



Anti-Dumping Notice No. 2017/05

**Public notice under subsection 269TC(4)
of the *Customs Act 1901***

Cooling tower water treatment controllers

Exported from the United States of America

Initiation of an Investigation into alleged dumping

Customs Act 1901 – Part XVB

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission, have initiated an investigation following an application lodged by Aquarius Technologies Pty Ltd, a manufacturer of cooling tower water treatment controllers (the goods) in Australia. The application seeks the publication of a dumping duty notice in respect of cooling tower water treatment controllers exported to Australia from the United States of America (USA).

The application alleges that the goods have been exported to Australia at prices less than their normal value and that the dumping has caused material injury to the Australian industry through:

- loss of sales volume;
- reduced market share;
- price depression;
- price suppression;
- profits foregone;
- reduced assets;
- reduced capital investment;
- reduced revenue;
- reduced capacity;
- reduced capacity utilisation;
- reduced employment; and
- reduced cash flow.

The non-confidential version of the application, which contains the basis of the alleged dumping and injury, is available on the public record on the Anti-Dumping Commission's (Commission) website, www.adcommission.gov.au.

Particulars of the reasons for the decision to initiate this investigation are in *Anti-Dumping Commission Consideration Report No. 377*, which is also available on

the public record.

The date of initiation of this investigation is the date of publication of this notice, which is 23 January 2017.

The Goods

The goods the subject of the application (the goods) are:

Industrial water treatment controllers, programmed to monitor and/or treat water in a cooling tower, with or without accessories including sensors, pumps, solenoids and modem (cooling tower water treatment controllers).

Further information on the goods:

A cooling tower is a heat rejection device that rejects waste heat to the atmosphere through the cooling of a water stream. Common applications of cooling towers include air conditioning for buildings and the cooling of circulating water in industrial processes.

Cooling tower water treatment controllers are units programmed to monitor water conditions (such as conductivity, Oxidation Reduction Potential (ORP) and power of hydrogen (pH) levels) in the cooling tower water and/or initiate actions required to bring the water to within the user's desired parameters (for example, through the addition of disinfecting chemicals). A controller typically comprises a printed circuit board or boards (PCBs), connection terminals, a display screen and control panel with keypad.

The control functions of cooling tower water treatment controllers are based on inputs from probes measuring the properties of the water.

Depending on the reading from the probes, the unit signals ancillary devices such as a bleed solenoid, a feeder and/or pump/s (which are connected to the water treatment system separately as an additional system component) to drain a controlled amount of water or dose the water with the required amount of chemical(s) (for example, oxidising biocide, acid).

In addition, the goods are often equipped with internal timers which are programmed by users to send signals to ancillary devices to dose water with other chemicals when required (for example, inhibitor secondary biocide (non-oxidising), dispersant).

Tariff classification

The goods are generally, but not exclusively, classified to tariff classification 9032.89.80 (statistical code 90) in Schedule 3 to the *Customs Tariff Act 1995*.

This tariff classification and statistical code may include goods that are both subject and not subject to this investigation. The listing of this tariff classification and statistical code is for convenience or reference only and does not form part of the goods description. Please refer to the goods description for authoritative detail regarding goods the subject of this investigation.

Investigation Process

The investigation period is 1 July 2015 to 30 June 2016. I will examine exports to Australia of the goods during this period to determine whether dumping has occurred. I will examine details of the Australian market from 1 July 2009 for injury analysis purposes.

Where the Assistant Minister for Industry, Innovation and Science and the Parliamentary Secretary to the Minister for Industry, Innovation and Science (the Parliamentary Secretary)¹ is satisfied, as to goods of any kind, that:

- (a) the amount of the export price of the goods that have already been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Parliamentary Secretary may, by public notice, impose interim dumping duties.²

Where there are grounds for the Parliamentary Secretary to publish a dumping duty notice in respect of the goods, I will examine whether the trade in the dumped goods gives rise to a retrospective notice being published pursuant to section 269TN of the *Customs Act 1901* (the Act), and make recommendations to the Parliamentary Secretary accordingly.

Public Record

I must maintain a public record of each investigation. Documents included in the public record are available at www.adcommission.gov.au or can be examined at the Commission's office by contacting the Case Manager on the details provided below.

The public record will contain, among other things, a copy of the application, *Anti-Dumping Commission Consideration Report No. 377* and copies of all non-confidential submissions from interested parties. Letters and electronic mail are generally regarded as submissions if they contain information relevant to the investigation.

¹ On 19 July 2016, the Prime Minister appointed the Parliamentary Secretary to the Minister for Industry, Innovation and Science as the Assistant Minister for Industry, Innovation and Science. For the purposes of this investigation the Minister is the Parliamentary Secretary to the Minister for Industry, Innovation and Science.

² In accordance with section 269TG of the *Customs Act 1901*.

Lodgement of Submissions

Interested parties, as defined in subsection 269T(1) of the Act, are invited to lodge submissions concerning the publication of the dumping duty notice sought in the application, no later than the close of business on 1 March 2017, addressed to:

Director, Operations 5
Anti-Dumping Commission
SAP House, Level 4
224 Bunda Street
Canberra City ACT 2601
AUSTRALIA

or by email to operations5@adcommission.gov.au.

Interested parties wishing to participate in the investigation must ensure that submissions are lodged by the due date. Interested parties should note that I am not obliged to have regard to a submission received after the date above, if to do so would, in my opinion, prevent the timely placement of the statement of essential facts on the public record.

Interested parties should also note that I am now directed to consider the matters set out in the *Customs (Extensions of Time and Non-cooperation) Direction 2015* in certain circumstances. This is available at www.legislation.gov.au.

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the statement of essential facts.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "FOR OFFICIAL USE ONLY".

Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

Provisional Measures

Pursuant to section 269TD of the Act, I will make a preliminary affirmative determination (PAD) provided I am satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice or there appears that there will be sufficient grounds for the publication of a dumping duty notice subsequent to the importation of the goods into Australia. This can occur not earlier than 60 days after the date of initiation of an investigation.

In accordance with section 269TD of the Act, the Commonwealth may apply provisional measures, including the taking of securities under section 42 of the Act, in respect of interim dumping duty that may become payable on the goods, where a PAD has been made.

Where a PAD is not made 60 days after initiation of the investigation, the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction) directs me to publish a status report providing reasons why a PAD was not made. The PAD Direction is available on the Federal Register of Legislation website, www.legislation.gov.au.

Statement of Essential Facts

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Parliamentary Secretary within the legislative timeframe. In accordance with section 269TDAA of the Act, a statement of essential facts will be placed on the public record by 15 May 2017, or by such later date as the Parliamentary Secretary may allow in accordance with section 269ZHI of the Act. The statement will set out the essential facts on which I propose to base my recommendations to the Parliamentary Secretary. Interested parties are invited to lodge submissions in response to the statement within 20 days of the statement being placed on the public record.

Submissions received in response to the statement of essential facts within 20 days of that statement being placed on the public record will be taken into account in completing the report and recommendation to the Parliamentary Secretary.

Report to the Parliamentary Secretary

A recommendation to the Parliamentary Secretary will be made in a report on or before 27 June 2017 (or such later date as the Parliamentary Secretary may allow under section 269ZHI), on the basis of the examination of exportations of the goods to Australia during the investigation period, unless I terminate the investigation.

The Parliamentary Secretary must make a declaration within 30 days after receiving the report, or such longer period as the Parliamentary Secretary considers appropriate.

Anti-Dumping Review Panel

Certain persons will have the right to seek review with the Anti-Dumping Review Panel in accordance with Division 9 of Part XVB of the Act of either a decision by me to terminate the investigation, or a decision of the Parliamentary Secretary to publish or not to publish a dumping duty notice after considering my report.

Anti-Dumping Commission Contact

Enquiries about this notice may be directed to the Case Manager on telephone number +61 2 6243 7446, or by email at operations5@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

23 January 2017