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**Customs Act 1901**  
**Customs (Preliminary Affirmative Determinations) Direction 2015**

**Cooling Tower Water Treatment Controllers**

**Exported from the United States of America**

**Investigation No. 377 into Alleged Dumping**

**Day 60 Status Report**

**Introduction**

The purpose of this Status Report is to set out the reasons why I, Dale Seymour, the Commissioner of the Anti-Dumping Commission, have not made a preliminary affirmative determination (PAD) under subsection 269TD(1) of the *Customs Act 1901* (the Act) on 24 March 2017, being 60 days after the initiation of the investigation into the alleged dumping of cooling tower water treatment controllers (the goods) exported to Australia from the United States of America (USA).

This report and the findings contained herein reflect the status of the investigation at day 60. My findings may change as a result of further information, submissions, analysis or verification. Accordingly, I, at any time from day 60 onwards during the investigation, may make a PAD if I am satisfied of the requirements set out in subsection 269TD(1) of the Act.

**Background**

On 23 January 2017, I initiated an investigation into the alleged dumping of cooling tower water treatment controllers following an application by Aquarius Technologies Pty Ltd (Aquarius) under section 269TB of the Act. Further details can be found in the public notice published on 23 January 2017 (refer to *Anti-Dumping Notice 2017/05* at [www.adcommission.gov.au](http://www.adcommission.gov.au)).

Under subsection 269TD(1) of the Act, I may make a PAD at any time, not earlier than 60 days after I initiate an investigation for the publication of a dumping duty notice if I am satisfied:

- that there appear to be sufficient grounds for the publication of such a notice; or
- that it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the Direction), 60 days after the initiation of such an investigation I must either make a PAD or provide a Status Report outlining the reasons why I have not made a PAD.

## Reasons

In deciding whether to make a PAD on day 60 of this investigation, I have, in accordance with subsection 269TD(2) of the Act, had regard to:

- Aquarius' application;
- submissions received by 1 March 2017 concerning the publication of a dumping duty notice in response to the initiation of the investigation; and
- responses to importer and exporter questionnaires.

Based on the above information considered at day 60 of the investigation, I am not making a PAD because I am not satisfied that, under subsection 269TD(1)(a) of the Act that there appears to be sufficient grounds for the publication of a dumping duty notice.

The Anti-Dumping Commission (the Commission) has, to date, completed visits to the sole Australian industry member and applicant for anti-dumping measures, two importers of the goods from the USA, an importer of the goods from another source and a major end user of the goods in Australia. The Commission is currently analysing information gathered from these sources to assist in establishing whether dumping has occurred and whether dumping, if any, has caused material injury to the Australian industry producing like goods.

The Commission identified and sent exporter questionnaires to three exporters of cooling tower water treatment controllers to Australia from the USA. The company understood to be the major exporter, Advantage Controls LLC (Advantage), was granted an extension of time (until 22 March 2017) to lodge its exporter questionnaire response. The extension recognised that Advantage is a small enterprise with limited resources and is unfamiliar with the anti-dumping system. Advantage lodged its questionnaire response before the extended deadline (on 16 March 2017). However, the Commission considered that the response had significant deficiencies and the exporter has been granted a short period to rectify the deficiencies.

A minor exporter has lodged its response to the exporter questionnaire and further analysis is required to establish a preliminary dumping margin. As no other exporter has provided a response within the legislated period, or within a longer period allowed by me, I regard any other exporters of cooling tower water treatment controllers to Australia from the USA during the investigation period to be uncooperative.

Therefore, at the time of making this report, I am unable to establish that there appears to be sufficient grounds to be satisfied that the goods exported to Australia have been dumped (at above negligible levels in accordance with section 269TDA) or that dumped goods are causing material injury to the Australian industry. The Commission will give further consideration to the making of a PAD after receiving the final response from the major exporter.

## Other considerations

### *Relevant matters – subsection 269TD(2)(b)*

In accordance with the Direction, and for the purposes of subsection 269TD(2)(b) of the Act, I have considered the desirability of providing relief to an injured Australian industry as

quickly as possible, where warranted. I have decided it is not warranted to make a PAD at this stage because I am not satisfied that there appears to be sufficient grounds to establish that the goods are dumped or to establish a causal link between the dumped goods (if any) and material injury for the reasons outlined above.

#### *Reconsideration of making a PAD – section 269TDAA*

After publishing this report, I must reconsider whether or not to make a PAD at least once prior to the publication of the Statement of Essential Facts (SEF) required under section 269TDAA of the Act. The SEF is due to be published on 15 May 2017. Prior to the publication of the SEF, or in the SEF, I will advise whether I made a PAD subsequent to this report and the reasons for my decision.

#### **Anti-Dumping Commission Contact**

Enquiries about this report may be directed to the case manager on telephone number (02) 6243 7446, fax number +61 3 8539 2499 or email at [operations5@adcommission.gov.au](mailto:operations5@adcommission.gov.au).

Dale Seymour  
Commissioner  
Anti-Dumping Commission

24 March 2017