



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Dumping and Subsidizing

FINDING AND REASONS

Inquiry No. NQ-2013-003

Silicon Metal

*Finding issued
Tuesday, November 19, 2013*

*Reasons issued
Wednesday, December 4, 2013*

Canada

LIKE GOODS AND CLASSES OF GOODS

22. In order for the Tribunal to determine whether the dumping and subsidizing of the subject goods have caused or are threatening to cause injury to the domestic industry that produces the like goods, it must determine which domestically produced goods, if any, constitute like goods in relation to the subject goods. The Tribunal must also assess whether there is, within the subject goods and the like goods, more than one class of goods.¹²

23. Subsection 2(1) of *SIMA* defines “like goods”, in relation to any other goods, as follows:

(a) goods that are identical in all respects to the other goods, or

(b) in the absence of any goods described in paragraph (a), goods the uses and other characteristics of which closely resemble those of the other goods.

24. In deciding the issue of like goods when goods are not identical in all respects to the other goods, the Tribunal typically considers a number of factors, including the physical characteristics of the goods (such as composition and appearance) and their market characteristics (such as substitutability, pricing, distribution channels, end uses and whether the goods fulfill the same customer needs).¹³

25. In its preliminary injury inquiry, the Tribunal found that domestically produced silicon metal and the subject goods of the same description were like goods. The Tribunal also found that the subject goods and the like goods comprised a single class of goods.

26. During the present inquiry, the Tribunal did not receive any submissions challenging these findings and sees no reason to depart from them. The evidence indicates that the characteristics of domestically produced silicon metal closely resemble those of the subject goods. Indeed, domestically produced silicon metal and the subject goods are physically interchangeable and comparable in terms of product quality, chemical composition and availability of specifications to meet customers' requirements.¹⁴

27. Moreover, domestically produced silicon metal competes directly with, has the same end uses as and may be substituted for the subject goods in the Canadian market.¹⁵ These facts were beyond dispute. The parties also agreed that the subject goods and like goods comprise a single class of goods, with there being no evidence on the record that would call into question the parties' statements on this issue.

28. Accordingly, the Tribunal finds that domestically produced silicon metal and the subject goods, defined in the same manner, constitute like goods and that there is a single class of goods.

12. Should the Tribunal determine that there is more than one class of goods in this inquiry, it must conduct a separate injury analysis and make a decision for each class that it identifies. See *Noury Chemical Corporation and Minerals & Chemicals Ltd. v. Pennwalt of Canada Ltd. and Anti-dumping Tribunal*, [1982] 2 F.C. 283 (F.C.).

13. See, for example, *Copper Pipe Fittings* (19 February 2007), NQ-2006-002 (CITT) at para. 48.

14. Exhibit NQ-2013-003-06C, Tables 15, 16, Vol. 1.1A.

15. Exhibit NQ-2013-003-A-06 (protected) at paras. 16-39, Vol. 12; Exhibit NQ-2013-003-A-08 (protected) at paras. 8-37, 43-56, Vol. 12.