

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-814]

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

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

SUMMARY: On January 6, 2011, the United States Court of International Trade ("CIT") sustained the Department of Commerce's ("the Department") results of redetermination, which 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, pursuant to the CIT's remand order in *King Supply Co. LLC, d/b/a King Architectural Metals v. United States*, Slip Op. 10-111, Court No. 09-00477 (September 30, 2010) ("*King Supply I*"). See Final Results of Redetermination Pursuant to Remand, Court No. 09-00477, dated December 1, 2010; *King Supply Co. LLC, d/b/a King Architectural Metals, v. United States*, Slip Op. 11-2, Court No. 09-00477 (January 6, 2011) ("*King Supply II*"). Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("CAFC") in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*"), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) ("*Diamond Sawblades*"), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final scope ruling and is amending its final scope ruling on carbon steel butt-weld pipe fittings from the PRC used in structural applications. See Memorandum from Edward C. Yang, Senior NME Coordinator for Import Administration to John M. Andersen, Acting Deputy Assistant Secretary for Import Administration, 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").

DATES: Effective Date: January 16, 2011.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva, AD/CVD Operations, Office 9, Import Administration—International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone (202) 482-3208.

SUPPLEMENTARY INFORMATION:**Background**

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. See Final Scope Ruling. 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. See Final Scope Ruling, at 6.

In *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. See *King Supply I*, at 3.

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 fittings used only in structural applications. The CIT sustained the Department's remand redetermination on January 6, 2011. See *King Supply II*.

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC has held that, pursuant to section 516A(e) of the Act, the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's January 6, 2011, judgment sustaining the Department's remand redetermination construing the scope of the *Order* as excluding carbon steel butt-weld pipe fittings used only in structural applications, constitutes a final decision of that court that is not in harmony with the Department's Final Scope Ruling. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of carbon steel butt-weld pipe fittings from the PRC

used only in structural applications pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. The cash deposit rate on carbon steel butt-weld pipe fittings used only in structural applications will be zero percent.

Amended Final Scope Ruling

Because there is now a final court decision with respect to carbon steel butt-weld pipe fittings from the PRC used in structural applications, the Department amends its final scope ruling and now finds that the scope of the *Order* excludes carbon steel butt-weld pipe fittings used only in structural applications. The Department will instruct U.S. Customs and Border Protection ("CBP") that the cash deposit rate on carbon steel butt-weld pipe fittings used only in structural applications will be zero percent. In the event the CIT's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct CBP to liquidate entries of carbon steel butt-weld pipe fittings from the PRC used only in structural applications without regard to antidumping duties, and to lift suspension of liquidation of such entries.

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

Dated: January 20, 2011.

Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Decision of Panel.

SUMMARY: On January 18, 2011, the binational panel issued its decision in the review of the United States International Trade Commission's (the Commission) final injury determination in Certain Welded Large Diameter Line Pipe from Mexico (NAFTA Secretariat File Number USA-MEX-2007-1904-03). The binational panel remanded the Commission's determination. The Commission is directed to issue its determination on remand on or before

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*").