Reports of Cases

JUDGMENT OF THE COURT (Eighth Chamber)

2 October 2025*

(Reference for a preliminary ruling – Customs union – Regulation (EU) No 952/2013 – Determination of origin of goods – Delegated Regulation (EU) 2015/2446 – Subheading 7304 41 of the Harmonised Commodity Description and Coding System – Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel – Validity of the rule of origin applicable to steel pipes – Hot-finished pipes, subsequently cold-reduced)

In Case C-86/24,

REQUEST for a preliminary ruling under Article 267 TFEU from the Krajský soud v Ostravě – pobočka v Olomouci (Regional Court, Ostrava – Olomouc Division, Czech Republic), made by decision of 23 January 2024, received at the Court on 2 February 2024, in the proceedings

CS STEEL a.s.

v

Generální ředitelství cel,

THE COURT (Eighth Chamber),

composed of S. Rodin (Rapporteur), President of the Chamber, N. Piçarra and N. Fenger, Judges,

Advocate General: R. Norkus,

Registrar: R. Stefanova-Kamisheva, Administrator,

having regard to the written procedure and further to the hearing on 27 March 2025,

after considering the observations submitted on behalf of:

– CS STEEL a.s., by D. Urbanec, advokát,

– the Generální ředitelství cel, by P. Polák,

– the Czech Government, by L. Březinová, L. Halajová, M. Smolek and J. Vláčil, acting as Agents,

– the Spanish Government, by M. Morales Puerta and P. Pérez Zapico, acting as Agents,

* Language of the case: Czech.

– the European Commission, by B. Eggers and J. Hradil, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This request for a preliminary ruling concerns the validity of the primary rule for goods under subheading 7304 41 ('the primary rule') of the Harmonised Commodity Description and Coding System ('the HS'), laid down in Annex 22-01 to Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ 2015 L 343, p. 1).

2 The request has been made in proceedings between CS STEEL a.s., a Czech company, and the Generální ředitelství cel (General Directorate of Customs, Czech Republic) ('the national customs authority'), concerning an adjustment of customs duties imposed on that company.

Legal context

International law

3 The HS was established by the International Convention on the Harmonised Commodity Description and Coding System, concluded in Brussels on 14 June 1983 (*United Nations Treaty Series*, Vol. 1503, p. 4, No 25910 (1988)) within the framework of the World Customs Organization (WCO), and approved, with its Protocol of Amendment of 24 June 1986, on behalf of the European Economic Community, by Council Decision 87/369/EEC of 7 April 1987 (OJ 1987 L 198, p. 1). The Explanatory Notes to the HS are drawn up within the WCO in accordance with the provisions of that convention.

4 The Explanatory Note concerning heading 7304 of the HS states:

'Tubes, pipes and hollow profiles of this heading may be manufactured by the following processes:

…

(B) Hot-extrusion in a press using glass (Ugine-Sejournet process) or another lubricant, of a round. This method actually includes the following operations: piercing, expansion or not, and extrusion.

The operations described above are followed by different finishing operations:

– hot-finishing: in this case, the blank after reheating passes through a sizing mill or a stretching mill and finally a straightening mill or

– cold-finishing on a mandrel, by cold-drawing on a bench or cold-rolling (cold-reducing) in a pilger mill (Mannesmann or Megaval process). These operations give the possibility to obtain

from hot-rolled or extruded tubes, used as blanks, tubes of lesser wall thickness (it should be noted that the Transval process allows tubes of reduced wall thickness to be directly produced) or diameter, also tubes of tighter tolerances on diameter or wall thickness. Cold-working methods also cover honing and roller burnishing to obtain polished surfaces (tubes with a low degree of roughness) required, e.g., for pneumatic jacks or hydraulic cylinders.

…'

European Union law

The Customs Code

5 Article 60 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ 2013 L 269, p. 1, and corrigendum OJ 2016 L 267, p. 2; 'the Customs Code'), entitled 'Acquisition of origin', provides in paragraph 2 thereof:

'Goods the production of which involves more than one country or territory shall be deemed to originate in the country or territory where they underwent their last, substantial, [economically justified] processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture.'

6 Article 62 of that code, entitled 'Delegation of power', states:

'The [European] Commission shall be empowered to adopt delegated acts in accordance with Article 284, laying down the rules under which goods, whose determination of non-preferential origin is required for the purposes of applying the [European] Union measures referred to in Article 59, are considered as wholly obtained in a single country or territory or to have undergone their last, substantial, [economically justified] processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture in a country or territory, in accordance with Article 60.'

7 Article 284 of that code, entitled 'Exercise of the delegation', sets out the detailed rules for that exercise.

Delegated Regulation 2015/2446

8 In the exercise of the power conferred on it by Article 62 of the Customs Code, the Commission adopted Delegated Regulation 2015/2446.

9 Annex 22-01 to that delegated regulation is entitled 'Introductory notes and list of substantial processing or working operations conferring non-preferential origin'. That annex includes a part entitled 'Introductory Notes', points 2 and 3 of which are worded as follows:

'2. Application of the rules in this Annex

2.1. The rules provided in this Annex are to be applied to goods on the basis of their classification in the [HS], as well as on further criteria which may be provided for in addition to the [HS] headings or subheadings created specifically for the purposes of this Annex. [An HS] heading or subheading which is further subdivided using such criteria is referred to in this Annex as "split heading" or "split subheading". …

Classification of goods within headings and subheadings of the [HS] is governed by the General rules for the interpretation of the [HS] and any relative Section, Chapter and Subheading Notes to that System. Those rules and notes form part of the Combined Nomenclature, which is set out in Annex I to Council Regulation (EEC) No 2658/87 [of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 1987 L 256, p. 1)]. For the purposes of the identification of a correct split heading or subheading for certain goods in this Annex, the General rules for the interpretation of the [HS] and any relative Section, Chapter and Subheading notes to that [HS], are to apply *mutatis mutandis*, unless otherwise required in this Annex.

…

3. Glossary

The primary rules at subdivision level, when they are based on a change in tariff classification, can be expressed using the following abbreviations.

…

CTH: change to the heading in question from any other heading

…'

10 Chapter 73 of that annex contains a table setting out the primary rules to be applied for the purpose of determining the country or territory of origin of the goods referred to therein and identified according to their heading or subheading in the HS, in particular the primary rule applicable to pipes and tubes of cold-drawn or cold-rolled stainless steel, of seamless stainless steel, of circular cross-section under HS subheading 7304 41. That table reads as follows:

'HS 2012 Code	Description of goods	Primary rules
…		
7304	Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel.	As specified for subheadings
	– Line pipe of a kind used for oil or gas pipelines	
7304 11	– – Of stainless steel	CTH
…		
	– Other, of circular cross-section, of stainless steel:	
7304 41	– – Cold-drawn or cold-rolled (cold-reduced)	CTH, or change from hollow profiles of subheading 7304 49
7304 49	– – Other	CTH'

The dispute in the main proceedings, the question referred for a preliminary ruling and the procedure before the Court

11 Maxim Tubes Company Pvt. Ltd, a company established in India, imported into that country hot-finished steel pipes originating from China, under subheading 7304 11 and complying with the ASTM A312 standard. Those pipes were subsequently worked by cold reduction in India by being rolled, stained, passivated, annealed, straightened and cut, which had the effect of altering their dimensions. Pipes thus processed and still complying with the ASTM A312 standard were exported to the European Union to CS STEEL.

12 Between January 2016 and December 2017, the Celní úřad pro Olomoucký kraj (Customs Authority for the Olomouc Region, Czech Republic) accepted six customs declarations lodged by CS STEEL for the release for free circulation of seamless stainless steel pipes with circular cross-section under the tariff subheading 7304 41 of the HS, which were declared to be of Indian non-preferential origin.

13 Following an inspection, the national customs authority found that those pipes were of Chinese origin and, consequently, adjusted the customs duties due, in accordance with Commission Implementing Regulation (EU) 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 following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ 2018 L 63, p. 15).

14 That authority took the view that a change in the origin of those pipes would have been possible only if the pipes had been made from goods under other headings of the HS such as steel waste and scrap, under heading 7204, or hollow profiles, under subheading 7304 49.

15 Hearing an action brought by CS STEEL against the decisions adopted by the national customs authority concerning that adjustment, the Krajský soud v Ostravě – pobočka v Olomouci (Regional Court, Ostrava – Olomouc Division, Czech Republic), which is the referring court, is uncertain as to the validity of the primary rule relating to the determination of the origin of goods under subheading 7304 41 of the HS, set out in Annex 22-01 to Delegated Regulation 2015/2446, in so far as, according to that rule, such goods resulting from a cold reduction of products under HS subheading 7304 49 are given the status of goods originating in the country where those operations took place, whereas such processing of products under HS subheading 7304 11 does not confer such an origin on those goods.

16 In that regard, the referring court notes that it is apparent from the primary rule relating to the determination of the origin of goods classified under HS subheading 7304 41, read in the light of the judgment of 21 September 2023, *Stappert Deutschland* (C-210/22, EU:C:2023:693), that a change of origin takes place, in essence, either by a change in the tariff heading, or by the cold reduction of goods under HS subheading 7304 49. According to the referring court, since the only relevant difference between subheading 7304 49 and subheading 7304 11 is apparently the intended use of the pipes, that primary rule is capable of establishing a discriminatory distinction with regard to processed products which come under HS subheading 7304 11 before processing.

17 In those circumstances, the Krajský soud v Ostravě – pobočka v Olomouci (Regional Court, Ostrava – Olomouc Division) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Is the primary rule for determining origin set out in subheading 7304 41 of the [HS], as laid down in Annex 22-01 to Delegated Regulation 2015/2446, valid, to the extent that it rules out that cold processing (by cold reduction) is sufficient to change the origin of hot-finished [pipes] under subheading 7304 11 [and] complying with ASTM A312?'

18 In response to a request for information from the Court concerning, inter alia, the impact of the cold processing undergone by the pipes concerned, the referring court noted, first, that the dimensions, the structure and the characteristics of the material of those pipes had been significantly processed and, second, that it did not know whether those pipes had characteristics which made them usable as oil or gas pipelines.

Consideration of the question referred

19 By its question, the referring court asks, in essence, whether the primary rule is valid in the light of Article 60(2) of the Customs Code, in so far as it does not provide that pipes under HS subheading 7304 41 cold-worked from pipes under HS subheading 7304 11 may be regarded as originating in the country or territory where they underwent their last processing or working.

20 In that regard, it must be noted that, according to the wording of the primary rule, tubes and pipes under HS subheading 7304 41 are deemed to originate in the country where they were processed from products under another HS heading or by the cold reduction of 'hollow profiles under [HS] subheading 7304 49'. However, the Court held, in the judgment of 21 September 2023, *Stappert Deutschland* (C-210/22, EU:2023:693, paragraph 66), that that rule is invalid since it excludes the change of tariff heading resulting from the transformation from tubes and from pipes under HS subheading 7304 49 into seamless tubes, pipes and hollow profiles of iron or steel, cold-drawn or cold-rolled (cold reduced) under HS subheading 7304 41, from conferring on those products the status of products originating in the country where that change took place.

21 Therefore, it appears that, as the referring court observes, in essence, the primary rule, read in the light of that judgment, establishes a difference in treatment, as regards the determination of origin, between cold processing of tubes and pipes under HS subheading 7304 11 and cold processing of tubes and pipes under HS subheading 7304 49.

22 According to Article 62 of the Customs Code, the Commission is empowered to adopt delegated acts laying down rules according to which goods are deemed to have undergone 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 in a given country or territory, in accordance with Article 60 of that code. The purpose of those acts is to specify how the abstract criteria set out in the latter provision are to be interpreted and applied in specific situations (judgment of 21 September 2023, *Stappert Deutschland*, C-210/22, EU:C:2023:693, paragraph 52 and the case-law cited).

23 However, as also follows from settled case-law of the Court, exercise of that power of the Commission is subject to compliance with certain requirements. The objectives pursued by a delegated regulation must be such as to justify its adoption, the delegated regulation must satisfy

the requirement to state reasons imposed on such an act, and the Commission's assessments relating to the determination of the country of origin of the products to which that delegated regulation is applicable must not be vitiated by an error of law or a manifest error of assessment in the light of Article 60(2) of the Customs Code (judgment of 21 September 2023, *Stappert Deutschland*, C-210/22, EU:C:2023:693, paragraph 53 and the case-law cited).

24 That origin must, in any event, be determined on the basis of the decisive criterion of the 'last substantial processing or working' of the goods concerned. That term must itself be understood as referring to the stage in the production process during which the use to which the goods are to be put is established, and they acquire specific properties and composition, which they did not possess previously, and which are not required to undergo significant qualitative changes subsequently (judgment of 21 September 2023, *Stappert Deutschland*, C-210/22, EU:C:2023:693, paragraph 54 and the case-law cited).

25 Judicial review as to whether a provision of an act such as Annex 22-01 to Delegated Regulation 2015/2446, which states the primary rule, is well founded may relate to whether, irrespective of any error of law, the Commission has committed a manifest error of assessment in implementing Article 60(2) of the Customs Code, in view of the specific situation concerned (judgment of 21 September 2023, *Stappert Deutschland*, C-210/22, EU:C:2023:693, paragraph 55 and the case-law cited).

26 According to the Court's case-law, a difference in treatment between similar processing operations, such as that noted in paragraph 21 of the present judgment, must be objectively justified by the Commission in order to find that the Commission did not commit such an error (see, to that effect, judgments of 23 March 1983, *Cousin and Others*, 162/82, EU:C:1983:93, paragraph 21, and of 21 September 2023, *Stappert Deutschland*, C-210/22, EU:C:2023:693, paragraph 56).

27 In the present case, the Commission submits that compliance with the ASTM A312 standard of tubes and pipes imported from China into India and falling under HS subheading 7304 11 tends to show that those products were already finished products, which could not undergo substantial economically justified processing leading to a change of origin.

28 The Commission also claims, in essence, that the cold processing of tubes and pipes under HS subheading 7304 11, which has the effect of changing them in such a way that they fall under HS subheading 7304 41, does not result in those tubes and pipes having an intended use and a composition which they did not possess previously, in so far as they underwent their last qualitative changes during their hot processing which led to their classification under the former subheading. It submits that, although such cold processing of those tubes and pipes leads to irreversible changes to those products, mainly by reducing their size, it does not however prevent them from being used as gas or hydrocarbon conduits and from complying with the ASTM A312 standard, as all the interested parties which submitted observations to the Court agree. Thus, that cold processing differs from the cold processing of tube blanks, which are semi-finished products, as referred to in the judgment of 21 September 2023, *Stappert Deutschland* (C-210/22, EU:C:2023:693), and which come under HS subheading 7304 49.

29 In that regard, it should be noted that the goods listed in HS subheadings 7304 11 and 7304 41 are designated, in respect of the first of those subheadings, as seamless pipes and tubes, of a kind used for oil or gas pipelines of stainless steel, and, in respect of the second of those subheadings, as other seamless pipes and tubes, of circular cross-section, of stainless steel and cold-drawn or cold-rolled (cold-reduced).

30 Accordingly, tubes and pipes cease to fall under HS subheading 7304 11 and become capable of falling under HS subheading 7304 41 by losing the properties typical of tubes and pipes used for oil or gas pipelines, which does not necessarily lead to a loss of the properties which make them usable for that purpose.

31 It follows from the foregoing that a cold processing of tubes and pipes under HS subheading 7304 11, which has the effect of changing them in such a way that they fall under HS subheading 7304 41, although it may lead to a significant change in their properties, does not, by virtue of that fact alone, lead to a change in the intended use and the initial composition of those tubes and pipes.

32 That assessment is not invalidated by the referring court's response to the Court's request for information, cited in paragraph 18 of the present judgment, according to which the cold processing of pipes under HS subheading 7304 11 is likely to have a significant impact on the size, the structure and the characteristics of those pipes. It is apparent from that reply neither that the cold processing of the pipes at issue in the main proceedings was so extensive that those pipes ceased to be usable for transporting oil and gas, nor that the composition of those pipes was changed. Such an assessment is, on the contrary, confirmed by the fact that, after that processing, those pipes still comply with the ASTM A312 standard. As the Commission claims without being contradicted by the other interested parties, that compliance attests to the usability of those pipes as a conduit for transporting oil and gas.

33 In those circumstances, it must be held that the difference in treatment as regards the determination of origin, established by the primary rule, between cold processing of tubes and pipes under HS subheading 7304 11 and cold processing of tubes and pipes under HS subheading 7304 49 is objectively justified. Accordingly, the Commission did not commit a manifest error of assessment in adopting that rule.

34 In the light of all the foregoing considerations, the answer to the question referred is that the examination of that question has disclosed no factor of such a kind as to affect the validity of the primary rule.

Costs

35 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Eighth Chamber) hereby rules:

The examination of the question referred for a preliminary ruling has disclosed no factor of such a kind as to affect the validity of the primary rule applicable to goods under subheading 7304 41 of the Harmonised Commodity Description and Coding System, provided for in

Annex 22-01 to Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code.

[Signatures]