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

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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.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/2093. (See end of Document for details)*

(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.

(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[(3)] ('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,
— 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

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— 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	17 094	20 841	15 279	4 181	2 437	1 804	1 951	2 317

Source: Eurostat (Comext), Chinese trade statistics