Gujarat Chamber of Commerce & Industry

ગુજરાત વેપારી મહામંડળ ૧૯૪૯ થી કાર્યરત

12052

20th November, 2019

Dr. Subrahmanyam Jaishankar
Hon'ble Minister of External Affairs
South Block,
NEW DELHI-110011

Sub: Anti-fraud investigation and duty collection claims made against leading Indian exporter M/s. Maxim Tubes Company Pvt. Ltd. [Membership No.32012]

Respected Sir,

This is to bring to your kind notice that M/s. Maxim Tubes Company Pvt. Ltd., based at Chhatral – Dist. Gandhinagar, Gujarat is an active member of Gujarat Chamber of Commerce & Industry since last many years [Membership No. 32012]. The company is a renowned manufacturer of Seamless Stainless-Steel Pipes and Tubes and a Two Star Export House with Export mainly to the European countries. The Company is a recipient of many awards by EEPC and other institutions.

The company produces cold finished stainless-steel seamless tubes and pipes by using hot finished mother tubes and hollow profiles as the main raw materials. This conversion from hot finished to cold finished stainless tubes and pipes involves numerous manufacturing processes and significant value addition which changes the constitution of the product. The Hot finished pipes and hollow profiles are mainly imported from China PR by the company and then various processes are carried out on the same.

The company has pointed out a serious issue related to anti-fraud investigation carried out against them as well as another leading manufacturer of cold finished stainless-steel pipes and tubes by OLAF, the anti-fraud investigation wing of EU Commission. The Company has mentioned that due to this final report issued by OLAF, the company is likely to be faced with imposition of 72% anti-dumping duty on its exports to the EU Member countries. The company has mentioned in the representation that majority of its export are to the EU member countries and therefore the company is facing survival issues. The copy of representation sent to us is attached for your kind perusal.

In view of the stated above position, we humbly request you to take up the matter with the European counterparts for quick resolution.

Shri Ambica Mills - Gujarat Chamber Building, Ashram Road, Ahmedabad- 380009. INDIA. | +91 - 79 - 2658 2301-2-3-4 gcci@gujaratchamber.org | www.gujaratchamber.org

The below supporting documents provided by Maxim Tubes Company Pvt. Ltd. are attached herewith for your kind perusal and consideration.

1. Detailed production process/flow with photographs.
2. Certification of genuineness of production process by DGFT, Ministry of Commerce, SGST Commissionerate and Ministry of Steel.
3. Final report of Anti-circumvention investigation carried out by EU Commission.
4. Report on distortion of facts by OLAF in its report.
5. OLAF final report.
6. India and EU HS Codes schedule.

We look forward to your urgent intervention in this serious issue to resolve the issue, in the interest of Indian exporters.

Thanking you,

Yours faithfully,

Tanmay Mehta
Secretary General

c.c.

1. Director General of Foreign Trade
   Ministry of Commerce, H-Wing, Gate No.2, Udyog Bhavan,
   New Delhi-110011

2. Mrs. Mukta Dutta Tomar
   Ambassador of India to the Federal Republic of Germany
   Berlin, Germany

3. The Council of EU Chambers of Commerce in India
   3rd Floor, Y B Chavan Centre, General J Bhosale Marg,
   Mumbai-400021

4. Shri Amit Pankaj
   Under Secretary
   Ministry of Steel [Trade & Taxation Division]
   Govt.of India, Udyog Bhawan, New Delhi

THE POWER OF STEEL

TUBES COMPANY PVT. LTD.

A NORSOK APPROVED & DNV APPROVAL OF MANUFACTURER, AN ISO 9001:2015, ISO 14001:2015, BS OHSAS 18001:2007, PED & ADW / AD - 2000 - W0 Certified Company

MFG. & EXPORTER OF STAINLESS STEEL SEAMLESS & WELDED PIPES / TUBES / U-TUBES

GOVT. RECOGNISED EXPORT HOUSE CIN : U27106GJ2006PTC049217

Date: October 24, 2019

To
Shri Durgesh Buch
President
Gujarat Chamber of commerce & Industry
Ahmedabad-380 009

Subject: Prayer for kind support for our export related business issues with Europe and help from GCCI, FICCI, ASSOCHAM & CII.

Respected Sir,

This is to bring to your kind notice that Maxim Tubes Company Private Ltd, based at Chhatral- Dist – Gandhinagar Gujarat, is a renowned manufacturer of Seamless Stainless-Steel Pipes and Tubes and a regular exporter, mainly to the European Countries as well as in the domestic market. We have Two Star Export House status. The company has been honored by the EEPC more than six times as the highest exporter in this product category. More than 650 people are directly employed in the company. Our total sales during 2018-19 was worth of Rs 412 Cr, out of which export sales were worth of Rs. 221 Cr.

We produce cold finished stainless-steel seamless tubes & pipes (HS code of 73044100) by using seamless stainless steel hot finished mother tubes and hollow profiles (HS code of 7304 1110) as the main raw material, involving substantial manufacturing process and value addition. The hot finished mother tubes and hollow profiles are mainly imported from China PR apart from certain local procurement. The hot finished pipes and hollow profiles are cold drawn to desired length and diameter by using Draw Benches & Pilgering process. We have nearly 9 Draw Benches and 8 Pilgers apart from other equipments for carrying out mandatory processes.

Our imports and exports are mainly through advance authorization and DFIA routes. We have already redeemed the export obligation (EODC) in respect of almost 26 licenses till date. We export the cold finished Stainless-Steel Seamless Tubes & Pipes under HS code of 73044100 and import the hot finished mother tubes and hollow profiles under HS code of 7304 1110.

EU had initiated an anti-circumvention investigation against India on 17th February 2017, alleging diversion of Chinese origin cold finished seamless stainless-steel pipes and tubes by Indian exporters to the EU markets without required value addition and with the intent to avoid anti-dumping duties imposed by EU against China.. After conducting a detailed investigation and on the basis of verified data, the EU Commission absolved the Indian exporters and terminated the investigation on 16th November, 2017 by reaching a substantiated final view that a substantial production process in place with economic justification in order to confer Indian origin.

In and around that time, based on purely market information & Trade source information OLAF (anti-fraud investigation wing of EU) had initiated an anti-fraud investigation against TOP two exporters from India, alleging diversion of Chinese origin cold finished seamless stainless-steel pipes and tubes by Indian exporters to EU markets by mis-declaring the China sourced pipes and tubes as hot finished. For the benefit of local 2 European players, without any kind of personal verification or investigation of our facility, on 4th July, 2019 OLAF has issued final report with recommendation of 72% anti-dumping duty collection to custom department of EU 17 members countries. On that basis, all the custom department of EU started issuing duty payment collection order to all our customers.

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The allegations brought out by OLAF in their report are not only unsubstantiated, devoid of facts and baseless; they contradict the final findings and recommendations made by the European Commission in their earlier concluded anti-circumvention investigation. Although OLAF claims that their anti-fraud investigation is unrelated to the anti-circumvention investigation conducted by the European Commission, it is important to note that both OLAF and European Commission are the two branches of the same EU authority. While the European commission, which is a more technically and legally qualified authority, conducted a detailed investigation basing on verified and substantiated data/information and gave a clean chit to the Indian exporters, how OLAF could derive its conclusions to the otherwise relying upon information from trade source without carrying out any verification and substantiation process?

In fact, we strongly suspect, the OLAF's action is a part of a broader game to harass Indian stainless-steel pipes and tubes exporters and finally deny them access to the European market. The OLAF report has already done enough damage to the Indian exports. For this current financial year, we had a projection of total turnover of Rs. 450 Cr., including export of Rs. 230 Cr to EU. Due to this OLAF report, our Rs. 110 Cr of export orders of EU are already on hold and from that Rs. 90 Cr. worth of order has already reached the stage of cancelation.

In view of the stated above position, we humbly request you to impress upon the concerned Indian authorities to take up the matter with their European counterparts more seriously and sincerely. Otherwise, what has happened to us today, may happen to other exporters tomorrow. OLAF cannot draw such damaging conclusions without verifying our data and giving us adequate opportunity to defend ourselves. Kindly note that we are open for any verification of our production facilities and data by the Indian as well as EU authorities, either jointly or severally.

With sincere regards and thanks,

Yours faithfully,

For MAXIM TUBES COMPANY PVT LTD.

Director

THE POWER OF STEEL
TUBES COMPANY PVT. LTD.

Regd. Office & Works : Survey No. 105/106, Nr. 66 KV Sub-Station, Chhatral-Pansar Road, Ahmedabad-Mehsana Highway, Chhatral-382729, Ta. Kalol, Dist. Gandhinagar, Gujarat, INDIA.
Export Phone No. +91 99091 98877, F : +91 2764 234477, E : export@maximtubes.com
Admin. Office : B-92, Riviera Antilia, Nr. Pinnacle Corporate Road, Prahladnagar, Vejalpur, Ahmedabad, Gujarat-380051, INDIA.
www.maximtubes.com

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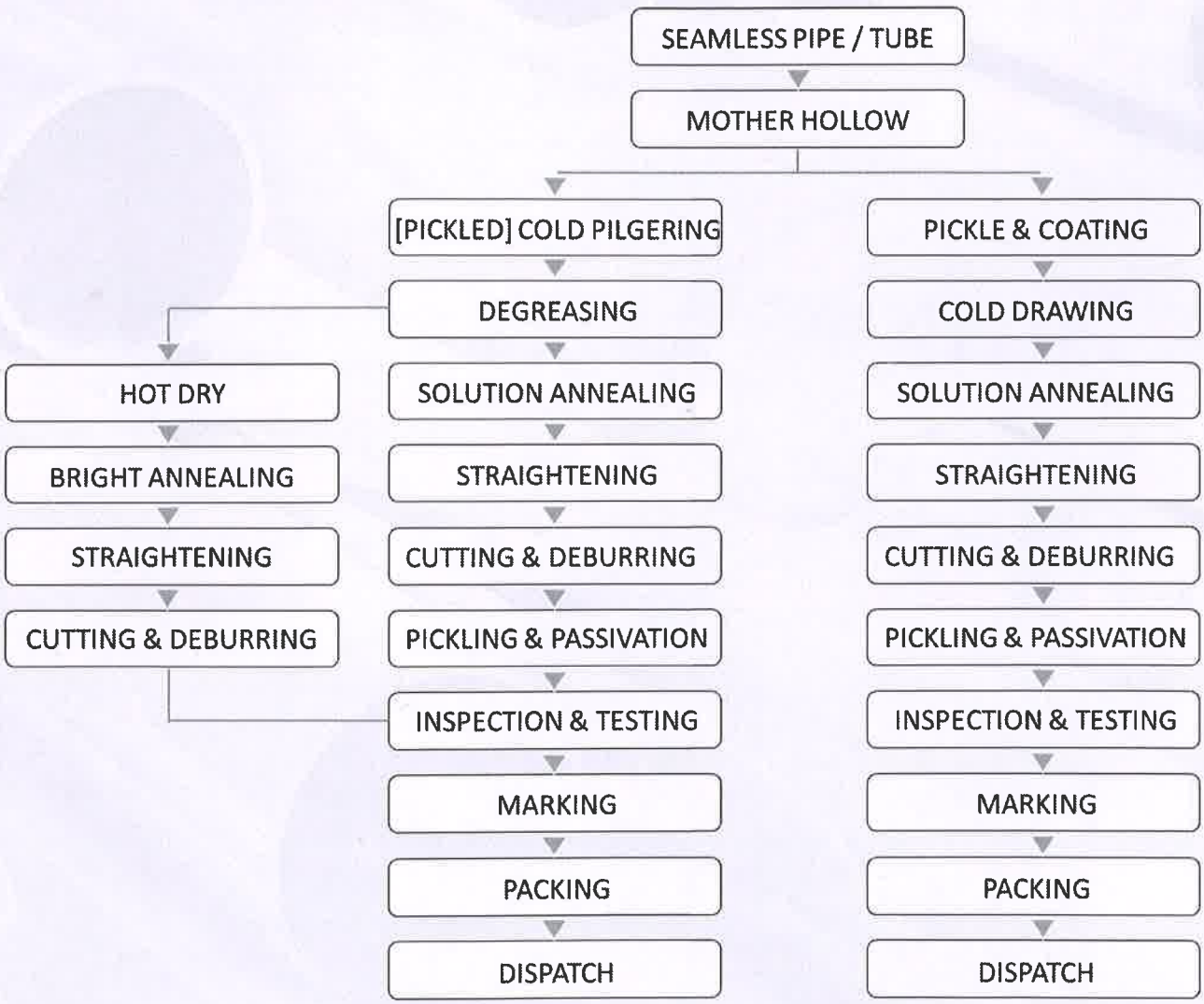
PRODUCTION PROGRAMME REPORT

DETAILS OF THE MANUFACTURING PROCESS OF PILGERING AND DRAW LINE WITH TECHNICAL WRITE UP/BACK UP INCLUDING PROCESS FLOW CHART.

PROCESS FLOW CHART



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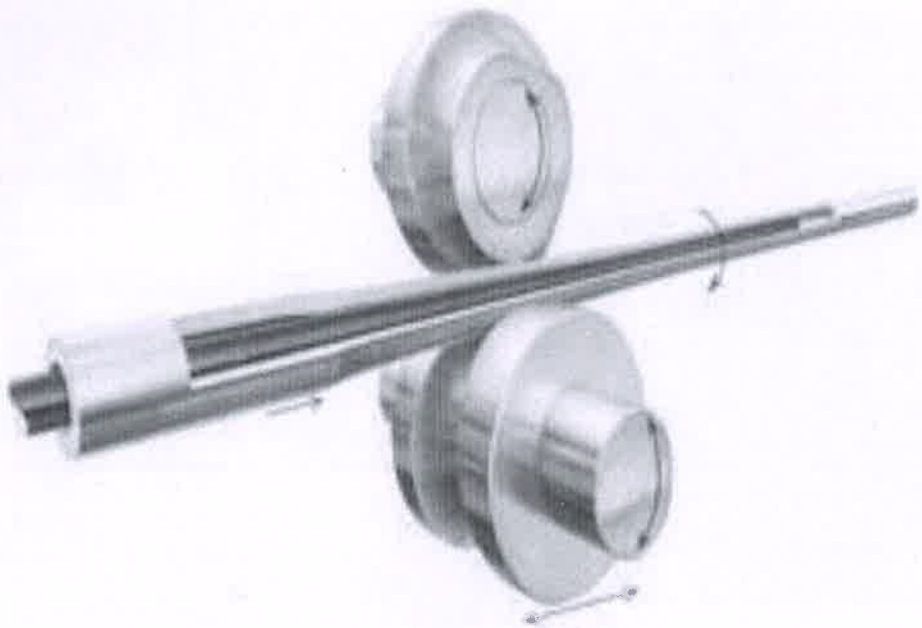
TECHNICAL WRITE UP FOR COLD PILGERING PROCESS:

The Pilgering process uses dies and a mandrel to reduce pipe cross section up to 80 % in one cycle in comparison to draw lines which reduces up to 35%.

Cold pilgering is a longitudinal cold-rolling process that reduces the diameter and wall thickness of pipe in one process step. Depending on the material, the cold pilger process achieves cross-section reductions of more than 80 percent in a single working cycle.



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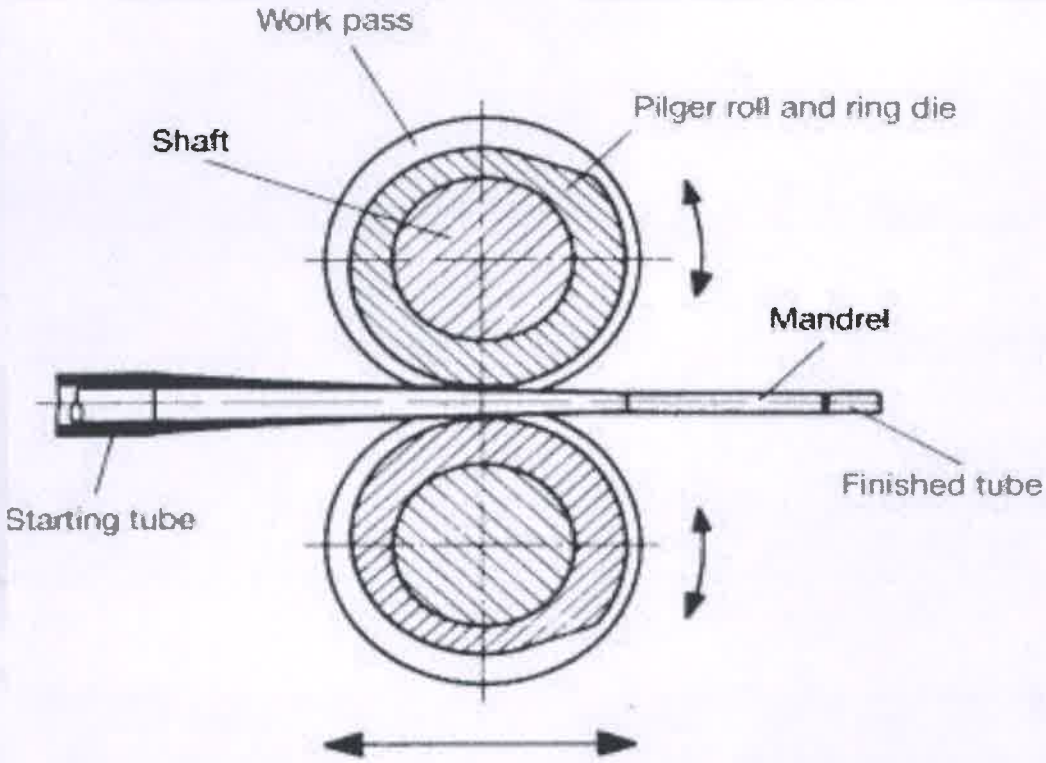

Picture: PILGER HPT 6-20 & 15-45 (RUSSIAN MAKE)

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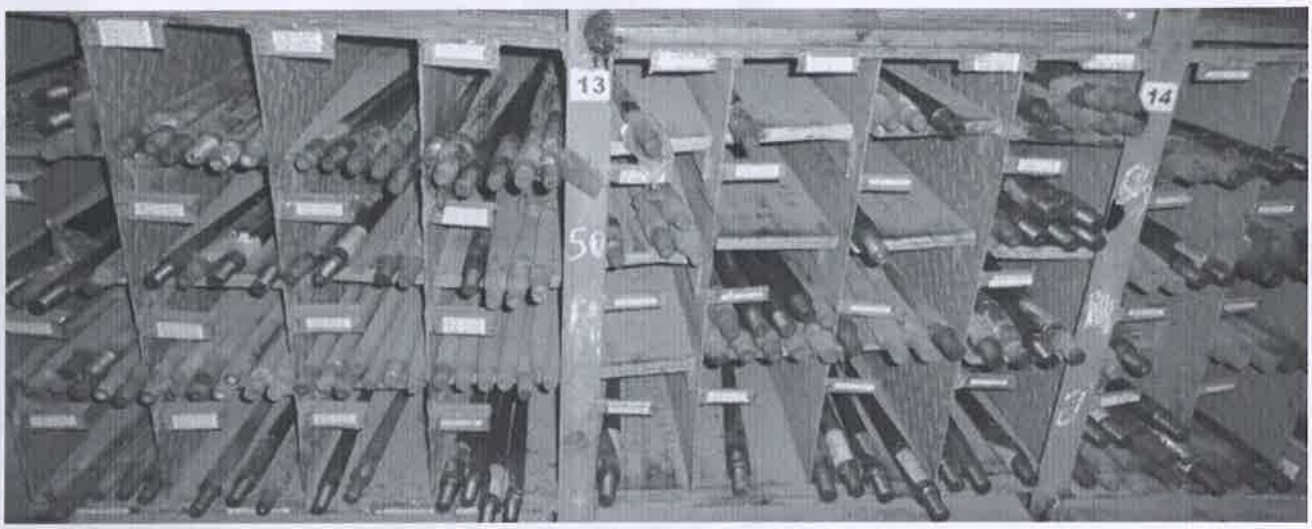
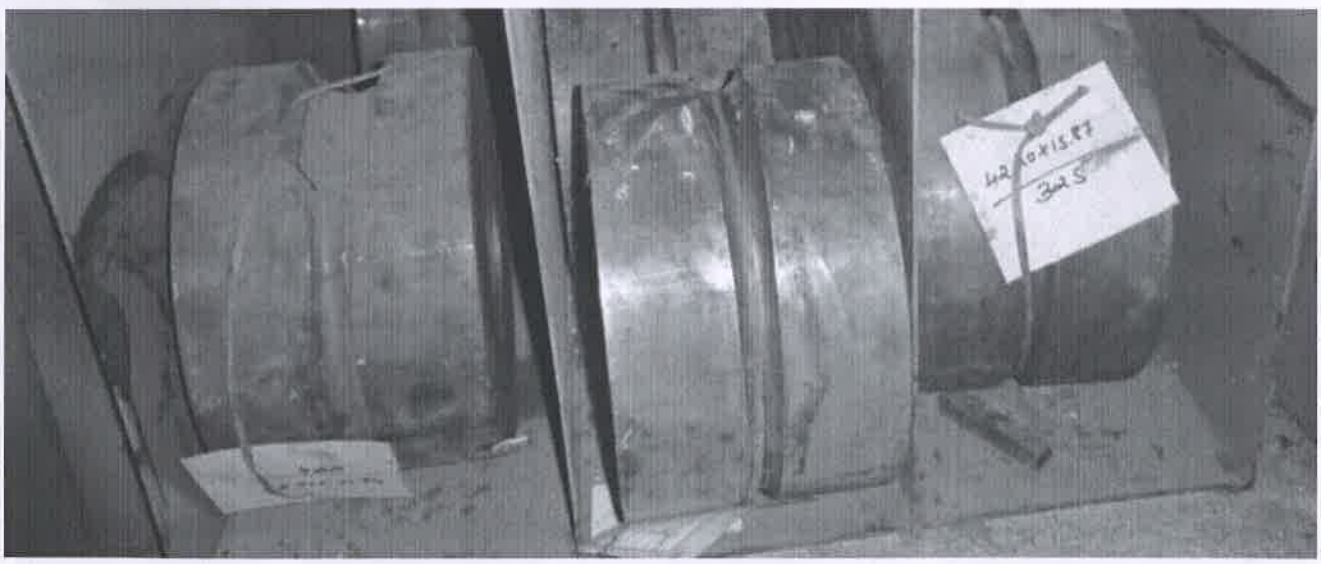
Picture: PILGER MANDRILL



Picture: PILGER DIE



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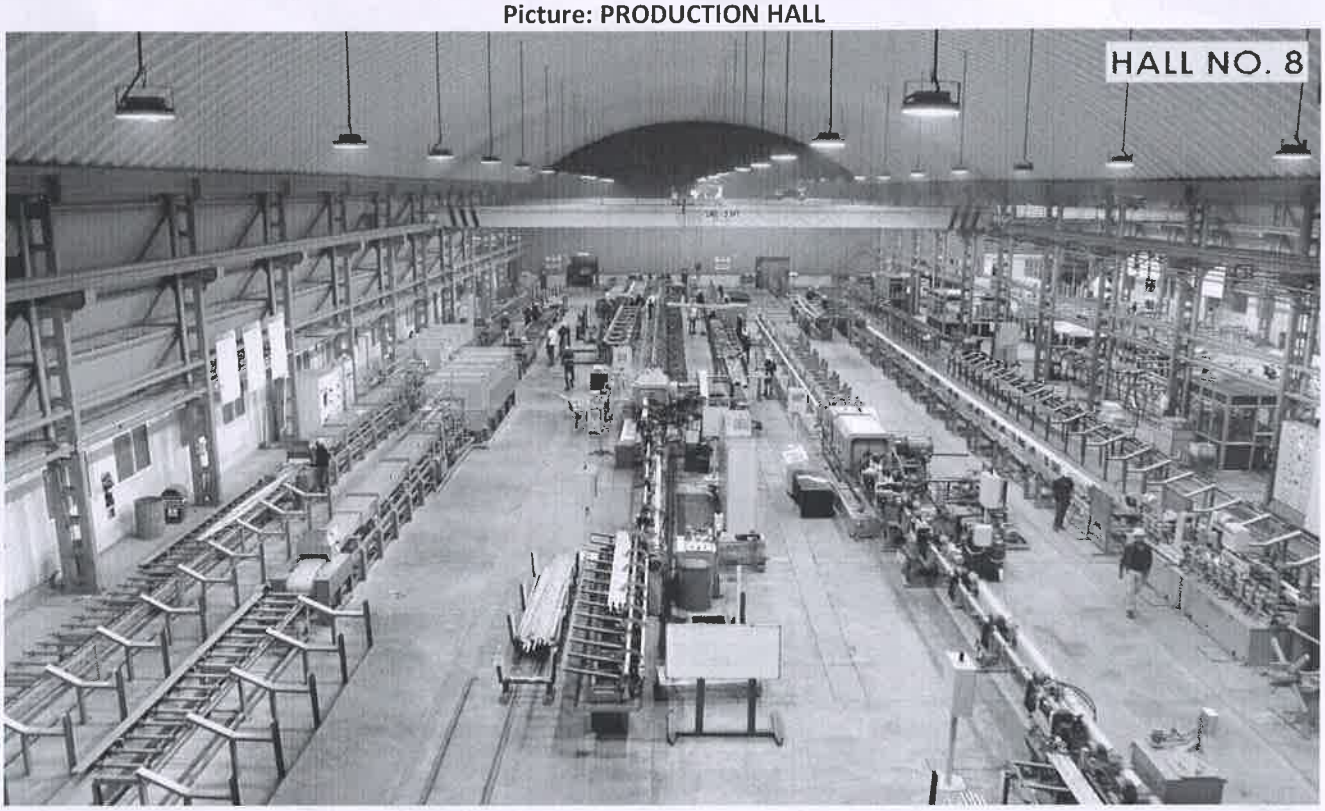
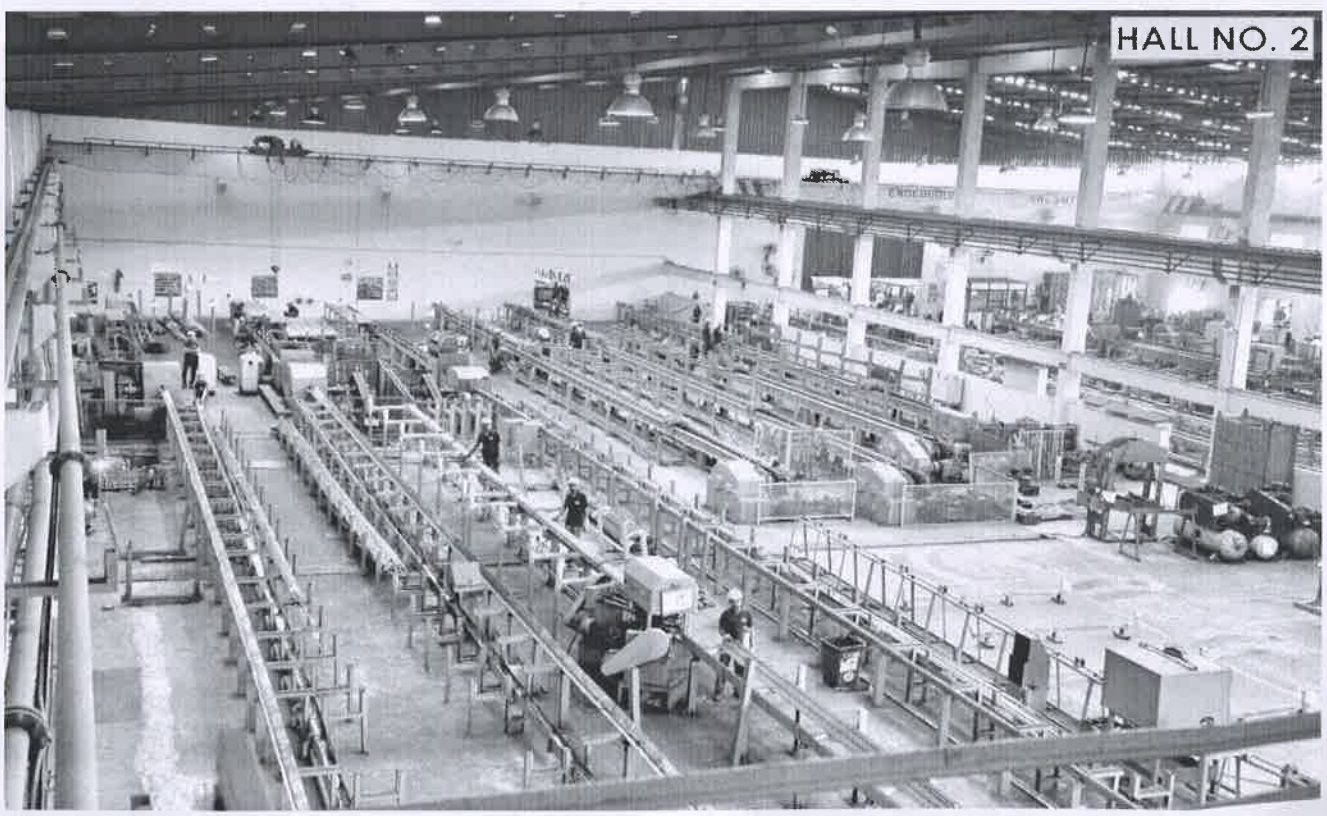
Picture: PRODUCTION HALL





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LIST OF PILGER MILL.

SR.	PILGER MACHINE	SIZE RANGE	MAKE
1	Pilger Mill No. 1 (LG - 40)	15.87 TO 50.80mm	Galson Engineering A'BAD
2	Pilger Mill No. 2 (LG - 40)	15.87 TO 50.80mm	Galson Engineering A'BAD
3	Pilger Mill No. 3 (LG - 40)	15.87 TO 50.80mm	Galson Engineering A'BAD
4	Pilger Mill No. 4 (HPT 6 - 20)	6.00 to 20.00 mm	VNIMETASH RUSSIA
5	Pilger Mill No. 5 (HPT 15 - 45)	15.00 to 45.00 mm	VNIMETASH RUSSIA
6	Pilger Mill No. 6 (G-20)	12.70 to 33.40 mm	Galson Engineering A'BAD
7	Pilger Mill No. 7 (G-50)	19.05 to 42.16 mm	Galson Engineering A'BAD

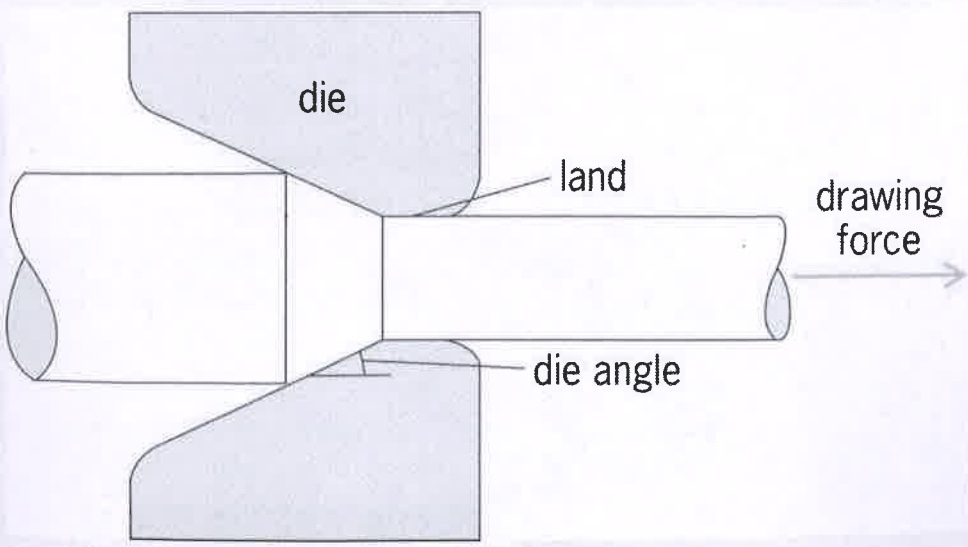
TECHNICAL WRITE UP FOR COLD DRAWING PROCESS:

DRAW LINE - COLD DRAWING.

There are two method of plug drawing are fixed and floating. Fixed plug (mandrel) drawing uses a hollow pipe anchored at the back of the bench. Before the drawing pipes are lubricated by coating or lubricant is pumped through the pipe to a small hole near the front, allowing lubricant to enter the ID of the pipe. A slightly tapered tungsten carbide plug is threaded or brazed onto the end of the rod; the pipe is loaded over the rod, lubricant pumped onto the OD surface, and the tube is drawn.

One of the benefits of fixed plug drawing is that it produces a smooth ID. Another advantage is that the taper makes it possible to adjust the ID to meet a tight tolerance. While it requires only one operator, the drawing speed is quite slow, and maximum area reductions are about 35 percent for stainless steel.

Picture: DRAWING PROCESS



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Picture: DRAW LINE DIE (SMALL)

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Picture: DRAW LINE DIE (BIG)

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Picture: DRAW LINE PLUG

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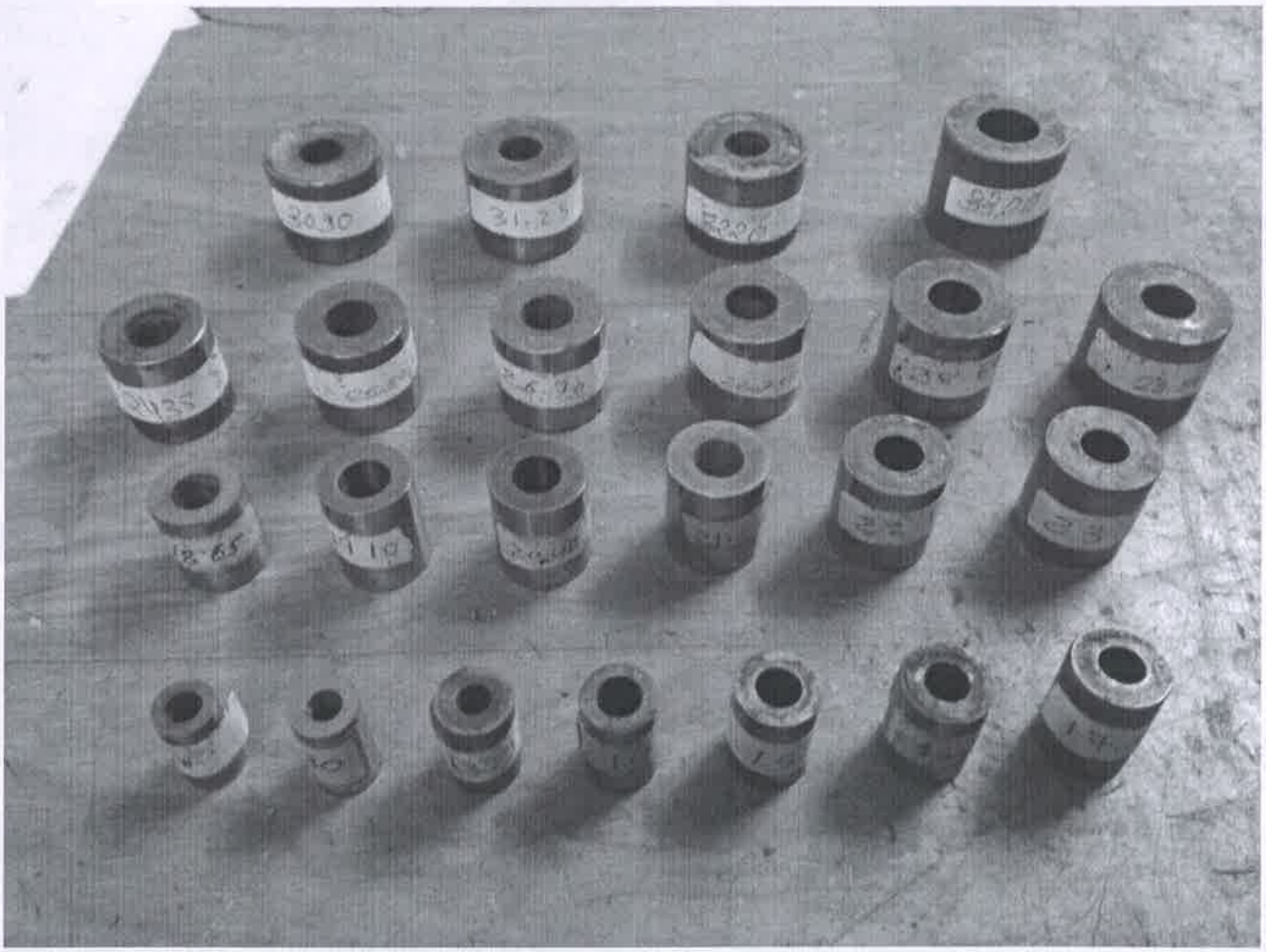

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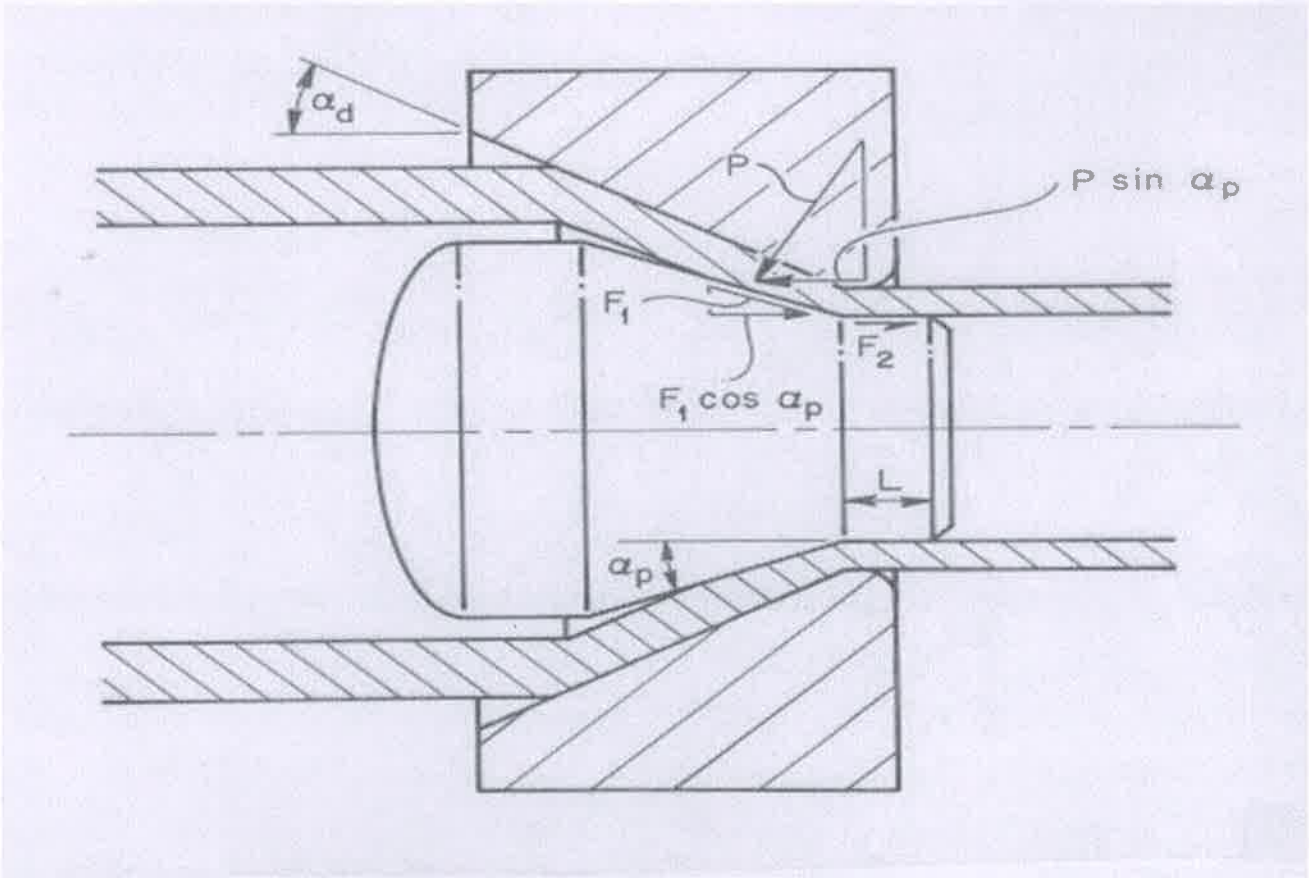
FLOATING PLUG DRAWING

This is well-suited to producing long-length tubes economically. After the lubricant is pumped into the ID of the tube, a tapered plug is inserted, the tube is crimped to hold the plug in place, and the tube is pointed. During drawing the plug is held in position by a combination of forces between the tube ID and the plug. The tooling design is critical to the success of this process. Die angles are generally between 28 and 32 degrees, with plug angles between 20 and 24 degrees. The bearing length should be about 10 to 15 percent of die diameter. Plug that is too long can cause scratches on the ID; a plug that is too short will not seat.



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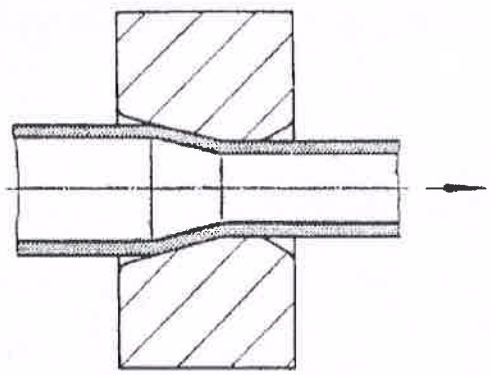
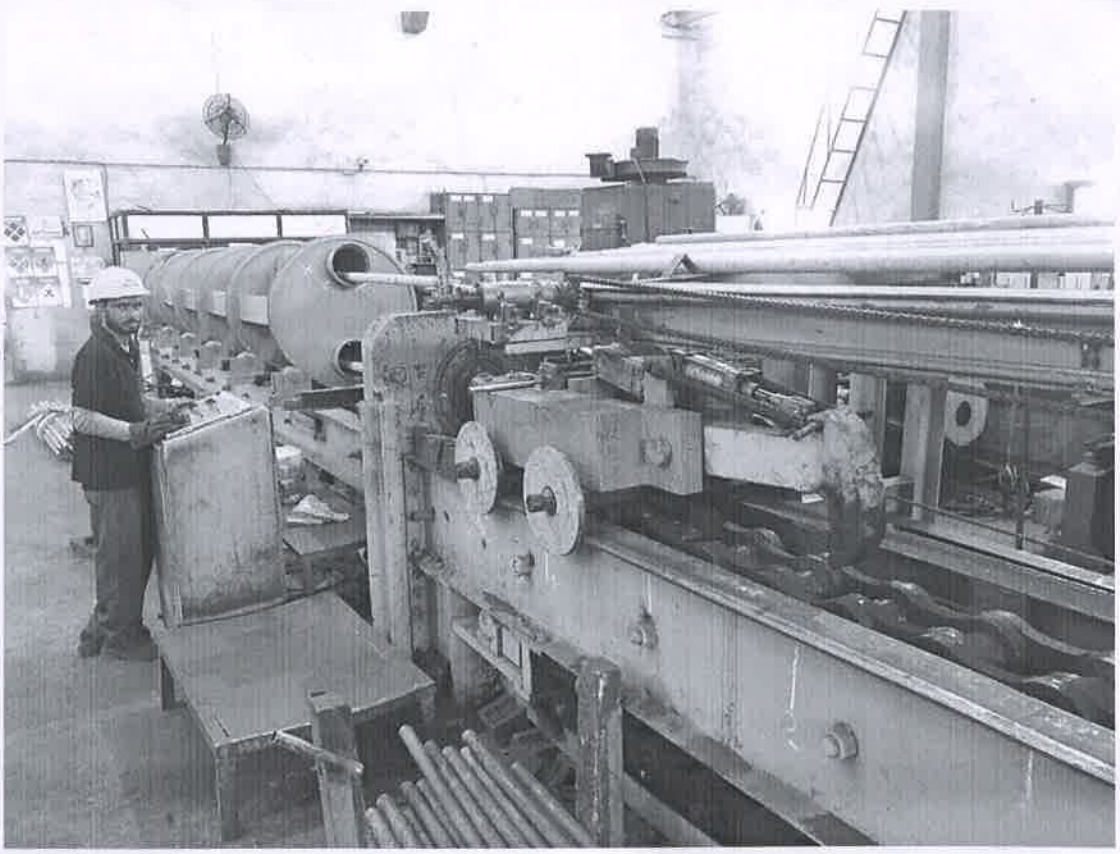
SINKING

Sinking is the term for drawing a Pipe with no internal support. It is usually performed as a sizing pass after a draw or final size. The proper die angle depends on the D/t ratio, a properly chosen die angle minimizes the change in wall thickness. If the wall thickens too much, the ID surface finish will deteriorate.
The bearing length is longer than with other operations, up to 50 percent of the die's diameter, to ensure the roundness of the finished tube. Plug drawing and sinking can be used to draw a tube to a finished size.

SETUP FOR SINKING PROCESS



Picture: DRAWING PROCESS



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WE HAVE 09 DRAW LINES WITH SIZE RANGE MENTIONED IN THE BELOW TABLE.

SR. NO.	DRAW BENCH	SIZE RANGE
1	Draw Line – 1	6.00 to 219.10 mm OD
2	Draw Line – 2	6.00 to 219.10 mm OD
3	Draw Line – 3	6.00 to 219.10 mm OD
4	Draw Line – 4	6.00 to 219.10 mm OD
5	Draw Line – 5	6.00 to 114.30 mm OD
6	Draw Line – 6	6.00 to 114.30 mm OD
7	Draw Line – 7	6.00 to 114.30 mm OD
8	Draw Line – 8	6.00 to 114.30 mm OD
9	Draw Line – 9	6.00 to 323.90 mm OD

STAINLESS STEEL SEAMLESS TUBES (HYDRAULIC & INSTRUMENTATION TUBING) - BRIGHT ANNEALED

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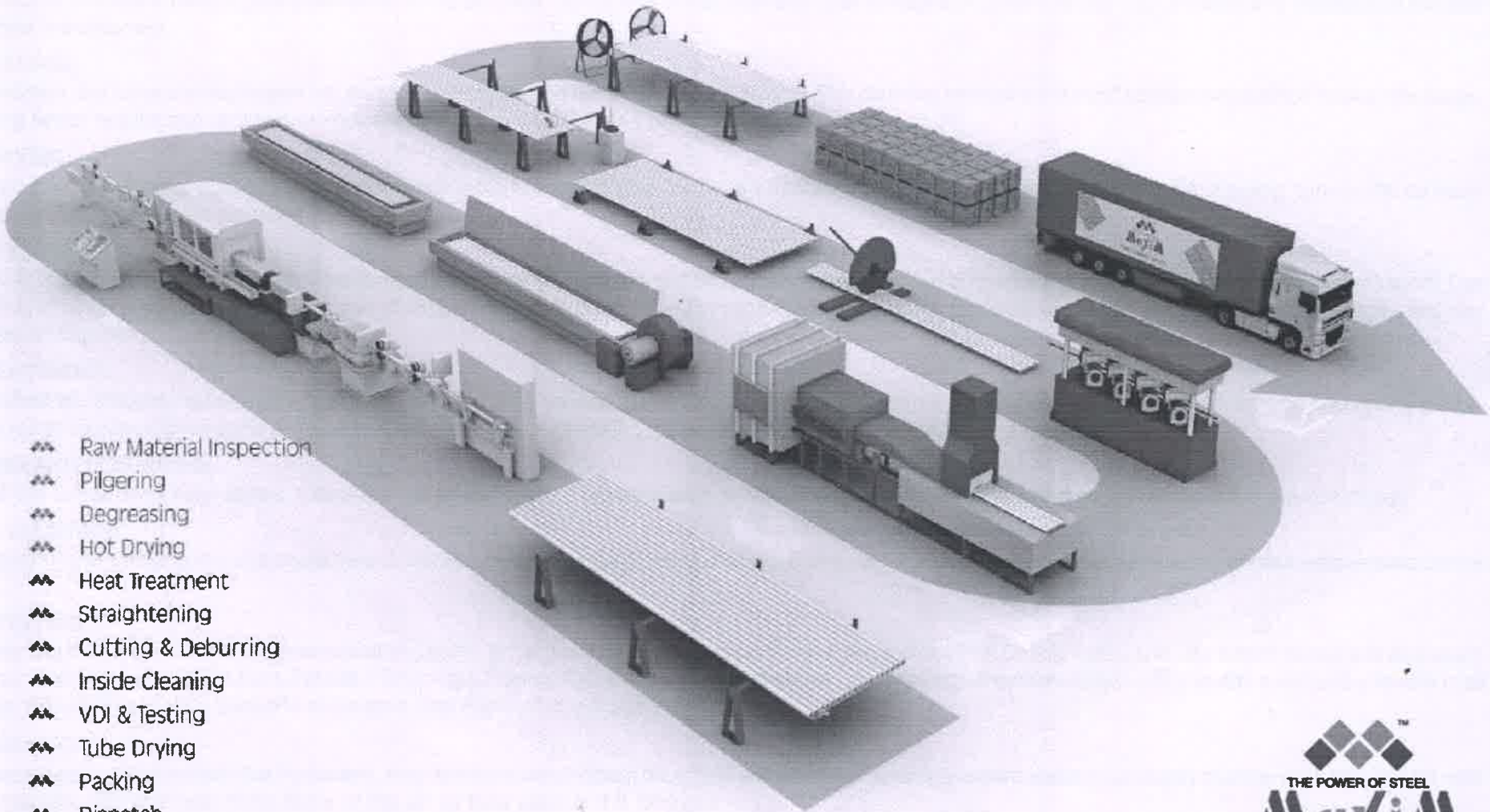

- Raw Material Inspection
- Pilgering
- Degreasing
- Hot Drying
- Heat Treatment
- Straightening
- Cutting & Deburring
- Inside Cleaning
- VDI & Testing
- Tube Drying
- Packing
- Dispatch

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STAINLESS STEEL SEAMLESS TUBES (HYDRAULIC & INSTRUMENTATION TUBING) – BRIGHT ANNEALED

RAW MATERIAL INSPECTION:
The process starts with the Raw Material inspections where each and every Hot drawn pipe is inspected to identify the grade with the help of PMI Machine, Outside Diameter and Wall Thickness Dimensions and surface defects if any. Also a sample is sent to lab for chemical analysis and testing.

PILGERING:
After satisfying inspection of Raw Material, cold rolling process is done to achieve the desired outside diameter and wall thickness. Cold rolling is considered to be the most effective process in case of tube production. In this process, high quality of the outer and inner surfaces of tubes and very high physical and mechanical material properties are obtained.

DEGREASING:
In this process, the tubes are degreased by chemical solvents for the removal of oil and grease. This cleaning method is the most satisfactory method to clean the tubes providing better results and reduces the hazard rates.

HOT DRYING:
In this process, the tubes are fully dried by evaporation in the hot air chamber for the removal of carryout water as for effective Bright Annealing, tube surfaces must be clean and free of foreign particles.

HEAT TREATMENT:
Annealing is a critical production step. If performed poorly, metal surfaces can be rendered stains, pitted or cracked, and the metal susceptible to corrosion. The annealing atmosphere must be relatively free of oxygen. This is accomplished by removing nearly all the gas or by displacement of oxygen and nitrogen with dry hydrogen or argon.

STRAIGHTENING:
All the tubes are straightened after the heat treatment as during annealing process, tubes loses the overall straightness and the eccentricity. In straightening a tube using a roll straightening machine provided with drum type straightening roll pairs vertically opposing disposed are used.

CUTTING AND DEBURRING:
After all the tubes are straightened, tubes are cut as per client's requirements and the ends are deburred making sure that the ends are not sharp.

INSIDE CLEANING:
Inside cleaning by passing water is performed on all the tubes passing a piece of cotton to make sure that there are no scrap particles or grease leftovers inside the tubes.

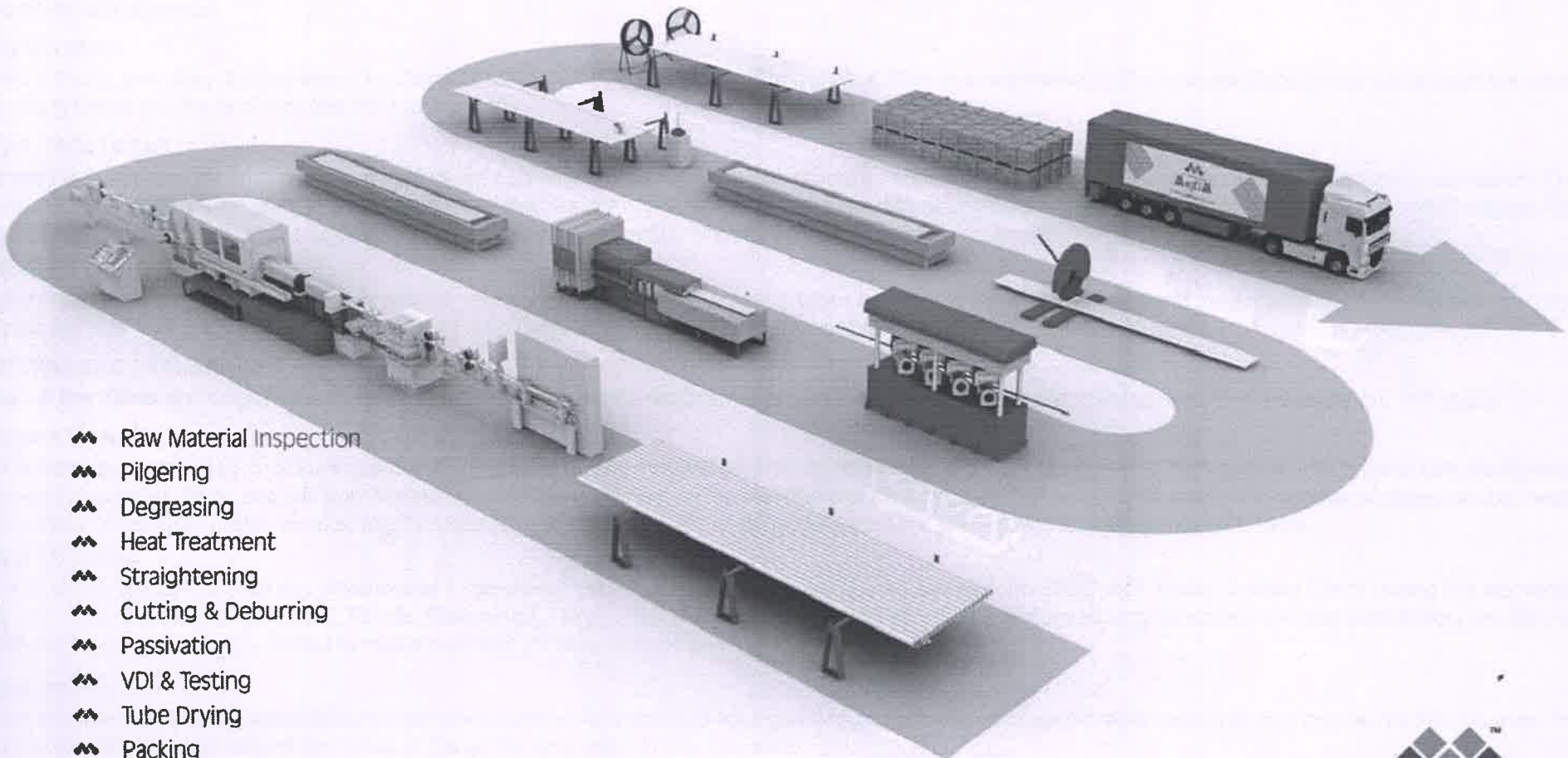
VDI & TESTING:
After cleaning the tubes, visual and dimensional inspection of each and every tubes is performed. We perform PMI Check, Inside Camera Check during this step along with other tests like Hardness, Impact, Tensile, Flattening & Flaring, IGC, Eddy Current, Ultrasonic, etc. are performed simultaneously and after satisfactory results of all the tests, all tubes are hydro tested to make sure that there is no leakage in the tubes.

TUBE DRYING:
Once the tubes are finished with the Hydro test, they are dried with the help of Large Fans and also the rack used are placed in a sloppy manner so that the water rolls out completely with the help of the force of the air by fans used in this process.

PACKING AND DISPATCH:
Tubes are marked after drying and than the tubes are packed either in wooden box or hessian cloth bundles as per the requirements of client and finally dispatched from the mill to the sea port.

STAINLESS STEEL SEAMLESS TUBES
(HIGH PRECISION & HEAT EXCHANGER TUBING)
- ANNEALED & PICKLED

#BEINAM♥MENT



- Raw Material Inspection
- Pilgering
- Degreasing
- Heat Treatment
- Straightening
- Cutting & Deburring
- Passivation
- VDI & Testing
- Tube Drying
- Packing
- Dispatch

THE POWER OF STEEL
MaxiM™
TUBES COMPANY PVT. LTD.

STAINLESS STEEL SEAMLESS TUBES (HIGH PRECISION & HEAT EXCHANGER TUBING) – ANNEALED & PICKLED

RAW MATERIAL INSPECTION:
The process starts with the Raw Material inspections where each and every hot drawn pipe is inspected to identify the grade with the help of PMI Machine, Outside Diameter and Wall Thickness Dimensions and surface defects if any. Also a sample is sent to lab for chemical analysis and testing.

PILGERING:
After satisfying inspection of Raw Material, cold rolling process is done to achieve the desired outside diameter and wall thickness. Cold rolling is considered to be the most effective process in case of tube production. In this process, high quality of the outer and inner surfaces of tubes and very high physical and mechanical material properties are obtained.

DEGREASING:
In this process, the tubes are degreased by chemical solvents for the removal of oil and grease. This cleaning method is the most satisfactory method to clean the tubes providing better results and reduces the hazard rates.

HEAT TREATMENT:
Annealing is a critical production step. If performed poorly, metal surfaces can be rendered stains, pitted or cracked, and the metal susceptible to corrosion. The temperature, length of time, and rate of cooling after heat treatment will impact all the properties dramatically. The most common reason to heat treat the tubes is to increase strength or hardness, toughness of tubes, improving ductility and maximizing corrosion resistance.

STRAIGHTENING:
All the tubes are straightened after the heat treatment as during annealing process, tubes loses the overall straightness and the eccentricity. In straightening a tube using a roll straightening machine provided with drum type straightening roll pairs vertically opposing disposed are used.

CUTTING AND DEBURRING:
After all the tubes are straightened, tubes are cut as per client's requirements and the ends are deburred making sure that the ends are not sharp.

PASSIVATION:
All the tubes are passivized once cutting and deburring is done. The passivation process returns the stainless steel or other metals back to its original specifications by removing unwanted debris and oils from the surface and then submerging the part into a passivating bath. When a part is machined, various particles can permeate the surface of the base metal, weakening it's resistance to corrosion and making the part more susceptible to environmental factors.

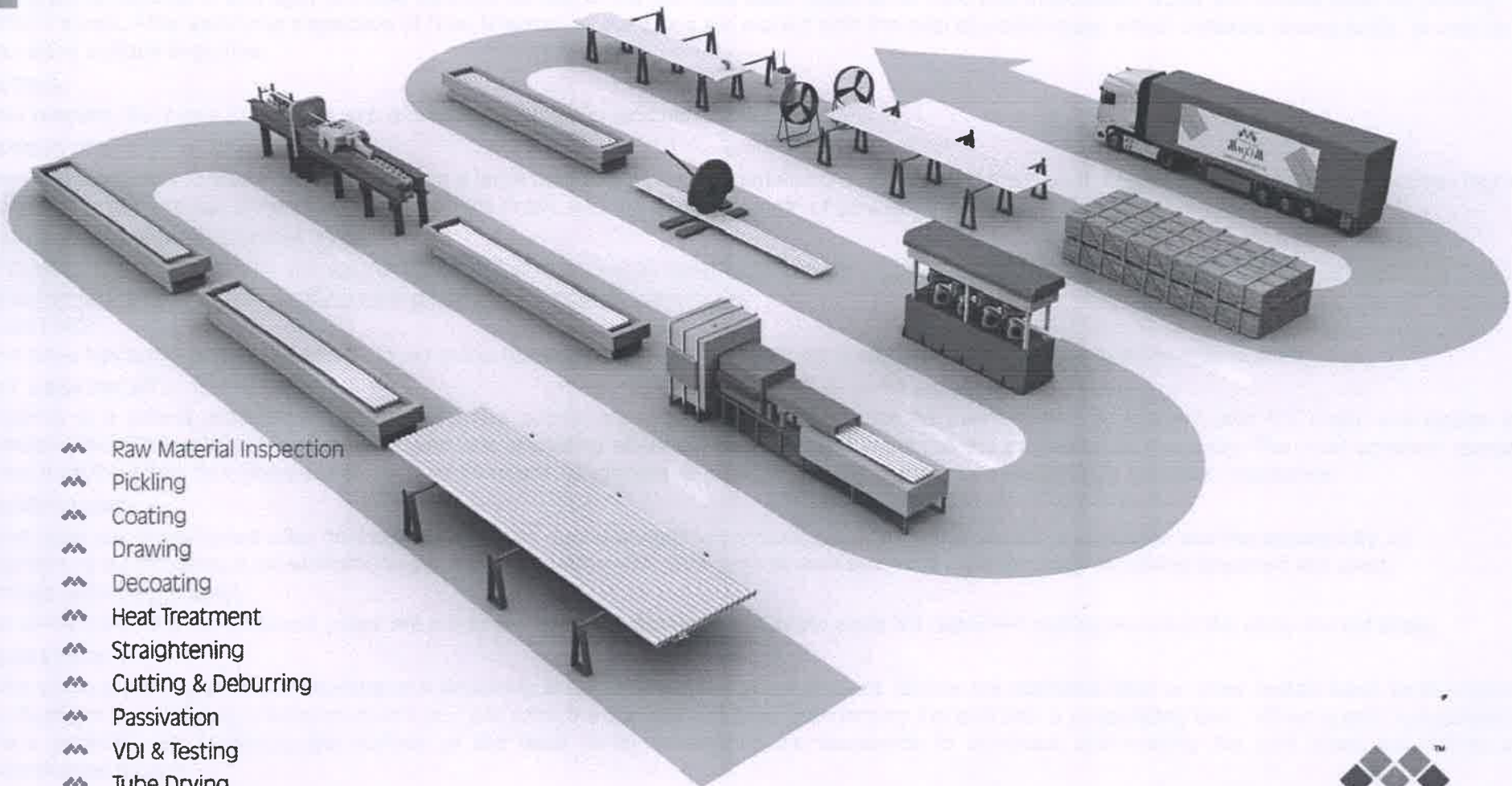
VDI & TESTING:
After cleaning the tubes, visual and dimensional inspection of each and every tubes is performed. We perform PMI Check, Inside Camera Check during this step along with other tests like Hardness, Impact, Tensile, Flattening & Flaring, IGC, Eddy Current, Ultrasonic, etc. are performed simultaneously and after satisfactory results of all the tests, all tubes are hydro tested to make sure that there is no leakage in the tubes.

TUBE DRYING:
Once the tubes are finished with the Hydro test, they are dried with the help of Large Fans and also the rack used are placed in a sloppy manner so that the water rolls out completely with the help of the force of the air by fans used in this process.

PACKING AND DISPATCH:
Tubes are marked after drying and than the tubes are packed either in wooden box or hessian cloth bundles as per the requirements of client and finally dispatched from the mill to the sea port.

STAINLESS STEEL SEAMLESS PIPES - ANNEALED & PICKLED

#BEINAM♥MENT



- Raw Material Inspection
- Pickling
- Coating
- Drawing
- Decoating
- Heat Treatment
- Straightening
- Cutting & Deburring
- Passivation
- VDI & Testing
- Tube Drying
- Packing
- Dispatch

THE POWER OF STEEL

MaxiM

TUBES COMPANY PVT. LTD.

STAINLESS STEEL SEAMLESS PIPES – ANNEALED & PICKLED

RAW MATERIAL INSPECTION:

The process starts with the Raw Material inspections where each and every hot drawn pipe is inspected to identify the grade with the help of PMI Machine, outside Diameter and Wall Thickness Dimensions and surface defects if any. Also a sample is sent to lab for chemical analysis and testing.

PICKLING:

Pickling is the removal of thin layer of metal from the surface of the stainless steel. Mixtures of nitric and hydrofluoric acids are usually used for pickling stainless steels. After satisfying inspection of Raw Material, all the tubes are pickled with the help of pickle liquor, which contains strong acids, is used to remove the surface impurities.

COATING:

In this process, the pipes are coated with a drawing lubricant to aid cold drawing.

DRAWING (For 1/8" to 8"):

Drawing is a process to size a pipe by shrinking a large diameter pipe into a smaller one, by drawing the pipe through a die. This process produces high-quality piping with precise dimensions, good surface finish, and the added strength of cold working.

SOFT DRAWING (For size 10" to 12"):

Soft Drawing is a process where shrinking of Outside Diameter is not involved. Soft Drawing is performed same way as normal pipe drawing through a die. This process produces uniform surface of piping and makes the OD surface smoother.

DECOATING:

Pipes have lubricants on the OD and ID to aid in the drawing processes, the lubricant is removed from the pipe with the help of Nitric acids.

HEAT TREATMENT:

Annealing is a critical production step. If performed poorly, metal surfaces can be rendered stains, pitted or cracked, and the metal susceptible to corrosion. The temperature, length of time, and rate of cooling after heat treatment will impact all the properties dramatically. The most common reason to heat treat the pipes is to increase strength or hardness, toughness of pipes, improving ductility and maximizing corrosion resistance.

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After cleaning the tubes, visual and dimensional inspection of each and every tubes is performed. We perform PMI Check, Inside Camera Check during this step along with other tests like Hardness, Impact, Tensile, Flattening & Flaring, IGC, Eddy Current, Ultrasonic, etc. are performed simultaneously and after satisfactory results of all the tests, all tubes are hydro tested to make sure that there is no leakage in the tubes.

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GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
OFFICE OF ADDL. DIRECTOR GENERAL OF FOREIGN TRADE
11/A, GOVT. M.S BLDG, LAL DARWAJA,
AHMEDABAD-380001

F.No.08/01/Misc/Conf/AM18/ Dt 19.09.2019

To whomsoever it may concern

M/s Maxim Tubes Company Pvt. Ltd, having manufacturing unit at: Survey No.105/106, Near 66 KV Sub Station, Pansar Road, Ahmedabad-Mehsana Highway, Chhataral, District: Gandhinagar, Gujarat State, India is availing Advance Authorisations from this office for import of Seamless Stainless Steel Tubes/Pipes(Hot Finished) for export of Stainless Steel Seamless Tubes/Pipes(Cold Finished). The ITC HS Code of the export item in respect of which Advance Authorisations issued by this office is 73044100 and that of the import item is 73041110.

M/s Maxim Tubes Company Pvt. Ltd is a regular exporter of the aforesaid export product and they have obtained several Advance Authorisation from this office for import of Seamless Stainless Steel Tubes/Pipes(Hot Finished) against the Standard Input Output Norms fixed by the Government of India.

(Raju Raman)
Foreign Trade Development Officer
For Addl. Director General of Foreign Trade

File No.K-23016/1/2017-FT (Europe-I)
Government of India
Ministry of Commerce and Industry
Department of Commerce

Udyog Bhawan,
New Delhi – 110 107

OFFICE MEMORANDUM

Subject: OLAF Investigation alleging fraud in exports of Seamless Stainless Steel Pipes & Tubes (SSSPT) from India to European Union – reg.

Please refer to your letter dated 18th September, 2019 drawing attention of this Department to the huge economic damage faced by Indian exporters of Seamless Stainless Steel Pipes & Tubes in view of European Anti-Fraud office's (OLAF) report alleging mis-declaration by two Indian exporters. In this matter, one of the exporters, M/s Maxim Tubes Company Pvt. Ltd. has also raised their concerns and requested urgent intervention by this Department [representation attached].

2. We are having this matter examined and will share our inputs/suggestions at the earliest. However, in the meantime, it is requested to take up this matter bilaterally with the OLAF to ascertain the future course of action in the issue & to ensure them of cooperation from Indian side, if needed; and to make sure that no Indian exports, but from the two exporters alleged to have been involved in mis-declaration, gets affected by the OLAF report. Further, the Embassy may also consider facilitating the two exporters, in their recourse to legal remedies for resolving this matter.

3. This issues with the approval of the Joint Secretary, FT (Europe).

Yours sincerely,

01/10/19

(Anurag Sehgal)
Deputy Secretary

Ms. Smita Sirohi
Adviser (A&M)
Embassy of India, Brussels

NATION TAX MARKET

Office Of Assistant State Tax Commissioner Ghatak-25,kalol , Nr.sarda circle.kalol dist:- Gandhinagar. Gujarat

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No/STO(2)/UNIT-25/2019-20/B 6529 Dt 16/09/2019

To whom so ever it may concern

Verification of the genuineness of M/s Maxim Tubes Company Pvt. Ltd

With reference to above subject, we would like to notify that Maxim Tubes Company Private Ltd having GST no. 24AAECM8083E1ZH based at Survey No. 105/106, near 66 KV Sub Station, Pansar Road–382729, Ahmedabad-Mehsana Highway,Chhatral, District-Gandhinagar, Gujarat, INDIA.The company is engaged in manufacturing & export of Stainless Steel Seamless Pipes, Tubes & U Tubes. The company was incorporated in the year 2006 with small scale unit which thenthey have expanded to a large & reliable producer and at the pinnacle in terms of total exports of this products to the European Union Countries since last many years.

Maxim Tubes mainly produce cold finished stainless steel seamless tubes & pipes for which they are using seamless stainless steel hot finished Tubes & Pipes. They are using imported raw material as well as buying it from local market. The import of raw material mainly comes from PRC (People's Republic of China) under the HS code of 7304 1110-Seamless Stainless Steel Tubes/Pipes (Hot Finished). They are doing export of cold finished Stainless Steel Seamless Tubes & Pipes under the HS code of 73044100.They are mainly using advance authorization and DFIA scheme for the import and export activity. They are following SION normsC831 code for import and export.

To produce cold finished Tubes & Pipes, they are using Draw Benches &Pilgeringprocess. They have nearly 9 Draw Benches and 8 Pilgers along with other mandatory process like pickling, passivation, solution annealing, cutting &deburing, quality testing's etc. which needs to be carried out for the production of sublime quality of final tubes and pipes. They have plant layout which consist of total 11 production Halls which are fully functioning. They have total 650+ manpower working in factory as well as in office administration which justifies that they are renowned producers & exporters of this product from India.

ASST. COMMISSIONER OF STATE TAX UNIT-25,KALOL.

PLACE :- KALOL
DATE :- 16/09/2019

STATE TAX OFFICER (2)
UNIT-25, KALOL

रसिका चौबे
अपर सचिव
Rasika Chaube
Additional Secretary

सत्यमेव जयते

150 YEARS OF CELEBRATING THE MAHATMA

भारत सरकार
इस्पात मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF STEEL

D.O.No.12(3)/2019-TTD(Part)

Dated: 18th September, 2019

Dear Ambassador

This is regarding investigation against Maxim Tubes Co Pvt. Ltd, Krystal Steel Manufacturing Pvt. Ltd. and Suraj Ltd. of India by European Anti-Fraud Office (OLAF) in respect of imports of Stainless Steel seamless Pipes and Tubes from India in EU. A copy of representation dated 03.09.2019 from Maxim Tubes Company Pvt. Ltd. and final report of OLAF investigation is attached.

2 The crux of the investigation was suspected evasion of anti-dumping duties imposed on certain seamless pipes and tubes of stainless steel originating in China PR by circumventing the said goods through India and declaring the same as goods of Indian origin. Maxim Tubes Company Pvt. Ltd. has informed that allegations brought out by OLAF are not only unsubstantiated but also contradict the final findings of the European Commission.

3. In view of the aforesaid, I shall be grateful if you could kindly look into the matter personally and take steps as required to protect the interest of Indian Iron and Steel Industry.

With regards,

Yours sincerely,

(Rasika Chaube)

Ms. Gaitri Issar Kumar,
Ambassador of India,
Embassy of India,
Brussels, Belgium
Email: amb.brussels@mea.gov.in,

Room No. 289, Udyog Bhawan, New Delhi-110 011, Tel. : +91 11 23063170, 23061824 Fax : +91 11 23061250
E-mail : rasikachaube@nic.in

Anti-circumvention Termination

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2017/2093

of 15 November 2017

terminating the investigation concerning possible circumvention of the anti-dumping measures imposed by Council Implementing Regulation (EU) No 1331/2011 on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China by imports consigned from India, whether declared as originating in India or not, and terminating the registration of such imports imposed by Commission Implementing Regulation (EU) 2017/272

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union [1] ('the basic Regulation'), and in particular Article 13(3) thereof,

Whereas:

1. PROCEDURE

1.1. Existing measures

(1) By Implementing Regulation (EU) No 1331/2011 [2] ('the original Regulation'), the Council imposed a definitive anti-dumping duty of 71,9 % on imports of certain seamless pipes and tubes of stainless steel ('SSSPT') originating in the People's Republic of China ('the PRC') for all other companies than the ones mentioned in Article 1(2) and Annex I to that Regulation.

(2) These measures will be referred to as 'the measures in force' and the investigation that led to the measures imposed by the original Regulation will be referred to as 'the original investigation'.

1.2. Initiation following a request

(3) On 3 January 2017 the Defence Committee of the seamless stainless steel tubes industry of the European Union ('the applicant') submitted a request for an anti-circumvention investigation to the European Commission, indicating that the anti-dumping measures on imports of certain seamless pipes and tubes of stainless steel originating in the PRC were being circumvented via India.

(4) The request provided *prima facie* evidence that, following the imposition of the measures in force, a significant change in the pattern of trade involving exports from the PRC and India to the Union occurred, which seemed to be caused by the imposition of the measures in force. There was allegedly insufficient due cause or justification other than the imposition of the measures in force for such a change.

(5) Furthermore, the evidence pointed to the fact that the remedial effects of the measures in force were being undermined both in terms of quantity and price. The evidence showed that the increased imports from India were made at prices below the non-injurious price established in the original investigation.

[1] OJ L 176, 30.6.2016, p. 21.
[2] OJ L 336, 20.12.2011, p. 6.

(6) Finally, there was evidence that SSSPT consigned from India were dumped in relation to the normal value established for the like product during the original investigation.

(7) Having determined, after having informed the Member States, that sufficient *prima facie* evidence existed for the initiation of an investigation under Article 13 of the basic Regulation, the European Commission ('the Commission') initiated an investigation by Commission Implementing Regulation (EU) 2017/272 [1] ('the initiating Regulation').

(8) Following Articles 13(3) and 14(5) of the basic Regulation, the initiating Regulation also directed customs authorities in the Union to register imports of SSSPT consigned from India.

1.3. **Investigation**

(9) The Commission advised the authorities of the PRC and India, the exporting producers and traders in those countries, the importers in the Union known to be concerned and the Union industry of the initiation of the investigation. Questionnaires were sent to the producers/exporters in the PRC and India known to the Commission or which made themselves known within the deadlines specified in recital 15 of the initiating Regulation. Questionnaires were also sent to importers in the Union.

(10) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. Several hearings with the applicant took place, including one hearing with the Hearing Officer in trade proceedings.

(11) Twenty nine companies from India, one company from the PRC, nine unrelated importers, two related importers, one agent and five Union industry producers made themselves known.

(12) Twenty one Indian companies submitted a questionnaire reply and requested an exemption from the possible extended measures, in accordance with Article 13(4) of the basic Regulation.

(13) The Commission individually examined all exemption requests. Verification visits were carried out at fourteen companies which were either significant exporters to the Union or which based on an initial analysis of their reply fulfilled the conditions under Article 13(2) of the basic Regulation to be eligible for a potential exemption.

(14) Four unrelated importers in the Union and one Chinese exporting producer unrelated to any of the Indian producers provided questionnaire replies.

(15) Verification visits were carried out at the premises of the following companies in India:

— Arvind Pipes & Fittings Industries Private Limited,

— ASR Mettech Private Limited,

— Chandan Steel Limited,

— Heavy Metal and Tubes Limited,

— Krystal Steel Manufacturing Private Limited,

— Maxim Tubes Company Private Limited,

— MBM Tubes Private Limited,

— Patels Airflow Limited,

— Ratnamani Metals & Tubes Limited,

— Remi Edelstahl Tubulars Limited,

— Sandvik Asia Private Limited,

[1] OJ L 40, 17.2.2017, p. 64.

— Suraj Limited,

— Tubacex Prakash India Private Limited,

— Universal Stainless.

1.4. **Investigation period**

(16) The investigation period covered the period from 1 April 2009 to 30 September 2016 ('the investigation period'). For the period of 1 October 2015 to 30 September 2016 ('the reporting period') more detailed data were collected in order to examine the possible undermining of the remedial effect of the measures in force and existence of dumping.

2. RESULTS OF THE INVESTIGATION

2.1. **General considerations**

(17) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of circumvention was made by analysing successively whether:

— there was a change in the pattern of trade between third countries (India and the PRC) and the Union,

— this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty,

— there was evidence of injury or that the remedial effects of the duty were being undermined in terms of the prices and/or quantities of the like product, and

— there was evidence of dumping in relation to the normal values previously established for the like product, if necessary in accordance with the provisions of Article 2 of the basic Regulation.

2.2. **Product concerned and the like product**

(18) The product concerned by the possible circumvention is 'SSSPT': certain seamless pipes and tubes of stainless steel (excluding such pipes and tubes with attached fittings suitable for conducting gases or liquids for use in civil aircraft) originating in the People's Republic of China ('the product concerned'). It is currently falling within CN codes ex 7304 11 00, ex 7304 22 00, ex 7304 24 00, ex 7304 41 00, ex 7304 49 10, ex 7304 49 93, ex 7304 49 95, ex 7304 49 99 and ex 7304 90 00. This is the product to which the measures that are currently in force apply.

(19) The product under investigation is the same as the 'product concerned' defined in the previous recital, but consigned from India, whether declared as originating in India or not, currently falling within the same CN codes as the product concerned.

(20) The investigation showed that SSSPT exported to the Union from the PRC and SSSPT consigned from India to the Union have the same basic physical and technical characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

2.3. **Level of cooperation**

(21) There was a very high level of cooperation from Indian exporting producers. The 21 cooperating producers accounted for 92 % of total SSSPT imports from India to the Union in the reporting period.

(22) The fourteen verified companies represented 91 % of the total exports of the cooperating companies and 84 % of the total imports of SSSPT from India into the Union.

(23) Article 18(1) of the basic Regulation was applied to one cooperating Indian exporting producer to the extent that it did not provide the information necessary to meaningfully assess the activities of its related companies. Thus, best facts available were used to supplement the data provided by this company so that the Commission had the reliable data needed for assessing its imports and exports to the Union.

(24) In the PRC there was a low level of cooperation by producers/exporters, with only one exporting producer submitting a questionnaire reply. Therefore findings in respect of SSSPT exports from the PRC to the Union, and from the PRC to India, had to be made on the basis of Eurostat data and Chinese trade statistics.

2.4. **Nature of the alleged circumvention practice, process or work**

(25) The alleged circumvention practice as described in the request goes back to the production process. There are two major production stages of the SSSPT: hot forming and cold forming.

(26) There are two common ways of achieving the first, hot formed stage: either using a hot extrusion process or a hot piercing process.

(27) The resulting hot formed tube is an intermediary product, which requires further processing before its final use, with the exception of some hot formed tubes manufactured using the hot extrusion process.

(28) The applicant claimed that the SSSPT exported by the PRC to India were already cold formed tubes. This assertion was supported by the Chinese export statistics and by the assumption that producers in the PRC use a hot piercing process after which the tubes must be immediately and mandatorily cold processed.

(29) Whilst indeed the Chinese export statistics showed that almost all exported SSSPT were declared as cold formed, upon the import into India only 2 % were declared as cold formed.

(30) The discrepancy can be explained by the VAT refund scheme applied by the PRC, where the cold formed SSSPT benefit from a 13 % VAT refund compared to a 9 % refund for the hot formed tubes.

(31) The verifications confirmed that the Indian producers had almost exclusively purchased hot formed tubes and carried out the cold forming in India.

(32) The investigation also confirmed that hot formed tubes can be easily transported before undergoing cold forming.

(33) The investigation further showed that the cold forming performed in India substantially transforms the product and irreversibly alters its essential characteristics. During the process the product changes its dimensions and its physical, mechanical and metallurgical properties.

2.5. **Change in the pattern of trade**

(34) Table 1 shows the development of SSSPT imports from the PRC and India into the Union and the development of Indian imports from the PRC in the investigation period:

Table 1

Imports of SSSPT in the investigation period (metric tonnes)

	Calendar year							
	2009	2010	2011	2012	2013	2014	2015	Reporting Period
Union imports from the PRC	17 094	20 841	15 279	4 181	2 437	1 804	1 951	2 317
Union imports from India	5 173	6 401	7 601	11 572	13 531	17 230	18 911	19 845
Chinese exports to India	23 555	35 454	37 824	41 505	40 146	49 039	43 364	44 129

Source: Eurostat (Comext), Chinese trade statistics

(35) The imports of the product concerned from the PRC to the Union substantially decreased over the investigation period, showing a steep decrease after the imposition of measures in force in 2011.

(36) This decrease in the imports from the PRC following the imposition of the measures was steadily absorbed by the increase of imports from India in the subsequent years.

(37) These changes in trade flows constitute a change in the pattern of trade between the above mentioned countries and the Union. The development of Indian imports from the PRC increased at a stable pace over the investigation period, showing the bulk of the increase already before the imposition of the measures.

(38) The data above shows that after the initiation of the original investigation in 2010, and the imposition of the measures in force in December 2011, imports of SSSPT from India have to a large extent replaced the imports of the product concerned from the PRC to the Union.

2.6. **Insufficient due cause or economic justification other than the imposition of the anti-dumping duty**

(39) The Commission examined whether, as alleged, the above change in the pattern of trade stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty.

2.6.1. *Analysis of imports from the PRC to India*

(40) The following table shows the imports of the Indian cooperating companies from the PRC, compared with their total sales and exports to the Union. The Commission notes that those data concern companies accounting for the vast majority of the Indian SSSPT exports to the Union as explained in recital 21 above.

(41) The Commission therefore considered this data to be sufficiently representative of the relevant Indian industry as far as the exports to the Union are concerned.

Table 2

Indian imports from the PRC (cooperating companies) vs total Indian sales (metric tonnes)

	Indian financial year							
	2009	2010	2011	2012	2013	2014	2015	Reporting Period
Total Indian sales (A)	19 367	27 431	32 684	32 547	36 881	42 217	36 245	39 061
Indian imports from the PRC (B)	7 852	15 146	14 284	17 465	18 246	21 914	17 313	19 640
Ratio Indian imports from the PRC/Total Indian sales (C = B/A)	41 %	55 %	44 %	54 %	49 %	52 %	48 %	50 %
Indian exports to the Union (D)	4 252	6 631	9 697	12 759	14 715	19 090	16 825	18 581

Source: Questionnaire replies of the cooperating companies

(42) The increase of Indian imports from the PRC was significantly lower than the increase of Union imports from India. Between the year of initiation of the original investigation in 2010 and the reporting period, the cooperating Indian exporting producers increased their imports from the PRC from 15,1 to 19,6 thousand tons (+ 29 %) and their exports to the Union from 6,6 to 18,6 thousand tons (+ 180 %).

(43) The investigation showed that the evolution of imports from the PRC was more closely correlated with the evolution of total sales than with the evolution of Indian exports to the Union.

(44) When Indian exports to the Union start to be a key sales driver, they logically correlate with the increase of Chinese imports. Yet the same would have occurred if sales had developed on the domestic or other export market.

(45) Despite the fact that the share of exports to the Union on total sales increased from 25 % in 2009-10 to 51 % in the reporting period, the ratio of Chinese imports on the total Indian sales remained stable around 50 %.

(46) This clearly shows the Indian producers were consistently using a combination of input material from the PRC and from other sources and the imposition of the original duties did not have any significant impact on this.

2.6.2. *Business model analysis*

(47) The business model of the companies accounting for the vast majority of exports to the Union has not changed since the imposition of the duties. They started the practice in question before the initiation of the original investigation against the PRC in September 2010.

(48) A due economic justification for this practice existed during the investigation period, shown by the fact that these companies were profitable before the initiation of the original investigation and remained profitable until and including the reporting period.

(49) It is important to note that the capability to produce the cold formed tubes requires significant investment in fixed assets, being depreciated over several years. The majority of the companies were equipped by the necessary fixed assets already before the initiation of the original investigation.

2.6.3. *Effect of the measures in force on Chinese exports on Indian exports to the Union*

(50) The average price of Indian SSSPT imported to the Union before the initiation of the original investigation was 10 % below the price of the SSSPT imported from the PRC. After the imposition of a duty following the original investigation, the Indian imports remained the cheapest source of imports on the Union market. The Commission notes that due to the possibly different structure of the product mix the average prices are not directly comparable. They however give a good indication of the price levels.

(51) After the imposition of the measures and the significant price increase of the Chinese imports, the Union demand naturally opened the opportunity for other exporting countries, which the Indian products at competitive prices were well placed to exploit.

(52) Even when the share of exports to the Union increased over the investigation period, the Union market was already an important export destination for Indian producers before the initiation of the original investigation.

(53) Therefore, it was concluded that there were reasonable economic grounds, other than the imposition of duties on imports of SSSPT originating in the PRC, for the change in the pattern of trade referred to in chapter 2.3.3 above.

3. DISCLOSURE

(54) All interested parties were informed of the essential facts and considerations leading to the above conclusions and were invited to comment. The applicant submitted additional information in its comments to final disclosure.

(55) The applicant questioned the Commission's decision not to verify the sole cooperating Chinese producer. The Commission did not verify the data provided by the cooperating Chinese producer as its exports to India represented a negligible share of the Chinese exports to India and would not have brought any added value to the investigation. Consequently, this claim was rejected.

(56) The applicant alleged that the Commission dismissed the fact that the majority of Chinese exports to the USA are declared as cold formed. The Commission confirmed that the Chinese exports to the USA were not in the scope of its investigation and did not see any relevance of the Chinese exports to the USA to the current case. The Commission thus dismissed this claim.

(57) The applicant further claimed that the production equipment used by some Indian producers only allows them to produce the product under investigation starting from cold formed tubes. The verification of the production facilities of the Indian exporting producers showed that they are capable of producing the SSSPT they exported to the Union from hot formed tubes. Consequently, this claim was rejected.

(58) The applicant also questioned the Commission's conclusion concerning the unchanged business model of the exporting producers accounting for the vast majority of exports to the Union. The Commission rejected this claim as all verified companies exporting to the Union in the reporting period (except one producer which sold an insignificant quantity to the Union) started the practice in question, that is importing hot formed tubes from the PRC and producing and selling SSSPT domestically and for export, before the initiation of the original investigation.

(59) The applicant also stated that the Commission based its findings on the classification of imports from the PRC to India as reported by Indian import data, rather than considering the classification reported in the Chinese export statistics. As set out above, the Chinese statistics shows export of cold formed tubes, whereas the Indian statistics shows import of hot formed tubes. The applicant further argued that if the Commission was to base its conclusions on the Indian import statistics, then the Commission should have found circumvention of the measures in force, as 45 % of the like products imported from the PRC into India in 2015 were declared as line pipes. According to the applicant, no processing that could take place in India would change the origin of these pipes from Chinese origin. Finally, the applicant noted that no further research was undertaken nor conclusion reached with regard to the accuracy of the data in the Indian import statistics.

(60) Due to the contradicting data provided by both the Chinese export and Indian import statistics, the Commission did not base its findings on this statistical data. In fact, given the very high degree of cooperation, the Commission's conclusions were based on the verified information provided by the cooperating Indian producers. The investigation focused on the actual company-specific data, confirming the nature of the semi-finished products that enter the Indian mills, the degree of their processing in those mills and the economic justification for such activity.

(61) As regards the customs legislation regarding rules of origin, the Commission noted that an anti-circumvention investigation takes into account but does not rely exclusively on customs legislation to determine whether circumvention of the measures in force is taking place or not. Furthermore, the applicant refers only to imports of line pipe from the PRC into India. Indeed, the export volume of line pipes from India to the Union is almost 90 % lower than the imports of line pipe from the PRC to India alleged by the applicant. However, the investigation found no evidence that these limited exports of line pipe from India to the Union were circumvented within the meaning of Article 13(1) of the basic Regulation. Consequently, these claims were rejected.

(62) The applicant suggested that the Commission's conclusion that the Indian producers have almost exclusively bought hot formed tubes was reached exclusively on the basis of their purchase orders. The Commission rejected this claim, as it reached its conclusions on the basis of all information at its disposal, not merely on the basis of the purchase orders. During the verification in India the Commission examined the semi-finished input material as well as the production process and the finished product of each verified Indian producer. Consequently, this claim was rejected.

(63) The applicant further suggested that the Commission found no proof that the Chinese producers did not deliver hot pierced pipes that were subject to a first cold forming step in the PRC, and the applicant maintains that the subsequent process in India would then be insufficient to confer origin. As there was almost complete non-cooperation of the Chinese exporting producers, the Commission made its findings regarding the stage of completion of the semi-finished products purchased from the PRC by the Indian producers on the basis of the verified information of the Indian producers. The Commission found no evidence that those have been already cold processed in the PRC. Furthermore, the nature of the verified Indian production process (including cold forming capability) and the willingness of the Chinese producers to supply the hot formed semi-finished tubes to India, contradicts the applicant's allegation.

(64) In addition, even if the applicant's claim that some semi-finished tubes delivered to India had undergone a limited level of cold processing in the PRC was substantiated, such processing would have had a limited effect on the work carried out in India. Indeed, as pointed out above, the Commission established that all verified exporting producers in India carried out a substantial transformation in India, and established an economic justification for this activity. Therefore, the Commission rejected those claims.

(65) In addition, the applicant provided a report regarding one Indian producer stating that certain pipes imported by this producer from the PRC as hot formed must have been further cold formed, as they cannot be produced in a hot rolled process via a cross roll piercing mill. The report is based on a detailed report of imports from the PRC by this single Indian producer.

(66) The Commission observed that the claim is limited to tubes obtained from the hot piercing process. However, both the hot piercing and hot extrusion process are used by Chinese producers. In addition, the investigation established that the Indian exporting producers import both extruded and pierced tubes. Therefore, this claim does not address the possibility that the tubes imported by this particular Indian mill were hot extruded. In addition, the import statistics for this particular producer were submitted to the Commission only after the final disclosure and could therefore not be verified. This claim was therefore rejected.

(67) The applicant provided an email confirmation from two selected exporting producers in the PRC, who declined to deliver hot pierced tubes and were only ready to offer cold formed pipes.

(68) Firstly, taking into account the significant number of exporting producers in the PRC (in the original investigation 31 groups of exporting producers cooperated), no conclusions can be drawn from the information provided by two of them. Secondly, the Commission noted that this does not address the issue of the Indian exporting producers being able to produce the product they export to the Union, but merely discloses the sales policy of those two Chinese exporting producers. The Commission therefore rejected this claim.

(69) The applicant claimed that there is no piercing mill in India capable of producing hot pierced tubes with a diameter over 4 inches and noted that this was not analysed by the Commission.

(70) The Commission noted that the SSSPT exported by the Indian exporting producers to the Union can be produced from hot formed pipes originating in both India and the PRC. The equipment available to the Indian exporting producers allows them to cold process Chinese hot formed pipes with a diameter above 4 inches. Therefore this claim was rejected.

(71) The applicant put into question the Commission's conclusion concerning the substantial transformation in recital 33 above, where the Commission described that the cold forming causes irreversible alterations of the product's essential characteristics and claimed that the cost of transformation is not substantial.

(72) The Commission first noted that the applicant did not contest that during the cold forming process the product changes its dimensions and its physical, mechanical and metallurgical properties. In its assessment, the Commission noted that the finding of non-circumvention under Article 13(1) of the basic Regulation was based in this case on the existence of a sufficient due cause and economic justification for the processing activities carried out in India. Therefore, it was not necessary to make a quantitative assessment of the costs of transformation. Consequently, this claim was rejected.

(73) The applicant pointed out that the Commission did not consider that the bulk of the Union imports from India prior to the imposition of the measures against the PRC were made by a subsidiary of one Union producer and proposed that the Commission adapt Table 1 by deducting those imports, which would result in a steeper increase of the imports from India after the imposition of the measures. The applicant also claimed that if the Commission would exclude those exports, then the Union could not be considered an important export market for Indian exporting producers before the initiation of the original investigation.

(74) Even if the exports to the Union of the aforementioned subsidiary of the Union producer in India, which were relatively stable over the investigation period were excluded, this would not change the assessment of the increase of Indian exports to the Union. Indeed, the Indian exports to the Union remained significant, resulting in the change in the pattern of trade explained in recitals 36 and 37 above. As regards the attractiveness of the Union market, the Commission refers to the analysis that took place during the original investigation.

(75) The applicant further claimed that contrary to the Commission's finding that the bulk of the increase of Indian imports from the PRC happened before the imposition of the measures, the increase of Indian imports from the PRC coincided with the opening of the investigation.

(76) The original investigation was initiated on 30 September 2010. Since SSSPT are typically made to order and not sold from stock, and taking into account the time to ship goods from the PRC to India by ocean freight, it is unlikely that the increase in the Chinese exports to India in 2009 and 2010 occurred after the date of initiation. In any case, this does not change the Commission's conclusion that the increase of Indian imports from China occurred well before the imposition of the measures nor its conclusion drawn in recitals 37 and 38 that there is a change in the pattern of trade, where the Commission is in agreement with the applicant.

(77) The applicant also argued that the ratio of Indian exports to the Union versus Indian imports from the PRC increased during the investigation period. Referring to the information in Table 2 above, indeed this ratio (D/B) increased from 54 % to 95 %. However, contrary to the allegation of the applicant, this does not show a change in the business model of the Indian producers, but only shows the increasing importance of the Union market for the Indian producers.

(78) To establish whether the business model of the Indian producers has changed, it was necessary to analyse their operations as a whole, rather than limiting the analysis to their sales to the Union. To analyse this, the Commission used the comparison of Indian imports from the PRC on the total Indian sales of the cooperating Indian companies. Therefore, the Commission rejected this claim.

(79) The applicant also claimed that cold drawing is not a process requiring significant investments in fixed assets and asked the Commission whether it has checked the capacity utilization before the start of the investigation period up to the reporting period.

(80) The Commission indeed verified the capacity utilisation of the cooperating Indian exporting producers, finding that the production capacity generally exceeded the actual production output throughout the investigation period. This supports the finding that the majority of the companies were equipped by the necessary fixed assets already before the initiation of the original investigation, as stated in recital 49 above. Furthermore, the Commission found that all verified exporting producers that exported to the Union in the reporting period were equipped by and were using pilger mills. Therefore, the Commission rejected the claim and maintained its finding concerning the requirement of significant investments stated in recital 49 above.

(81) In its comments concerning the findings set out in recital 50, the applicant compared the Eurostat data and discovered that the average Indian price of imports from India was higher than the price of exports from the PRC up to the year 2014.

(82) In recital 50 the Commission made a comparison of average prices in 2009 based on the statistics published in Tables 4 and 17 of Commission Regulation (EU) No 627/2011 [1], which showed a lower price for India. In any case, the applicant does not dispute that the Indian imports became the cheapest source of imports on the Union market after the imposition of the anti-dumping duty against the PRC. Consequently, this claim was also rejected.

4. TERMINATION OF THE INVESTIGATION

(83) In view of the above findings, the current anti-circumvention investigation should be terminated.

(84) The investigation showed that the cold processing represents a substantial transformation of the product and that there is due cause and economic justification other than the avoidance of the duty for any change in the pattern of trade between the PRC, India and the Union.

(85) The conditions laid down in Article 13(1) to consider that circumvention is taking place are therefore not fulfilled and the measures in force on imports of the product concerned originating in the PRC should not be extended to imports of the same product consigned via India, whether declared as originating in India or not.

(86) The registration of the imports of the product under investigation consigned from India, whether declared as originating in India or not, as introduced by Implementing Regulation (EU) 2017/272 should be discontinued.

(87) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion,

[1] OJ L 169, 29.6.2011, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

The investigation initiated by Implementing Regulation (EU) 2017/272 concerning the possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No 1331/2011 on imports of certain seamless pipes and tubes of stainless steel, currently falling within CN codes ex 7304 11 00, ex 7304 22 00, ex 7304 24 00, ex 7304 41 00, ex 7304 49 10, ex 7304 49 93, ex 7304 49 95, ex 7304 49 99 and ex 7304 90 00 (TARIC codes: 7304 11 00 11, 7304 11 00 19, 7304 22 00 21, 7304 22 00 29, 7304 24 00 21, 7304 24 00 29, 7304 41 00 91, 7304 49 10 91, 7304 49 93 91, 7304 49 95 91, 7304 49 99 91 and 7304 90 00 91) originating in the People's Republic of China by imports consigned from India, whether declared as originating in India or not, and making such imports subject to registration is terminated.

Article 2

Customs authorities are directed to discontinue the registration of imports established in accordance with Article 2 of Implementing Regulation (EU) 2017/272.

Article 3

Implementing Regulation (EU) 2017/272 is repealed.

Article 4

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 November 2017.

For the Commission
The President
Jean-Claude JUNCKER

OLAF's Manifest Distortion of Facts

	Anti-Circumvention Regulation	OLAF Final Report
Form of processing	Cold forming in India substantially transforms the product and irreversibly alters it	There is negligible or no transformation in India
Discrepancy between Chinese export and Indian import statistics	Discrepancy explained by the VAT rebate scheme in China – Indian import stats reliable	Chinese export stats reliable – Indian import stats flawed
Nature of evidence	Extensively verified	Unverified – based on information provided by a "trade source"
Economic justification	Sufficient due cause and economic justification of the processing	No economic justification, fraud in order to benefit from the evasion of AD duties
Hollow profiles	Verified that these are indeed hot formed mother tubes	Distorts the WCO definition of hollow profiles
Classification	Accepts import of mother tubes – trusts correctness of EU export classification	Rejects import of mother tubes – mistrusts overall conduct v. customs
Investigation period	1.4.2009 – 30.9.2016	2016 to 2018 (overlaps with DG Trade's)

OLAF FINAL Report

OCM(2019)15079 - 05/07/2019

EUROPEAN ANTI-FRAUD OFFICE

Directorate B
Director

All Member States
via AFIS MAB Mail

Brussels
LHJ - olaf.b.1.01(2019)14553
OLAF Investigations

Subject: **Information to all Member States on closure of an investigation**

Case No OF/2016/0680/B1 (Please include this number in all correspondence)

OLAF has now completed the above referenced investigation regarding the suspected evasion of anti-dumping duties imposed on seamless pipes and tubes pipes of stainless steel originating in the People's Republic of China (hereinafter PRC). It was suspected that the seamless pipes and tubes of stainless steel imported into the EU from India were of Chinese origin.

The analysis of Chinese and Indian statistics and the information received from a trade source indicated that there might be economic operators in India involved in importing, into India, Chinese seamless pipes and tubes of stainless steel and re-exporting of the same product to the EU or after insufficient transformation to obtain Indian origin, for the purpose of evading applicable anti-dumping duties.

During the investigation, the trade source provided data for certain companies in India of imports into India of seamless pipes and tubes of stainless steel from the PRC under HS heading 7304 and exports under the same HS heading to the EU.

From the data provided OLAF identified three companies in India importing significant quantities of products of heading 7304, in particular subheading 73 04 11 (land pipe of stainless steel used for oil or gas pipelines) from the PRC.

All the products imported from China were classifiable under heading 7304. Moreover, there were no imports of hollow profiles. Consequently, even if the pipes were subject of any processing in India, such processing does not fulfill the rules of origin laid down in Annex 22-01 of the UCC Delegated Act and in the "list rules" published on the DG TAXUD website.

In addition, OLAF analyses of the data demonstrate that a number of pipes imported from the PRC were merely trans-shipped via India without any transformation taking place in India.

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Pursuant to Article 9 paragraph 4 of Regulation (EU, EURATOM) No 883/2013, the legal persons concerned were given the opportunity to comment on the facts established in the course of the investigation.

The three Indian companies concerned, Krystal Steel, Suraj Limited and Maxim Tubes, were given an opportunity to comment on the facts established concerning the companies.

The comments received from Krystal Steel and Maxim tubes did not alter the conclusions established by OLAF in the present case. As regard Suraj Limited, in view of the company's possibility to produce seamless pipes and tubes of stainless steel from billets or other primary forms, which would confer Indian origin according to the origin rules, no conclusions could be drawn as to the real origin of the goods in question.

The overall analysis and the case findings indicate that all the seamless pipes of stainless steel exported by Krystal Steel and Maxim Tubes originated in the PRC. These pipes were originally brought from China and subsequently re-exported to the EU. Even if any processing took place in India, the processing was not substantial and in any event, did not fulfil the criteria to confer Indian origin.

Having completed all necessary investigative activities the Director-General of OLAF decided to close the investigation with Financial Recommendations to relevant customs authorities of to the Customs authorities of Austria, Belgium, Croatia, Czech Republic, Denmark, Estonia, France, Germany, Greece, Italy, the Netherlands, Poland, Portugal, Romania, Spain, Sweden and the United Kingdom, to undertake appropriate measures to ensure the recovery of EUR 53 385 518 in total as set out in the OLAF Final Report.

If you have any queries or need any further information about this case, please contact Mr. Leif Hein Jorgensen (e-mail: leif-hein.jorgensen@ec.europa.eu) or Mr. Jozef Krol (e-mail: jozef.krol@ec.europa.eu) of OLAF Unit B.1.

Your attention is drawn to the statement concerning the transfer of personal data below.

Yours faithfully,

Signed Electronically

on 05/07/2019 at 12:37 by
Ernesto Bianchi [DIRECTOR]

Statement concerning the transfer of personal data

The transfer of personal data to you falls within Article 9 of Regulation No 2018/1725 on the protection of natural persons with regard to the processing of personal data by Union Institutions, bodies, offices and agencies and of the free movement of such data and repealing Regulation (EC) 45/2001 and Decision N° 1247/2002/EC. Accordingly, as the Controller of the personal data hereby transmitted, you are responsible for ensuring that they are used only for the purposes for which they are transmitted. Processing in a way incompatible with that purpose, such as transferring it to another recipient where this is not necessary or legally required on important public interest grounds, is contrary to the conditions upon which the data has been transferred to you. Furthermore, according to Article 5(2) of Regulation 2016/679 or, where applicable, Article 4(2) of Directive 2016/680, you are required as the Controller of the personal data concerned to ensure that all obligations of the Controller are complied with.

EUROPEAN ANTI-FRAUD OFFICE

The Director-General

Brussels
LHJ - olaf.b.1.01(2019)14423
OLAF Investigations

RECOMMENDATION FOR ACTION TO BE TAKEN FOLLOWING AN OLAF INVESTIGATION

Case No OF/2016/0680/B1

OLAF has now completed the above referenced investigation regarding the suspected evasion of anti-dumping duties imposed on seamless pipes and tubes of stainless steel originating in the People's Republic of China (hereinafter PRC). It was suspected that the seamless pipes and tubes of stainless steel imported into the EU from India were of Chinese origin.

Having completed all necessary investigative activities I have now closed the investigation. Following the conclusions of the investigation as set out in the Final Report and in accordance with Article 11 of Regulation (EU, Euratom) No 883/2013, I recommend that:

> The competent Customs authority of Austria undertakes all appropriate measures to ensure the recovery of EUR 4 349 214 regarding the evasion of anti-dumping duties on imports of Chinese seamless pipes and tubes of stainless steel from India as set out in the attached OLAF Final Report and to prevent any further damage to the EU budget.

The conclusions of the investigation activities establish the existence of irregularities affecting the financial interests of the European Union.

The analysis of Chinese and Indian statistics and the information received from a trade source indicated that there might be economic operators in India involved in importing into India Chinese seamless stainless steel pipes and tubes and re-exporting of the same product to the EU or after insufficient transformation to obtain Indian origin, for the purpose of evading applicable anti-dumping duties.

During the investigation, the trade source provided data for certain companies in India of imports into India of seamless pipes and tubes of stainless steel from the PRC under HS heading 7304 and exports under the same HS heading to the EU. From the data provided

OLAF identified three companies in India importing significant quantities of products of heading 7304, in particular subheading 73 04 11 (land pipe of stainless steel used for oil or gas pipelines) from the PRC.

All the products imported from China were classifiable under heading 7304. Moreover, there was no imports of hollow profiles. Consequently, even if the Chinese pipes were subject of any processing in India, such processing does not fulfil the rules of origin laid down in Annex 22-01 of the UCC Delegated Act and in the "list rules" published on the DG TAXUD website.

In addition, OLAF analyses of the data demonstrate that a number of pipes imported from the PRC were merely trans-shipped via India without any transformation taking place in India.

Pursuant to Article 9 paragraph 4 of Regulation (EU, EURATOM) No 883/2013, the legal persons concerned were given the opportunity to comment on the facts established in the course of the investigation.

The three Indian companies concerned, Krystal Steel, Suraj Limited and Maxim Tubes, were given an opportunity to comment on the facts established concerning the companies.

The comments received from Krystal Steel and Maxim tubes did not alter the conclusions established by OLAF in the present case. As regard Suraj Limited, in view of the company's possibility to produce seamless pipes and tubes of stainless steel from billets or other primary forms, which would confer Indian origin according to the origin rules, no conclusions could be drawn as to the real origin of the goods in question.

The overall analysis and the case findings indicate that all the seamless pipes of stainless steel exported by Krystal Steel and Maxim Tubes originated in the PRC. These pipes were originally brought from China and subsequently re-exported to the EU. Even if any processing took place in India, the processing was not substantial and in any event, did not fulfil the criteria to confer Indian origin.

As a result of this investigation a total of in EUR 4 349 214 own resources has been identified as evaded at importation into Austria, which is recoverable based on the evidence obtained during the investigation. The duties are recoverable under Regulation (EU) No 952/2013 of the European Parliament and of the Council of the 9 October 2013, laying down the Union Customs Code (UCC).

Monitoring of implementation of Recommendation

In accordance to Article 11 paragraph 6 of Regulation (EU, Euratom) No 883/2013, please inform OLAF on any action or decision taken as a result of this Recommendation as soon as possible and in any event no later than 30/06/2020. This information will enable OLAF to monitor the outcome of its Recommendations. Please be advised that reports made in relation to this case in the OWNRES database require obligatorily references of both OLAF investigation, OF/2016/0680/B1, and AM message, AM/2017/007.

The investigator in charge of monitoring the implementation of this Recommendation is Leif Hein JORGENSEN, e-mail: leif-hein.jorgensen@ec.europa.eu, tel.: +32 2 295 58 60. If you have any queries, please do not hesitate to contact the investigator who will provide you with all necessary assistance.

Please be informed that OLAF Recommendations concerning this investigation are also being sent to the Customs authorities of Belgium, Croatia, Czech Republic, Denmark, Estonia, France, Germany, Greece, Italy, the Netherlands, Poland, Portugal, Romania, Spain, Sweden and the United Kingdom.

Your attention is drawn to the statement concerning the transfer of personal data below.

Signed Electronically

on 03/07/2019 at 17:34 by HOFMANN Margarete [DIRECTOR] by delegation from ITALA Ville [DIRECTOR GENERAL]

Statement concerning the transfer of personal data

The transfer of personal data to you falls within Article 9 of Regulation No 2018/1725 on the protection of natural persons with regard to the processing of personal data by Union Institutions, bodies, offices and agencies and of the free movement of such data and repealing Regulation (EC) 45/2001 and Decision N° 1247/2002/EC. Accordingly, as the Controller of the personal data hereby transmitted, you are responsible for ensuring that they are used only for the purposes for which they are transmitted. Processing in a way incompatible with that purpose, such as transferring it to another recipient where this is not necessary or legally required on important public interest grounds, is contrary to the conditions upon which the data has been transferred to you. Furthermore, according to Article 5(2) of Regulation 2016/679 or, where applicable, Article 4(2) of Directive 2016/680, you are required as the Controller of the personal data concerned to ensure that all obligations of the Controller are complied with.

EUROPEAN ANTI-FRAUD OFFICE

Directorate B
Unit B.1 – Customs & Trade Fraud

Brussels
LHJ - olaf.b.1.01(2019)14360
OLAF Investigations

FINAL REPORT

Case No OF/2016/0680/B1

Type of case	Investigation
Legal basis for the opening decision	Article 3 of Regulation (EU, Euratom) No 883/2013
OLAF Staff	Leif Hein Jorgensen – Investigator in charge, PN number: 117585 Jozef KROL – Head of Sector, PN number: 161318
Date of creation of OLAF case	11 July 2016
Date of opening decision	09 September 2016
Person(s)concerned	Maxim Tubes Company Pvt. Ltd. Krystal Steel Manufacturing Pvt. Ltd. Suraj Limited
Source of information	Trade
Fraud Notification System (FNS)	No
Offence category	Irregularity Fraud Customs
Area concerned	Customs (EU tradition own resources)
Investigative or Coordination activities carried out	Request for assistance to a third country Investigative mission to Spain 17 Member States involved AM Communications to Member States
Has the person concerned been notified of the opening of an investigation? Reason(s) for deferral?	No person concerned had been identified when the investigation was opened.

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Has the person concerned been given the opportunity to comment on facts concerning him?	Yes
Evidence of irregularity or fraud	Yes

Financial and other impact	
Impact on EU financial interests	Yes
Serious matters relating to discharge of professional duties	No
Estimated financial impact of the facts established	EUR 71 733 609 (total estimated amount of duties evaded)
Amounts prevented from being unduly spent/evaded	N/A
Judicial proceedings	No

Summary

This investigation concerns the suspected evasion of anti-dumping duties imposed on certain seamless pipes and tubes of stainless steel originating in the People's Republic of China (hereinafter PRC).

This case was opened by OLAF following information received from a trade source on imports of seamless pipes and tubes of stainless steel declared as originating in India. It was suspected to be of Chinese origin and therefore anti-dumping duties were evaded.

The trade source alleged two possible fraud modus operandi. The first relates to possible transhipment of pipes and tubes from the PRC to the EU via India. Alternatively there could be import into India of Chinese cold-finished products and re-export to the EU of the same product or after insufficient transformation as an Indian originating product.

The analysis of Chinese and Indian statistics and the information received from the trade source indicated that there might be economic operators in India involved in importing into India Chinese seamless pipes and tubes of stainless steel and re-exporting of the same product to the EU or after insufficient transformation to obtain Indian origin, for the purpose of evading applicable anti-dumping duties.

During the investigation, the trade source provided data for certain companies in India of imports into India of seamless pipes and tubes of stainless steel from the PRC under customs tariff heading 7304 and exports under the same heading to the EU.

From the data provided OLAF identified three companies in India importing significant quantities of products of heading 7304, in particular subheading 73 04 11 (land pipe of stainless steel used for oil or gas pipelines) from the PRC.

Based on information and documents obtained, it has been established that the three Indian companies concerned by this investigation, in the years 2016-2018, imported Chinese seamless pipes of stainless steel into India. The majority of them were re-exported to the European Union without or with slight transformation.

All the products imported from China were classifiable under heading 7304. Moreover, there were no imports of hollow profiles. Consequently, even if the pipes were subject of any processing in India, such processing does not fulfill the rules of origin laid down in Annex 22-01 of the UCC Delegated Act and in the "list rules" published on the DG TAXUD website.

In addition, OLAF analyses of the data demonstrates that a number of pipes imported from the PRC were merely trans-shipped via India without any transformation taking place in India.

Pursuant to Article 9 paragraph 4 of Regulation (EU, EURATOM) No 883/2013, the legal persons concerned were given the opportunity to comment on the facts concerning their companies established in the course of the investigation.

The three Indian companies concerned, Krystal Steel, Suraj Limited and Maxim Tubes, were given an opportunity to comment on the facts established concerning the companies. The comments received from Krystal Steel and Maxim tubes did not alter the conclusions established by OLAF in the present case. As regard Suraj Limited, in view of the company's possibility to produce seamless pipes and tubes of stainless steel from billets or other primary forms, which would confer Indian origin according to the origin rules, no conclusions could be drawn as to the real origin of the goods in question.

The overall analysis and the case findings indicate that all the seamless pipes of stainless steel exported by Krystal Steel and Maxim Tubes originate in the PRC. These pipes were originally brought from China and subsequently re-exported to the EU. Even if any processing took place in India, this processing was not substantial and in any event, did not fulfil the criteria to confer Indian origin.

The total estimated recoverable anti-dumping duties evaded amounts to approximately EUR 53 385 518 (anti-dumping duty rate of 71.9 % ad valorem).

1. Background information

1.1 Context

OLAF received information from a trade source concerning alleged customs fraud on imports of seamless pipes and tubes of stainless steel declared as originating in India, suspected to be originating in the People's Republic of China (hereinafter PRC), leading to the evasion of applicable anti-dumping duties.

The trade source alleged two possible fraud modus operandi. The first relates to possible transhipment of pipes and tubes from the PRC to the EU via India. Alternatively there could be import into India of Chinese cold-finished products and re-export to the EU of the same product or after insufficient transformation as an Indian originating product.

According to the Chinese database, there has been an increase of exports from the PRC to India of cold-finished products under HS code 7304 41 from 34 615 MT in 2011 to 42 166 MT in 2015, whereas exports from the PRC to India of hot-finished products under HS code 7304 49 were negligible.

Indian imports statistics shows a complete opposite picture. Indian imports from the PRC of cold-finished products under HS code 7304 41 are negligible, whereas Indian imports from China of hot-finished products under HS code 7304 49 increased from 4 835 MT in 2011 to 26 209 MT in 2015. According to Indian export statistics, India predominantly exports to the EU cold-finished products under HS code 7304 41. Therefore, it was suspected that the products at importation from the PRC to India were declared as semi-finished products (hot-finished) in order to demonstrate sufficient processing in India of the products exported to the EU (cold finished).

In view of the above-mentioned statistics and the information received from the trade source, it was decided to open an investigation into this matter.

1.2 Product concerned, classification, duties applicable and origin

1.2.1 Product concerned and classification

- *Tariff classification*

The product concerned is certain seamless pipes and tubes of stainless steel (excluding such pipes and tubes with attached fittings suitable for conducting gases or liquids for use in civil aircrafts), originating in the PRC and falling within the following CN codes:

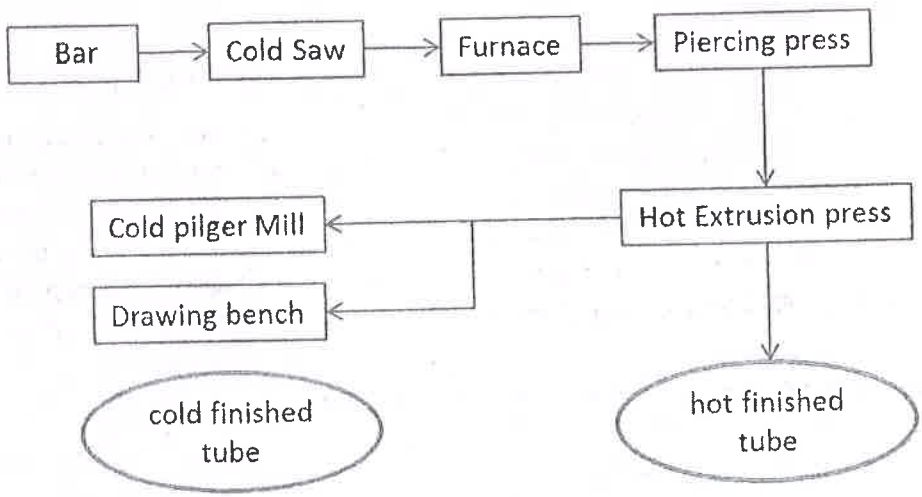
- 7304 11 00,
- 7304 22 00,
- 7304 24 00,
- ex 7304 41 00 (TARIC code 7304 41 00 90),
- 7304 49 10,
- ex 7304 49 93 (TARIC code 7304 49 93 90),
- ex 7304 49 95 (TARIC code 7304 49 95 90),
- ex 7304 49 99 (TARIC code 7304 49 99 90),
- ex 7304 90 00 (TARIC code 7304 90 00 91).

- *Production*

In the production process cylinders ('billets') of stainless steel are usually used as raw material.

According to the Technical Report attached as Annex 11 to this Final Report, there are four (4) conventional main processes to produce seamless pipes of stainless steel.

1. **The hot extrusion process**:

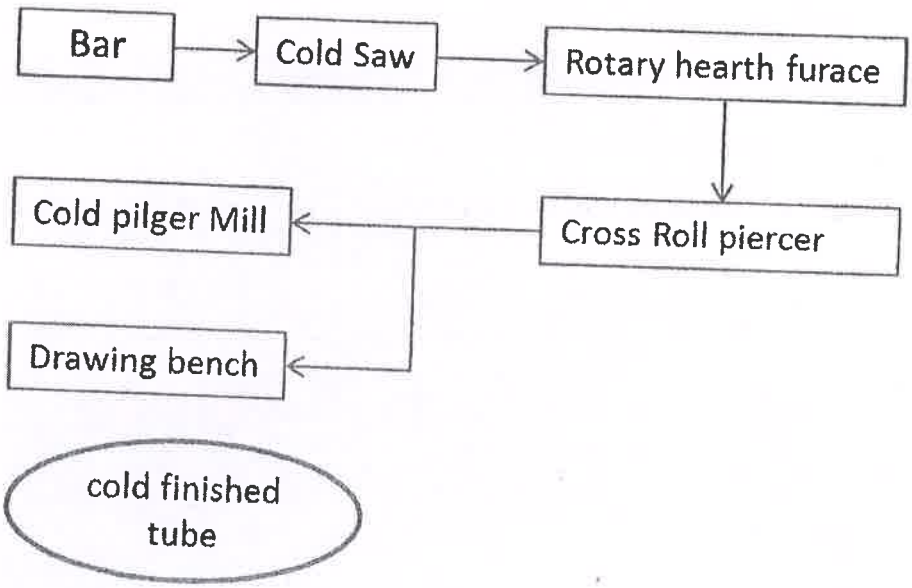


The steel bar is peeled, cut to length by a cold saw and heated in a furnace. The hot billet is pierced with a pre-hole, and then extruded on the hot extrusion press.

In the hot extrusion press, the hot material is pushed through a die and an inside tool called mandrel. The uniform deformation and the limiting die and mandrel allow to produce tubes with high accuracy, which can be sold as hot finished tubes.

For small and thin wall tubes these pipes will then be cold pilgered or cold drawn and are delivered as cold finished tubes.

2. The cross-roll piercer route:



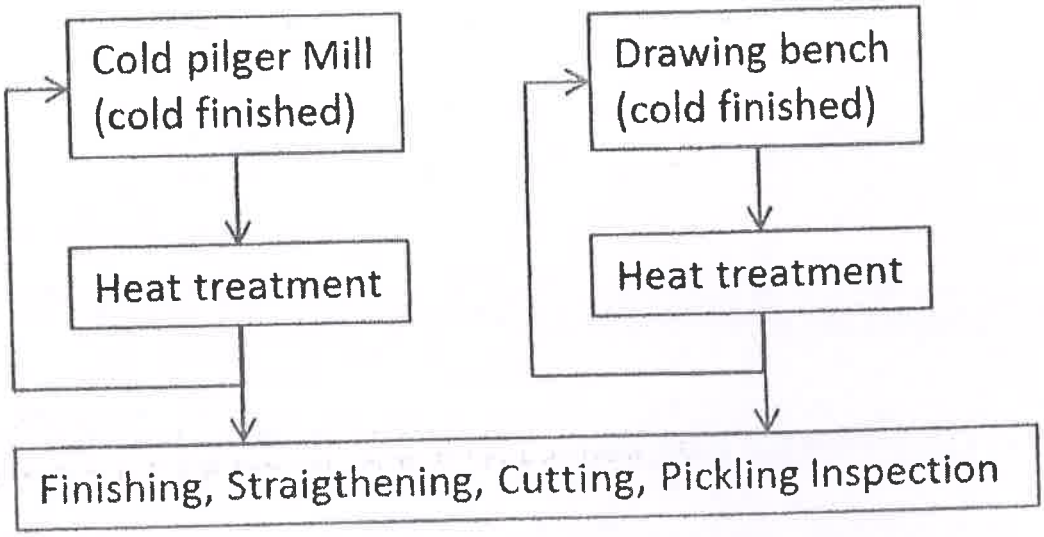
The steel bar is peeled, cut to length by a cold saw and heated in a furnace.

The hot billet is rolled into a cross-roll piercer, which consists of two rolls and an inside tool, called plug. Both rolls rotate in the same direction; the billet is rotating in the counter direction. The inclination of the rolls to each other causes an axial movement of the material over the plug. The material is deforming sequential in the gap between the rolls and the inside tool. This helical transport through the rolling gap can be observed at the rolled mother tube. The wall thickness and the diameter will show this helical profile.

Out of the cross roll piercer, products are mother tubes but do not meet the tolerances for direct delivery. The mother tubes are reworked (repaired) before the next process step of cold drawing or cold pilgering.

3-4. Cold pilgering and cold drawing processes:

For both cold finishing processes a mother tube is the starting material, either from hot extrusion or from cross roll piercing.



In the cold drawing process, the diameter and/or wall thickness is reduced, by drawing the mother tube through a die and eventually an internal tool, called mandrel. The uniform deformation and the limiting die and mandrel allow to produce tubes with high accuracy.

In the cold pilgering process, the mother tube is reduced between two rotating rolls and an inside tool, called mandrel. The rolls have a special groove which allows a deformation of the material in one half of the revolution. In the other half of the revolution the hollow and the mandrel are turned and moved forward, so the rotating rolls with the diminishing roll gap can deform the material. The deformation is done step by step over the whole circumference. The process provides a highly accurate tolerance.

To reach the desired diameter and/or wall thickness the processes (cold drawing and cold pilgering) must be repeated several times. Depending on the cold-hardening, the tubes are heat-treated between the individual process steps, and after the last process steps. The so produced tubes are sold as cold finished tubes.

This heat treatment is not considered as a hot process.

- *Chemical composition of stainless steel and its grades*

The stainless steel is defined in the Combined Nomenclature, note 1(e) to Chapter 72 as "Alloy steels containing, by weight, 1.2 % or less of carbon and 10.5 % or more of chromium, with or without other elements".

There are many grades of stainless steel from which pipes or tubes might be produced. Different grades have different chemical composition and different physical properties. There are several systems, according to which the grades are codified. The tables below are examples of stainless steel of grade 316L, its chemical composition and codification under various systems:

Chemical composition (%):

Grade		C (Carb.)	Mn (Mang.)	Si (Sili.)	P (Phosph.)	S (Sulf.)	Cr (Chrom.)	Mo (Molibd.)	Ni (Nick.)	N (Nitrog.)
316L	min	-	-	-	-	-	16.0	2.0	10.0	-
	max	0.03	2.0	0.75	0.045	0.03	18.0	3.0	14.0	0.10

Grade specification comparison:

Grade	UNS No	Euronorm		Swedish SS	Japanese JIS
		No	Name		
316L	S31603	1.4404	X2CrNiMo17-12-2	2348	SUS 316L

The steel grades codification is an important factor by which pipes imported/exported might be compared in order to find matching consignments.

- *Dimensions of pipes and their tolerances*

Two parameters are normally used to describe the pipe dimension, namely outer diameter (OD) and wall thickness. There are several ways to describe the pipe dimensions:

- Nominal Pipe Size (NPS), which is given in inches. However it does not mean that a pipe has exactly the dimension of specific inches indicated by the NPS. It is rather a non-dimensional parameter. For example 2" pipes have the outer diameter (OD) of 2.375" (60.3 mm), which is always the same. These pipes differentiate only with wall thickness.
- Nominal Diameter (DN), which is European designation equivalent to NPS (for NPS 2" pipe equivalent DN equals 50). It means that a pipe of DN 50 has outer diameter (OD) 60.3 mm.
- Schedule Designation (Sch. 5, Sch. 20, etc.) which defines wall thickness in relation to specific NPS and/or DN.

The following table shows examples of pipe measurement descriptions:

NPS (")	DN (mm)	OD (in) (mm)	Wall thickness [in (mm)]			
			Sch.5	Sch.10s/10	Sch.40s/40	Sch.80s/80/XS
4"	100	4.5" (114.30mm)	0.083" (2.108mm)	0.120" (3.048mm)	0.237" (6.02mm)	0.337" (8.56mm)

Taking into account the above, the following description: *4" NB x SCH 10S LENGTH 6,000 MTR TP-316L*) means a pipe of outer diameter 114.30 mm (4.5") of wall thickness 3.048mm (0.12") made of steel grade 316L. The list of possible pipe dimensions and their description is attached in Annex 1 to this Final Report.

In addition, for comparative purposes, tolerances in dimension should be taken into account. The tolerance is an important factor, as according to the industry and confirmed by the industrial export (see Annex 11 to this Final Report), it would be illogical and unlikely that processing was carried out in order to obtain another slightly different dimension, which is in a range of an acceptable tolerance.

Tolerances for seamless tubes and pipes:

Outside Diameter	Hot Extruded	Cold Finished		
EN ISO 1127 tolerance class	D2	D2	D3	D4
Permissible deviation	±1.0% (min.±0.5mm)	±1.0% (min.±0.5mm)	±0.75% (min.±0.5mm)	±1.0% (min.0.5mm)
Wall thickness	Hot Extruded ≤5mm	Hot extruded ≥5mm	Cold Finished	
EN ISO 1127 tolerance class	T1	T2	T3	
Permissible deviation	±15.0% (min.±0.6mm	±12.5% (min.±0.4mm	±10% (min.±0.2mm	

1.2.2 Duties rates

The product concerned is subject to 0% conventional duty rates and up to 71.9% of anti-dumping duties rates when products originate in the PRC[1]. These anti-dumping duties were imposed, the first time, in December 2011. If the products is originating in India it is not subject to payment of any duties (conventional and/or anti-dumping).

1.2.3 Origin Rules

For the application of EU trade policy, including anti-dumping measures, EU non-preferential origin rules are used to determine whether a product is originating in a certain country. The legal basis for the non-preferential origin rules is Articles 22 to 26 of the Community Customs Code[2] (hereafter CCC) which was in force until 30 April 2016. With regard to imports which have taken place since 1 May 2016, the provisions of the new Union Customs Code[3] (UCC) shall apply, in particular Articles 59 to 63 in respect of the non-preferential origin rules.

In accordance with Article 24 of the CCC and Article 60(2) of the UCC, when two or more countries are involved in the production, the goods are deemed to originate in the country where they underwent their last, substantial, economically justified, processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture.

Summarising, the following conditions must be met jointly to confer the origin of the country where allegedly the last processing took place:

1) processing constitutes substantial transformation which results in manufacture of a new product or it is representing an important stage of manufacture,
2) processing is done in undertaking equipped for that purpose,
3) processing is economically justified.

If one of the above conditions is not met, the origin of the country, in this case India, where the alleged last processing took place, is not conferred. In such case, the origin of the final product is determined by residual rules which for the product concerned would be the country in which the major portion of the materials originated, as determined on the basis of the value of the materials. In this case the country from where the goods were imported into India was the PRC.

According to Article 62 of the UCC, the Commission has been empowered to lay down detail rules concerning determination of non-preferential origin. As regards the first condition referred to above, for some products, specific rules of non-preferential origin were laid down in Annex 22-01 of the UCC Delegated Act (see Article 32), which has been in force since 1 May 2016. Seamless pipes and tubes of stainless steel are included in Annex 22-01 of the UCC Delegated Act.

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[1] Council Implementing Regulation (EU) No 1331/2011 of 14 December 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China
Commission Implementing Regulation (EU) No 2018/330 of 5 March 2018 imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China.

[2] Council Regulation (EC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L302, 19.10.1992), as amended.

[3] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p.1).

Before 1 May 2016 detailed rules concerning determination of non-preferential origin were laid down in Annex 11 of the Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (hereinafter IPC[4]). Seamless pipes and tubes of stainless steel were not specifically referred to in Annex 11 to the IPC. Nevertheless, for products not covered by a specific rule in the IPC, it has been commonly agreed at EU level that their origin should be determined in accordance with the position taken by the EU in the negotiations under the WTO Harmonisation Work Program which defines the same concept of "last substantial transformation". These "list rules" (published on the DG TAXUD website[5]) should be taken into account when interpreting Article 24 of the CCC and Article 60(2) of the UCC, provided that this does not result in an alteration of these articles (see jurisprudence of Court Judgements C-260/08, Heko Industrieerzeugnisse GmbH, paragraph 23, and C-373/08, Hoesch Metals and Alloys GmbH, paragraph 41).

In respect of seamless pipes and tubes of stainless steel, the rules of origin laid down in Annex 22-01 of the UCC Delegated Act and the rules included in the "list rules" published on the DG TAXUD website are the same.

In the case of the following subheadings: 7304 11 (line pipe of a kind used for oil or gas pipeline), 7304 22 (drill pipe), 7304 24 (casing, tubing of a kind used in drilling for oil or gas of stainless steel other than drill pipe), 7304 49 (pipes of circular cross section for other uses than mentioned above and not "cold finished"), 7304 90 (pipes of non-circular cross-section and for other uses than mentioned above), the rule of origin is change of tariff heading. Consequently, in order to confer Indian origin, non-originating material must not be a material classifiable under heading of 7304. It means in practice that in order to confer Indian origin, tubes and pipes should be produced from billets or other primary forms of goods under heading 7218 (stainless steel in ingots or other primary forms; semi-finished products of stainless steel).

In the case of subheading 7304 41 (pipes of circular cross-section, cold drawn or cold-rolled (cold-reduced) for other uses than mentioned above), the rule of origin is change of tariff heading or change from "hollow profiles" of subheading 7304 49. It means in this case that to confer Indian origin, in addition to the above mentioned conditions (production from billets or other primary forms), also production from "hollow profiles" classified under subheading 7303 49 is allowed.

In this regards, the WCO explanatory notes provide definitions for "tubes and pipes" and "hollow profiles". In accordance with these explanatory notes, the expressions "tubes and pipes" and "hollow profiles" have the following meaning:

(1) Tubes and pipes

Concentric hollow products, of uniform cross-section with only one enclosed void along their whole length, having their inner and outer surfaces of the same form. Steel tubes are mainly of circular, oval, rectangular (including square) cross-sections but in addition may include equilateral triangular and other regular convex polygonal cross-sections. Products of cross-section other than circular, with rounded corners along their whole length, and tubes with upset ends, are also to be considered as tubes. They may be polished, coated, bent (including coiled tubing), threaded and coupled or not, drilled, waisted, expanded, cone shaped or fitted with flanges, collars or rings.

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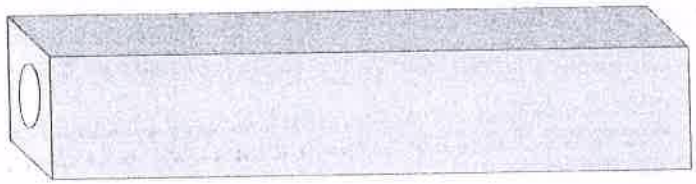
[4] Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p.1)

[5] http://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin/nonpreferential-origin/introduction_en

(2) Hollow profiles

Hollow products not conforming to the above definition **and mainly those not having their inner and outer surfaces of the same form.**

The hollow profiles may have different forms, however external and internal form should be different. For example products of inner form round and external form square are not pipes or tubes but "hollow profiles":



1.2.4 Processing input output coefficient in India

In the context of the second allegation (insufficient transformation), it should be mentioned that Indian Director General of Foreign Trade (DGFT) implemented a Standard Input Output Norms (SION) for all engineering products. According to this, for manufacturing of seamless tubes and pipes of stainless steel (cold finished) of 1 MT, the manufacturers in India can import 1.35 MT of seamless tubes or pipes (hot finished) of external diameter not less than 42 mm (see Annex 2 to this Final Report, norm number C831). This way the Indian companies may import approximately 1.35 MT of "hot finished" pipes for processing without payment of import duties in India if they subsequently export 1.00 MT of "cold finished" pipes.

2. Investigative activities carried out and evidence collected

2.1 Allegation provided by a trade source:

It was alleged by the trade source that the suspected fraud could be:

- Transhipment from the PRC to the EU via India;
- Import into India of Chinese cold-finished products and re-export of the same product or after insufficient transformation as an Indian originating product.

As regards modus operandi involving import from the PRC of "cold-finished" products and re-export of the same product or after insufficient transformation, the trade source alleged that in India there are currently only five (5) genuine producers with facilities to produce pipes from billets or other primary forms:

- Chandan Steel Limited,
- Ratnamani Metals & Tubes LTD.
- Sandvik India,
- Suraj Limited,
- Tubacex India.

The remaining producers only have capacity to produce cold-finished products. According to the trade source, the Indian companies who have not facilities to produce hot-finished or hollow profiles product, import the raw material from China, which is however in most cases already a cold-finished product.

The trade sources have alleged further that in China the hot cross roll piercing is used to produce pipes, which requires further cold-finished processing.
In particular, one of the trade sources alleged that *"supplies from China of mother pipes in India are imported under tariff heading 7304 49 meant for hot-finished tubes. The supplies are actually manufactured by hot piercing process, and cold-pilgered in China".*

Another trade source alleged that Chinese seamless stainless steel pipes are manufactured through hot piercing process, repairs, and cold work (drawing or pilgering). According to this trade source *"cold working is mandatory to remove the defect of hot piercing and to get the appropriate metallurgical and mechanical properties".*

In other words, both trade sources have alleged that the "cold finished" pipes exported from India to the EU were not processed in India and they were "cold finished" pipes imported from the PRC, which were however falsely declared at import into India as "hot finished". According to one of the trade sources even if the Chinese "cold finished" pipes had been transformed into "cold finished" pipes of different dimension, the added value in India would have been minimal and below 15% of a pipe value.

Indeed, in accordance with the origin rules transformation of Chinese "cold finished" pipe into another "cold finished" pipe would not confer Indian origin as both products are classified under the same heading. Moreover, the transformation of Chinese "hot finished" pipe into "cold finished" pipe would also be insufficient as "hot finished" pipes are also classified under the same heading as "cold finished" pipes.

In addition such processing could not be deemed as substantial transformation resulting in obtaining a new product or representing an important stage of manufacture.

2.2 OLAF verification of the allegation received

- *Transhipment from the PRC to the EU via India*

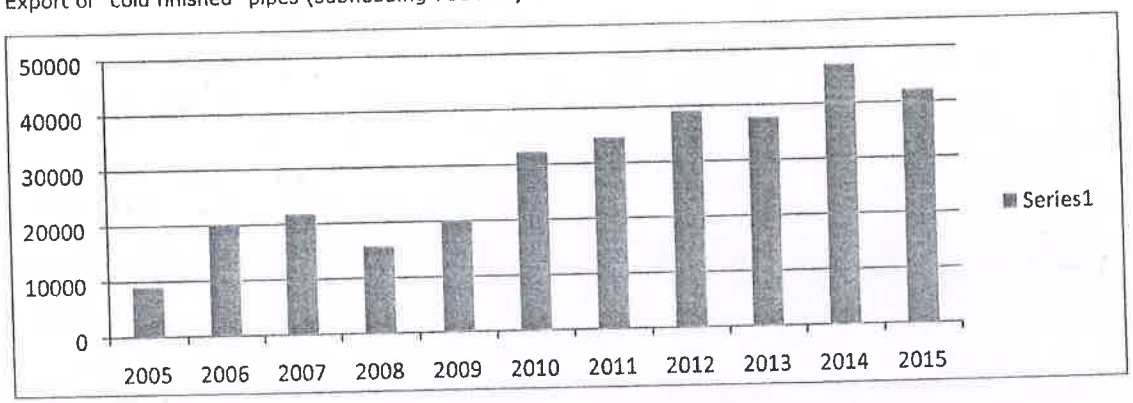
OLAF analysed information from the Chinese database (CTI) and EU surveillance data to identify potentially matching shipments based on the criteria of weight and date. Exports from the PRC to India were compared with matching shipments imported from India into the EU. The analysis revealed some consignments indicating transhipment. Concerned Member States were requested in September 2016 to identify corresponding imports and inform OLAF about the Indian exporter/consignor, the purpose of which was to establish a broader pattern of transhipment. However, no clear pattern of transhipment relating to particular exporters/consignors for India was identified. Further analysis indicated that certain individual companies in the PRC increased exports to India, but no clear overall indication of more general transhipment was established.

It should be noted that after obtaining Indian Customs data, it was possible to identify considerable number of consignments imported from the PRC to India and subsequently re-exported to the EU (see paragraph 2.4 below).

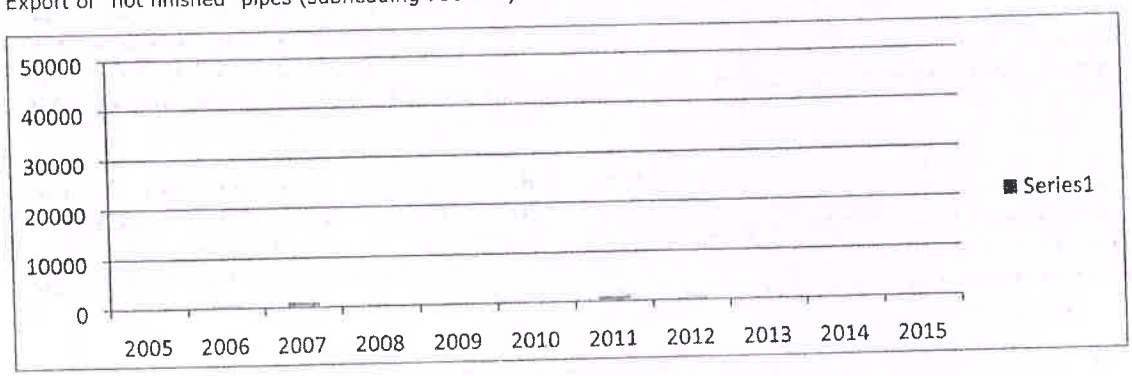
- *Import into India of Chinese cold-finished products and re-export of the same product or after insufficient transformation as an Indian originating product*

According to the Chinese database, there has been an increase of exports from the PRC to India of cold-finished products under HS code 7304 41 from 34,615 MT in 2011 to 42,166 MT in 2015, whereas exports from the PRC to India of hot-finished products under HS code 7304 49 were negligible. See the following charts:

Export of "cold finished" pipes (subheading 7304 41) from the PRC to India (in scale 0 to 50,000 T):

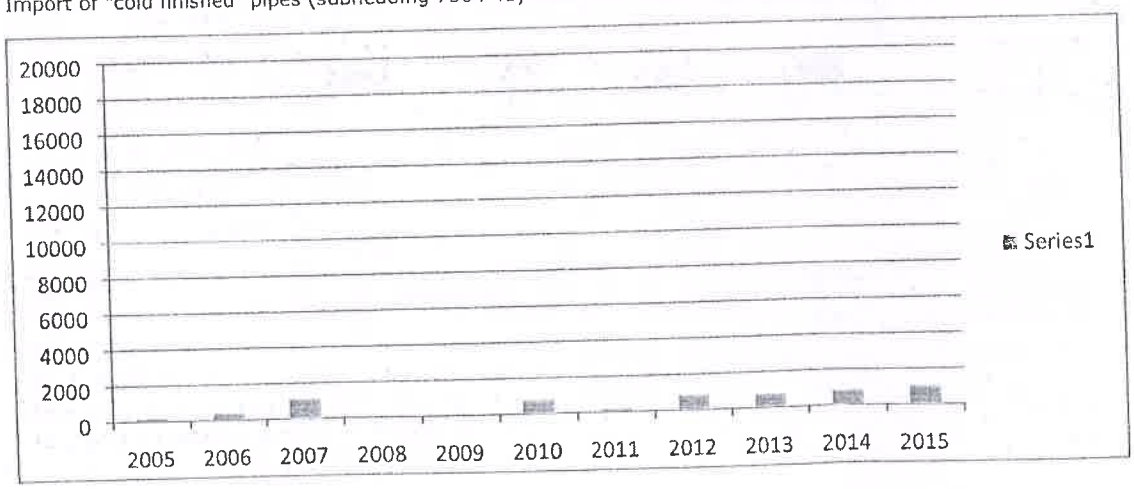


Export of "hot finished" pipes (subheading 7304 49) from the PRC to India (in scale 0 to 50,000 T):

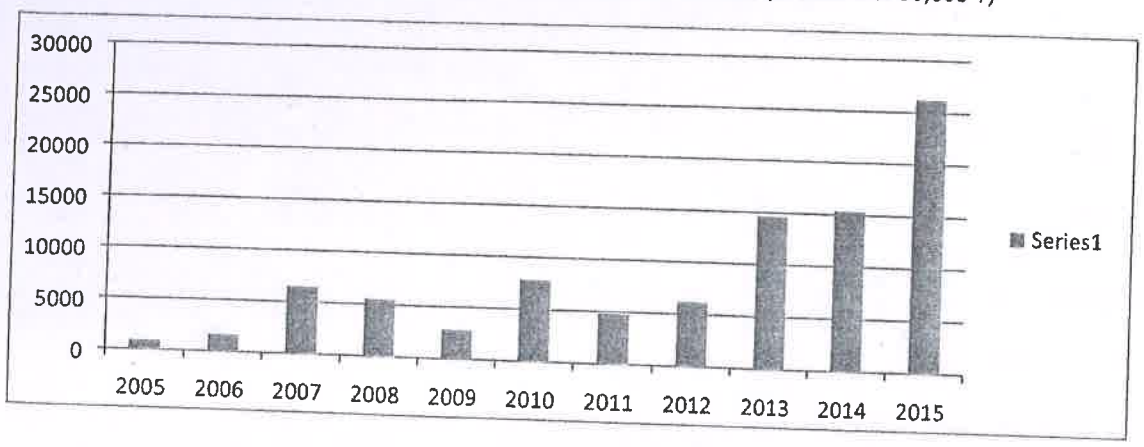


Indian imports statics shows a complete opposite picture. Indian imports from the PRC of "cold finished" products under HS code 7304 41 are negligible, whereas Indian imports from China of hot-finished products under HS code 7304 49 increased from 4 835 MT in 2011 to 26 209 MT in 2015. See the following charts:

Import of "cold finished" pipes (subheading 7304 41) from the PRC to India (in scale 0 to 30,000 T)



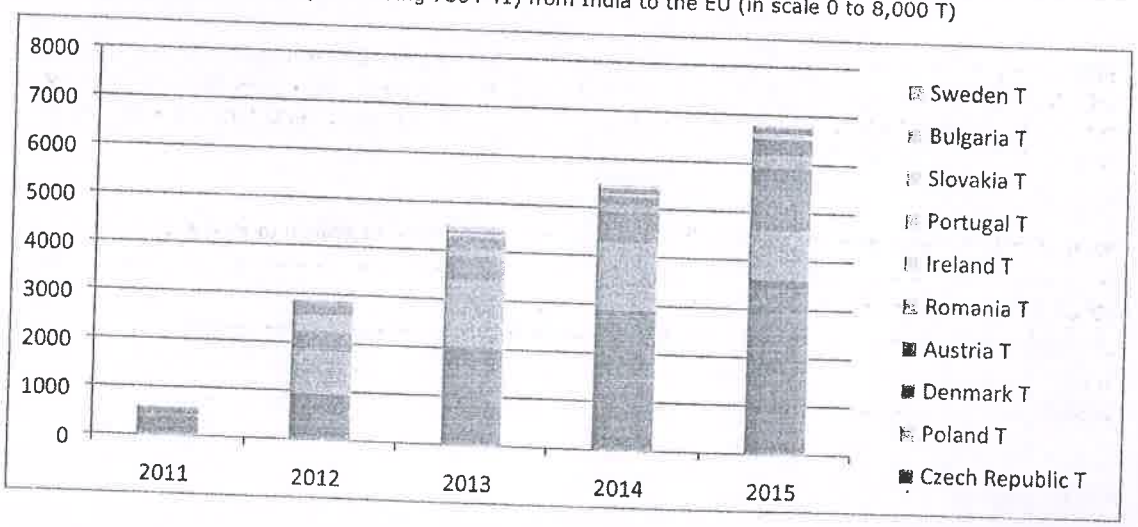
Import of "hot finished" pipes (subheading 7304 49) from the PRC to India (in scale 0 to 30,000 T)



The above charts show that according to Chinese statistics only "cold finished" pipes are exported from the PRC to India. On the other hand, Indian statistics show that only "hot finished" pipes are imported from the PRC to India. Therefore, it is very likely that the Chinese cold finished pipes at import to India are declared falsely as semi-finished (hot finished) products.

The above charts show that the importation of pipes from the PRC declared as "hot finished" increased after imposition of anti-dumping duties on Chinese seamless pipes and tubes of stainless steel in December 2011. In this context, it should be also noted that export of seamless pipes and tubes of stainless steel also increased from India to the EU after imposition of anti-dumping duties in December 2011.

Export of cold finished pipes (subheading 7304 41) from India to the EU (in scale 0 to 8,000 T)



In view of the above-shown statistics and the information received from the trade source, it has been confirmed that there might be economic operators in India involved in importing into India Chinese "cold finished" seamless stainless steel pipes and tubes and re-exporting of the same product to the EU or after insufficient transformation to obtain Indian origin, for the purpose of evading applicable anti-dumping duties.

In view of the above, in March 2017, OLAF informed Member States accordingly (AM 2007/007 of 8 March 2017, OCM(2017)4745 and requested them to provide customs data concerning imports of seamless pipes and tubes of stainless steel from India.

2.3. Anti-circumvention investigation

In February 2017 the Commission (the Directorate-General for Trade) opened an anti-circumvention investigation in respect of the same product based on the information provided by the trade source.

In November 2017 it was concluded that the anti-dumping duty imposed on goods originating in the PRC should not be extended. The anti-circumvention investigation was therefore terminated[6].

In this respect it should be clear that the determination was not made on the basis of customs provisions related to origin rules, but according to the provisions of the basic anti-dumping Regulation. Therefore, the conclusions of the DG TRADE investigation have no impact on the OLAF investigation.

In addition, DG TAXUD has been further consulted concerning the non-preferential rules of origin for goods classified under heading 7304.

DG TAXUD confirmed that the specific rules applicable for HS heading 7304 exported from India to the EU stipulate that the origin is acquired via a change in tariff heading. There is only one exception in respect of subheading HS 7304 41, which could acquire origin via a change from "hollow profiles" of subheading 7304 49.

2.4 Indian customs data on import and export of seamless pipes and tubes of stainless steel.

Following an OLAF request the trade source provided mid-January 2018 data for certain companies in India of imports into India of seamless pipes and tubes of stainless steel from the PRC under HS heading 7304 and re-exported goods under the same HS heading to the EU.

From the data provided OLAF identified three (3) companies in India importing significant quantities of heading 7304, in particular subheading 73 04 11 (land pipe of stainless steel used for oil or gas pipelines) from the PRC during the period January 2015 to November 2017:

- Krystal Steel Manufacturing Pvt. Ltd, Vadodara, Gujarat, India (hereinafter: Krystal Steel);
- Suraj Limited, Ahmedabad, Gujarat, India (hereafter: Suraj Limited)
- Maxim Tubes Company Pvt. Ltd, Ahmedabad, Gujarat, India (hereinafter: Maxim Tubes).

2.4.1 General evaluation of data received.

- Krystal Steel

According to the data provided (see Annex 3 to this Final Report), in the period from 1 January 2015 to 30 November 2017, Krystal Steel imported from the PRC 4 528 MT of seamless pipes of various stainless steel grade and dimensions, which were declared to

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[6] Commission Implementing Regulation (EU) 2017/2093 of 15 November 2017 terminating the investigation concerning possible circumvention of the anti-dumping measures imposed by Council Regulation (EU) N0 1331/2001.

Indian customs as "hot-finished". Out of this quantity, 3 648 MT were declared under suspension procedure (no duty paid), which means that they might have been brought to India with the intention of subsequent re-export (see paragraph 1.2.4 above).

During the same period Krystal Steel exported around 2 911 MT[7] of seamless pipes of stainless steel from India. The slight difference in quantities imported and exported might be explained by the missing export data for the period from October to November 2016 and the output input norms given by Indian Director General of Foreign Trade (DGFT) (see point 1.2.4 above), which give opportunity to re-export less "cold finished" product than "hot finished" raw materials. The products exported are "cold finished" seamless pipes of stainless steel products of subheadings 7304 11, 7304 24, and 7304 41.

Consequently, in order to obtain the Indian origin, the raw materials would have to be materials other than from heading 7304. In the case of subheading 7304 41, production from hollow profiles of subheading 7304 49 would have been allowed. Actually, the pipes imported from the PRC by Krystal Steel are classified under subheadings 7304 11 10 and 7304 11 90, which means that all the "raw materials" are classified under heading 7304 and in addition there are no products imported within code 7304 49 (where hollow profiles might be classified). Moreover, the given dimensions of the pipes (external diameter and wall thickness) clearly indicate that the subjects of import were pipes of circular cross-section and therefore possibility that the goods imported might have been hollow profiles can be excluded.

It means that the processing allegedly carried out by Krystal Steel does not meet the rules of origin laid down in Annex 22-01 of the UCC Delegated Act and in the "list rules" published on the DG TAXUD website.

In addition, it is clear that certain pipes imported under suspension regime are already finished products. For example, according to given description, at least 879 MT of pipes imported from the PRC fulfil criteria of the norm ASTM A312 and/or EN10216-5, which concerns **finished** pipes intended for high-temperature and general corrosive service. These pipes are finished products and they have specific requirements concerning finishing and mechanical properties.

- **Suraj Limited**

According to the data provided (see Annex 4 to this Final Report), in the period from 1 January 2015 to 30 November 2017, Suraj Limited imported from the PRC 8 865 MT[8] of seamless pipes of various stainless steel grade and dimensions, which were declared to Indian customs as "hot-finished". Out of this quantity, 8 260 MT were declared under suspension procedure (no duty paid), which means that they might have been brought to India with the intention of subsequent re-export.

During the same period Suraj Limited exported 9 977 MT[9] of seamless pipes of stainless steel from India. The slight difference to the quantity of pipes imported with the purpose of subsequent re-exportation might be explained by missing data. The products concerned by this investigation - cold finished seamless pipes of stainless steel – were exported under subheadings 7304 11 (35 MT), 7304 19 (5 219 MT), and 7304 41 (4 722 MT). It should be underlined that the tariff classification 7304 19 (as applied by Suraj Limited) is wrong as it does not apply to pipes of stainless steel. However, the description of the product

[7] It should be noted that the data provided does not include period from October to November 2016.
[8] It should be noted that the import data provided does not include period from October to November 2016 and October 2017, which means that real quantity imported from the PRC is higher.
[9] It should be noted that the export data provided does not include period from October to November 2016, however it includes October 2017.

("stainless", "seamless") and given grades confirms that the subject of exports were seamless pipes of stainless steel.

In order to obtain the Indian origin, the raw materials would have to be materials other than from heading 7304. In the case of subheading 7304 41, production from hollow profiles of subheading 7304 49 would have been allowed. Actually, the pipes imported from the PRC by Suraj Limited are classifiable under codes 7304 11 10 (6,051 MT), and 7304 49 00 (2,210 MT), which means that all the "raw material" is classified under heading 7304. The given dimensions of pipes (external diameter and wall thickness) indicate that the subjects of import were pipes of circular cross-section and therefore possibility that the goods imported might have been hollow profiles can be excluded.

It means that the processing allegedly carried out by Suraj Limited does not meet the rules of origin laid down in Annex 22-01 of the UCC Delegated Act and in the "list rules" published on the DG TAXUD website.

In addition, it is clear that certain pipes are already finished products. For example, in the case of at least 2,527 MT pipes imported, the given description clearly indicates that they fulfil criteria of the norm ASTM A312, which concerns **finished pipes** intended for high-temperature and general corrosive service. These pipes have specific requirements concerning finishing and mechanical properties.

- **Maxim Tubes**

According to the data provided (see Annex 5 to this Final Report), in the period from 1 January 2015 to 30 November 2017, Maxim Tubes imported from the PRC 20 391 MT of seamless pipes of various stainless steel grade and dimensions, which were declared to Indian customs as "hot-finished". Out of this quantity, 15 043 MT were declared under suspension procedure (no duty paid), which means that they might have been brought to India with the intention of subsequent re-exportation.

During the same period Maxim Tubes exported 12 838 MT[10] of different products from India, out of which seamless pipes of stainless steel constitute 12 502 MT. The slight difference to the quantity of pipes imported with the purpose of subsequent re-exportation might be explained by missing data and the output input norms given by Indian Director General of Foreign Trade (DGFT) (see point 1.2.4 above), which give opportunity to re-export less "cold finished" product in comparison to "hot finished raw materials" imported. The products concerned by this investigation - cold finished seamless pipes of stainless steel – were exported under subheadings 7304 19 (466 MT), 7304 31 (2 466 MT), and 7304 41 (9 570 MT). It should be underlined that the tariff classification 7304 19 and 7304 31 (as applied by Maxim Tubes) are wrong as they do not apply to pipes of stainless steel. However, the description of the product ("stainless", "seamless") and given grades confirms that the subject of exports were seamless pipes of stainless steel.

In order to obtain the Indian origin, the raw materials would have to be materials other than from heading 7304. In the case of subheading 7304 41, production from hollow profiles of subheading 7304 49 would have been allowed. Actually, the pipes imported from the PRC by Maxim Tubes under suspension regime are classifiable under subheadings 7304 11 (14 732 MT), 7304 49 (287 MT), and 7306 40 (24 MT). It should be underlined that the tariff classification 7306 40 is wrong as it does not apply to pipes of stainless steel. However, the description of the product ("stainless" and "seamless") and given grade, TP316, confirms that the subject of import were seamless pipes of stainless steel, which means that all the "raw materials" are classifiable under heading 7304. The given

[10] It should be noted that the export data provided does not include period from October to November 2016

dimensions of pipes (external diameter and wall thickness) indicate that the subjects of import were pipes of circular cross-section and therefore possibility that the goods imported might have been hollow profiles can be excluded.
It means that the processing allegedly carried out by Maxim Tubes does not meet the rules of origin laid down in Annex 22-01 of the UCC Delegated Act and in the "list rules" published on the DG TAXUD website.

In addition, it is clear that the pipes imported under suspension regime are already finished products. For example, in the case of at least 2 484 MT pipes imported, the given description clearly indicates that they fulfil criteria of the norm ASTM A312, which concerns **finished pipes** intended for high-temperature and general corrosive service. These pipes have specific requirements concerning finishing and mechanical properties.

2.4.2 Matching consignments

The data included very detailed product descriptions. Therefore, in the case of the above three companies, OLAF was able to identify a number of imports into India of Chinese goods under HS heading 7304 matched with exports of the same product from India to the EU. The matching was done based on the steel grades, dimensions and timeline. It means that at least in the case of the matching consignments found by OLAF, the Chinese seamless pipes and tubes of stainless steel were re-exported from India to the EU without any processing taking place in India.

The examples for each of the above companies are as follows:

- **Krystal Steel Manufacturing Pvt. Ltd, Vadodara, Gujarat, India**

Imports of seamless pipes and tubes of stainless steel from the People's Republic of China under code 73041110 (line pipes) by **Krystal Steel**:

Date	Code	Product Description	Origin	Qty	Unit
05-Aug-15	73041110	STAINLESS STEEL SEAMLESS(HOT FINISHED)PIPE ASTM A312 TP321SIZE: OD 26.70MM X WT 3.91MM X LENGTH 5.9-6.1M	China	304.00	KGS
05-Aug-15	73041110	STAINLESS STEEL SEAMLESS(HOT FINISHED)PIPE ASTM A312 TP321SIZE: OD 33.40MM X WT 4.55MM X LENGTH 5.9-6.1M	China	215.00	KGS

Export of seamless pipes and tubes of stainless steel from the India to Germany under code 7304410 (cold finished) by **Krystal Steel**:

Date	Code	Product Description			Destination Country
22/08/2015	73044100	STAINLES.STEEL SEAMLESS PIPES/TUBES (COLD FINISHED)SPECIFICATION-ASME SA 312 GRADE:TP 321 SIZE:3/4" NB X SCH 80 S	305	KGS	GERMANY
22/08/2015	73044100	STAINLES.STEEL SEAMLESS PIPES/TUBES (COLD FINISHED)SPECIFICATION-ASME SA 312 GRADE:TP 321 SIZE:1" NB X SCH 80 S	216	KGS	GERMANY

The above tables show that the Indian company imported certain quantity of pipes from the PRC made of the steel grade TP321. Two weeks later the same quantity of pipes made from the same steel grade TP 321 was exported to Germany. On export the company used another methodology of dimension description, which means the following:

- Size 3/4"x SCH 80S means pipe of external diameter 26.7 mm of wall thickness 3.91 mm (see Annex 1)

- Size 1" x SCH 80S means pipe of external diameter 33.4 mm of wall thickness 4.55 mm (see Annex 1).

Consequently, it is concluded that the subject of import and export are the same pipes, which were not processed in India at all. In addition, it should be noted the steel grade TP 321 is rarely traded by this company, therefore any coincidence can be excluded.

- **Suraj Limited, Ahmedabad, Gujarat, India**

Imports of seamless pipes and tubes of stainless steel from the People's Republic of China under code 73041110 (line pipes) by **Suraj Limited**:

Date	Code	Product Description	Origin	Quantity	Unit
19-Aug-15	73041110	SEAMLESS STAINLESS STEEL PIPES (HOT FINISHED) GRADE TP317/317L SIZE(48.26MM OD X 3.45MM THK)	China	0.190	MTS
19-Aug-15	73041110	SEAMLESS STAINLESS STEEL PIPES (HOT FINISHED) GRADE TP317/317L SIZE(273.05MM OD X 7.33MM THK)	China	0.320	MTS
19-Aug-15	73041110	SEAMLESS STAINLESS STEEL PIPES (HOT FINISHED) GRADE TP317/317L SIZE(323.82MM OD X 7.87MM THK)	China	1.626	MTS
19-Aug-15	73041110	SEAMLESS STAINLESS STEEL PIPES (HOT FINISHED) GRADE TP317/317L SIZE(219.08MM OD X 6.61MM THK)	China	1.097	MTS

Exports of seamless pipes and tubes of stainless steel from India to Spain under code 73041910 (line pipes of non stainless steel(!)) by **Suraj Limited**:

Date	Code	Product Description	Quantity	Unit	Country
14-Sep-15	73041910	STAINLESS STEEL SEAMLESS TUBES AND PIPES(COLD FINISHED), 1 1/2" NB X SCH 40S PELENGTH:6.000 MTR RL . GRADE: 317/317L	0.191	MTS	SPAIN
14-Sep-15	73041910	STAINLESS STEEL SEAMLESS TUBES AND PIPES(COLD FINISHED), 10" NB X SCH 30 BE LENGTH:6.000 MTR RL . GRADE: 317/317L	0.320	MTS	SPAIN
14-Sep-15	73041910	STAINLESS STEEL SEAMLESS TUBES AND PIPES(COLD FINISHED), 12" NB X SCH 30 BE LENGTH:6.000 MTR RL . GRADE: 317/317L	1.630	MTS	SPAIN
14-Sep-15	73041910	STAINLESS STEEL SEAMLESS TUBES AND PIPES(COLD FINISHED), 8" NB X SCH 30 BE LENGTH:6.000 MTR RL . GRADE: 317/317L	1.101	MTS	SPAIN

The above tables show that the Indian company imported certain quantity of pipes from the PRC made of the steel grade TP317/317L. After less than one month the same quantity of pipes made from the same steel grade TP317/317L was exported to Spain. On export the company used another methodology of dimension description, which means the following:

- Size 1 1/2"x SCH 40S means pipe of external diameter 48.3 mm of wall thickness 3.68 mm (see Annex 1 to this Final Report),
- Size 10" x SCH 30 means pipe of external diameter 273.05 mm of wall thickness 7.798 mm (see Annex 1),
- Size 12" x SCH 30 means pipe of external diameter 323.85 mm of wall thickness 8.382 mm (see Annex 1),
- Size 8" x SCH 30 means pipe of external diameter 219.08 mm of wall thickness 7.036 mm (see Annex 1).

Consequently, it is concluded that the subject of import and export are the same pipes, which were not processed in India at all. The slight differences in wall thickness are in the range of applicable tolerances. In addition, it should be noted the steel grade TP317/317L is rarely traded by this company, therefore any coincidence can be excluded.

- **Maxim Tubes Company Pvt. Ltd, Ahmedabad – Mehsana Highway, Chhatral, District Gandhinagar, Gujarat, India**

Imports of seamless pipes and tubes of stainless steel from the People's Republic of China under code 73041110 (line pipes) by **Maxim Tubes**:

Date	Code	Product Description	Country Of Origin	QTY	UNIT
18-Jan-16	73041110	SEAMLESS STAINLESS STEEL PIPE (HOT FINISHED) GRADE TP317L (SIZE 273.03 X 12.7, LENGTH MTR 6.01)	China	9.465	MTS
18-Jan-16	73041110	SEAMLESS STAINLESS STEEL PIPE (HOT FINISHED) GRADE TP317L (SIZE 323.85 X 14.27, LENGTH MTR 6.01)	China	14.227	MTS

Exports of seamless pipes and tubes of stainless steel from the People's Republic of China under code 73044100 (line pipes) by **Maxim Tubes**:

Date	Code	Product Description	Quantity	Unit	Destination Country
23/01/2016	73044100	STAINLESS STEEL SEAMLESS PIPES AS PER ASME SA 312 (MW) TP-317L 273.00 MM OD x 12.70 MM (MW) WT x 6.000 Mtr Long	9.04	MTS	Romania
23/01/2016	73044100	STAINLESS STEEL SEAMLESS PIPES AS PER ASME SA 312 (MW) TP-317L 323.80 MM OD x 14.27 MM (MW) WT x 6.000 Mtr Long	14.16	MTS	Romania

The above tables show that the Indian company imported certain quantity of pipes from the PRC made of the steel grade TP317L. After one week the same quantity of pipes made from the same steel grade TP317L was exported to Romania. Consequently, it must be concluded that the subject of import and export are the same pipes, which were not processed in India at all. The slight differences in external diameter are in the range of applicable tolerances. In addition, it should be noted the steel grade TP317L is rarely traded by this company, therefore any coincidence can be excluded.

The full result of the OLAF analyses identifying considerable number of matching import and export consignments, is attached as Annex 6 to this Final Report.

In addition, certain matchings with Chinese customs database were established, which confirm that the seamless pipes and tubes of stainless steel exported from the PRC to India are "cold finished". An example is given in the following chart:

Sample Chinese export to India (Month)

Y/M	HS Code	Tariff description	Company Name	Monthly Quantity	Unit	Origin	Destination Country
2015/01	**73044190**	cold-drawn or cold-rolled tubes or pipes	ZHEJIANG HUADI STAINLESS STEEL GROUP CO LTD	**78,997**	KG	China	India

Sample Indian import from the PRC

Date	Importer Name	HS Code	Qty	Unit	Value $	Total Qty matched
22/01/2015	SURAJ LIMITED	**73041110**	25,537	KGS	109,291.29	
22/01/2015	SURAJ LIMITED	**73041110**	25,551	KGS	108,559.95	
22/01/2015	SURAJ LIMITED	**73041110**	27,909	KGS	99,149.55	**78,997**

The list of matching consignments of pipes and tubes of stainless steel exported from the PRC and imported in India is given in Annex 7 to this Final Report.

2.5 Cooperation with Indian Customs

Taking into account the above findings, OLAF approached the Indian Embassy of Brussels to conduct coordinated enquiries under the Agreement between the European Community and the Republic of India on cooperation and mutual assistance in customs matters.

In February 2018 OLAF sent a letter to the Indian Embassy, responsible for customs matters under the India EU Agreement on customs cooperation[11] requesting enquiries into the origin of consignments of seamless pipes and tubes of stainless steel imported to the European Union and declared as originating in India, but which are suspected of originating in the People's Republic of China.

The results of the analysis were presented to the Indian Embassy of Brussels. In addition, in order to conduct more detailed analyses, OLAF requested electronic extracts from Customs records of 1) all imports of goods under HS heading 7304 from China regardless of customs procedure used in India of the three companies concerned from 1 January 2015 to date, and 2) exports to the EU of the product under investigation classified under HS heading 7304 of the three companies from 1 January 2015.

During the meeting, it was stressed that Indian Director General of Foreign Trade (DGFT) implemented a Standard Input Output Norms (SION) for all Engineering products. According to this, for manufacturing of seamless tubes and pipes (cold finished) of 1 MT, the manufacturers in India can import 1.35 MT of seamless tubes or pipes (hot finished) of external diameter. This factor might explain why the Indian companies have incentive to describe Chinese "cold finished" pipes as "hot finished". This way they could import approximately 35% more material without paying any import duty in India.

Taking into account all the factors, OLAF believed that Indian authorities would have vital interest to investigate this phenomenon. In particular, OLAF proposed to be present at enquiries carried out by Indian Customs, in accordance with Article 14.4 of the Indian EU Agreement on customs cooperation.

Due to lack of response, in November 2018, OLAF contacted the EU delegation in order to liaise directly with Indian Directorate of Revenue Intelligence (DRI) in order to start joint enquiries in relation to pipes exported by the above three companies. However, no positive response has been received up to date.

2.6 Additional Indian customs data provided by the trade source

On 15 February 2019, OLAF received updated Indian import/export data from European Steel Tube Association (ESTA) which included missing data concerning years 2015-2017 and additional data concerning 2018 (see Annexes 8, 9 and 10 to this Final Report). The data has been checked by comparing with data already possessed by OLAF (in particular, import data provided by Member States). As result of this comparison, the reliability of the data has been confirmed.

The following charts show the trades with seamless pipes of stainless steel by the above three Indian companies:

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[11] Agreement between the European Community and the Republic of India on customs cooperation and mutual administrative assistance in customs matter (OJ L 304/25 of 30 September 2004).

Krystal Steel (figures based on Annex 3 and Annex 8)

2016	Quantity	Tariff codes used
Total import (PRC)	1 450.429 MT	7304 11 10
Import without duties paid (PRC)	1 255.311 MT	7304 11 10
Total export	1 184.089 MT	7304 11 10 (*12.535 MT*) 7304 24 00 (*12.374 MT*) 7304 41 00 (*1 159.180 MT*)
Export to the EU	1 154.733 MT	7304 11 10 (*12.535 MT*) 7304 24 00 (*12.374 MT*) 7304 41 00 (*1 129.824 MT*)
2017 (Jan-Nov)	Quantity	Tariff codes used
Total import (PRC)	1 276.839 MT	7304 11 10
Import without duties paid (PRC)	804.390 MT	7304 11 10
Total export	918.551 MT	7304 41 00
Export to the EU	902.944 MT	7304 41 00
2018	Quantity	Tariff codes used
Total import (PRC)	1 959.600 MT	7304 11 10 (*1 150.003 MT*) 7304 11 90 (*648.733 MT*) 7304 19 10 (*154.874 MT*) 7304 41 00 (*5.450 MT*)
Import without duties paid (PRC)	1 339.246 MT	7304 11 10 (*806.500 MT*) 7304 11 90 (*432.456 MT*) 7304 19 10 (*100.290 MT*)
Total export	1 637.589 MT	7304 41 00
Export to the EU	1 637.184 MT	7304 41 00

Suraj Limited (figures based on Annex 4 and Annex 9)

2016 (Jan-Sep)	Quantity	Tariff codes used
Total import (PRC)	3,037.250 MT	7304 11 10 (*2 268.978 MT*) 7304 49 00 (*768.230 MT*)
Import without duties paid (PRC)	3 036.632 MT	7304 11 10 (*2 268.978 MT*) 7304 49 00 (*767.645 MT*)
Total export	2 950.406 MT	7304 11 10 (*27.200 MT*) 7304 19 10 (*1 271.845 MT*) 7304 41 00 (*1 651.361 MT*)
Export to the EU	2 287.037 MT	7304 11 10 (*11.700 MT*) 7304 19 10 (*838.144 MT*) 7304 41 00 (*1 437.193 MT*)
2017 (Jan-Nov)	Quantity	Tariff codes used
Total import (PRC)	2 357.470 MT	7304 11 10 (*311.270 MT*) 7304 49 00 (*1 982.660*) 7304 90 00 (*63.540 MT*)
Import without duties paid (PRC)	1 753.840 MT	7304 11 10 (*311.270 MT*) 7304 49 00 (*1 442.570 MT*)
Total export	2 933.045 MT	7304 11 10 (2.431 MT) 7304 41 00 (2 930.614 MT)
Export to the EU	2 065.081 MT	7304 41 00
2018	Quantity	Tariff codes used
Total import (PRC)	1 619.612 MT	7304 49 00
Import without duties paid (PRC)	1 448.192 MT	7304 49 00
Total export	1 869.123 MT	7304 41 00
Export to the EU	1 799.442 MT	7304 41 00

Maxim Tubes (figures based on Annex 5 and Annex 10)

2016	Quantity	Tariff codes used
Total import (PRC)	7 260.092 MT	7304 11 10 *(6 725.421 MT)* 7304 49 00 *(534.671 MT)*
Import without duties paid (PRC)	6 237.848 MT	7304 11 10 *(6 026.780 MT)* 7304 49 00 *(211.068 MT)*
Total export	3 557.913 MT	7304 41 00
Export to the EU	3 174.343 MT	7304 41 00
2017 (Jan-Nov)	Quantity	Tariff codes used
Total import (PRC)	7 085.947 MT	7304 11 10 *(6 958.870 MT)* 7304 49 00 *(127.077 MT)*
Import without duties paid (PRC)	3 851.597 MT	7304 11 10 *(3 851.580 MT)* 7304 49 00 *(0.017 MT)*
Total export	5 122.058 MT	7304 41 00
Export to the EU	3 913.529 MT	7304 41 00
2018	Quantity	Tariff codes used
Total import (PRC)	5 649.097 MT	7304 11 10 *(5 647.376 MT)* 7304 49 00 *(1.720 MT)*
Import without duties paid (PRC)	4 755.224 MT	7304 11 10
Total export	3 822.675 MT	7304 41 00
Export to the EU	3 815.030 MT	7304 41 00

The new information confirms the findings based on the previously obtained data. The given dimensions of pipes (external diameter and wall thickness) indicate that the subjects of import into India from the PRC were pipes of circular cross-section and, therefore, the possibility that the goods imported might have been hollow profiles can be excluded. The three (3) companies in India import pipes from the PRC in quantity similar to the quantity of pipes exported from the EU. It confirms the allegation that the pipes exported by the Indian companies are re-exports of Chinese pipes. Substantial portion of pipes imported from the PRC are put under inward processing, which allows for the companies subsequent re-exportation without paying of customs duties in India. In addition, in case of pipes of external diameter not less than 42 mm, if the pipes are hot finished, the manufacturers in India can import 1.35 MT for each 1 MT of cold-finished pipes re-exported from India.

All the products imported from the PRC are classifiable under heading 7304 and they are not hollow profiles. Consequently, the processing allegedly carried out by the three companies does not meet the rules of origin laid down in Annex 22-01 of the UCC Delegated Act and in the "list rules" published on the DG TAXUD website.

In addition, it is clear that the pipes imported are already finished product. In substantial number of cases, the given description clearly indicates that they fulfil criteria of the norm ASTM A312, which concerns **finished pipes** intended for high-temperature and general corrosive service. These pipes have specific requirements concerning finishing and mechanical properties.

2.7 Technical expertise

The data on imports of pipes from the PRC by the three (3) companies was made available to an industrial expert to obtain his opinion.

Based on the product description, the expert confirmed that the subject of importation from the PRC by the three (3) Indian companies were seamless pipes of stainless steel – see Annex 11 to this Final Report.

In addition, based on dimension of the pipes, in particular proportion of wall thickness to external diameter, an expert concluded that the substantial quantity of pipes imported from the PRC must be cold finished as such dimensions cannot be obtained in hot processing. These pipes are remarked in the Annexes 3 to 5 and Annexes 8 to 10 in red. Other pipes imported from the PRC might be obtained either after hot or cold processing. In principle, the expertise confirms the allegation that the imported pipes are not only finished but also cold finished. In such case the processing not only does not meet customs rules of origin (change of tariff heading) but the processing is also minimal.

Based on the technical expertise, it may be established that the Indian companies imported in 2016-2018 from China already cold finished pipes at least in the following quantities (for Maxim Tubes only years 2016-2017 were taken into account as description given in 2018 by this company misses dimension, therefore it was not possible to evaluate by the expert which pipes must be cold finished):

Krystal Steel – all the pipes imported from China are cold finished,

Suraj Limited – 2 805.061 MT, which constitute 40 % of all the pipes imported by the company from the PRC

Maxim Tubes – 7 127.223 MT, which constitute 50% of all the pipes imported by the company from the PRC.

It should be underlined that the other pipes might be either cold or hot finished. However, reference should be made to the Chinese export statistics, which indicate that majority of pipes exported from China to India were classified under codes relevant for cold finished products.

2.8 Summary and analysis of the evidence collected

Based on information and documents obtained, it has been established that the three Indian companies concerned by this investigation, in the years 2016-2018, imported Chinese seamless pipes of stainless steel into India. The majority of them were re-exported to the European Union without or with slight transformation.

All the products imported from the PRC were classifiable under heading 7304. Moreover, there was no imports of hollow profiles. Consequently, even if the pipes were subject of any processing in India, such processing does not fulfil the rules of origin laid down in Annex 22-01 of the UCC Delegated Act and in the "list rules" published on the DG TAXUD website.

The pipes imported from China by all the three (3) Indian companies were described as hot finished. In fact, in accordance with the expertise, substantial part of them were identified as cold finished. Other pipes might be either hot finished or cold finished as given dimensions do not allow for separation between cold and hot finished. Chinese statistics confirm that majority of pipes exported from China to India were cold finished and it appears that the Indian customs authorities were misled by the three Indian

companies concerned. Consequently, even if pipes were subject of any processing in India, such processing would be minimal.

In addition, OLAF analyses of the data demonstrates that a number of pipes imported from the PRC were merely trans-shipped via India without any transformation taking place in India.

The overall analysis and the findings indicate that all the seamless pipes of stainless steel exported by the three (3) Indian companies originate in the PRC. These pipes were originally brought from China and subsequently re-exported to the EU. Even if any processing took place in India, this processing was not substantial. This processing, in any event, did not fulfil the criteria to confer Indian origin.

3. Legal evaluation

The anti-dumping duties on imports of seamless pipes and tubes of stainless steel originating in the PRC were evaded by wrongly declaring the products as having Indian origin.

As mentioned above, an anti-dumping duty up to 71.9% is applicable to imports of seamless pipes of stainless steel when originating in the PRC.

These anti-dumping duties are recoverable under the relevant provisions of the Union Customs Code and its detailed rules which entered into force on 1 May 2016. Provisions of Community Customs Code and its implementing Regulation are applicable before that date accordingly.

In accordance with Article 103 of the Union Customs Code (since 1 May 2016) and Article 221 of the Community Customs Code, communication of the customs debt to the debtor shall not take place after expiry of a period of three years from the date on which the customs debt was incurred unless this period can be extended in accordance with Article 103(2) and Article 221(4), respectively.

In accordance with Articles 101 and 102 of the Union Customs Code (since 1 May 2016) and Articles 220 and Article 221 of the Community Customs Code (until 30 April 2016), the customs authorities are obliged to enter the duties evaded into the accounts as soon as they are in the position to calculate the amount legally owed and to determine the debtor.

In addition, in accordance with Article 103(2) of the Union Customs Code where the customs debt is incurred as the result of an act which, at the time it was committed, was liable to give rise to criminal court proceedings, the three-year period laid down shall be extended to a period of a minimum of five years and a maximum of 10 years in accordance with national law.

In according with jurisprudence, customs authorities can themselves determine whether an act could give rise to criminal proceedings at the time when it was committed. In this regard, a criminal conviction or even initiation of any criminal action is not necessary. Moreover, customs can still recover the customs debt, even if the criminal act can no longer be prosecuted or the debtor is not the person who committed that act.

The evidence collected by OLAF may be used in further proceedings in the Member States concerned.

4. Comments of the person(s) concerned

Pursuant to Article 9 paragraph 4 of Regulation (EU, EURATOM) No 883/2013, the legal persons concerned were given the opportunity to comment on the facts concerning their companies established in the course of the investigation.

The official letters to the companies concerned have been attached as Annexes 12, 13 and 14 to this Final Report.

None of the companies disputed the fact that seamless pipes and tubes of stainless steel under tariff heading 7304 were imported from the PRC and that goods under the same tariff heading 7304 were subsequently exported to the EU. Nevertheless, the comments of the companies concerned have been addressed below.

4.1 Comments of Krystal Steel

On 15 April 2019 OLAF received comments from Krystal Steel (Annex 15 to this Final Report). The company explained that it has five (5) pilger machines and six (6) draw benches to produce from the smallest diameter tubes to the biggest of 355 mm diameter pipes. It should be clear that such production is cold processing as explained under point 1.2.1 above.

The company explained that most part of the export business is carried out through advance licensing. The Authorisation for the Advance Licence Scheme allows for duty free imports of inputs, which are physically incorporated in the export product.

According to the reply from Krystal Steel, the company predominantly import the product concerned. However, the company also stated that it also sourced minor quantities of pipes from domestic companies. In this regard, the company argued that pipes purchased domestically are deemed of Indian origin.

It should be clear that Krystal Steel did not provide any records of input materials from potential domestic producers of seamless tubes and pipes of stainless steel. The company provided only a few examples of invoices from Indian traders. According to the invoices these traders are in fact importers and not producers.

In conclusion, the company did not provide any evidence that the pipes possibly sourced on the domestic market were of Indian origin. It is therefore clear that the company imported the product concerned from the PRC classified under heading 7304. The product, exported to the EU is also classified under heading 7304. The processing undertaken in Krystal Steel does not confer Indian origin.

In addition, the company did not provide any comments concerning the example of transshipment of Chinese products made by the company.

4.2 Comments of Suraj Limited

In a letter dated 27 Mach 2017 the company explained that it has the facility for the production of mother pipes required for seamless tubes and pipes (Annex 16 to this Final Report). According to the company it use stainless steel rolled round bars for the production of Mother Hollow Pipes. It was further explained that the company installed piecing mill in 2006 to produce mother pipes from round bars. Indeed, it is confirmed in the allegation provided by trade source that Suraj Limited is one of the five (5) Indian companies capable to produce pipes from bars (see paragraph 2.1 above).

The company did not provide any comments concerning the example of transshipment of Chinese products made by the company. Nevertheless, the company acknowledged that in some cases clients want raw material of Chinese origin as to be competitive in specific projects. According to company, in such cases, they use Chinese origin pipes from the PRC to produce seamless pipes of stainless steel.

The company finally informed OLAF that, during the period from January 2016 to December 2018, it bought 21 932 MT of raw material for the production and that it during the same period sold 20 840 MT of goods. This numbers significantly exceed the import/export data identified for Suraj Limited.

Production in India of seamless pipes and tubes of stainless steel from billets or other primary forms would confer Indian origin according to the origin rules (see point 1.2.3 above).

Therefore, in the view of the fact that the company has the capacity to produce seamless pipes and tubes of stainless steel of Indian origin, no conclusions could be drawn as to the real origin of the goods in question.

4.3 Comments of Maxim Tubes

On 15 April 2019 OLAF received comments from Maxim Tubes (Annex 17 to this Final Report). The company explained that it has three (3) halls used for the production containing a number of draw and pilger lines. It should be clear that such production is cold processing as explained under point 1.2.1 above.

It is clear from the reply of Maxim Tubes that the company solely produce from Chinese materials. It is explained that Maxim Tubes imports from China under subheading 7304 11. The company has been granted Authorisation for the Advanced Licence by relevant authorities of the Government of India enabling the company to import goods duty free. Maxim Tubes does not object to the import/export data of seamless pipes and tubes of stainless steel made by the company.

Maxim Tubes makes reference to findings of the anti-circumvention referred to under point 2.3 above. In this regard, Maxim Tubes is essentially arguing that this investigation concludes substantial transformation of the goods (i.e. imported seamless pipes and tubes from China) is taken place in the company. In reply to this, it is noted that this investigation was conducted on the basis of the basic anti-dumping Regulation. The issue whether the process is substantial enough to confer origin is of secondary importance in an anti-circumvention investigation. In this Regulation it was concluded that there was an economic justification for the process carried out in India and that the anti-dumping duty should not be extended to all products consigned from India, whether originating in India or not. This investigation has no impact on the non-preferential rules of origin as explained above.

As regards Standard ASTM A312, Maxim Tubes submits that the description does not exclude further significant cold processing before a product is final as per the recipient customer's instructions. While OLAF agrees that seamless pipes with standard ASTM A312 can be either hot-finished or cold-finished, it does not change the fact that the pipes meeting ASTM A312 are considered to be finished products. In addition, the expertise attached to this Report clearly indicate that at least 50% of the pipes imported from the PRC by Maxim Tubes must be cold-finished because such dimensions cannot be obtained in hot-finished processing.

Maxim Tubes argues that a fundamental characteristic of hollow profiles under subheading 7304 49 is their rough and unfinished exterior with often greater dimensional tolerances. The company further states that, accordingly, the transition from a hollow profile to a tube or pipe does not necessarily entail a change in size. These arguments are unfounded in the light of evidence collected and analysed by OLAF. As explained above under point 1.2.3, the WCO explanatory notes defines hollow profiles as not having inner and outer surfaces of the same form. In any event, Maxim Tubes solely imported goods classified under heading 7304 11, which does not include hollow profiles.

As regards the Law, Maxim Tubes rightly highlight that the rules of origin are contained in the UCC and the UCC Delegated Act. Maxim Tubes argued that the company's operations fulfill all the criteria under the principal rules of origin determination. The company refers to Article 24 of the CCC and Article 60(2). In this respect Maxim Tubes argues that the products imported from China undergo substantial processing in the company. In reply to this, it is noted that, apart from the by OLAF established examples of clear transshipment, OLAF does not question the claimed activities undertaken by the company. However, it should be clear that OLAF has determined whether the products exported to the EU have undergone a substantial transformation as an Indian originating product pursuant to applicable Customs Rules. In the present case Maxim Tubes imported Chinese seamless pipes and tubes of stainless steel classified under heading 7304 duty-free into India. Maxim Tubes exported to the EU seamless pipes and tubes of stainless steel under the same heading. OLAF concluded that according to the binding list rules of Annex 22-01 of the UCC Delegated Act, the goods exported to the EU retained the Chinese origin on the basis of the residual major portion rule indicated at chapter level.

Moreover, contrary to the claim of Maxim Tubes (se point 3.3) that the list rules of Annex 22-01 of the UCC Delegated Act are merely complementary and non-exhaustive, it is clear that to Article 62 of the UCC, the Commission has been empowered to lay down detail rules concerning determination of non-preferential origin. Article 32 of the UCC Delegated Act stipulates that *"Goods listed in Annex 22-01 shall be considered to have undergone their last substantial processing or working, resulting in the manufacture of a new product or representing an important stage of manufacture, in the country or territory in which the rules set out in that Annex are fulfilled or which is identified by those rules."* As mentioned above in under point 1.2.3 (Origin Rules), specific rules of non-preferential origin were laid down in Annex 22-01 of the UCC Delegated Act, which has been in force since 1 May 2016. These list rules are legally binding in determining the non-preferential origin. The claims of Maxim Tubes are therefore considered unfounded.

4.4 Conclusion on the comments received

The three Indian companies concerned, Krystal Steel, Suraj Limited and Maxim Tubes, were given an opportunity to comment on the facts established concerning the companies.

The comments received from Krystal Steel and Maxim tubes did not alter the conclusions established by OLAF in the present case.

As regard Suraj Limited, in view of the company's apparent capacity to produce seamless pipes and tubes of stainless steel from billets or other primary forms, which would confer Indian origin according to the origin rules, no conclusions could be drawn as to the real origin of the goods in question.

5. Estimated financial impact of the facts established

The facts established in this investigation have identified evaded anti-dumping duties that are recoverable within the framework of the Customs Code and its Implementing Provisions, and since 1 May 2016 the Union Customs Code.

The investigation established imports into the EU of seamless tubes and pipes of stainless steel from two (2) Indian companies, Krystal Steel and Maxim Tubes, for which Chinese origin has been established. These imports are therefore subject to payments of anti-dumping duties.

The financial impact of this case is established at EUR 71 733 609. The details are shown in Annex 18.

The estimated financial impact was calculated on the bases of the data communicated by Member States (Masterlists), declared exports from India to Member States which could not be matched with any imports, and declared exports from India to the respective Member States after submission by Customs of the Masterlists.

The estimation of recoverable duties evaded were calculated on the basis of the data communicated by Members States. In absence of such information, they were calculated on the basis of the Indian export customs data.

Due to the prescription time, some duties may not be recoverable unless circumstances described in Article 103(2) of the Union Customs Code occurred, in which case the legal prescription time can be extended. Therefore, in line with precautionary principle, for estimation of the amount of recoverable evaded anti-dumping duties, only imports as from January 2016 were taken into account. Moreover, declared exports from India to Member States which could not be matched with any imports were calculated for the purpose of estimation of financial impact however they were excluded for the purpose of estimation of the amount of recoverable evaded anti-dumping duties.

The detailed estimation of the anti-dumping duties evaded is presented in Annex 18 to this Final Report. The total amounts per Member State (in euros) are as follows:

Member States	*Anti-dumping duty (71.9%)*
AUSTRIA	EUR 4 349 214
BELGIUM	EUR 6 271 422
CROATIA	EUR 3 535
CZECH REPUBLIC	EUR 2 410 716
DENMARK	EUR 2 283 871
ESTONIA	EUR 35 278
FRANCE	EUR 3 781 456
GERMANY	EUR 6 148 050
GREECE	EUR 20 319
ITALY	EUR 5 612 968
NETHERLANDS	EUR 10 805 280
POLAND	EUR 1 853 680
PORTUGAL	EUR 89 391
ROMANIA	EUR 908 972
SPAIN	EUR 4 819 895
SWEDEN	EUR 9 122
UNITED KINGDOM	EUR 3 982 350
TOTAL	EUR 53 385 518

6. Conclusions

Based on information and documents obtained, it has been established that the three Indian companies concerned by this investigation, in the years 2016-2018, imported Chinese seamless pipes of stainless steel into India. The majority of them were re-exported to the European Union without or with slight transformation.

All the products imported from China were classifiable under heading 7304. Moreover, there was no imports of hollow profiles. Consequently, even if the pipes were subject of any processing in India, such processing does not fulfil the rules of origin laid down in Annex 22-01 of the UCC Delegated Act and in the "list rules" published on the DG TAXUD website.

In addition, OLAF analyses of the data demonstrates that a number of pipes imported from the PRC were merely trans-shipped via India without any attempt at transformation taking place in India.

Pursuant to Article 9 paragraph 4 of Regulation (EU, EURATOM) No 883/2013, the legal persons concerned were given the opportunity to comment on the facts concerning their companies established in the course of the investigation.

The comments received from two Indian companies, Krystal Steel and Maxim tubes, did not alter the conclusions established by OLAF in the present case. As regard the third company, Suraj Limited, in view of the company's possibility to produce seamless pipes and tubes of stainless steel from billets or other primary forms, which would confer Indian origin according to the origin rules, no conclusions could be drawn as to the real origin of the goods in question.

The overall analysis and the case findings indicate that all the seamless pipes of stainless steel exported by Krystal Steel and Maxim Tubes originated in the PRC. These pipes were originally brought from China and subsequently re-exported to the EU. Even if any processing took place in India, this processing was not substantial and in any event, did not fulfil the criteria to confer Indian origin.

As a result of the analysis and investigative steps taken by OLF, with the support of the Member States, a total of EUR 53 385 518 in EU traditional own resources (anti-dumping duties) has been identified as evaded, which is recoverable by the Member States concerned based on the evidence obtained by OLAF.

OLAF has fulfilled its role by conducting investigative activities, collating and analysis the available evidence and providing it to the Member States.

Signed Electronically

on 19/06/2019 at 17:03 by JORGENSEN Leif Hein [LEAD INVESTIGATOR]

on 19/06/2019 at 17:18 by
James Hugh Sweeney [HEAD OF UNIT]

on 20/06/2019 at 09:44 by
Ernesto Bianchi [DIRECTOR]

Annexes	
No	***Description***
1	Nominal pipe dimensions
2	Standard Input Output Norm C831
3	Import and Export data – Krystal Steel – January 2015 to November 2017
4	Import and Export data – Suraj Limited – January 2015 to November 2017
5	Import and Export data – Maxim Tubes – January 2015 to November 2017
6	Matching import and export consignments in India
7	Matching consignments with Chinese export
8	Additional Import and Export data – Krystal Steel
9	Additional Import and Export data – Suraj Limited
10	Additional Import and Export data – Maxim Tubes
11-1	Technical Report ESTA
11-2	CV of Technical Expert
12	Opportunity to comment letter Krystal Steel - 15.03.2019
13	Opportunity to comment letter Suraj Limited - 15.03.2019
14	Opportunity to comment letter Maxim Tubes - 15.03.2019
15	Reply from Krystal Steel - 15 April 2019
16	Reply from Suraj Limited – Letter dated 27.03.2019
17	Reply from Maxim Tubes - Comments CONFIDENTIAL - 15 April 2019
18	Krystal and Maxim - Financial impact and estimated anti-dumping duties to be recovered by Member States
18.1	Calculations Austria
18.2	Calculations Belgium
18.3	Calculations Croatia
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18.9	Calculations Greece
18.10	Calculations Italy
18.11	Calculations Netherlands
18.12	Calculations Poland
18.13	Calculations Portugal
18.14	Calculations Romania
18.15	Calculations Spain

18.16	Calculations Sweden
18.17	Calculations United Kingdom

SION

			2		Cellulose Film/BOPP Film (Wrapper for packing)	40 kgs
			3		Hanging Cards (20 tucks in a card)	10500 Nos
			4		Tucks (5 blades)	210000 Nos
			5		Vydax/Krytox	0.700 Kg
			6		Alumina Abrasive Grinding Wheels (OD 205 mm Maximum x ID 55 mm Minimum x Width 130 mm Maximum)	2 Pcs
Note.1. Import of handle may also be allowed on net to net basis with accountability clause where the product is exported alongwith the handle.						
C830	**Stainless Steel Saucepan with copper bottom of different sizes**	**1 kg**	1		Stainless Steel Sheets conforming to AISI 304	1.30 kg/kg content in export product
			2		Copper Sheets 2 MM	1.05 kg/kg content in export product
C831	**Stainless Steel Seamless Tubes/Pipes (Cold Finish)**	**1 MT**	1		Seamless Stainless Steel Tubes/Pipes (Hot Finished) (OD not less than 42 mm)	1.35 MT
			2		Consumables viz. Band Saw Blades/ Lubricating Oil	Upto 2% of FOB value of export.
C832	**Table, Kitchen & other household articles made of Stainless Steel with or without handle/ lid/ antiskid gasket irrespective of what material the handle/lid/ antiskid gasket may have been made of (other than those covered under the SION C-833)**	**1 kg**	1		Magnetic/Non-magnetic Stainless Steel Sheet/Coils	1.30 kg/Kg content in the export product.
			2		Misc. Items:	CIF Value Limited to 5% of FOB Value
					Die steel & HSS Cutting Tools,	
					Coated abrasive cloth belts, brushes & wheels,	
					Non-woven cloth pads, wheels & brushes (both impregnated & non - impregnated),	
					Sisal Fibre & Sisal Buffs &	
					Bonded Emery Grinding Wheels	
C833	**Table, Kitchen & other household articles made of Stainless Steel with or without handle/ lid/ antiskid gasket irrespective of what material the handle /lid antiskid gasket may have been made of (rectangular/ square with straight edges)**	**1 KG**	1		Magnetic/Non-magnetic Stainless Steel Sheet/Coils	1.125 kg/kg content in export product.
			2		Misc. Items:	CIF Value Limited to 5% of FOB Value
					Die Steel HSS Cutting Tools,	
					Coated abrasive cloth belts, brushes & wheels,	
					Non-woven cloth pads, wheels & brushes (both impregnated & non - impregnated),	
					Sisal Fibre & Sisal Buffs &	
					Bonded Emery Grinding Wheels	
C834	**Stainless Steel Vacuum Flask**	**1 Kg**	1		Stainless Steel Coils AISI 304 Gr. 0.4 mm to 1 mm Thickness	1.45 Kg/Kg Content in Export
			2		Getter Pills	Net to net
			3		Polypropylene/Polyethylene Granules/Moulding Powder	1.05 Kg/Kg content in export
			4		Nylon Belt	Net to net
			5		Relevant packing materials	1.05 Kg/Kg content in export
			6		Silicon Rubber	Net to Net

Indian HS code

CHAPTER 73

ARTICLES OF IRON OR STEEL

NOTES:

1. In this Chapter, the expression "cast iron" applies to products obtained by casting in which iron predominates by weight over each of the other elements and which do not comply with the chemical composition of steel as defined in Note 1 (d) to Chapter 72.

2. In this Chapter the word "wire" means hot or cold-formed products of any cross-sectional shape, of which no cross-sectional dimension exceeds 16 mm.

Exim Code	Item Description	Policy	Policy Conditions
7301	**SHEET PILING OF IRON OR STEEL, WHETHER OR NOT DRILLED, PUNCHED OR MADE FROM ASSEMBLED ELEMENTS; WELDED ANGLES, SHAPES AND SECTIONS, OF IRON OR STEEL**		
7301 10 00	Sheet piling	Free	
7301 20	***Angles, shapes and sections:***		
7301 20 10	Steel slotted angles	Free	
7301 20 90	Other	Free	
7302	**RAILWAY OR TRAMWAY TRACK CONSTRUCTION MATERIAL OF IRON OR STEEL, THE FOLLOWING: RAILS, CHECK-RAILS AND RACK RAILS, SWITCH BLADES, CROSSING FROGS, POINT RODS AND OTHER CROSSING PIECES, SLEEPERS (CROSS-TIES), FISH-PLATES, CHAIRS, CHAIR WEDGES, SOLE PLATES (BASE PLATES), RAIL CLIPS, BEDPLATES, TIES AND OTHER MATERIAL SPECIALIZED FOR JOINTING OR FIXING RAILS**		Import subject to Pol. Condition 1.
7302 10	***Rails:***		
7302 10 10	For Railways	Free	
7302 10 20	For Tramways	Free	
7302 10 90	Other	Free	

7302 30 00	Switch blades, crossing frogs, piont rods and other crossing pieces	Free	
7302 40 00	Fish-plates and sole plates	Free	
7302 90	***Other:***	Free	
7302 90 10	Material for joining or fixing rails	Free	
7302 90 90	Other	Free	
7303	**TUBES, PIPES AND HOLLOW PROFILES, OF CAST IRON**		
7303 00	***Tubes, pipes and hollow profiles, of cast iron:***		
7303 00 10	Rain water pipe	Free	Ductile iron fittings for pressure pipes for water, gas and sewage must conform to IS 9523
7303 00 20	Soil pipe	Free	
7303 00 30	Spun pipe	Free	Centrifugally cast (spun) ductile iron pressure pipes for water, gas and sewage must conform to IS 8329
7303 00 90	Other	Free	
7304	**TUBES, PIPES AND HOLLOW PROFILES, SEAMLESS, OF IRON (OTHER THAN CAST IRON) OR STEEL**		
7304 11	***Of stainless steel:***		
7304 11 10	Tubes and pipes	Free	Centrifugally cast (spun) ductile iron pressure pipes for water, gas and sewage must conform to IS 8329
7304 11 20	Blanks for tubes and pipes	Free	
7304 11 90	Other	Free	
7304 19	***Other:***		
7304 19 10	Tubes and pipes	Free	
7304 19 20	Blanks for tubes and pipes	Free	
7304 19 90	Other	Free	

	Casing, tubing and drill pipe, of a kind used in drilling for oil or gas:		
7304 22 00	Drill pipe of stainless steel	Free	
7304 23	***Other drill pipe:***		
7304 2310	Of iron	Free	
7304 23 90	Other	Free	
7304 24 00	Other, of stainless steel	Free	
7304 29	***Other:***		
7304 29 10	Of iron	Free	
7304 29 90	Other	Free	
	Other, of circular cross-section, of iron or non-alloy steel:		
7304 31	***Cold-drawn or cold –rolled (cold-reduced) Up to 114.3 mm outer diameter:***		
7304 31 11	Of iron	Free	
7304 31 19	Other	Free	
	Above 114.3 mm but up to 219.1 mm outer diameter:		
7304 31 21	Of iron	Free	
7304 31 29	Other	Free	
	Above 219.1 mm diameter:		
7304 31 31	Of iron	Free	
7304 31 39	Other	Free	
7304 39	***Other:***	Free	
	Up to 114.3 mm outer diameter:		
7304 39 11	Of iron	Free	
7304 39 19	Other	Free	
	Above 114.3 mm but up to 219.1 mm outer diameters:		
7304 39 21	Of iron	Free	
7304 39 29	Other	Free	
	Above 219.1 mm diameter:		
7304 39 31	Of iron	Free	

EU HS code

CHAPTER 73

ARTICLES OF IRON OR STEEL

Notes

1. In this chapter, the expression 'cast iron' applies to products obtained by casting in which iron predominates by weight over each of the other elements and which do not comply with the chemical composition of steel as defined in note 1(d) to Chapter 72.

2. In this chapter, the word 'wire' means hot- or cold-formed products of any cross-sectional shape, of which no cross-sectional dimension exceeds 16 mm.

CN code	Description	Conventional rate of duty (%)	Supplementary unit
1	2	3	4
7301	**Sheet piling of iron or steel, whether or not drilled, punched or made from assembled elements; welded angles, shapes and sections, of iron or steel:**		
7301 10 00	**– Sheet piling**	Free	—
7301 20 00	**– Angles, shapes and sections**	Free	—
7302	**Railway or tramway track construction material of iron or steel, the following: rails, check-rails and rack rails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish-plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialised for jointing or fixing rails:**		
7302 10	**– Rails:**		
7302 10 10	-- Current-conducting, with parts of non-ferrous metal	Free	—
	-- Other:		
	--- New:		
	---- Vignole rails:		
7302 10 22	----- Of a weight per metre of 36 kg or more	Free	—
7302 10 28	----- Of a weight per metre of less than 36 kg	Free	—
7302 10 40	---- Grooved rails	Free	—
7302 10 50	---- Other	Free	—
7302 10 90	--- Used	Free	—
7302 30 00	**– Switch blades, crossing frogs, point rods and other crossing pieces**	2,7	—
7302 40 00	**– Fish-plates and sole plates**	Free	—
7302 90 00	**– Other**	Free	—
7303 00	**Tubes, pipes and hollow profiles, of cast iron:**		
7303 00 10	– Tubes and pipes of a kind used in pressure systems	3,2	—
7303 00 90	– Other	3,2	—
7304	**Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel:**		
	– Line pipe of a kind used for oil or gas pipelines:		
7304 11 00	**-- Of stainless steel**	Free	—
7304 19	**-- Other:**		
7304 19 10	--- Of an external diameter not exceeding 168,3 mm	Free	—

CN code	Description	Conventional rate of duty (%)	Supplementary unit
1	2	3	4
7304 19 30	--- Of an external diameter exceeding 168,3 mm but not exceeding 406,4 mm	Free	—
7304 19 90	--- Of an external diameter exceeding 406,4 mm	Free	—
	- Casing, tubing and drill pipe, of a kind used in drilling for oil or gas:		
7304 22 00	**-- Drill pipe of stainless steel**	Free	—
7304 23 00	**-- Other drill pipe**	Free	—
7304 24 00	**-- Other, of stainless steel**	Free	—
7304 29	**-- Other:**		
7304 29 10	--- Of an external diameter not exceeding 168,3 mm	Free	—
7304 29 30	--- Of an external diameter exceeding 168,3 mm but not exceeding 406,4 mm	Free	—
7304 29 90	--- Of an external diameter exceeding 406,4 mm	Free	—
	- Other, of circular cross-section, of iron or non-alloy steel:		
7304 31	**-- Cold-drawn or cold-rolled (cold-reduced):**		
7304 31 20	--- Precision tubes	Free	—
7304 31 80	--- Other	Free	—
7304 39	**-- Other:**		
7304 39 10	--- Unworked, straight and of uniform wall thickness, for use solely in the manufacture of tubes and pipes with other cross-sections and wall thicknesses	Free	—
	--- Other:		
	---- Threaded or threadable tubes (gas pipe):		
7304 39 52	----- Plated or coated with zinc	Free	—
7304 39 58	----- Other	Free	—
	---- Other, of an external diameter:		
7304 39 92	----- Not exceeding 168,3 mm	Free	—
7304 39 93	----- Exceeding 168,3 mm but not exceeding 406,4 mm	Free	—
7304 39 98	----- Exceeding 406,4 mm	Free	—
	- Other, of circular cross-section, of stainless steel:		
7304 41 00	**-- Cold-drawn or cold-rolled (cold-reduced)**	Free	—
7304 49	**-- Other:**		
7304 49 10	--- Unworked, straight and of uniform wall thickness, for use solely in the manufacture of tubes and pipes with other cross-sections and wall thicknesses	Free	—
	--- Other:		
7304 49 93	---- Of an external diameter not exceeding 168,3 mm	Free	—
7304 49 95	---- Of an external diameter exceeding 168,3 mm but not exceeding 406,4 mm ...	Free	—
7304 49 99	---- Of an external diameter exceeding 406,4 mm	Free	—
	- Other, of circular cross-section, of other alloy steel:		
7304 51	**-- Cold-drawn or cold-rolled (cold-reduced):**		