



DEPARTMENT OF COMMERCE

International Trade Administration

A-570-814

Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Notice of Court Decision Not in Harmony with Amended Final Scope Ruling and Notice of Amended Final Scope Ruling in Accordance with Court Decision

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On March 27, 2012, in *King Supply Co. LLC v. United States*, 674 F.3d 1343 (Fed. Cir. Mar 27, 2012) (“*King Supply IIP*”), the U.S. Court of Appeals for the Federal Circuit (“CAFC”) reversed the decision of the U.S. Court of International Trade (“CIT”) in *King Supply Co. LLC v. United States*, Slip Op. 11-2, Court No. 09-477 (January 06, 2011) (“*King Supply II*”). In *King Supply II*, pursuant to the CIT’s remand order, the Department of Commerce’s (“Department”) results of redetermination construed the scope of the *Order*¹ as excluding carbon steel butt-weld pipe fittings from the People’s Republic of China (“PRC”) used in structural applications. In *King Supply III*, the CAFC, reversing the CIT, held that: (1) the Department in its original scope ruling reasonably determined that the scope of the *Order* did not give rise to an end use restriction, (2) the Department’s original scope ruling was supported by substantial evidence, and (3) the CIT gave insufficient deference to the Department in interpreting the *Order*. 674 F.3d at 1345, 1349, 1350-51. As there is now a final and conclusive court decision with respect to the litigation pertaining to this proceeding, we are hereby publishing the final

¹ See *Antidumping Duty Order and Amendment to the Final Determination of Sales at Less Than Fair Value; Certain Carbon Steel Butt-Weld Pipe Fittings From the People’s Republic of China*, 57 FR 29702 (July 6, 1992) (“*Order*”).

scope ruling that pipe fittings imported by King Supply are within the scope of the order and amending our January 26, 2011, amended final scope ruling consistent with the CAFC decision.²

EFFECTIVE DATE: (Insert date of publication)

FOR FURTHER INFORMATION CONTACT: Matthew Renkey, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2312.

SUPPLEMENTARY INFORMATION:

On July 13, 2009, the Department issued a final scope ruling on carbon steel butt-weld pipe fittings from the PRC used in structural applications.³ In the Final Scope Ruling, the Department found that carbon steel butt-weld pipe fittings from the PRC used in structural applications were covered by the *Order* because they met the physical description of subject merchandise.⁴

In *King Supply Co. LLC v. United States*, Slip Op. 10–111, Court No. 09–00477 (September 30, 2010) (“*King Supply I*”), the CIT determined that the scope language of the Order contains an end-use element that results in the exclusion of pipe fittings used to join sections in structural applications from the *Order*. Therefore, the CIT ordered the Department to issue a scope determination that construes the scope of the *Order* as excluding carbon steel butt-weld pipe fittings used in structural applications.⁵ On December 1, 2010, the Department issued its final results of redetermination pursuant to *King Supply I*. Pursuant to the remand order in *King Supply I*, we construed the scope of the *Order* as excluding carbon steel butt-weld pipe

² See Memorandum from Edward C. Yang, Senior NME Coordinator to John M. Andersen, Acting Deputy Assistant Secretary, Final Scope Ruling: Antidumping Duty Order on Carbon Steel Butt-Weld Pipe Fittings from the People’s Republic of China, dated October 20, 2009 (“Final Scope Ruling”); see also *Carbon Steel Butt-Weld Pipe Fittings From the People’s Republic of China: Notice of Court Decision Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision*, 76 FR 4633 (January 26, 2011).

³ See Final Scope Ruling.

⁴ See Final Scope Ruling, at 6.

⁵ See *King Supply I*, at 3.

fittings used only in structural applications. The CIT sustained the Department's scope redetermination on January 6, 2011.⁶

As noted above, the CAFC subsequently reversed the CIT's decision in *King Supply II*, and found that it was reasonable for the Department to have read the scope language at issue as not constituting an end-use restriction, such that King's imported pipe fittings are within the scope of the order.

Amended Final Scope Ruling

In accordance with the CAFC's decision in *King Supply Co. LLC v. United States*, pipe fittings imported by King Supply are within the scope of the order. Accordingly, the Department will instruct U.S. Customs and Border Protection to continue to suspend entries of carbon steel butt-weld pipe fittings from the PRC used only in structural applications at the cash deposit rates currently in effect.

This notice is issued and published in accordance with section 516A(c)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.225.

Paul Piquado
Assistant Secretary
for Import Administration

August 3, 2012
Date

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⁶ See *King Supply II*.