 and should, thus, be covered under the exclusions to the scope of the *Order*. Specifically, Star Pipe has not provided documentation from AWWA that describes C115 as the companion specification to C110 or C153. Just because AWWA C115 shares all the relevant product characteristics of C110 and C153 does not make it a companion specification. However, even if Star Pipe successfully demonstrated that AWWA C115 is the companion specification to AWWA C110 and C153, such a showing would be irrelevant because the *Order* only excludes specifications

⁵⁶ *Order*.

⁵⁷ *Id.*

⁵⁸ *Id.*

AWWA C110 and AWWA C153, and makes no mention of any companion specifications. As the petitioner noted, AWWA C115 was created long before the petition was filed and if the petitioner had intended to exclude AWWA C115 from the scope of the *Order*, it would have done so.

Third, the scope of the *Order* includes ductile iron products that: (1) have the same physical characteristics as gray or cast iron fittings that are subject to the first paragraph of the scope; or (2) have the same physical characteristics as gray or cast iron fittings 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. While Star Pipe does argue that subject flanges do not fall into the second category, it makes no argument that the subject flanges do not fall into the first category. That is, Star Pipe makes no claim that the ductile iron used to make the products at issue has different physical characteristics than the gray or cast iron used to make fittings subject to the scope of the *Order*. As the petitioner points out, Star Pipe's flanges have the same physical characteristics as those at issue in the Napac and UV scope rulings. We disagree with Star Pipe's argument in its response to the petitioner's comments about the physical characteristics of its flanges. Specifically, we find that Star Pipe's flanges are fittings and they have the same physical characteristics as the gray iron fittings subject to the *Order*. As Star Pipe has neither provided record evidence that demonstrates that its flanges have different physical characteristics from the gray or cast iron used to make fittings subject to the scope, nor that its flanges fall within the exclusions to the scope, there is no basis for the Department to determine that its flanges fall outside the scope of the *Order*.

Fourth, with regard to certain prior scope rulings that Star Pipe attempts to distinguish from the instant scope ruling request, we disagree with Star Pipe's reasoning. Specifically, Star Pipe tries to distinguish its flanges from the products at issue in the SIGMA scope ruling by arguing that the products at issue here are flanges, whereas the products at issue in the SIGMA scope ruling were fittings. As explained above, we disagree with Star Pipe's argument that flanges are not fittings. In three prior scope rulings, specifically, UV, Taco, and Napac, the Department has found that flanges are fittings. Flanges may be used to connect pipes to other pipes, or to connect a pipe to another apparatus. Therefore, flanges meet the definition of fittings provided by the ITC in its final injury determination. Furthermore, whereas the Department did find that SIGMA's products were UL certified and met ASME B.16.3 specifications, a fitting can be determined to be within the scope without meeting these factors. Additionally, Star Pipe argues that the products at issue in the Napac scope ruling were flanged fittings, not flanges, and, therefore, different from the subject flanges. We disagree. One of the products in the Napac scope ruling was the Redi-Flange, which was a ductile iron flange and yet the Department found that product to be subject to the scope of the *Order*.⁵⁹

Fifth, Star Pipe fails to provide any record evidence that demonstrates how its flanges fall under the exclusion to the scope of the *Order* or how its flanges differ in physical characteristics from the gray or cast iron fittings subject to the scope. Therefore, the Department finds that the ductile iron flanges subject to Star Pipe's scope ruling request are covered by the scope of the *Order* on non-malleable cast iron pipe fittings from the PRC.

⁵⁹ See Napac Scope Ruling at 3, 9-10.

We disagree with Star Pipe's argument regarding the Department's decision in the UV Scope Ruling. Star Pipe has made essentially the same arguments in the instant case as UV did in its request and we responded to all of UV's arguments in the UV Scope Ruling. The Department found UV's flanges to be in scope because, similar to Star Pipe, UV failed to demonstrate how AWWA C115 is the companion specification to AWWA C110 or AWWA C153. Additionally, UV did not claim or demonstrate that the ductile iron used to make the products at issue had different physical characteristics than the gray or cast iron fittings subject to the scope.

Finally, we disagree with Star Pipe's assertion that antidumping duties cannot be assessed retroactively in this case and should, instead, be assessed prospectively. The Department has determined that a formal scope inquiry is not warranted in the instant case because the scope language supports a conclusion that Star Pipe's flanges are included within the scope and, thus, Star Pipe's argument is misplaced.⁶⁰ Because the Department has not initiated a formal inquiry, pursuant to 19 CFR 351.225(1)(1), there is no basis under the Department's regulations to liquidate already suspended entries of merchandise without regard to duties when merchandise is found within the scope of an order. If the Department conducts a scope inquiry in which the product in question is already subject to suspension of liquidation, that suspension of liquidation will continue, pending preliminary or final scope ruling.⁶¹ The suspension of liquidation will be at the cash deposit rate that would apply if the product were ruled to be included within the scope of the order.⁶² If the Department issues a preliminary scope ruling that the product in question is included within the scope of the order, any suspension of liquidation described in 19 CFR 351.225(1)(1) will continue.⁶³ In this instance, the Department is continuing to find that flanges are within the scope of the *Order*. Therefore, Star Pipe had notice that its merchandise is covered by the scope of the *Order*.

Based on the foregoing analysis and pursuant to 19 CFR 351.225(d) and (k)(1), we find that the descriptions of the merchandise contained foremost in the language of the scope of the *Order*, as well as prior scope determinations and the ITC's final determination, are dispositive. As described above, Star Pipe's flanges fall within the physical characteristics of subject merchandise, as described in the scope of the *Order*.

Recommendation

For the reasons discussed above, we recommend finding that Star Pipe's ductile iron flanges identified by the product codes FLD02SP, FLD03SP, FLD04SP, FLD0403, FLD0604, FLD0804, FLDTFS02, FLDTFS03, FLDTFS04, FL250D03, and FL250D04 are within the scope of the *Order*.

⁶⁰ See, e.g., *Shenyang Yuanda Aluminum Industry Engineering Co., Ltd. v. United States*, 961 F. Supp. 2d 1291, 1304 (citing *AMS Assocs., Inc. v. United States*, 737 F.3d 1338, 1344 (Fed. Cir. 2013) (*AMS Assocs.*)).

⁶¹ See *AMS Assocs.*, 737 F.3d at 1343-44.

⁶² See 19 CFR 351.225(1)(1).

⁶³ See 19 CFR 351.225(1)(2).

Therefore, we recommend finding that this scope request does not present an issue of significant difficulty within the meaning of 19 CFR 351.225(f)(3) and, thus, we further recommend that this scope ruling constitutes a final ruling as provided under 19 CFR 351.225(f)(4).

Agree

Disagree

8/17/2017

X

James Maeder

Signed by: JAMES MAEDER

James Maeder

Senior Director

performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

Attachment 2



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-570-875
Scope Inquiry

U.V. International, LLC – Non-Malleable Cast Iron Pipe Fittings

Public Document
EC/OIV: MK

May 12, 2017

MEMORANDUM FOR: James Maeder
Senior Director
Antidumping and Countervailing Duty Operations

FROM: Abdelali Elouaradia
Office Director
AD/CVD Operations, Office IV

SUBJECT: 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

Summary

In accordance with 19 CFR 351.225(d) and 351.225(k)(1), we recommend that the Department of Commerce (Department) determine that the flanges described in U.V. International LLC's (U.V. International) scope ruling request, are subject to the scope of the antidumping (AD) duty order (*Order*) on non-malleable cast iron pipe fittings from the People's Republic of China (PRC).¹

Background

On February 13, 2017, the Department received a scope ruling request from U.V. International, a U.S. importer, to determine whether the ductile iron flanges, identified by the product codes DPF003 and DPF004, it imports from the PRC are subject to the scope of the antidumping duty order on non-malleable cast iron pipe fittings from the PRC.² The Department reviewed U.V. International's submission and identified areas that required additional information.

¹ 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).

² See U.V. International's February 13, 2017 letter requesting a scope ruling (U.V. International's Scope Ruling Request).

Therefore, on March 21, 2017, the Department issued a supplemental questionnaire. On March 24, 2017, U.V. International requested an extension of time to respond to the Department's supplemental questionnaire, which the Department granted. On March 29, 2017, U.V. International submitted its response to the Department's supplemental questionnaire.³ On April 13, 2017, Anvil International, LLC (the petitioner), submitted comments on U.V. International's response to the supplemental questionnaire. On April 26, 2017, U.V. International followed up with a response to the petitioner's comments on their questionnaire. And lastly, on May 1, 2017, the petitioner submitted comments on U.V. International's April 26, 2017 comments.

Scope of the Order

The scope of the *Order* is as follows:

The products covered by this order are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from ¼ 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 U.L. 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.

Imports of covered merchandise are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60 and 7307.19.30.85. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Legal Framework

When a request for a scope ruling is filed, the Department examines the scope language of the order(s) at issue and the description of the product contained in the scope ruling request.⁴ Pursuant to the Department's regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from an

³ Pursuant to 19 CFR 351.225(c)(2), the Department revised the deadline for action for this scope ruling requested based on U.V. International's March 29th submission, until May 15, 2017.

⁴ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

investigation, and relevant prior scope determinations made for the same product.⁵ If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling stating whether the merchandise is covered by an order.⁶

Conversely, where these descriptions of the merchandise described in 19 CFR 351.225(k)(1) are not dispositive, the Department will consider the five additional factors set forth in section 351.225(k)(2) of the Department's regulations. These factors are: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope proceeding is made on a case-by-case basis after consideration of all evidence before the Department.

Product Description

The flanges to which this scope ruling pertains are all made from ductile iron. These flanges are flat-faced (without projection or raised-face) and are furnished smooth or with shallow serrations.⁷ The following are the specifications:⁸

Model Number	Nom Pipe Size	Flange Outer Diameter	Bolt Circle	B. Hole Diameter	No. of Holes	Flange Thickness	Length Through Hub	Weight	Inner Diameter
DPF003	3	7.5	6	.75	4	.75	1.69	7	3.969
DPF004	4	9	7.5	.75	8	.94	1.81	12	4.528

Relevant Prior Scope Rulings

Napac, Inc.⁹

Napac, Inc. (Napac) requested that the Department determine whether certain gray iron flanged fittings are covered by the *Order*.

Napac described the gray iron flanged fittings as made to AWWA specifications C110 and C153 in 3 inch to 12 inch sizes. AWWA C110 and AWWA C153 are the AWWA standard specifications for fittings that transfer water. Ductile cast iron fittings with mechanical joint ends (MJ), or push on ends (PO), or flanged ends and produced to AWWA C110 or AWWA C153 are specifically excluded from the scope.

⁵ See 19 CFR 351.225(k)(1).

⁶ See 19 CFR 351.225(d).

⁷ See U.V. International's Scope Ruling Request, at 9.

⁸ *Id.* at 2.

⁹ See Department Memorandum, "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" (Napac Scope Ruling), dated September 19, 2016, appended to this memorandum as Attachment 1.

Napac argued that because its gray iron flanged fittings can perform to the same AWWA C110 standards as its ductile iron flanged fittings, its gray iron flanged fittings should also be excluded from the scope of the *Order*.

The Department determined that it is irrelevant whether gray iron flanged fittings can perform to the same standards as ductile iron flanged fittings. The specific exclusion language in the scope of the *Order* only references ductile iron flanged fittings which, makes it clear that the intent was to exclude only the products that meet the specific exclusion requirements. Moreover, there is no specific exclusion language in the scope of the *Order* for gray iron flanged fittings. Therefore, the Department found Napac's flanges to be within the scope of the *Order*.

SIGMA Corporation¹⁰

SIGMA Corporation (SIGMA) requested that the Department determine whether 94 different types of ductile iron threaded fittings it imports from the PRC are covered by the *Order*.

The subject products are fittings that consist of ductile iron threaded elbows, straight tees, crosses, coupling, bushing, caps, and reducers. These fittings have an inside diameter greater than 1/4 inch and less than 6 inches and are produced to ANSI B16.3 Class 150 specifications. Additionally, the fittings are threaded to ANSI/ASME B1.20.1 specifications and general National Pipe Thread specifications. The fittings are listed by Underwriters Laboratories (U.L.) and Underwriters Laboratories of Canada and are Factory Mutual approved for 500 pounds per square inch service. Finally, the fittings are produced to ASTM A-536 grade 65-45-12 specifications and are primarily used in fire protection, sprinkler systems, and some plumbing applications.

Based on the record evidence, the Department determined that all of SIGMA's 94 types of ductile iron pipe fittings met the size dimensions outlined in the scope of the *Order*. Additionally, the Department found that the 94 various ductile iron pipe fittings SIGMA imports are all U.L. listed, meet ASME B16.3 standards, are threaded to ASME B1.20.1 specifications and, therefore, match the material requirements outlined in the scope of the *Order*. The Department determined that all 94 imported ductile iron fittings subject to SIGMA's scope inquiry fall within the scope of the *Order*.

Taco, Inc.¹¹

Taco, Inc. (Taco) requested that the Department determine whether two flanges and a Twin Tee pipe fitting it imports from the PRC are covered by the *Order*. The subject products are a black cast iron flange (black flange) and a green ductile iron flange (green ductile flange). These flanges range in size from three quarters of an inch to one and a half inches.

¹⁰ See Department 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 SIGMA Corporation" (SIGMA Scope Ruling), dated January 13, 2016, appended to this memorandum as Attachment 2.

¹¹ See Department Memorandum, "Final Scope Ruling on the Black Cast Iron Flange, Green Ductile Flange, and the Twin Tee" (Taco Scope Ruling), dated September 19, 2008, appended to this memorandum as Attachment 3.

The Department determined that the subject flanges satisfied the material and diameter requirements of the scope and did not satisfy any of the exclusions provided in the scope. Furthermore, the Department found that the subject flanges should be considered pipe fittings within the meaning of the scope of the *Order*.

Interested Party Comments

U.V. International argues that its ductile iron pipe flanges fall outside the scope of the *Order* because they do not meet the definition of subject ductile products. The flanges are not produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 specifications, nor are they certified by U.L. Furthermore, U.V. International argues that its flanges are physically the same as other ductile iron products that are excluded from the scope of the *Order*. Ductile cast iron fittings with flanged ends that are produced to AWWA C110 or AWWA C153 are specifically excluded from the scope. U.V. International contends that its flanges are produced according to AWWA C115 specifications and argues that AWWA C115 is the companion specification to AWWA C110 and AWWA C153. Therefore, U.V. International argues that its flanges are produced according to the same specifications that are specifically excluded from the scope and must themselves be found to fall outside the scope of the *Order*.

U.V. International states that the facts in this scope proceeding differ from those where the Department found merchandise subject to the scope of the *Order*. Specifically, U.V. International points to the SIGMA scope ruling where the Department found certain ductile iron fittings subject to the *Order* because they were U.L. certified, met ASME B 16.3 standards, and were threaded to ASME B 1.20.1 specifications. However, in this instance, U.V. International states that its ductile iron pipe flanges are not U.L. certified and do not fall under ASME B.16.3, ASME B.16.4, or ASTM A-395 standards. Nevertheless, U.V. International asserts that because the ductile iron pipe flanges at issue here allegedly do not meet the definition of subject merchandise, the Department must find them outside of the scope of the *Order*. Similarly, U.V. International distinguishes its flanges from those considered in the Napac scope ruling. U.V. International states that in the Napac scope ruling, the Department found certain fittings and related products were subject to the scope of the *Order* because the products did not meet AWWA standards. Here, U.V. International argues that its flanges, by contrast, do meet AWWA standards and, therefore, fall outside the plain language of the scope.

The petitioner argues that U.V. International made no claim that the ductile iron used to make the products at issue has different physical characteristics than gray iron. Additionally, the petitioner contends that the models at issue here (DPF003 and DPF004) are made from ASTM A536 grade 65-45-12 ductile iron, and they are machined, drilled, and faced in accordance with ANSI B16.1 Class 125. The petitioner points out that these models are nearly identical to various flanges imported by Napac, which were the subject of another recent scope ruling request, and were found by the Department to be subject to the *Order*. Lastly, according to the petitioner, U.V. International asserts that its flanges meet AWWA C115 specifications and claims that AWWA C115 is “equivalent” to AWWA C110 and C153. However, the petitioner asserts that even if this were correct, which U.V. International has not demonstrated, it would be irrelevant because the *Order* only excludes AWWA C110 or C153, and there is no exclusion for AWWA C115.

On April 13, 2017, the petitioner submitted comments on U.V. International's supplemental questionnaire response. In these comments, the petitioner disputes U.V. International's assertion that its flanges fall outside the scope of the *Order* "because they 'are exclusively designed for the water works industry,' whereas the scope is restricted to fittings 'designed for general industrial use.'"¹² The petitioner points out that while U.V. International suggested that the Petition limits the scope to fittings intended for fire protection and heat conveyance applications, the cited "end-use" language was in fact removed in an amendment to the Petition,¹³ and it does not appear in the scope of the *Order*.¹⁴ While U.V. International states that its flanges are "not interchangeable" with flanges "manufactured to ASTM B16.1 standards and threaded to ASME B1.20.1 standards,"¹⁵ the petitioner asserts that this is a confusing argument since the company's own product catalog states that its flanges are made "in accordance with ANSI B16.1" and are "threaded in accordance with ANSI/ASME B1.20.1."¹⁶ Furthermore, the petitioner notes that the Department has observed that the particular ASTM and ASME standards listed in the scope are illustrative, and pipe fittings may fall within the scope even when they do not meet those standards.¹⁷ Lastly, the petitioner states that U.V. International's argument that its fittings are not compatible with standard nominal outer diameters for steel pipes is irrelevant even if true since the scope is not restricted to fittings designed to be used with steel pipes.¹⁸

On April 26, 2017, U.V. International submitted a response to the petitioner's April 13, 2017, comments. In these comments, U.V. International argues that the petitioner misunderstands the physical characteristics of U.V. International's ductile iron flanges.¹⁹ According to U.V. International, the petitioner argues that U.V. International's ductile iron flanges fall under the scope of the *Order* because the inner diameter of the flanges meets specifications set forth in the *Order*. However, U.V. International continues to assert that its flanges fall outside the scope of the *Order* because the *Order* covers ductile iron products only when they have the same physical characteristics as gray or cast iron fittings subject to the scope.²⁰ Additionally, U.V. International states that, contrary to the petitioner's claim, the inner diameter of the flange is an important physical difference that may not be ignored in the scope analysis.²¹

Lastly, U.V. International argues that its ductile iron flanges are not fittings and therefore, do not fall under the scope of the *Order*.²² In support of this argument, U.V. International provides testimony from an industry expert.²³

¹² See "Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China/Comments on Supplemental Response of U.V. International," (Petitioner's Comments on UV's Supp Questionnaire Response), dated April 13, 2017, at 2.

¹³ See Taco Scope Ruling at 3, n.5.

¹⁴ See Petitioner's Comments on UV's Supp Questionnaire Response at 2.

¹⁵ See "Antidumping Duty Order on Non-Malleable Cast Iron Pipe Fittings from China: Supplemental Questionnaire Response, U.V. International, LLC" (UV's Supp Questionnaire Response), dated March 29, 2017, at 1.

¹⁶ See U.V. International's Scope Request at Attachment 1.

¹⁷ See Petitioner's Comments on UV's Supp Questionnaire Response at 2-3 (*citing* Taco Scope Ruling at 10-11).

¹⁸ *Id.* at 3.

¹⁹ See "U.V. International, LLC: Antidumping Duty Order on Non-Malleable Cast Iron Pipe Fittings from China, Response to Petitioner Comments," (UV's Response to Petitioner Comments), dated April 26, 2017, at 2.

²⁰ *Id.* at 2-3.

²¹ *Id.*

²² *Id.* at 7.

²³ See UV's Supp Questionnaire Response at Attachment 1.

Analysis

For this scope proceeding, the Department examined the language of the *Order*, the description of the products contained in U.V. International's scope ruling request and supplemental questionnaire response, and prior scope determinations. We find that these factors are, together, dispositive as to whether the product at issue is subject merchandise in accordance with 19 CFR 351.225(k)(1). Accordingly, for this determination, the Department finds it unnecessary to consider the additional factors specified in 19 CFR 351.225(k)(2). For the reasons set forth below, we find that the ductile iron flanges subject to U.V. International's scope ruling request are covered by the scope of the *Order* on non-malleable cast iron pipe fittings from the PRC.

The scope of the *Order* explicitly excludes "ductile cast iron fittings with ... flanged ends and produced to the American Water Works Association (AWWA) specifications AWWA C110 or AWWA C153..." U.V. International's flanges are produced to specification AWWA C115, which U.V. International claims is the companion specification to AWWA C110 and AWWA C153. However, in its submissions, U.V. International fails to demonstrate how specification AWWA C115 is the companion specification to the AWWA C110 or AWWA C153 specifications. Furthermore, even if U.V. International successfully demonstrated this argument, such a showing would be irrelevant because the *Order* only excludes specifications AWWA C110 and AWWA C153, and makes no mention of any companion specifications.

U.V. International argues that the *Order* covers ductile iron products only when they have the same physical characteristics as gray or cast iron fittings subject to the scope. However, U.V. International makes no claim that the ductile iron used to make the products at issue has different physical characteristics than the gray iron fittings subject to the scope. Since U.V. International neither demonstrates that its flanges have different physical characteristics from the ductile iron used to make fittings subject to the scope, nor that its flanges fall within the exclusions to the scope, it provides no basis for the Department to determine that its flanges fall outside the scope of the *Order*.

U.V. International tries to distinguish its flanges from the ones in the Napac scope ruling, where the Department found the flanges subject to the scope. U.V. International claims that the Department found that certain fittings and related products were subject to the *Order* because they did not meet AWWA standards. We disagree with U.V. International. In the Napac scope ruling, Napac argued that, because its gray iron flanged fittings can perform to the same AWWA C110 standards as its ductile iron flanged fittings, its gray iron flanged fittings should also be excluded from the scope of the *Order*. Contrary to U.V. International's claim, the Department found it to be irrelevant whether Napac's gray iron flanged fittings performed to the same standards as its ductile iron flanged fittings. Specifically, the Department determined that the specific exclusion language in the scope of the *Order* only references ductile iron flanged fittings, which makes it clear that the intent was to exclude only the products that meet the specific exclusion requirements. Moreover, there is no specific exclusion language in the scope for gray iron flanged fittings. Similarly, for U.V. International's scope ruling, it is irrelevant whether specification AWWA C115 meets the same specifications as AWWA C110 or AWWA C153 because the *Order* only excludes C110 and C153 and does not mention any companion specifications.

Lastly, we also disagree with U.V. International's claim that its flanges do not meet the definition of pipe fittings. While the scope of the *Order* does not provide a definition of the term "pipe fittings," as noted in the Taco scope ruling, the ITC does define the term in its final injury determination. Specifically, the ITC 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."²⁴ The expert testimony provided by U.V. International states that, "[f]langes are merely external attachment devices for pipes. Flanges do not contact flow media, are not transition items and do not change the direction of flow. They simply provide a method of attachment of pipes to fittings."²⁵ In reviewing the product documentation submitted by U.V. International, the Department finds that U.V. International's flanges conform to the ITC's definition of pipe fittings. Specifically, as demonstrated in U.V. International's original submission, its flanges can be threaded onto the ends of two pipes, and then those flanges can be bolted together so as to connect the pipes. Alternatively, a flange may be threaded onto one pipe and then used to connect that pipe to an apparatus with a compatible connector. Moreover, the Department has found that flanges are fittings in both the Taco and Napac scope rulings.²⁶

Finally, U.V. International fails to demonstrate how its flanges fall under the exclusion to the scope of the *Order* or how its flanges differ in physical characteristics from the gray iron fittings subject to the scope. Therefore, the Department finds that the ductile iron flanges subject to U.V. International's scope ruling request are covered by the scope of the *Order* on non-malleable cast iron pipe fittings from the PRC.

²⁴ See Taco Scope Ruling, at 8 (citing *ITC Final Determination* at 5).

²⁵ See UV's Supp Questionnaire Response at Attachment 1.

²⁶ See Taco Scope Ruling, at 9; see also Napac scope Ruling, at 8.

Recommendation

For the reasons discussed above, we recommend finding that U.V. International's ductile iron flanges identified by the product codes DPF003 and DPF004 are within the scope of the *Order*.

Therefore, we recommend finding that this scope request does not present an issue of significant difficulty within the meaning of 19 CFR 351.225(f)(3) and, thus, we further recommend that this scope ruling constitutes a final ruling as provided under 19 CFR 351.225(f)(4).

Agree

Disagree

5/12/2017

X *James Maeder*

Signed by: JAMES MAEDER
James Maeder
Senior Director
Antidumping and Countervailing Duty Operations


Attachment 3



A-570-875
Scope Inquiry
Napac – Flanged Fittings
Public Document
Office IV: SMB

September 19, 2016

MEMORANDUM FOR: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

FROM: Abdelali Elouaradia 
Office Director
AD/CVD Operations, Office IV

SUBJECT: 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

Summary

Based on the analysis below, we recommend finding that all six of the flanged fittings imported by Napac, Inc., (“Napac”) are within the scope of the antidumping duty (“AD”) order (“Order”) on finished and unfinished non-malleable cast iron pipe fittings (“NM Pipe Fittings”) from the People’s Republic of China (“PRC”).¹

Background

On February 23, 2016, the Department of Commerce (“the Department”) received a scope ruling request from Napac.² Pursuant to 19 CFR 351.225(c), Napac requested a determination as to whether certain: 1) gray iron flanged fittings;³ 2) Unifit Mechanical Couplings; 3) Unifit Mechanical Flange Adapter; 4) Rediflange Adapters; 5) Compact Flange Reducers, and 6) Flange Converters, with an inner diameter of less than or equal to six inches, are covered⁴ by the Order on NM Pipe Fittings from the PRC. On April 12, 2016, May 20, 2016, and June 24, 2016,

¹ See *Notice of Antidumping Duty Order: Non-Malleable Cast Iron Pipe Filings From the People’s Republic of China*, 68 FR 16765 (April 7, 2003) (“Order”).

² See Napac’s February 22, 2016 (uploaded to ACCESS February 23, 2016) Letter Requesting a Scope Ruling on Cast Iron Flange Fittings from the People’s Republic of China (“Napac’s Scope Ruling Request”).

³ See Napac’s 1st Supplemental questionnaire response, dated April 12, 2016 (“Napac’s 1st supplemental response”), at Exhibit A for a complete list of products.

⁴ In Napac’s Scope Ruling Request, Napac requested that the Department determine whether its products were outside the scope. Pursuant to 19 CFR 351.225(c), in scope ruling requests the Department determines whether a particular product is within the scope of an order, not whether the requested product is excluded from the order.



we received Napac's responses to the Department's April 6, 2016, April 28, 2016, and June 10, 2016, requests for clarification, respectively.

Napac submitted comments on August 1, 2016, and August 12, 2016. Anvil International, LLC ("Anvil"), a U.S. producer of subject merchandise and petitioner in the investigation, submitted comments on March 30, 2016, July 21, 2016, August 3, 2016, and August 18, 2016, opposing Napac's scope ruling request. On August 4, 2016, the Department revised the deadline for action on Napac's scope ruling request based upon the date of Napac's last submission of additional information, to September 22, 2016, pursuant to 19 CFR 351.225(c)(2).⁵

Scope of the Order

The scope of the Order is as follows:

The products covered by the order are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from 1/4 inch to 6 inches, whether threaded or un-threaded, 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 the order. 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 the American Water Works Association ("AWWA") specifications AWWA C110 or AWWA C153 are not included.

Imports of covered merchandise are currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60, 7307.19.30.85, 7326.90.8588. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.⁶

⁵ See Letter from the Department to Napac, Re: Antidumping Duty Scope Inquiry – Non-malleable Cast Iron Pipe Fittings from the People's Republic of China – Extension of Time, dated August 4, 2016.

⁶ On April 21, 2009, in consultation with CBP, the Department added the following HTSUS classification to the AD/CVD module for pipe fittings: 7326.90.8588. See Memorandum from Abdelali Elouaradia, Office Director, Import Administration, Office 4 to Stephen Claeys, Deputy Assistant Secretary, Import Administration regarding the "Final Scope Ruling on Black Cast Iron Cast, Green Ductile Flange and Twin Tee, antidumping duty order on non-malleable iron cast pipe fittings from China," dated September 19, 2008. See also Memorandum to the file from Karine Gziryan, Financial Analyst, Office 4, regarding "Module Update adding Harmonized Tariff Schedule

Legal Framework

When a request for a scope ruling is filed, the Department examines the scope language of the order(s) at issue and the description of the product contained in the scope ruling request.⁷ Pursuant to the Department's regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from an investigation, and relevant prior scope determinations.⁸ If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling stating whether the merchandise is covered by an order.

Conversely, where these descriptions of the merchandise are not dispositive, the Department will consider the five additional factors set forth in section 351.225(k)(2) of the Department's regulations. These criteria are: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope inquiry is made on a case-by-case basis after consideration of all evidence.

Product Description

Napac describes the gray iron flanged fittings as made to AWWA specifications C110 and C153 in 3 inch to 12 inch sizes. Gray iron flanged fittings include "bends," "tees," "crosses," "laterals," "reducers," "flanges," and "true wyes."⁹ AWWA C110 and AWWA C153 are the AWWA Standard Specification for fittings that transfer water. Gray iron flanged fittings are produced to ASTM A-126 and manufactured to meet ANSI A21.10 specifications. Gray iron flanged fittings are faced and drilled in accordance with ANSI B16.1 Class 125. The standard lining for each fitting is cement mortar with bitumen overlay in accordance with AWWA C104, and ANSI A21.4. Cast iron flanged fittings come with a standard red color coating consisting of a zinc rich primer.

Napac describes the Unifit Mechanical Couplings, Unifit Mechanical Flange Adapter, Rediflange Adapters, Compact Flange Reducers, and Flange Converters ("couplings, adapters, reducers, and converters") as ductile iron ASTM A536 material specification flanges used in pipelines in conjunction with ductile iron flanged fittings produced to AWWA C110 and ductile iron mechanical joint fittings produced to AWWA C153. These products include: (1) Unifit Mechanical Coupling, Series 4200, part numbers 020 to 045, six inches inside diameter and smaller; (2) Unifit Mechanical Flange Adapter, Series 4426, part numbers 025 to 045, six inches inside diameter and smaller; (3) Rediflange Adapters, Series RFC-201 to 206 and RFC-403 to 406, six inches inside diameter and smaller; (4) Compact Flange Reducers, Series 740 and 790, six inches inside diameter and smaller; and (5) Flange Converters, Series 840-130 to 160, six inches inside diameter and smaller.

Number for twin tin fitting included in the scope of antidumping order on non-malleable iron cast pipe fittings from China," dated April 22, 2009.

⁷ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁸ See 19 CFR 351.225(k)(1).

⁹ See Napac's Scope Ruling Request at 2.

All of the above fittings come in a variety of sizes and are manufactured, as claimed by Napac, according to the standards set forth under AWWA C110 and AWWA C153. The AWWA C110 and AWWA C153 standards requires products be made in specific sizes and conform to specific dimensional tolerances based on wall thickness and outside diameter, as well as meeting certain iron compositions.

Interested Party Comments

In Napac's Scope Ruling Request, Napac argues that certain gray iron flanged fittings should be excluded based on a plain reading of the scope. Napac contends that its ductile iron products meet the scope exclusion, and highlights the exclusion language provided in the Order regarding NM Pipe Fittings, which reads: "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."¹⁰ Napac maintains that its ductile iron flanged fittings meet these standards and are excluded from the Order.

Napac argues that because its gray iron flanged fittings conform to the same AWWA C110 and AWWA C153 standards as its ductile iron flanged fittings, gray iron flanged fittings should also be excluded from the Order. Napac contends that the scope causes ambiguity by failing to exclude a product (gray iron flanged fittings) that meets the same standards as a product (ductile iron flanged fittings) that is excluded.

Accordingly, Napac provides an analysis according to the factors provided in 19 CFR 351.225(k)(2), arguing that the Department should exclude its gray iron flanged fittings as well as the couplings, adapters, reducers, and converters from the Order.¹¹

Napac argues that the couplings, adapters, reducers, and converters it imports also fall under the ductile iron AWWA C110 and AWWA C153 exclusion because they are made of ductile iron and have either flanged or MJ ends and are produced to the AWWA C110 and AWWA C153 standards.

Anvil submitted comments on March 30, July 21, and August 3, 2016, on Napac's Scope Ruling Request. In its March 30, 2016, comments, Anvil argues that the Department can determine that the products described in Napac's scope ruling request are subject merchandise without initiation of a formal scope request and based on the plain language of the scope. Anvil contends that the gray iron flanged fittings for which Napac requests a scope exclusion are subject merchandise and that the scope exclusion only relates to ductile iron. Accordingly, Anvil maintains that there is no scope exclusion for gray iron flanged fittings and the products on which Napac requests a scope ruling request should remain within scope.

In its July 21, 2016, comments, Anvil repeats its March 30, 2016, arguments and contends that while the scope of the Order covers cast iron fittings made from either "gray iron" or "ductile

¹⁰ See Order.

¹¹ For Napac's argument regarding 19 CFR 351.225(k)(2), see pages 5-18 of Napac's Scope Ruling Request.

iron,” there is no scope exclusion for gray cast iron fittings.¹² Anvil avers that it is irrelevant whether ductile iron cast fittings and gray cast iron fittings meet the same AWWA specifications. Anvil maintains that the only permissible plain reading of the relevant scope language is that the scope exclusion only applies to ductile cast iron fittings produced to AWWA C110 or AWWA C153.

Anvil argues further that Napac has not demonstrated that the couplings, adapters, reducers, and converters Napac wants excluded from the Order meet the AWWA C110 or AWWA C153 product specifications. Anvil contends that Napac’s “Flanged Fittings” catalog for series 10F-70F gray cast iron flanged fittings clearly states that every product therein is “manufactured in strict accordance with AWWA C110” specifications.¹³ However, Anvil notes that product specification sheets for the couplings, adapters, reducers, and converters Napac wants excluded from the Order only note that the product is “manufactured in accordance with AWWA..., where applicable.”¹⁴ Anvil also notes that it is “troubling” that the language “manufactured in accordance with AWWA..., where applicable” was not included on the original specification sheets submitted with Napac’s Scope Ruling Request but only with subsequent supplemental questionnaire responses.¹⁵ Anvil maintains that including the language “manufactured in accordance with AWWA..., where applicable” renders any AWWA specification reference meaningless because, while the couplings, adapters, reducers, and converters can be produced to AWWA standards, it is clear that they can also be produced with options that do not conform to AWWA standards.

Anvil argues that Napac claims that purchasers of the couplings, adapters, reducers, and converters can request options that do not affect the applicability of the AWWA standard. However, Anvil avers that Napac makes no claim that any of the five ductile iron flanged and/or mechanical joint fittings must always comply with the AWWA standard. Additionally, Anvil contends that Napac has failed to demonstrate that the products at issue do in fact fall within the AWWA standard regardless of the options chosen by the purchaser.

Anvil maintains that because a customer can order numerous options for the products at issue, reviewing the product specifications for each of the couplings, adapters, reducers, and converters, it is impossible for the Department to determine whether any of the products will be produced to the AWWA standard. Thus, Anvil argues that it is impossible to determine which products meet the AWWA standards and are excluded from the scope.

On August 1, 2016, Napac submitted comments in rebuttal to Anvil’s July 21, 2016, comments. Napac argues that the issue is whether the intent of the scope is to exclude not only ductile iron flanged fittings but also gray iron flanged fittings, both of which are made to the AWWA C110 and AWWA C152 standards. Napac maintains that Anvil does not address this issue in its comments. Napac contends that based on the AWWA C110 and C153 standards of 1952, which

¹² See Anvil’s Scope Comments, dated July 21, 2016, at 2.

¹³ See Napac’s Scope Ruling Request.

¹⁴ See Napac’s 2nd Supplemental questionnaire response, dated May 20, 2016 (“Napac’s 2nd supplemental response”), at 10.

¹⁵ *Id.*

were amended in 1962 to include ductile iron, it is clear that the intent of the AWWA is to provide specifications for both ductile and gray iron fittings. Napac argues that while most water work applications started to use ductile iron in the 1960's, ductile iron's higher cost slowed the transition from ductile to gray iron and that gray iron flanged fittings are still used today.¹⁶

Napac argues that the scope of the order is ambiguous as the exclusion refers to ductile cast iron fittings with MJ or PO or flanged ends and produced to the AWWA. Napac notes that products covered by the scope are referred to as both gray iron and cast iron fittings, an indication that this category of fittings is known as either gray iron or cast iron. Additionally, Napac maintains that the scope exclusion refers to ductile iron fittings that have the same physical characteristics as the gray or iron fittings, denoting a distinction between ductile iron, and gray or cast iron fittings. Napac further contends that the AWWA also makes a distinction between ductile iron and cast iron. However, despite the fact that the scope refers to both gray iron and ductile iron, Napac argues that the scope exclusion for AWWA C110 and AWWA C153 standards are only for ductile cast iron; nowhere else does the scope only reference ductile iron. Therefore, Napac contends that only mentioning ductile iron in the scope exclusion is confusing due to previous references to both ductile iron and gray iron and, thus, the intent of the scope was to exclude both ductile and cast or gray iron made to the AWWA C110 standard.

Napac argues that the specification sheets for the couplings, adapters, reducers, and converters it wants excluded did not reference the AWWA standards because it was understood by purchasers that these products met the AWWA standards. As a result of this scope request and the attention this issue has received, Napac contends that it has revised its specification sheets and updated its website to reflect adherence to the AWWA standards.

Napac maintains that the couplings, adapters, reducers, and converters, for which it requests a scope exclusion are made to ASTM A536 ductile iron and comply with AWWA standards. Specifically, Napac argues that AWWA standards C110 and C153 both indicate grade 60-42-10 (60,000 pounds per square inch (psi), 42,000 yield strength, and 10 percent elongation). Napac contends that its ductile iron products exceed this AWWA standard as they are all 65-45-12.

On August 3, 2016, Anvil submitted rebuttal comments to Napac's August 1, 2016, comments. Anvil argues that the couplings, adapters, reducers, and converters should not be excluded from the scope because these products may or may not be produced to the AWWA standard. Anvil contends that a product that is made to the AWWA standard "where applicable" by definition is not necessarily produced to the AWWA C110 or AWWA C153 standard and that it is impossible for the Department to make that determination based on the information provided by Napac. Additionally, Anvil maintains that Napac has not demonstrated that the couplings, adapters, reducers, and converters should be excluded because Napac has failed to tie to any of the product characteristics of the couplings, adapters, reducers, and converters to the AWWA C110 or AWWA C153 standards.

¹⁶ Napac argues that because the AWWA C153 standards only addressed mechanical joint fitting dimensions, manufacturers only developed socket end fittings and not flanged. Thus flanged fittings, to this day, are made to the C110 dimensions published in 1952. Additionally, Napac contends that ductile flanged fittings are 20 percent more expensive than gray iron fittings and, as such, fittings are still made of gray iron to save costs.

Anvil also argues that excluding a subset of fittings (ductile iron), made the AWWA standards, from the scope of the Order is not contradictory. Anvil contends that the term “ductile cast iron” fitting as written in the scope exclusion refers to ductile iron fittings, regardless of the use of the word “cast.” Anvil maintains that the scope exclusion should not be broadly interpreted to include gray iron because the word “cast” is included. Anvil maintains that the scope of the Order includes cast iron pipe fittings, which includes all types of cast iron fittings. Conversely, Anvil avers that the scope exclusion only includes a subset of cast iron fittings that are made from ductile iron; had gray iron meant to be excluded based on meeting the AWWA standards, appropriate exclusion language would have been included in the scope.

On August 12, 2016, Napac submitted comments in which it contends that the term “ductile cast iron” fittings is not synonymous with “ductile iron fittings,” as argued by Anvil. Napac cites to the United States International Trade Commission (“ITC”) hearing to argue that “cast iron” and “ductile iron” are separate products.¹⁷ Napac contends that nowhere in the ITC hearing testimony is the term “ductile cast iron” used, as parties referred to “ductile iron” and “cast iron” separately. Napac argues that this demonstrates that the term “ductile cast iron” fittings is meant to include both ductile iron and gray iron fittings in the scope exclusion.

On August 18, 2016, Anvil submitted comments reiterating its argument that “ductile cast iron pipe fitting” refers to a fitting made from ductile iron and are a separate product from a “gray cast iron pipe fitting.”¹⁸

No other parties submitted comments regarding Napac’s scope ruling request.

Analysis

For this scope proceeding, the Department examined Napac’s application for a scope ruling and finds the scope language of the Order is dispositive with respect to the products at issue. Because the scope language of the Order is dispositive, the Department did not analyze the additional factors provided in 19 CFR 351.225(k)(2).

We find that all six of the products that Napac requests be excluded from the scope, gray iron flanged fittings and the couplings, adapters, reducers, and converters, all with an inner diameter of less than six inches, do not meet the scope exclusion and, thus, fall within the scope of the Order.

Gray Iron Flanged Fittings

With regard to Napac’s argument that gray iron flanged fittings are not within the scope of the Order, we disagree. Napac contends that gray iron flanged fittings should be excluded from the scope because they meet the same AWWA C110 standard as ductile iron flanged fittings. We find Napac’s argument off point. It is irrelevant whether gray iron flanged fittings can perform

¹⁷ See Napac’s August 12, 2016, comments at pages 2-4.

¹⁸ See Anvil’s August 18, 2016, comments at page 4.

to the same standards as ductile iron flanged fittings. The specific exclusion language in the scope of the order only references ductile iron flanged fittings which makes it clear that the intent was to exclude only the products that meet the specific exclusion requirements. Moreover, there is no specific exclusion language in the scope of the order for gray iron flanged fittings. Therefore, based on record evidence, we have determined that Napac's gray iron flanged fittings fail to meet the scope exclusion and are within the scope of the order.

The Department also disagrees with Napac's argument that the scope exclusion is ambiguous due to use of the term "ductile cast iron" fittings.¹⁹ The scope of the order covers fittings that may be referred to as "cast iron pipe fittings" or "gray iron pipe fittings," and the scope of the order only reference cast iron pipe fittings in the first paragraph of the scope, which is consistent with the name of the Order.²⁰ The scope's second paragraph explain that while ductile iron fittings that meet the same physical characteristics as gray or cast iron fittings are also generally subject to the Order,²¹ there are exclusions for certain ductile products.²² The reference to "ductile cast iron fittings" in the second paragraph is made only in reference to excluded products with no mention of gray or cast iron fittings. Omitting any reference to gray or cast iron fittings in the last sentences of this paragraph clearly demonstrate that the exclusion is meant only for ductile iron, not gray iron. If the scope of the order were meant to exclude gray iron fittings with flanged ends as well as ductile iron fittings with flanged ends, then it would have stated as much.

Unifit Mechanical Couplings, Unifit Mechanical Flange Adapter, Rediflange Adapters, Compact Flange Reducers, and Flange Converters

With regard to Napac's argument that couplings, adapters, reducers, and converters, are not within the scope of the Order, we disagree. Based on Napac's Scope Ruling Request and the attachments to Napac's 1st supplemental response, the Department agrees with Napac that the products at issue are ductile iron and that all five products incorporate either a MJ or flanged end. The issue is whether these products are produced to AWWA C110 or AWWA C153 specifications.

Napac argues that the series 4400 Wide Range Adapter and the series 4200 Wide Range Coupling, two of the couplings, adapters, reducers, and converters that Napac requests be excluded from the Order, have specifications that are consistent with the Figure 13 of the AWWA C110 and Figure 6 of the AWWA C153 standards, respectively. However, the Department was unable to completely match the product specifications of the couplings, adapters, reducers, and converters specification sheets with AWWA C110 or AWWA C153 standards. The Department requested that Napac link the product specifications of the couplings, adapters, reducers, and converters specification sheets with AWWA C110 or AWWA C153

¹⁹ See Napac's Scope Comments, dated August 1, 2016, at 4-5.

²⁰ See Order.

²¹ *Id.*

²² *Id.*

standards numerous times. Despite our repeated requests, including a telephone conversation with Napac's counsel verbally explaining this request, Napac did not provide the link.²³

For example, while the working pressure of 250 pounds per square inch ("psi") is consistent between the 4400 Wide Range Adapter specification and the AWWA C110 standard, the weights do not match. Additionally, the 350 psi listed for AWWA C153 does not match the series 4200 Wide Range Coupling 250 psi. The Department found similar problems with the additional products Napac argues should be excluded from the scope; the stud bolt sizes listed in the product specification for the Compact Flange Reducer and Ductile Iron Flange Converter did not match the AWWA C110 standard and the weights listed for the Redi-Flange MJ Adapter do not match the AWWA C110 standard. While the Department acknowledges that the Redi-Flange MJ Adapter specification makes reference to approximate weights, the listed weights in the AWWA C110 standard are as much as six times heavier (*i.e.*, five pounds versus 30 pounds). Further, while there are thicknesses listed in the AWWA standards, there are no thicknesses listed for the 4400 Wide Range Adapter, the 4200 Wide Range Coupling, and Redi-Flange MJ Adapter. Additionally, the thicknesses for the Compact Flange Reducer and Ductile Iron Flange Converter do not match the AWWA C110 standard. Napac failed to explain why product thicknesses were not listed or why the thicknesses, when they were listed for the products, did not match the AWWA C110 standards. Without this information the Department cannot determine whether the couplings, adapters, reducers, and converters, meet the AWWA C110 or AWWA C153 standards and, thus, whether they are outside of the Order.

The Department also considers it significant that Napac's "Flanged Fittings" catalog for series 10F-70F gray cast iron flanged fittings clearly states that every product therein is "manufactured in strict accordance with AWWA C110" specifications,²⁴ while the specification sheets for the couplings, adapters, reducers, and converters that Napac requests be excluded from the Order do not. The relevant specification sheets only mention that the products are "manufactured in accordance with AWWA..., where applicable."²⁵ The term "where applicable" implies that the products may or may not be produced to the AWWA standard depending on the order specifications. That the product can be ordered with specifications that are not in accordance with the AWWA standard precludes the Department from determining that a product is always made to the AWWA standard. We agree with Anvil that the reference to "where applicable" renders any AWWA specification reference meaningless because, while the couplings, adapters, reducers, and converters can be produced to AWWA standards, it is clear that they can also be produced with options that do not conform to AWWA standards; without knowing the actual product being imported, it is impossible to determine whether these products adhere to the AWWA standard. The Department notes further that Napac has made no attempt to demonstrate that the products at issue do fall within the AWWA standard regardless of the options chosen by the purchaser. Therefore, based on record evidence, we have determined that Napac has failed to demonstrate in the context of this scope request that it's Unifit Mechanical Couplings, Unifit

²³ See the Department's April 6 and 28, and June 10, 2016, supplemental questionnaires and Memorandum to the File, from Stephen Bailey, Senior Analyst, regarding "Telephone Conversation with Napac Inc.'s Counsel," dated July 19, 2016.

²⁴ See Napac's Scope Ruling Request.

²⁵ See Napac's 2nd supplemental response, at 10.

Attachment 4



A-570-875
Scope Inquiry
SIGMA Iron Threaded Fittings
Public Document
AD/CVD O4: AN

January 13, 2016

MEMORANDUM FOR: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

FROM: Abdelali Elouaradia
Office Director
AD/CVD Operations, Office IV

SUBJECT: Final Scope Ruling on the Antidumping Order on Non-malleable
Cast Iron Pipe Fittings the People's Republic of China: Request
by SIGMA Corporation

Summary

Based on the analysis below, we recommend finding that all 94 types of SIGMA Corporation's ("SIGMA") imported ductile iron threaded fittings are within the scope of the antidumping ("AD") order ("Order") on non-malleable cast iron pipe fittings from the People's Republic of China ("PRC").¹

Background

On October 8, 2015, the Department of Commerce ("the Department") received a scope ruling request from SIGMA.² SIGMA requested a determination as to whether 94 different types of ductile iron threaded fittings³ it imports are covered by the Order on nonmalleable cast iron pipe fittings from the PRC.

No other party commented on SIGMA's Scope Ruling Request.

Scope of the Order

The scope of the Order is as follows:

The products covered by this order are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from ¼ inch to 6 inches, whether threaded or unthreaded,

¹ 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). ("Non-malleable Order").

² See SIGMA's October 8, 2015 Letter Requesting a Scope Ruling on Nonmalleable Cast Iron Pipe Fittings ("SIGMA's Scope Ruling Request").

³ See Attachment 1 for a complete list of pipe fittings.

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 the American Water Works Association (AWWA) specifications AWWA C110 or AWWA C153 are not included.

Imports of covered merchandise are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60 and 7307.19.30.85. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Legal Framework

When a request for a scope ruling is filed, the Department examines the scope language of the order at issue and the description of the product contained in the scope ruling request.⁴ Pursuant to the Department’s regulations, the Department may also examine other information, including the description of the merchandise contained in the petition, the records from an investigation, and relevant prior scope determinations.⁵ If the Department determines that these sources are sufficient to decide the matter, it will issue a final scope ruling stating whether the merchandise is covered by an order.

Conversely, where these descriptions of the merchandise are not dispositive, the Department will consider the five additional factors set forth in section 351.225(k)(2) of the Department’s regulations. These criteria are: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope inquiry is made on a case-by-case basis after consideration of all evidence.

Description of the Merchandise Subject to this Scope Request

The fittings consist of ductile iron threaded elbows (both 90-degree and 45-degree), straight tees, crosses, coupling, bushing, caps, and reducers. These fittings have an inside diameter greater than ¼ inch and less than 6 inches and are produced to ANSI B16.3 Class 150

⁴ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁵ See 19 CFR 351.225(k)(1).

specifications. Additionally the fittings are threaded to ANSI/ASME B1.20.1 specifications and general National Pipe Thread specifications. The fittings are listed by Underwriters Laboratories and Underwriters Laboratories of Canada and are Factory Mutual approved for 500 pounds per square inch service. Finally, the fittings are produced to ASTM A-536 grade 65-45-12 specifications and are primarily used in fire protection, sprinkler systems, and some plumbing applications.

Interested Party Comments

SIGMA imports 94 different types of ductile iron threaded fittings that are the subject of its scope ruling request. These fittings include a variety of elbows, straight tees, couplings, bushings, crosses, caps, and reducers. SIGMA states that these products are covered under the non-malleable cast iron pipe fittings order. SIGMA highlights specific language included in the Order,

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.⁶

SIGMA thus maintains that as their products are ductile iron threaded, UL listed, and conform to ASME B16.3 and are threaded to ASME B1.20.1, so they clearly fall within the scope of the Order.

In addition, SIGMA states that their imported ductile iron threaded fittings are classified under HTSUS subheading 7307.19.3060; which the scope definitely covers, “(i)mports of covered merchandise are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60 and 7307.19.30.85.”⁷

Finally, SIGMA asserts that a determination that their ductile iron threaded fittings fall under the Non-malleable Order would also clarify that the same fittings would not fall under the scope of the antidumping duty order on malleable pipe fittings from China.⁸ SIGMA provided an excerpt from the second review of the Non-malleable Order, conducted by the United States International Trade Commission (USITC), distinguishing the differences between non-malleable, ductile, and malleable iron pipe fittings.⁹

No other parties submitted comments regarding SIGMA’s Scope Ruling Request.

Analysis

⁶ See Order.

⁷ *Id.*

⁸ See *Antidumping Duty Order: Certain Malleable Iron Pipe Fittings from the People’s Republic of China*, 68 FR 69376 (December 12, 2003).

⁹ See SIGMA’s Scope Ruling Request, Exhibit 2.

For this scope proceeding, the Department examined SIGMA's application for a scope ruling and finds the scope language of the Order is dispositive with respect to the products at issue. Because the scope language of the orders is dispositive,¹⁰ the Department did not analyze the criteria set forth in 19 CFR 351.225(k)(1) or the additional factors provided in 19 CFR 351.225(k)(2). We find that all of SIGMA's listed 94 products are covered by the scope of the Order on non-malleable cast iron pipe fittings from the PRC.¹¹

The scope of the Order states "the products covered by this order are finished and unfinished non-malleable 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."¹² Based on the record, we found that all of SIGMA's 94 types of ductile iron pipe fittings have an inside diameter greater than 1/4 inch and less than 6 inches.¹³ Comparing the record evidence to the language of the scope, we have established that all of SIGMA's ductile iron fittings meet the size dimensions outlined in the scope of the Order.

Further, the scope of the Order is clear in defining the characteristics of ductile iron merchandise which are subject to the Order;

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.¹⁴

Based on record evidence, we found that the 94 various ductile iron fittings SIGMA imports are all UL listed, meet ASME B16.3 standards, and are threaded to ASME B1.20.1 specifications.¹⁵ Comparing the record evidence to the language of the scope, we have established that the ASME and UL specifications of SIGMA's ductile iron fittings match the material requirements outlined in the scope of the Order.

Furthermore, the record evidence shows SIGMA's pipe fittings are produced to the appropriate standards of ductile iron which are covered by the Non-malleable Order and do not conform to malleable iron specifications.

Based on record evidence, we have determined that SIGMA's ductile iron pipe fittings fulfill all of the size and material classifications as described in the scope of the Order. Therefore, we find that all of SIGMA's 94 imported ductile iron fittings are subject to the Order.

¹⁰ See 19 CFR 351.225(d)

¹¹ See Attachment 1 for a complete list of subject pipe fittings.

¹² See Order.

¹³ See SIGMA's Scope Ruling Request.

¹⁴ *Id.* (emphasis added).

¹⁵ See SIGMA's Scope Ruling Request, Exhibit 2.

Recommendation

For the reasons discussed above, we recommend finding all of SIGMA's listed 94 ductile iron pipe fittings are subject to the Order on non-malleable cast iron pipe fittings from the PRC. Based on the language of the scope of this Order and the product's description, it is evident that SIGMA's ductile iron pipe fittings meet all of the ASME and UL specifications characterizing it as subject merchandise; accordingly all of SIGMA's ductile iron pipe fittings fall within the scope of the Order on non-malleable cast iron pipe fittings from the PRC. Therefore, we recommend finding that this scope request does not present an issue of significant difficulty within the meaning of 19 CFR 351.225(f)(3) and, thus, we further recommend that this scope ruling constitutes a final ruling as provided under 19 CFR 351.225(f)(4).

If the recommendations in this memorandum are accepted, we will notify all interested parties on the scope service list as directed by 19 CFR 351.225(d) and 351.225(n).

Agree ✓ Disagree

 Christian Marsh
Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

 1/13/16
Date

Attachment 1
(Subject Pipe Fittings)

Subject Pipe Fittings

SIGMA Item Code	Description
90 Degree Elbow	
1D90B0606	90 Degree Elbow 1"
1D90B0707	90 Degree Elbow 1 1/4"
1D90B0808	90 Degree Elbow 1 1/2"
1D90B0909	90 Degree Elbow 2"
Straight Tee	
1DT060606	Straight Tee 1"
1DT070707	Straight Tee 1 1/4"
1DT080808	Straight Tee 1 1/2"
1DT090909	Straight Tee 2"
Coupling	
1DCP0606	Coupling 1"
1DCP0707	Coupling 1 1/4"
1DCP0808	Coupling 1 1/2"
1DCP0909	Coupling 2"
Reducing 90 Deg. Elbow	
1D90R0604	Reducing 90 Degree Elbow 1" x 1/2"
1D90R0605	Reducing 90 Degree Elbow 1" x 3/4"
1D90R0704	Reducing 90 Degree Elbow 1 1/4" x 1/2"
1D90R0705	Reducing 90 Degree Elbow 1 1/4" x 3/4"
1D90R0706	Reducing 90 Degree Elbow 1 1/4" x 1"
1D90R0806	Reducing 90 Degree Elbow 1 1/2" x 1"
1D90R0807	Reducing 90 Degree Elbow 1 1/2" x 1 1/4"
1D90R0904	Reducing 90 Degree Elbow 2" x 1/2"
1D90R0905	Reducing 90 Degree Elbow 2" x 3/4"
1D90R0906	Reducing 90 Degree Elbow 2" x 1"
1D90R0907	Reducing 90 Degree Elbow 2" x 1 1/4"
1D90R0908	Reducing 90 Degree Elbow 2" x 1 1/2"
Reducing Coupling	
1DCR0604	Reducing Coupling 1" x 1/2"
1DCR0604	Reducing Coupling 1" x 3/4"
45 Degree Elbow	
1D45B0606	45 Degree Elbow 1"
1D45B0707	45 Degree Elbow 1 1/4"
1D45B0808	45 Degree Elbow 1 1/2"
1D45B0909	45 Degree Elbow 2"

SIGMA Item Code	Description
Bushing	
1DBUS0604	Bushing 1" x 1/2"
1DBUS0605	Bushing 1" x 3/4"
1DBUS0706	Bushing 1 1/4" x 1"
1DBUS0806	Bushing 1 1/2" x 1"
1DBUS0807	Bushing 1 1/2" x 1 1/4"
1DBUS0906	Bushing 2" x 1"
1DBUS0907	Bushing 2" x 1 1/4"
1DBUS0908	Bushing 2" x 1 1/2"
Cross	
1DX0606	Cross 1"
1DX0707	Cross 1 1/4"
1DX0808	Cross 1 1/2"
1DX0909	Cross 2"
1DX0706	Cross 1 1/4" x 1"
1DX0806	Cross 1 1/2" x 1"
1DX0906	Cross 2" x 1"
Cap	
1DK06	Cap 1"
1DK07	Cap 1 1/4"
1DK08	Cap 1 1/2"
1DK09	Cap 2"
Reducing Tee	
1DT060604	Reducing Tee 1" x 1" x 1/2"
1DT060605	Reducing Tee 1" x 1" x 3/4"
1DT060406	Reducing Tee 1" x 1/2" x 1"
1DT060506	Reducing Tee 1" x 3/4" x 1"
1DT060607	Reducing Tee 1" x 1" x 1 1/4"
1DT060608	Reducing Tee 1" x 1" x 1 1/2"
1DT070604	Reducing Tee 1 1/4" x 1" x 1/2"
1DT070605	Reducing Tee 1 1/4" x 1" x 3/4"
1DT070606	Reducing Tee 1 1/4" x 1" x 1"
1DT070607	Reducing Tee 1 1/4" x 1" x 1 1/4"
1DT070608	Reducing Tee 1 1/4" x 1" x 1 1/2"
1DT070704	Reducing Tee 1 1/4" x 1 1/4" x 1/2"
1DT070705	Reducing Tee 1 1/4" x 1 1/4" x 3/4"
1DT070706	Reducing Tee 1 1/4" x 1 1/4" x 1"
1DT070708	Reducing Tee 1 1/4" x 1 1/4" x 1"
1DT070709	Reducing Tee 1 1/4" x 1 1/4" x 2"
1DT080604	Reducing Tee 1 1/2" x 1" x 1/2"
1DT080605	Reducing Tee 1 1/2" x 1" x 3/4"
1DT080606	Reducing Tee 1 1/2" x 1" x 1"
1DT080607	Reducing Tee 1 1/2" x 1" x 1 1/4"

SIGMA Item Code	Description
1DT080608	Reducing Tee 1 1/2" x 1" x 1 1/2"
1DT080704	Reducing Tee 1 1/2" x 1 1/4" x 1/2"
1DT080705	Reducing Tee 1 1/2" x 1 1/4" x 3/4"
1DT080706	Reducing Tee 1 1/2" x 1 1/4" x 1"
1DT080709	Reducing Tee 1 1/2" x 1 1/4" x 2"
1DT080804	Reducing Tee 1 1/2" x 1 1/2" x 1/2"
1DT080805	Reducing Tee 1 1/2" x 1 1/2" x 3/4"
1DT080806	Reducing Tee 1 1/2" x 1 1/2" x 1"
1DT080807	Reducing Tee 1 1/2" x 1 1/2" x 1"
1DT080809	Reducing Tee 1 1/2" x 1 1/2" x 2"
1DT090609	Reducing Tee 2" x 1" x 2"
1DT090709	Reducing Tee 2" x 1 1/4" x 2"
1DT090804	Reducing Tee 2" x 1 1/2" x 1/2"
1DT090805	Reducing Tee 2" x 1 1/2" x 3/4"
1DT090806	Reducing Tee 2" x 1 1/2" x 1"
1DT090807	Reducing Tee 2" x 1 1/2" x 1 1/4"
1DT090808	Reducing Tee 2" x 1 1/2" x 1 1/2"
1DT090809	Reducing Tee 2" x 1 1/2" x 2"
1DT090904	Reducing Tee 2" x 2" x 1/2"
1DT090905	Reducing Tee 2" x 2" x 3/4"
1DT090906	Reducing Tee 2" x 2" x 1"
1DT090907	Reducing Tee 2" x 2" x 1 1/4"
1DT090908	Reducing Tee 2" x 2" x 1 1/2"
1DT090910	Reducing Tee 2" x 2" x 2 1/2"
1DT100905	Reducing Tee 2 1/2" x 2" x 3/4"

Attachment 5

A-570-875
Scope Review
Public Document
AD/NME/O4: SMH

September 19, 2008

MEMORANDUM FOR: Stephen J. Claeys
Deputy Assistant Secretary
Import Administration

FROM: Abdelali Elouaradia
Office Director
Import Administration, Office 4

REGARDING: Antidumping Duty Order on Non-Malleable Cast Iron Pipe Fittings
from the People's Republic of China

SUBJECT: Final Scope Ruling on the Black Cast Iron Flange, Green Ductile
Flange, and the Twin Tee

Summary

On September 10, 2007, Taco Inc. ("Taco"), a U.S. manufacturer of hydronic systems and components used primarily in the heating, ventilation, and air conditioning ("HVAC") industry, requested¹ that the Department of Commerce (the "Department") determine whether two flanges and a "Twin Tee" pipe fitting ("Twin Tee") to be imported by Taco are subject to the antidumping duty order on non-malleable cast iron pipe fittings from the People's Republic of China ("PRC"). 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) ("NM Pipe Fittings Order"). Petitioners² did not submit comments on this scope request.

Pursuant to 19 CFR 351.225(d), we recommend that the Department determine that a formal scope inquiry is not warranted in this case. Further, pursuant to 19 CFR 351.225(k)(1), we recommend that the Department determine that the merchandise in question is within the scope of the antidumping duty order on non-malleable cast iron pipe fittings.

¹ See Letter from Taco to the Secretary of Commerce, "Scope Ruling – Antidumping Duty Order Concerning Finished and Unfinished Non-Malleable Cast Iron Pipe Fittings from China," dated September 10, 2007 ("Scope Ruling Request").

² Petitioners are Anvil International, Inc. and Ward Manufacturing, Inc.

Applicable Regulations

The regulations governing the Department's antidumping scope determinations can be found at 19 CFR 351.225. On matters concerning the scope of an antidumping order, our initial basis for determining whether a product is included within the scope of an order are the descriptions of the product contained in the petition, the initial investigation, and the prior determinations of the Secretary (such as prior scope rulings) and the International Trade Commission ("ITC"). See 19 CFR 351.225(d) and 351.225 (k)(1). Such scope determinations may take place with or without a formal scope inquiry. See 19 CFR 351.225(d).

Conversely, where 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 are not dispositive, the Department will consider the additional factors set forth at 19 CFR 351.225(k)(2). These criteria are as follows: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. These factors are known commonly as the Diversified Products criteria.³ The determination as to which analytical framework is most appropriate in any given scope inquiry is made on a case-by-case basis after consideration of all record evidence before the Department.

Product Descriptions

1. Scope of the Order

The Department identified the scope of the investigation in its notice of initiation, and this scope language carried forward without change through the preliminary and final determinations of sales at less than fair value.⁴ In addition, there have been no subsequent changes to the scope. The scope description as published in the NM Pipe Fittings Order is as follows:

The products subject to this order are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from 1/4 inch to 6 inches, whether threaded or un-threaded, 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

³ See Diversified Products Corp. v. United States, 6 CIT 155, 572 F. Supp. 883 (1983).

⁴ See Initiation of Antidumping Duty Investigation: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China, 67 FR 12966 (March 20, 2002); Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China, 67 FR 60214 (September 25, 2002); and Notice of Final Determination of Sales at Less than Fair Value: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China, 68 FR 7765 (February 18, 2003).

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 the order. 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 the American Water Works Association (“AWWA”) specifications AWWA C110 or AWWA C153 are not included.

Imports of subject merchandise are currently classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60 and 7307.19.30.85. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

See NM Pipe Fittings Order at 16765.

2. The Petition

Petitioners used the same language as the antidumping duty order to describe the covered merchandise⁵ and noted that most subject fittings are used in fire protection systems and in steam heat conveyance systems. See “Petition for Imposition of Antidumping Duties: Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China,” (February 21, 2002) (“Petition”) at 4. The Petition states that the fire protection/sprinkler market accounts for 90 percent of shipments, the steam heating market represents another five percent of shipments, and other uses constitute less than five percent of shipments. Id. The Petition also states that the scope “includes, but is not limited to, all pipe fittings produced to any one of the listed non-malleable cast iron pipe fittings specifications...and fittings made to proprietary non-malleable cast iron pipe fittings specifications.” Id. at 6. Lastly, according to Petitioners, “all of the subject merchandise constitutes a single class or kind of merchandise and a single like product.” Id.

⁵ The Petition originally included language in the scope that referenced the end-use applications of subject merchandise. In response to a request from the Department, Petitioners removed the end-use language from the scope in a supplemental to the Petition. See “Amendment to the Petition for Imposition of Antidumping Duties: Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China,” (March 5, 2002) (“Amendment to the Petition”) at 5 and Exhibit 5.

3. The ITC's Description

The ITC, in its final injury analysis, described the domestic like product in the following manner:

{T}he 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. Pipe 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. Cast iron, the material from which the subject fittings are made, is a general term for alloys which are primarily composed of iron, carbon (more than two percent), and silicon.

Non-malleable iron (also referred to as gray iron) is defined by the ASTM as cast iron in which fine graphite flakes are formed during cooling. Non-malleable irons have tensile strengths ranging from 20,000 to 58,000 psi. Pipe fittings produced from non-malleable cast iron are used primarily in fire protection/sprinkler systems, accounting for approximately 90 to 95 percent of shipments, but also are used in the steam conveyance heating systems in older buildings and other applications. Non-malleable cast iron pipe fittings primarily are produced to ASTM A-126 and ASME B16.4 specifications.

Ductile iron fittings are cast from iron to which a very small amount of magnesium has been added in the liquid state to induce the formation of graphites as spheroids or nodules. The tensile strength of ductile iron exceeds that of non-malleable cast iron and ranges from 60,000 to 100,000 psi. Ductile fittings corresponding to the dimensions of the subject merchandise generally are used in fire protection sprinkler applications.

See Non-Malleable Cast Iron Pipe Fittings from China, Investigation No. 731-TA-990 (Final), Pub. No. 3586 (March 2003) (“ITC Final Determination”) at pages 4-5.

Regarding flanged fittings, the ITC stated:

Flanged fittings are different from threaded fittings in that the flanged fittings are cast with an integral rim, or flange, at the end of the fitting. The flanged connection is made by inserting a gasket in between the flanged ends of two separate pieces and securing the ends with several bolts.

See Id. at page I-9.

Summary of Argument

Taco requested that the Department issue a scope ruling finding that two specialty flanges and the Twin Tee are not subject to the NM Pipe Fittings Order. The first item is a black cast iron flange (“black flange”). The second item is a green ductile iron flange (“green ductile flange”). Taco claims that both specialty flanges will be imported in the following sizes: ¾”, 1”, 1 ¼”, and 1 ½”. The third item is the large cast iron Twin Tee.

1. Black Flange and Green Ductile Flange

Taco argues that its black flange and green ductile flange are specialty flanges that are different from the general purpose pipe fittings subject to this order, such as elbows, tees, crosses, reducers, caps, or couplings. Since the physical characteristics of piping fittings are not further defined in the scope, Taco reviewed the language used by the ITC to describe pipe fittings in the ITC Final Determination. Taco observes that the ITC stated that “Pipe 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.” See Scope Ruling Request at 8. Taco asserts that its flanges do not meet this definition of non-malleable cast iron pipe fittings because its flanges “are not used to connect the bores of two or more pipes or tubes, nor are they used to connect a pipe to an apparatus, nor do they change the direction of water flow or close off a pipe.” Id. at 9. Rather, its flanges are used to connect a Taco manufactured circulator pump to a threaded pipe or to a threaded fitting. Although the scope of the order does include the term “flanged fittings,” Taco argues that its products are specialty flanges that cannot be considered “flange fittings” because flanged pipe fittings typically, as illustrated by information from the American Cast Iron Pipe Company attached to the Scope Ruling Request, have two or more openings which allow them to be connected to a pipe as a pipe fitting. See Scope Ruling Request at 9-10 and Attachment B. In contrast, Taco’s flanges have only one opening for connecting a pipe, function to connect a pipe or pipe fitting to the circulator pump, and do not function as part of the pipe itself as would a “flanged pipe fitting.”

Taco observes that the ITC states that subject pipe fittings are used “primarily in fire protection/sprinkler systems but are also used in the steam conveyance systems installed in older buildings in inner cities.” See Scope Ruling Request at 12. According to Taco, its flanges are not intended for use in fire protection/sprinkler systems or steam conveyance systems.

Taco also notes that subject pipe fittings are defined in the scope as being produced to meet ASTM A-126 (“Grey Iron for Valves, Flanges, and Pipe Fittings”) or ASTM A-395 (“Ferritic Ductile Iron Pressure-Retaining Castings for Use at Elevated Temperature”) specifications. According to Taco, the fact that the titles of these specifications include both “pipe fittings” and “flanges” is indicative of the fact that flanges are not considered pipe fittings. Moreover, although made of the same material as those products subject to these specifications, Taco’s flanges are not designed to meet the pressure-temperature rates, size, tolerances, and method of designating openings, markings, or dimensions of the fittings defined by these ASTM standards. Moreover, continues Taco, its flanges are not certified by the UL, unlike subject

fittings. Regarding the ASME standards for pipe fittings identified in the scope, Taco notes that ASME B.16.3 and B.16.4 are for “Malleable Iron Screwed Fittings” and “Grey iron Threaded Fittings”, respectively. Noticeably absent from the scope is ASME B.16.5, which is for “Pipe Flanges and Flanged Fittings.” Taco argues that, by omitting ASME B.16.5, Petitioners did not intend to cover flanges.

Lastly, Taco believes there are no other U.S. manufacturers of comparable flanges, and therefore, contends that Petitioners did not intend to include these types of flanges in the scope of the order.

2. Twin Tee Fitting

Taco states that its Twin Tee product is “a single pipe fitting designed to replace the two primary circuit tees used to connect a secondary piping circuit to a primary piping circuit in a hydronic system.” See Scope Ruling Request at 10. Taco argues that the Twin Tee is not included in the scope of the order even though the order includes “tees” because, unlike subject pipe fittings, the Twin Tee (1) does not meet ASTM and American National Standards Institute (“ANSI”) standards for general purpose pipe fittings; (2) is not UL certified; (3) is a particular type of fitting for use in a unique Taco-patented and manufactured product, the Taco LoadMatch hydronic system; (4) there is no known domestic like product with which to compare; and (5) is not used in either fire protection/sprinkler systems or steam conveyance systems. *Id.* at 11-12.

Lastly, Taco asserts that the Twin Tee is not marketed for general use pipe fitting applications. Taco states that the Twin Tee is not used in fire protection/sprinkler systems unlike those mentioned in the ITC’s final determination. See ITC Determination at 5. Rather, the Twin Tee is specifically designed for use in the Taco LoadMatch hydronic system.

Arguments Provided Under 19 CFR 351.225(k)(2)

Taco also provided arguments under the criteria provided by 19 CFR 351.225(k)(2). Since the Department does not find it necessary to examine these criteria in making a final determination, and is instead making its determination pursuant to 19 CFR 351.225(k)(1), we have not summarized or addressed those arguments in this ruling. In considering whether Taco’s products are included within the scope of the NM Pipe Fittings Order, the Department determined that the descriptions of the subject merchandise contained in the petition, the investigation, and the determinations of the Secretary (such as prior scope rulings) and the ITC are dispositive.

Analysis

As noted above, when determining whether a specific product is within the scope of an antidumping duty order, the Department reviews the descriptions of the subject merchandise contained in the petition, the investigation, and the determinations of the Secretary (such as prior scope rulings) and the ITC. See 19 CFR 351.225(d) and 351.225(k)(1). In discussing the

interpretive process the Department should follow in making scope rulings pursuant to 19 CFR 351.225(k)(1), the Court of Appeals for the Federal Circuit (“CAFC”) stated:

The critical question is not whether the petition covered the merchandise or whether it was at some point within the scope of the investigation. The purpose of the petition is to propose an investigation ... A purpose of the investigation is to determine what merchandise should be included in the final order. Commerce’s final determination reflects the decision that has been made as to which merchandise is within the final scope of the investigation and is subject to the order. Thus, the question is whether the {final scope of the order} included the subject merchandise.

See Duferco Steel, Inc. v. United States, 296 F.3d 1087, 1096 (Fed. Cir. 2002) (“Duferco”). The CAFC also noted that, “a predicate for the interpretative process {in a scope inquiry} is language in the order that is subject to interpretation.” Id. at 1094. Through these statements, the CAFC found that the appropriate place to begin the analysis as to whether a product is included within the scope of an antidumping duty order is to review the scope language of the antidumping duty order itself. Furthermore, the CAFC stated that, “{s}cope orders may be interpreted as including subject merchandise only if they contain language that specifically includes the subject merchandise or may be reasonably interpreted to include it.” (Emphasis added.) Id. at 1089.

In accordance with 19 CFR 351.225(k)(1) and Duferco, the Department first examined the language of the scope of the NM Pipe Fittings Order, including any exclusions, to determine whether Taco’s products are within the scope of the order. The Department also conducted this analysis with reference to the ITC’s description of the scope. Finally, the Department addressed Taco’s arguments pertaining to each of the three products.

1. *Black and Green Ductile Flanges*

In analyzing whether Taco’s flanges are within the scope of the order, the Department first reviewed the scope language contained in the NM Pipe Fittings Order. We note that the scope of the order states, “{t}he products covered by this order are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from ¼ inch to 6 inches, whether threaded or unthreaded, regardless of industry or propriety specifications.” In addition, the scope says “{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...are also included in the scope of the order.” Taco states that its flanges are made of cast and ductile iron and have an inside diameter of greater than ¼ inch and less than 6 inches. See Scope Ruling Request at 2 and Attachment A. Moreover, Taco provides no argument that its products should be considered outside the scope based upon material or diameter. Thus, Taco’s flanges satisfy the material and diameter restrictions established by the scope.

The scope of the order has three exclusions for cast iron pipe fittings and five exclusions for ductile iron pipe fittings. Regarding cast iron, the order states that “{t}he scope does not include cast iron soil pipe fittings or grooved fittings or grooved couplings.” Taco has made no claim, nor provided any evidence, that its black flange (*i.e.*, the cast iron flange) is covered by any of these exclusions. Thus, these exclusions do not apply. Concerning ductile iron, after establishing that ductile pipe fittings are subject to the order, the scope states that “{t}hese fittings do not include grooved fittings or grooved couplings.” The scope also states that “{d}uctile cast iron fittings with mechanical joint ends (“MJ”), or 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.” Taco has made no claim, nor provided any evidence, that its green flanges (*i.e.*, its ductile iron flanges) are grooved fittings or grooved couplings. Thus, these exclusions do not apply. Similarly, Taco has made no claim, nor provided any evidence, that its green ductile flanges have MJ ends or PO ends, and are produced to either of the AWWA specifications. Thus, Taco’s green ductile flanges are not excluded via these two exceptions. Regarding the last exclusion, for ductile iron pipe fittings with flanged ends that are produced to either of the two listed AWWA specifications, we note that Taco’s green ductile flange has a flanged end. However, Taco has made no claim, nor provided any evidence, that its green ductile flanges are produced to AWWA C110 or AWWA C153 specifications. In fact, at various points in its Scope Ruling Request, Taco emphasizes that its green ductile flanges do not satisfy any of the specifications listed in the exclusions to the scope. Thus, Taco’s green ductile flanges are not excluded via the last exception.

Having established that Taco’s black flanges and green ductile flanges satisfy the material and diameter requirements of the scope, but do not satisfy any of the exclusions provided in the scope, the Department then analyzed the main question raised by Taco - whether its products should be considered pipe fittings within the meaning of the scope of the order. First, we note that the scope of the order does not provide a definition of the term “pipe fittings.” However, as noted by Taco, the ITC does define the term “pipe fitting” in its final injury determination. Specifically, the ITC stated 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.” See Scope Ruling Request, at 8, citing the ITC Final Determination at 4. With regard to Taco’s claim that the black flange and green ductile flange do not meet the ITC’s definition of pipe fittings because its flanges are not used to connect the bores of two or more pipes or tubes, nor are they used to connect a pipe to an apparatus, nor do they change the direction of water flow or close off a pipe, we disagree. In reviewing the product documentation submitted by Taco, the Department finds that Taco’s flanges conform to the ITC’s definition of pipe fittings. Taco states that the products in question are “used to connect a Taco manufactured circulator pump to a threaded pipe or to threaded fittings.” See Scope Ruling Request at 9. The Department notes that a circulator pump satisfies the dictionary definition of an apparatus.⁶ Therefore, according to Taco, the black and green

⁶ An apparatus is (1) a set of materials or equipment designed for a particular use; (2) a group of anatomical or cytological parts functioning together; or (3) an instrument or appliance designed for a specific operation. See Merriam-Webster Online Dictionary, Apparatus, available at <http://www.merriam-webster.com/dictionary/apparatus> (last visited August 22, 2008).

ductile products in question are used to connect a pipe to an apparatus, and thus, conform to the ITC's definition of subject pipe fittings. See ITC Determination at 4-5. In this regard, the Department rejects Taco's argument that its products are not considered pipe fittings.

The ITC, in its final injury determination, discusses flanged fittings and states that “{f}langed fittings are different from threaded fittings in that the flanged fittings are cast with an integral rim, or flange, at the end of the fitting. The flanged connection is made by inserting a gasket in between the flanged ends of two separate pieces and securing the ends with several bolts.” See ITC Final Determination at I-9. The first sentence of this description clearly applies to Taco's products because they are fittings that are cast with an integral rim, or flange, at the end of the fitting. The second sentence, where the ITC describes how two flanged fittings are used to connect two pipes, does not apply to Taco's products since those products are used to attach a pipe to an apparatus. However, it is clear that the general emphasis of the ITC's description of a flanged fitting connection does apply to Taco's products since they connect to the apparatus by securing the flanged end with bolts.⁷ Furthermore, because the scope of the NM Pipe Fittings Order neither specifies nor limits the number of openings on a subject fitting, Taco's argument that its products contain an insufficient number of openings and therefore cannot be called flanged fittings is incorrect. Thus, the Department determines that, as fittings cast with an integral rim, or flange, at the end of the fitting, Taco's black and green ductile flanges can properly be classified as flanged fittings, as defined by the ITC. See Id. at I-9. Because flanged fittings are covered by the scope of the NM Pipe Fittings Order and the black and green ductile flanges can properly be classified as flanged fittings, the black and green ductile flanges fall within the scope of the NM Pipe Fittings Order.

With regard to Taco's position that the flanged fittings should be excluded from the order because Petitioners in this case do not produce the same type of pipe fittings, we disagree. First, there is no statutory requirement that Petitioners produce all products covered by the scope of the order. See Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan, 65 FR 42985 (July 12, 2000) (“Circular Seamless Determination”) and accompanying Issues and Decision Memorandum at Comment 1. In other words, Petitioners are not required to produce every model of the foreign-like product. Therefore, whether Petitioners produce a model identical to the products Taco produces is not relevant to the Department's scope ruling. See Memorandum for Jeffrey May, Deputy Assistant Secretary, from Laurie Parkhill, Office Director, “Final Scope Ruling – Antidumping Duty Order on Non-Malleable Pipe Fittings from the People's Republic of China,” (November 5, 2004) (“Final Scope Ruling”) at 3-4.

Concerning Taco's assertions that the flanged fittings are not included in the scope of the order because they are not general purpose fittings used in fire protection/sprinkler systems, but rather are specially designed flanges used to attach a pipe to a Taco circulator pump, we disagree. The Petition and the ITC's rulings state that, while the fire protection/sprinkler system market is the dominant use for the subject fittings in the United States (accounting for

⁷ In its Scope Ruling Request, Taco is silent as to whether a gasket is used in connecting its flanges to the circulator pipes.

approximately 90 percent of shipments), pipe fittings that are used in steam conveyance systems account for approximately five percent while other industries constitute the remaining five percent of shipments. See Petition at 4; and ITC Final Determination at I-6. Taco states that its products are used to connect pipes to “water circulators” for use in “hydronic” systems. See Scope Ruling Request at 10 and Attachment A. The dictionary definition of the term “hydronic” is “of, relating to, or being a system of heating or cooling that involves transfer of heat by a circulating fluid (as water or vapor) in a closed system of pipes.”⁸ Given this definition, it appears that Taco’s products may, in fact, be used in an application that is the same, or very similar to, an application identified in the Petition (i.e., water conveyance). Further, the scope of the order states that the products covered include all non-malleable cast iron pipe fittings “regardless of industry or proprietary specifications.” Thus, even if Taco’s flanges do not fall within an identified application but instead are part of the unidentified five percent of applications, the Department finds that the scope of the order was written specifically to include pipe fittings from all industries. Most importantly, even though the Petition and the ITC’s final injury determination discuss the industries that use subject merchandise, the scope of the order is defined by physical characteristics, rather than end use. See Amendment to the Petition at 4 and Exhibit 5.

As discussed above, the Department has determined above that Taco’s flanged fittings meet the definition of pipe fittings. Thus, the Department rejects Taco’s arguments that ASTM/ASME titles applicable to pipe fittings are inapplicable to Taco’s flanged fittings. Regarding Taco’s claims that because the flanged fittings do not meet ASTM and ANSI standards and are not UL certified, they are not included in the scope of the order, we disagree. The scope of the order states that the products covered include all non-malleable cast iron pipe fittings “regardless of industry or proprietary specifications.” The scope continues, stating, “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 certified.” (Emphasis added.) First, by use of the terms “regardless,” “normally,” and “most,” it is clear that subject merchandise is not limited to exclusively pipe fittings produced to ASTM A-126, ASME B.16.4, and ASME B1.20.1 specifications, nor is it limited exclusively to pipe fittings certified by the UL. Petitioners, by qualifying the specifications with the words “regardless,” “normally,” and “most,” did not intend for the standards included in the investigation to be considered an exhaustive list of the standards applicable to the merchandise covered by the scope of the NM Pipe Fittings Order. Second, the Petition states that the scope covers all non-malleable cast iron pipe-fittings meeting the physical descriptions set forth in the Petition, “regardless of specification.” See Petition at 6. The Petition subsequently states that the scope “includes, but is not limited to, all pipe fittings produced to any one of the listed non-malleable cast iron pipe fittings specifications...and fittings made to proprietary non-malleable cast iron pipe fittings specifications.” (Emphasis added). See Id. Third, as noted above, the scope of the order states that the products covered include all non-malleable cast iron pipe fittings regardless of industry or proprietary specifications. Therefore, pipe fittings included in the scope do not have to meet

⁸ See Merriam-Webster Online Dictionary, Hydronic, available at <http://www.merriam-webster.com/dictionary/hydronic> (last visited August 22, 2008).

the specifications of ASTM A-126 and ASME B.16.4. This is clearly demonstrated by the fact that the scope language expressly includes both threaded and unthreaded fittings, while the scope notes that ASTM A-126 and ASME B.16.4 are threaded to ASME B1.20.1 specifications.

2. Twin Tee Fitting

In analyzing whether Taco's Twin Tee is within the scope of the order, the Department first reviewed the scope language contained in the NM Pipe Fittings Order. Again, we note that the scope of the order states, "the products covered by this order are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from ¼ inch to 6 inches, whether threaded or unthreaded, regardless of industry or proprietary specifications." Taco states that the Twin Tee is constructed of cast iron and has an inside diameter of greater than ¼ inch and less than 6 inches. See Scope Ruling Request at 2 and Attachment C. Moreover, Taco provides no argument that the Twin Tee should be considered outside the scope based upon material or diameter. Thus, Taco's Twin Tee satisfies the material and diameter restrictions established by the scope.

As stated above, the scope of the order has three exclusions for cast iron pipe fittings. The order states that "the scope does not include cast iron soil pipe fittings or grooved fittings or grooved couplings." Taco has made no claim, nor provided any evidence, that its Twin Tee is covered by any of these exclusions. Thus, we find that these exclusions do not apply.

Having established that Taco's Twin Tee satisfies the material and diameter requirements of the scope, but does not satisfy any of the exclusions provided in the scope, the Department then analyzed whether the Twin Tee is appropriately considered a pipe fitting, as defined by the ITC. As noted above, the ITC stated in its final determination that "pipe 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." See Scope Ruling Request at 8, citing the ITC Final Determination at 4. Taco stated that the Twin Tee "is a single pipe fitting designed to replace the two primary circuit tees used to connect a secondary piping circuit to a primary piping circuit in a hydronic system." (Emphasis added.) *Id.* at 10. Thus, Taco acknowledges that the Twin Tee is, in fact, a pipe fitting. Moreover, the scope of the order specifically identifies "tees" as an example of a subject pipe fitting.⁹ Therefore, analysis of the ITC definition supports finding Twin Tees within the scope of the order.

We next examined the reasons offered by Taco as to why its Twin Tee is not covered by the scope of the order. Taco claims that the Twin Tee is excluded from the scope of the order because it is not a general purpose pipe fitting used in the sprinkler/fire protection industry. Rather, it is a specialty product designed for use in Taco's patented hydronic system. See Scope Ruling Request at 11. We disagree with this argument. First, as discussed above, the scope of the order is not defined by end-use application or industry. The scope of the order states that the products covered include all non-malleable cast iron pipe fittings, satisfying the

⁹ Taco acknowledges this fact when it states that "although the scope includes products referred to as 'tees' we believe the Twin Tee is not included under this order." See Scope Ruling Request at 10.

physical characteristics identified in the scope, “regardless of industry or proprietary specifications.” Thus, any argument based upon end-use application or industry is not relevant to the Department’s scope ruling. Second, the Petition and the ITC’s final injury ruling state that, while the fire protection/sprinkler system market is the dominant use for the subject fittings in the United States (accounting for approximately 90 percent of shipments), pipe fittings used in steam conveyance systems account for approximately five percent while other industries constitute the remaining five percent of shipments. See Petition at 4; and ITC Final Determination at I-6. Thus, pipe fittings used in industries other than sprinkler/fire protection were intended to be covered by the order (as evidenced by the Petition) and were included in the ITC’s injury analysis (as demonstrated by the statement made in the ITC Final Determination). Moreover, it is unclear whether Taco’s Twin Tee is used in a manner explicitly described in the scope. Taco states that its Twin Tee is used to connect a secondary piping circuit to a primary piping circuit in a hydronic system. See Scope Ruling Request at Attachment C. Applying the definition of “hydronic” stated in the “Black and Green Ductile Flanges” analysis section above, Taco’s Twin Tee could be used in an application that is the same, or very similar to, an application identified in the Petition (*i.e.*, water or heated steam conveyance).

With regard to Taco’s position that the Twin Tee should be excluded from the order because Petitioners in this case do not produce the same type of pipe fitting, we disagree. First, there is no statutory requirement that Petitioners produce all products covered by the scope of the order. See Circular Seamless Determination and accompanying Issues and Decision Memorandum at Comment 1. In other words, Petitioners are not required to produce every model of the foreign-like product. In this regard, just as the scope is not limited based on proprietary specifications, the definition of domestic like product is not limited based on proprietary specifications or use, including use in a patented system. Therefore, whether Petitioners produce a model identical to the products Taco produces is not determinative to the Department’s scope ruling. See Final Scope Ruling at 3-4.

Regarding Taco’s claims that because the Twin Tee does not meet ASTM and ANSI standards and is not UL certified it is not included in the scope of the order, we disagree. The scope of the order states that the products covered include all non-malleable cast iron pipe fittings “regardless of industry or proprietary specifications.” The scope continues, stating, “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 certified.” (Emphasis added.) First, by use of the terms “regardless,” “normally,” and “most,” it is clear that subject merchandise is not limited to exclusively pipe fittings produced to ASTM A-126, ASME B.16.4, and ASME B1.20.1 specifications, nor is it limited exclusively to pipe fittings certified by the UL. Petitioners, by qualifying the specifications with the words “regardless,” “normally,” and “most,” did not intend for the standards included in the investigation to be considered an exhaustive list of the standards applicable to the merchandise covered by the scope of the NM Pipe Fittings Order. Second, the Petition states that the scope covers all non-malleable cast iron pipe-fittings meeting the physical descriptions set forth in the Petition, “regardless of specification.” See Petition at 6. The Petition subsequently states that the scope “includes, but

is not limited to, all pipe fittings produced to any one of the listed non-malleable cast iron pipe fittings specifications...and fittings made to proprietary non-malleable cast iron pipe fittings specifications.” (Emphasis added). See Id. Third, as noted above, the scope of the order states that the products covered include all non-malleable cast iron pipe fittings regardless of industry or proprietary specifications. Therefore, pipe fittings included in the scope do not have to meet the specifications of ASTM A-126 and ASME B.16.4. This is clearly demonstrated by the fact that the scope language expressly includes both threaded and unthreaded fittings, while the scope notes that ASTM A-126 and ASME B.16.4 are threaded to ASME B1.20.1 specifications.

Conclusion

Pursuant to 19 CFR 351.225(d), the Department determines that a formal inquiry is not warranted to decide whether the two flanged products and the Twin Tee fitting produced in the PRC are covered by the scope of the order. We have evaluated this request in accordance with 19 CFR 351.225(k)(1) because the description of the products contained in the antidumping duty order, petition, and determinations of the Secretary and the ITC are dispositive with respect to Taco’s specialty flanges and “Twin Tee” pipe fitting at issue. Therefore, we have not referred to the additional factors found in 19 CFR 351.225(k)(2).

Recommendation

In accordance with 19 CFR 351.225(k)(1), we have determined through our review of the descriptions of the product contained in the antidumping duty order, the Petition, and the determinations of the Secretary and the ITC, that Taco’s black flange, green ductile flange, and Twin Tee fitting are within the scope of the NM Pipe Fittings Order. If you agree, we will send a letter to interested parties enclosing this ruling and notify U.S. Customs and Border Protection of our determination.

_____ Agree

_____ Disagree

Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration