



Anti-Dumping Notice No. 2017/54

Public Notice under section 269TD of the Customs Act 1901¹

Cooling tower water treatment controllers

Exported from the United States of America

Investigation into Alleged Dumping

**Preliminary Affirmative Determination
and Imposition of Securities**

1. Introduction

The purpose of this notice is to set out the reasons why I, Dale Seymour, Commissioner of the Anti-Dumping Commission (the Commissioner) have made a preliminary affirmative determination (PAD) under subsection 269TD(1) of the *Customs Act 1901*² (the Act) on 18 April 2017, being not earlier than 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).

In summary, I am satisfied there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from the USA, and that it is necessary to require and take securities in relation to exports from the USA to prevent material injury to the Australian industry occurring while the investigation continues.

This notice and the preliminary findings contained in this notice reflect the current status of the investigation. My findings may change as a result of further information, submissions, analysis or verification.

2. Reasons for making a PAD and for taking of securities

On 24 March 2017, I published my day 60 status report in relation to this investigation. As advised in my status report, I did not make a PAD at day 60 because I was not satisfied, under subsection 269TD(1)(a), that there appeared to be sufficient grounds, at that stage of the investigation, for the publication of a dumping duty notice.

Subsequent to publication of my status report, the Anti-Dumping Commission (the

¹ This is a public notice under subsection 269TD(4)(a) of the *Customs Act 1901* of the Commissioner's preliminary affirmative determination and a public notice under subsection 269TD(5) of the *Customs Act 1901* of the Commonwealth's decision to require and take securities.

² All legislative references are to the *Customs Act 1901*, unless otherwise stated.

PUBLIC RECORD

Commission) received further information from a major exporter of cooling tower water treatment controllers from the USA. The Commission also had the opportunity to conduct further analysis of information collected, including a preliminary assessment of the dumping margins and whether dumping has caused material injury to the Australian industry producing like goods. In light of this further information and the Commission's analysis, I am now satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported from the USA. I note the following reasons for my decision.

The Commission's further assessment has shown that:

- cooling tower water treatment controllers from the USA during the investigation period appear to have been exported at dumped prices and the preliminary dumping margins are not negligible (i.e. not less than 2%); and
- the volumes of dumped goods from the USA were not negligible (i.e. not less than 3%).

The Commission's injury analysis to date indicates that material injury is being caused by dumped imports from the USA. This is based on both the size of the preliminary dumping margins the Commission has calculated for exporters of the goods from the USA and the Commission's analysis of the impact of the dumped goods on the Australian industry.

In deciding whether to make a PAD I have, in accordance with subsection 269TD(2) of the Act, had regard to the application, submissions received concerning publication of a dumping duty notice that were received within 37 days after the date of initiation of the investigation and other information I considered relevant.³ Pursuant to subsection 269TD(1)(a), I am satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice in respect of the goods exported to Australia from the USA. As a result, I have made a PAD to that effect, pursuant to section 269TD.

Under subsection 269TD(4)(b), I am satisfied that it is necessary to require and take securities in relation to exports from the USA to prevent material injury to the Australian industry occurring while the investigation continues.

The Commonwealth will require and take securities under section 42 of the Act in respect of interim dumping duties that may become payable in respect of the goods imported from the USA and entered for home consumption in Australia on or after **19 April 2017**.

The security has been determined using an *ad valorem* duty method and will be imposed on goods exported to Australia from the USA at the percentage difference between the weighted average preliminary export price and weighted average preliminary non-injurious price (NIP).

3. Background

On 23 January 2017, I initiated an investigation into the alleged dumping of the goods from the USA. I initiated the investigation following an application by Aquarius Technologies Pty Ltd (Aquarius), the sole manufacturer of like goods in Australia. The investigation period for this investigation is 1 July 2015 to 30 June 2016. Further details in relation to the initiation of this investigation can be found in the public notice published on

³ Refer to Section 3 and Attachment A to this PAD

PUBLIC RECORD

23 January 2017 (Anti-Dumping Notice (ADN) No. 2017/05 at www.adcommission.gov.au refers).

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 appears to be sufficient grounds for the publication of such a notice; or
- 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 PAD Direction), 60 days after the initiation of such an investigation I must either make a PAD or publish a Status Report outlining the reasons why I have not made a PAD.

Day 60 of this investigation was 24 March 2017. On 24 March 2017, I published a Status Report, which can be found on the public record at www.adcommission.gov.au.⁴

Section 9 of the PAD Direction instructs me to reconsider whether or not to make a PAD at least once prior to the publication of the SEF.

4. Evidence relied upon

In deciding to make a PAD in relation to this investigation, I have, in accordance with subsection 269TD(2), had regard to:

- Aquarius' application;
- importer questionnaire responses received;
- exporter questionnaire responses received;
- submissions received concerning publication of the dumping duty notice;
- information obtained during the course of verification visits to the Australian industry and importers; and
- information obtained during visits to an importer of cooling tower water treatment controllers from a country other than the USA and an end-user of cooling tower water treatment controllers.

Further details of the evidence relied upon for this PAD can be found in [Attachment A](#).

5. Australian industry producing 'like goods'

5.1 The goods the subject of the investigation

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:

⁴ Refer to Case No. 377 on the Public Record.

PUBLIC RECORD

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).

Further information regarding the goods the subject of the investigation can be found in the Australian industry verification report, Consideration Report No. 377 and ADN No. 2017/05.

5.2 Australian Industry

An application for anti-dumping measures can only be made if there exists an Australian industry producing 'like goods' to the goods the subject of the application. Like goods are defined under subsection 269T(1) of the Act. Subsections 269T(2), 269T(3), 269T(4), 269T(4A), 269T(4B) and 269T(4C) are relevant to determining whether the like goods are produced in Australia and whether there is an Australian industry.

Since the initiation of the investigation, the Commission has undertaken a verification visit to Aquarius to verify information provided in its application. During the course of the visit, the Commission undertook an inspection of Aquarius' manufacturing facility in Coopers Plains in Queensland and is satisfied that at least one substantial process of manufacture of cooling tower water treatment controllers is carried out in Australia.

The Commission has also preliminarily assessed that the locally produced goods closely resemble the goods the subject of the application and are like goods given that:

- the primary physical characteristics of the imported and locally produced goods are similar – both include printed circuit boards, connection terminals, a display screen and control panel;
- the imported and locally produced goods are commercially alike as they are sold to common end users – companies providing water treatment services for industrial and commercial cooling towers purchase both the imported and locally produced goods;

- the imported and locally produced goods are functionally alike as they have the same end-uses – both the imported and locally produced goods are designed to control the monitoring and treatment of water in cooling towers; and
- the imported and locally produced goods are thought to be manufactured in a similar manner – the Australian made goods are manufactured by assembling purchased and manufactured components and testing the final unit. It is understood that the imported goods would be manufactured in a similar manner.

5.3 Australian industry producing ‘like goods’ – preliminary assessment

As a result of the information verified during the visit to Aquarius, I am satisfied that there is an Australian industry producing like goods to the goods the subject of the application and that the like goods are produced in Australia.

6. The Australian market

A cooling tower is a heat rejection device that rejects waste heat to the atmosphere through the cooling of a water stream. All interested parties contacted by the Commission described the Australian cooling tower market as being divided into two sectors:

- the commercial sector where cooling towers are used for air conditioning in buildings such as shopping centres and hospitals; and
- the industrial sector where cooling towers cool water used in industrial processes such as mining operations, breweries, and food processing.

The major customers for the cooling tower water treatment controllers are water treatment service companies that provide water treatment equipment and services to building managers and industrial processors.

In a small percentage of cases controllers are purchased directly by the final users, from Aquarius and importers, rather than through water treatment service companies.

The demand for cooling tower water treatment controllers is driven largely by the need to replace failing controllers in existing cooling towers, and to a lesser extent, by the construction of new buildings or industrial processes requiring a cooling tower.

The Commission understands that three entities, Aquarius, Tanvenamore Holdings Pty Ltd trading as Waterdos Instruments Australasia (Waterdos) and Convergent Water Controls Pty Ltd (CWC), dominate the supply of commercial cooling tower water treatment equipment in the Australian market. Waterdos imports cooling tower water treatment controllers supplied by Advantage Controls LLC (Advantage Controls) of the USA. CWC imports controllers from a source other than the USA.

The Commission understands that Chemical Pumps Australia Pty Ltd and Ecolab Pty Ltd also import cooling tower water treatment controllers from the USA. These controllers are predominantly sold into the industrial sector of the market.

Broadly speaking, there are two main types of controllers for cooling towers. One is a basic model that monitors and controls conductivity and uses timers to activate pumps to deliver disinfectant chemicals. A more sophisticated model monitors conductivity, ORP

and pH and treats the water accordingly. The high end model typically offers the option of remote monitoring and control. The suppliers typically offer a basic and more sophisticated controller model.

In 2015/16, Aquarius released its new 'Ultima' brand of controller. The Ultima performs the functions of the high end model described above, and has been well received in the market due to its touch screen display, ease of operation and safety features.

7. Dumping

7.1 Exporter questionnaires received

The Commission received exporter questionnaire responses from the following exporters:

- Advantage Controls; and
- Iwaki America Inc (Iwaki America).

Both exporters provided questionnaire responses that the Commission considered were deficient and both exporters were given an opportunity to rectify the deficiencies in accordance with section 6(a) of the *Customs (Extensions of Time and Non-cooperation) Direction 2015*. After each exporter lodged a further response, the Commission considered that the responses remained deficient in that they did not provide model specific information on the costs of making and selling the goods on the domestic and export markets. Advantage Controls has since provided further information that has allowed the Commission to make a preliminary assessment of dumping based on the information provided.

7.2 'Uncooperative and all other' exporters

Pursuant to subsection 8(b) of the *Customs (Extensions of Time and Non-cooperation) Direction 2015* (the Customs Direction), the legislated period for providing an exporter questionnaire response has expired. Therefore, under subsection 8(b) of the Customs Direction, I must determine all exporters who have not provided a response to be uncooperative exporters pursuant to subsection 269T(1).

7.3 Dumping margins

7.3.1 Advantage Controls

The Commission has used Advantage Controls' selling prices to Australia to establish preliminary export prices under subsection 269TAB(1)(a) of the Act.

The Commission has established preliminary normal values for Advantage Controls under subsection 269TAC(1) of the Act using the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms' length.

For one exported model, it appears that Advantage Controls did not make any sales of the corresponding model in the domestic market in the investigation period. The Commission established normal values for this model using selling prices of a similar model, with specification adjustments to take account of the physical differences between

the models. The Commission adjusted domestic selling prices for additional packaging and selling expenses that Advantage Controls claims it incurs in relation to domestic sales, over and above those incurred in relation to export sales to Australia.

The Commission has calculated preliminary dumping margins for Advantage Controls by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

7.3.2 Iwaki America

The Commission was unable to work out a preliminary dumping margin for Iwaki America using information in its exporter questionnaire response due to uncertainty over appropriate model matching. Also, Iwaki America did not provide costs by model that would allow the Commission to determine which sales were in the ordinary course of trade to establish normal values under subsection 269TAC(1) or construct normal values under subsection 269TAC(2)(c). The Commission considers that Iwaki America did not give the Commissioner information the Commissioner considered to be relevant to the investigation within a period the Commissioner considered to be reasonable and therefore is an uncooperative exporter in accordance with section 269T of the Act.

For the purposes of this PAD, the Commission has established preliminary export prices for Iwaki America under subsection 269TAB(3) of the Act and normal values under subsection 269TAC(6) of the Act, having regard to all relevant information. The Commission has established preliminary export prices and normal values for Iwaki America using export prices and normal values calculated for Advantage Controls, without favourable adjustments to the normal values.

The Commission has calculated preliminary dumping margins for Iwaki America by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

7.3.3 Uncooperative and all other exporters

Section 269TACAB of the Act sets out the requirements for determining export prices and normal values for uncooperative and all other exporters. In line with these requirements, the Commission has established preliminary export prices for uncooperative and all other exporters under subsection 269TAB(3) of the Act and normal values under subsection 269TAC(6) of the Act, having regard to all relevant information. The Commission has established preliminary export prices using the export prices calculated for Advantage Controls. It has established normal values for uncooperative and all other exporters using normal values calculated for Advantage Controls, less favourable adjustments.

The Commission has calculated preliminary dumping margins for uncooperative and all other exporters by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period, in accordance with subsection 269TACB(2)(a).

The preliminary dumping margins, calculated at **confidential appendix 1** are as follows:

Exporter	Export Price	Normal Value	Dumping Margin
Advantage Controls	s.269TAB(1)(a)	s.269TAC(1)	110%
Iwaki America	s.269TAB(3)	s.269TAC(6)	131%
Uncooperative and all other exporters	s.269TAB(3)	s.269TAC(6)	131%

Table 1 Preliminary Dumping Margin Summary

7.4 Dumping Investigation – preliminary assessment

I am satisfied that cooling tower water treatment controllers appear to have been exported to Australia from the USA during the investigation period (1 July 2015 to 30 June 2016) at dumped prices. I am also satisfied that the preliminary dumping margins were not negligible and that the volume of dumped goods was not negligible.

8. Injury to the Australian Industry

8.1 Preliminary findings

The Commission finds that the sole manufacturer of cooling tower water treatment controllers in Australia is Aquarius and, therefore, Aquarius constitutes the Australian industry.

Based on the Commission’s verification of the information provided by the Australian industry, I am satisfied that there appears to be sufficient grounds to support the claims that the Australian industry has suffered injury in the form of:

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

8.2 Sales volumes

Aquarius claims that it has experienced injury in the form of reduced sales volumes. Figure 1 below shows Aquarius’ domestic sales volumes of cooling tower water treatment controllers in the period 1 July 2009 to 30 June 2016⁵.

⁵ Aquarius provided information from 1 July 2009 as it claims imports from the USA entered the Australian market in significant volumes in 2010/11.

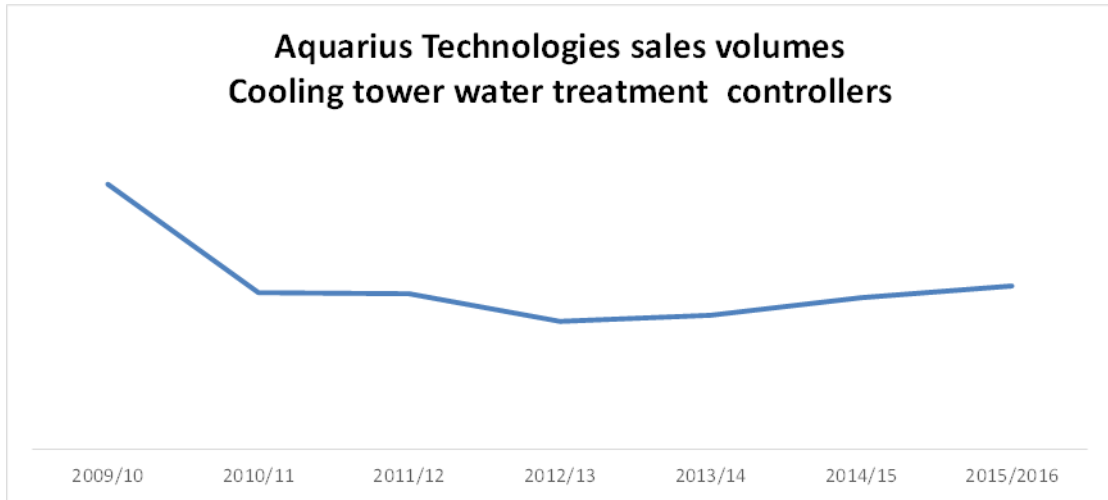


Figure 1 – Aquarius’ sales volumes

Figure 1 shows that Aquarius’ domestic sales fell significantly in the period 2009/10⁶ to 2012/13. Sales volumes marginally increased from 2012/13 to 2015/16.

8.3 Market share

Aquarius claims to have lost significant market share to imports from the USA. The Commission has estimated the changes in market share over the injury analysis period using a combination of estimates based on the best information available and verified information provided by some of the entities selling cooling tower water treatment controllers in Australia. The level of verified information across the injury analysis period is, however, limited and the market represents the Commission’s best estimate using the information available collected during verification of the Australian industry, importers and unverified information provided by CWC. The Commission will seek to refine its estimate of Australian market shares as the investigation continues.

Figure 2 shows the Commission’s estimate of changes in market share held by Aquarius, imports from the USA (preliminarily assessed as being dumped during the investigation period), and imports by CWC from a country other than the USA.

⁶ All references to financial years are to years ending 30 June.

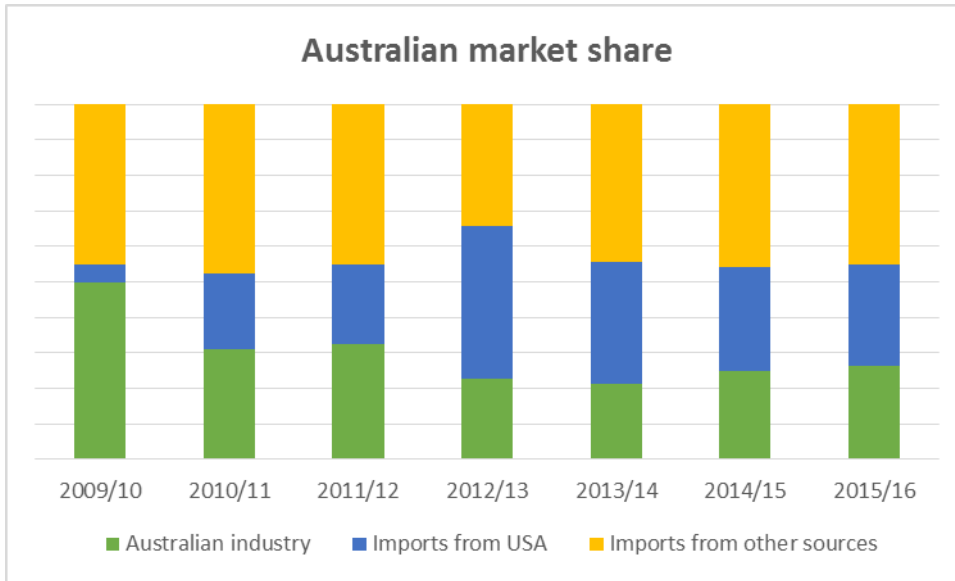


Figure 2 – Australian market shares – cooling tower water treatment controllers

Figure 2 shows that the market share of cooling tower water treatment controllers from the USA increased significantly from 2009/10 to 2012/13. Their share of the Australian market is estimated to have fallen each year from 2012/13 to 2015/16, although they retained a significant share of the Australian market in 2015/16.

Aquarius’ estimated share of the Australian market fell significantly in 2010/11 compared to the previous year. Its market share fell again in 2012/13 and 2013/14, before rising slightly in 2014/15 and 2015/16.

8.4 Price suppression and depression

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases, which otherwise would have occurred, have been prevented. An indicator of price suppression may be the margin between prices and costs.

Aquarius claims that it reduced prices in an effort to recover some of the market share lost to imports from the USA. In its application, Aquarius provided cost to make and sell (CTMS) data and sales revenue data from 2009/10 to 2015/16.

The Commission notes that there are several limitations with analysing sales and CTMS data provided in Aquarius’ application. Within each of the five categories of controller sold by Aquarius, there are a large number of add-on ‘options’, meaning that, in effect, there are many models of controller, with significant price differences between the models.

The CTMS and sales data provided by Aquarius in its application does not differentiate between these models. As such, the aggregate price and CTMS information provided is of limited use in assessing price suppression and depression.

The Commission asked Aquarius to provide CTMS and selling price information over the injury analysis period for two of its more popular controller models, one basic model and one more sophisticated model, both supplied with various accessories including backboards, manifolds and pumps. This information was requested to provide an insight into the company’s cost and pricing trends by removing any distortions that could be

caused by the mix of products. The two models represent a significant proportion of Aquarius' cooling tower water treatment controller sales in each year of the injury analysis period, although declining marginally in 2015/16 when Aquarius introduced its new 'Ultima' brand controller.

Figures 3 and 4 below show the movements in average CTMS and selling prices for the two selected models.

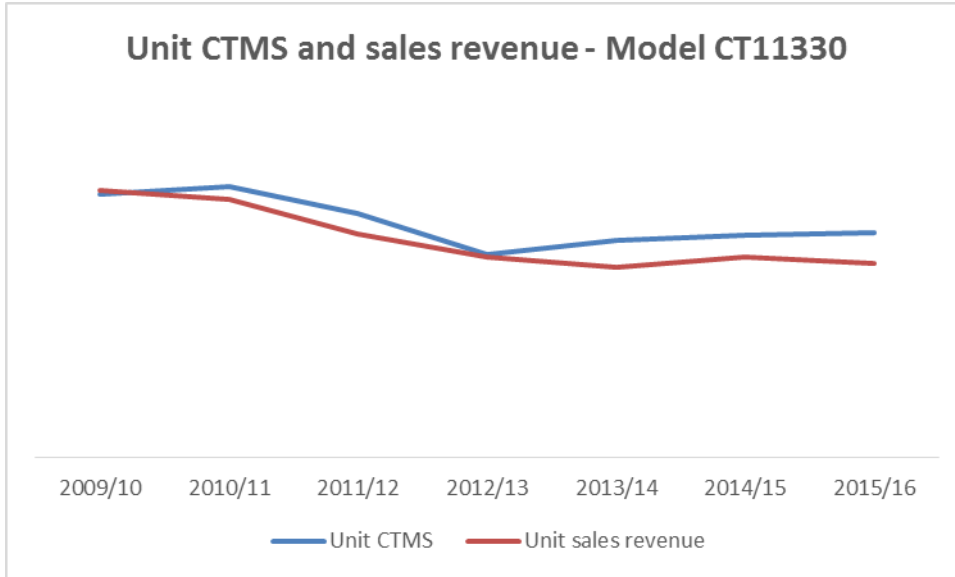


Figure 3: Unit CTMS and sales revenue – Model CT11330

Figure 3 shows that Aquarius' average selling price of the CT11330 controller fell in each year since 2009/10, other than in 2014/15 when a small increase occurred. Unit CTMS declined until 2012/13 and has risen in each year since.

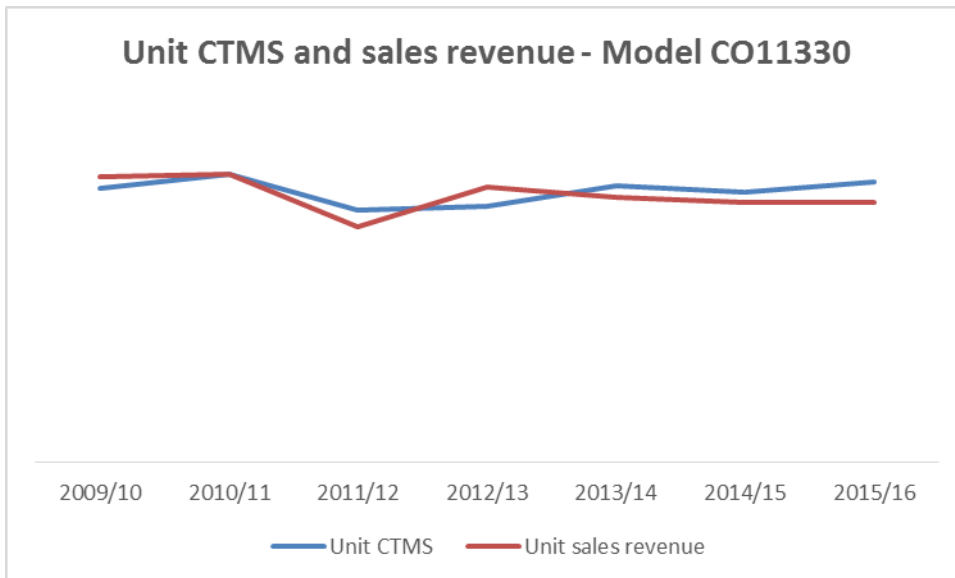


Figure 4: Unit CTMS and sales revenue – Model CO11330

Figure 4 shows that average unit sales revenue for model CO11330 declined in 2011/12 before rising in 2012/13. Unit sales revenue then decreased marginally each year. Unit CTMS for the model also declined significantly in 2011/12 but has risen each year since, with the exception of a small decline in 2014/15.

To further support its claims of price depression, Aquarius provided the Commission with a series of invoices to a number of customers, showing the decline in prices for the same model to each of the customers over the injury analysis period.

8.5 Profits and profitability

Figure 5 below shows Aquarius' total profit and profitability on sales of cooling tower water treatment controllers over the injury analysis period.

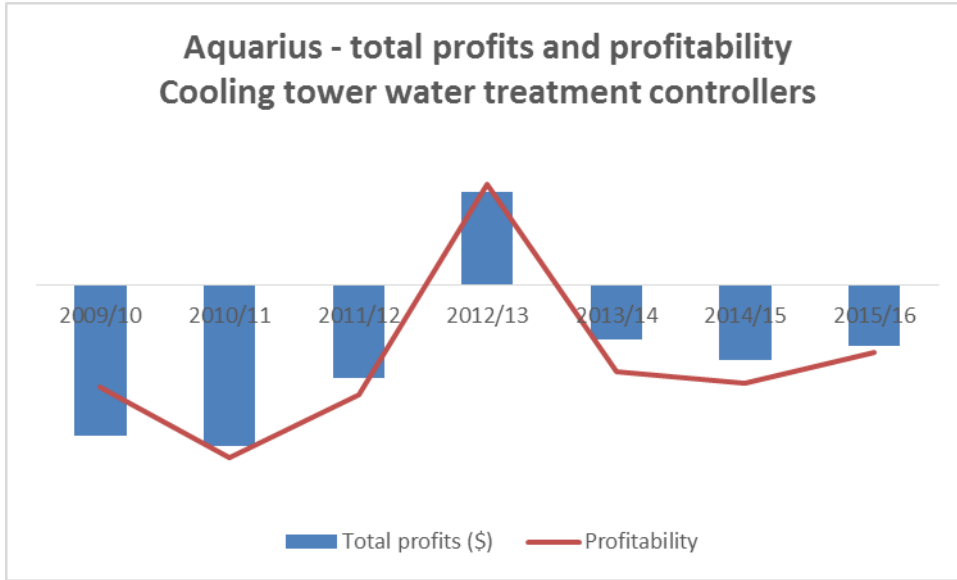


Figure 5: Aquarius total profits and profitability

Aquarius' total profits and profitability deteriorated in 2010/11 compared to 2009/10. The company's position improved in 2011/12 as a result of efforts to reduce costs, principally by reducing staffing levels and finding alternative sources of component supply. Aquarius' result in 2012/13 was impacted by the company selling a significant quantity of product (unrelated to controllers) obtained from a sister company that had ceased trading. The temporary increase in revenue from these sales meant that overheads were spread over a larger quantity of products, reducing the allocation to cooling tower water treatment controllers. No other year was impacted by this factor.

Aquarius' profits and profitability deteriorated in 2013/14 and 2014/15, before improving in 2015/16 with the introduction of two new controller models.

It appears that the loss of sales volumes combined with price depression and suppression has caused Aquarius' profits to be lower than would have been the case had these effects not been present.

The company's profitability deteriorated in 2010/11, 2013/14 and 2014/15.

8.6 Other economic factors

The Commission's preliminary assessment is that the Australian industry has suffered injury through the following other economic factors:

- Aquarius' assets reduced over the injury analysis period;

- The applicant's revenue fell significantly between 2009/10 and 2012/13 but then rose between 2013/14 and 2015/16.
- Aquarius' capacity to produce cooling tower water treatment controllers and capacity utilisation fell over the injury analysis period; and
- Aquarius' employment levels fell from 2009/10 to 2011/12. The company abolished positions dedicated to sales, service and repairs and reduced resources applied to research and development. In 2015/16, Aquarius added a staff member to the research and development team.

8.7 Injury to the Australian industry – preliminary assessment

Aquarius suffered injury in the investigation period, as indicated by sales volumes and a market share well below those achieved prior to imports from the USA entering the market in significant volumes. The Australian industry's pricing levels in the investigation period were, on average, significantly below those achieved before competition with imports from the USA commenced.

In the investigation period, Aquarius' selling prices for cooling tower water treatment controllers were significantly lower than those achieved when imports from the USA were not present in the market. Aquarius' prices were suppressed in the investigation period, with the exception of small price increases achieved with one customer.

Despite unit CTMS reductions and the introduction of a new generation of controllers in 2015/16, Aquarius experienced losses on the sale of cooling tower water treatment controllers in each year other than 2012/13, when the temporary sale of an unrelated product caused the company's overheads to be spread more thinly over a greater quantity of total sales.

It appears that the loss of sales volumes combined with price depression and suppression has caused Aquarius' profits to be lower than would have been the case had these effects not been present.

The company's profitability deteriorated in 2010/11, 2013/14 and 2014/15.

I consider that there appears to be sufficient grounds to support Aquarius' claims that injury has been experienced in the forms listed above at Section 8.1.

9. Cause of injury

In determining whether material injury to an Australian industry has been or is being caused because of any circumstances in relation to the exportation of goods to Australia, the Minister may have regard to the matters set out in section 269TAE, to which I have had regard.

9.1 Size of the dumping margin

Subsection 269TAE(1)(aa) provides that regard may be given to the size of each of the dumping margins, worked out in respect of goods of that kind that have been exported to Australia.

The preliminary dumping margins set out in section 5.3 above is 110% for Advantage Controls and 131% for Iwaki America and all other exporters. The Commission considers

the magnitude of dumping may have provided exporters with the ability to offer the goods at lower prices than would otherwise have been the case.

9.2 Volume effects caused by dumping

Aquarius suffered a significant fall in sales volumes and market share in 2010/11. Aquarius claims this is due to significant volumes of imports entering the market from the USA. Aquarius provided a list of companies that had been significant customers of Aquarius in 2009/10 and had reduced or ceased their purchases from Aquarius in 2010/11 and subsequent years, including in the investigation period. The Commission has established that some of these customers, in the investigation period, purchased cooling tower water treatment controllers that the Commission has preliminarily assessed as having been imported from the USA at dumped prices.

9.3 Price and profit effects caused by dumping

Aquarius claims that its prices were undercut by imports of cooling tower water treatment controllers when they entered the market in significant volumes in 2010/11. Aquarius stated that, after it lost significant sales volumes, it was forced to reduce prices significantly to halt the loss of customers. The company also stated that, since that time, it had generally been unable to secure price increases due to the availability of the controllers in the Australian market. Aquarius provided evidence of some price increases effective September 2016 for certain models to one major customer. Aquarius noted, however, that the price increases were small increases on depressed pricing levels.

Aquarius supplied correspondence from a major customer received in the investigation period, where the customer seeks reduced pricing on certain accessories to compete with low priced cooling tower water treatment controllers from the USA.

The Commission has done a preliminary analysis of price undercutting for a major importer, Waterdos. The analysis shows that one model sold by Waterdos during the investigation period significantly undercut the prices of a comparable model sold by the Australian industry. The model in question represented a significant proportion of Waterdos' sales volumes. There was no evidence of undercutting for other models. The Commission will further analyse undercutting as the investigation continues.

In summary, the Commission considers that the Australian industry's profits and profitability would have been higher in the investigation period without the impact of the dumped goods.

9.4 Other causes of injury

9.4.1 Global Financial Crisis

Aquarius stated that the GFC had resulted in fewer new buildings, which had reduced the demand for cooling tower water treatment controllers. The Commission accepts that the market for cooling tower water treatment controllers is likely to have declined in the years following the GFC. The Commission notes, however, that Aquarius' sales volumes appear to have declined by more than the estimated percentage fall in the Australian market, and that it lost significant market share as a result.

9.4.2 Company restructure

In 2010/11, Aquarius' management changed following the change in the company's ownership in 2010. Some parties have suggested that these changes impacted on the market's confidence in Aquarius' ability to supply in the following years. The Commission will continue to investigate this claim but to date has found no evidence that, in the investigation period, the Australian market lacks confidence in Aquarius' ability to supply the market and provide ongoing support for its products.

9.4.3 Undumped imports

The Commission understands that a significant proportion of the Australian market is supplied by imports of cooling tower water treatment controllers from a country other than the USA. The Commission visited the importer of these controllers, CWC. CWC was prepared to discuss its views on the Australian market but was not prepared to supply detailed information on sales volumes or prices. CWC commented that it had, in recent years, had difficulty in achieving price increases for sales of cooling tower water treatment controllers. It stated that the company was sometimes not successful in winning business where cooling tower water treatment controllers from the USA were also quoted.

9.4.4 Factors other than price

The Commission visited a major water treatment service company to obtain its perspective on the cooling tower water treatment controller market (another major service company approached by the Commission declined the invitation to participate in the investigation). The company visited advised that, while price was one important factor, a range of factors influenced its decision on which cooling tower water treatment controller to purchase. It stated that business relationships, after sales service and support were important considerations.

The company stated that it had no confidence in the ability of the Australian industry to provide support and after sales service for its controllers. On the other hand, the Commission notes that other water treatment service companies have a longstanding relationship with the Australian industry.

9.4.5 Developments in technology

The information currently available to the Commission indicates that the Australian industry provides a range of cooling tower water treatment controllers that compete on a similar level to other products on the market in terms of technology. At this stage of the investigation, the Commission does not consider that developments in technology have been a factor causing injury to the Australian industry.

9.5 Cause of injury – preliminary assessment

As noted in section 8 above, the Commission considers that the Australian industry has suffered injury in the form of:

- loss of sales volume;
- price depression;

PUBLIC RECORD

- price suppression;
- profits foregone;
- reduced assets;
- reduced revenue;
- reduced capacity;
- reduced capacity utilisation; and
- reduced employment.

The Commission consider that this injury is material, notwithstanding that Aquarius has achieved some improvement in its performance through a program of cost cutting and the recent release of its new generation of Ultima brand controller.

The Commission notes that a significant period of time has elapsed since 2010/11, when imports of cooling tower water treatment controllers from the USA entered the Australian market in significant volumes. This makes it more difficult for the Commission to link preliminary findings of dumping in the 2015/16 investigation period with price depression, lost sales volumes, lost market share and lost profitability that occurred in the period immediately following the emergence of USA imports in the market.

However, the Commission considers that the Australian industry continues to suffer injury in that it has largely not regained the sales volumes and market share taken by the imports from the USA. The Commission's preliminary assessment is that these imports were, in the investigation period, dumped by very significant margins and that this provided a significant price advantage to importers in a highly competitive market.

There is evidence that the Australian industry has, in the investigation period, suffered price suppression caused by the presence of dumped imports and that the Australian industry's profits and profitability would have been higher without the impact of dumped goods. The Commission found evidence of undercutting by significant quantities of some cooling tower water treatment controllers imported from the USA in the investigation period that supports a causal link between the dumped imports and material injury suffered by the Australian industry.

The Commission has undertaken a preliminary assessment of other factors that might have caused injury to the Australian industry. The GFC is likely to have caused a decline in the cooling tower water treatment controller market for a period following 2008/09. However the Australian industry's loss of sales and market share cannot be explained by the GFC and evidence clearly indicates that some of the Australian industry's customers switched to purchasing controllers from the USA and continue to purchase goods that appear to be dumped by large margins.

Imports from a source other than the USA are a significant competitor for the Australian industry but, at this stage of the investigation, there is no evidence that the prices of the imports from the other source are suppressing prices in the Australian market.

Factors other than price, such as ongoing support and service, are clearly relevant to the decision on which cooling tower water treatment controller to purchase. While one major customer for controllers told the Commission that it had no confidence in the Australian industry with regard to these non-price factors, the Commission understands that price remains an important factor in a competitive market and that Aquarius has longstanding customers, indicating that not all purchasers are dissatisfied with the service provided by the Australian manufacturer.

As such, I am satisfied, at this point in the investigation, that there appears to be sufficient grounds to support the conclusion that cooling tower water treatment controllers have been exported to Australia from the USA at dumped prices and, because of that, material injury to the Australian industry has been caused.

10. NIP

The level of dumping duty imposed cannot exceed the margin of dumping, but a lesser duty may be applied if it is determined that it is sufficient to remove the injury.

The NIP provides the mechanism whereby this lesser duty provision is given effect. Subsection 8(5B) of the *Customs Tariff (Anti-Dumping) Act 1975* requires consideration of the desirability of fixing a lesser amount of duty if sufficient to remove injury to the Australian industry.

The Commission's *Dumping and Subsidy Manual* specifies that "...The Commission will generally derive the NIP from an unsuppressed selling price (USP). The USP is a selling price that the Australian industry could reasonably achieve in the market in the absence of dumped or subsidised imports....".

In the absence of any submissions to date on the issue, the Commission has calculated a preliminary USP based on the 2009/10 selling prices of two of Aquarius' highest volume cooling tower water treatment controller models. The Commission considers that 2009/10 was a period prior to cooling tower water treatment controllers imported from the USA being present in the Australian market in significant volumes. The Commission's preliminary view is that these prices represent selling prices that the Australian industry could reasonably achieve in a market in the absence of dumped imports.

The Commission calculated the average difference between the USP and Waterdos' selling prices of corresponding models in the investigation period (weighted according to the volumes of Waterdos' imports of the relevant controller unit for the models in the investigation period). The Commission found that the difference was equivalent to 20.9% of Waterdos' weighted average selling prices.

The Commission added the percentage difference between the USP and Waterdos' weighted average selling prices in the investigation period (20.9%) to Advantage Controls export prices to Australia for the relevant controller units to calculate a preliminary NIP.

As the preliminary NIP is lower than the preliminary normal values, the Commission proposes that securities be taken for all exporters from the USA based on the difference between the preliminary NIP and the preliminary weighted average export prices (ad valorem rate of 20.9%).

11. Other matters considered relevant – subsection 269TD(2)(b)

In accordance with section 7 of the PAD 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.

12. Provisional Measures – form of duty

The forms of duty available under the *Customs Tariff (Anti-Dumping) Regulation 2013* include:

- combination fixed and variable duty method ('combination duty method');
- fixed duty method;
- floor price duty method; and
- *ad valorem* duty method (i.e. a percentage of export price).

These forms of duty all have the same objective of removing the injurious effects of dumping; however in achieving this objective certain forms of duty will better suit the particular circumstances of some investigations more so than other forms of duty.

The current proposed securities are recommended to be taken as an amount worked out in accordance with the *ad valorem* duty method. These securities will be imposed in relation to the goods exported to Australia from the USA at the level of the preliminary NIP, which is below the preliminary normal values.

For the purposes of this PAD, I have had regard to the *Guidelines on the Application of Forms of Dumping Duty – November 2013* (the Guidelines)⁷ and note that there are multiple models of cooling tower water treatment controllers on the Australian market and that there are pricing differences between those models. The guidelines specify that a floor price duty method and fixed duty method may not suit those situations where there are many models or types of the good with significantly different prices.

Other considerations may become more relevant for the purposes of publishing a dumping duty notice, therefore I will reassess the most appropriate form of measures should a recommendation be made to publish a dumping duty notice.

Affected parties should contact www.business.gov.au on telephone number 13 28 46 or +61 2 6213 6000 (outside Australia) for further information regarding the actual security liability calculation in their circumstance.

13. Anti-Dumping Commission Contact

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

Dale Seymour
Commissioner
Anti-Dumping Commission

18 April 2017

⁷ Available at www.adcommission.gov.au

ATTACHMENT A

Evidence relied upon

The table below summaries the information submitted to the Commission by interested parties and the verification status of that information.

Interested party	Verification Status	Details
Applicant	Verified	The Commission has undertaken a verification visit to the applicant, Aquarius, and is satisfied that the information it provided is relevant, accurate and complete. A verification visit report has been placed on the electronic public record.
Importers	Verified	<p>The Commission invited five importers to complete an importer questionnaire. The Commission received two completed importer questionnaire responses from:</p> <ul style="list-style-type: none"> • Tanvenamore Holdings Pty Ltd t/as Waterdos Instruments Australasia • Chemical Pumps Australia Pty Ltd. <p>At the time of publishing this notice, the Commission had undertaken verification visits to both importers. Verification visit reports are in the process of being uploaded to the electronic public record.</p>
Exporters	Unverified	Refer to the above heading 5.1 for further details regarding exporter questionnaire responses received.
Other interested parties	Considered	<p>Prior to making this PAD, the Commission visited:</p> <ul style="list-style-type: none"> • CWC (an importer of cooling tower water treatment controllers from a source other than the USA); and • Integra (a water treatment service company and a reseller of cooling tower water treatment controllers). <p>A visit report for CWC has been placed on the electronic public record. A visit report for Integra is in the process of being finalised.</p>