



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

June 2, 2017

Director Operations 5
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Re: Submission in the Antidumping Investigation of Cooling Tower Water Treatment Controller Units Exported from the United States, ADC 377

To whom it may concern:

We respectfully submit the attached for consideration in the antidumping duty investigation on cooling tower water treatment controller units from the United States, ADC 377. Attached for submission are comments by the United States on the Preliminary Determination and Statement of Essential Facts.

Sincerely,

A handwritten signature in blue ink, reading "Roberta Kienast Dagher". The signature is fluid and cursive, with a long horizontal line extending to the right.

Roberta Kienast Dagher
Acting Director, Trade Remedy Compliance Staff



Comments of the United States of America to the Commission Regarding Australia's AD Investigation of US Cooling Tower Water Treatment Controller Units (ADC 377)

I. Introduction

The U.S. Government would like to present its views to the Australian Anti-Dumping Commission (“the Commission”) regarding the antidumping investigation of cooling tower water treatment controller units originating in the United States imported into Australia. In particular, we would like to highlight certain aspects of the preliminary injury determination and conclusions on injury from the Statement of Essential Facts (“SEF”) in this investigation. We respectfully urge the Commission to take the matters below into consideration when making its final recommendations and report, and to address submissions made by U.S. parties prior to and in response to the SEF.

II. Injury and Causal Link Issues

The United States believes that an affirmative injury determination in this investigation would suffer from numerous logical and factual deficiencies, which would appear to render such a determination inconsistent with Australia’s obligations under the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 . Specifically, the Commission will need to explain how subject U.S. import volume and price effects could have a significant adverse impact on the domestic industry, in light of the record evidence.

For example, in order to demonstrate a causal link between U.S. imports and injury to the domestic industry, the Commission will need to:

- Identify how U.S. imports can be the cause of any material injury to the domestic industry when the Commission found in paragraph 8.6 of the SEF that “[t]he Commission considers that the Australian industry’s lost sales volume and market share over the injury analysis period cannot be attributed to imports of cooling tower water treatment controllers from the USA at dumped prices.” As the Commission points out in Paragraph 8.6 and Figure 2 of the SEF, the market share of imports from the United States, which only increased in the initial three years of the injury period (from 2009/10 to 2012/13), fell in the latter three years of the injury period (from 2012/13 to 2015/16).
- Determine if there have been significant price effects by subject imports from the United States. In doing so, the Commission will need to explain why the findings for the undercutting analysis were based on only one model when there was no undercutting for other models; and why prices for subject imports from the United States, and not lower prices for imports of cooling tower water treatment controllers from another source, have significant effects on domestic prices.
- Examine the impact of the subject imports on the domestic industry, including an evaluation of all relevant economic factors and indices bearing on the state of the domestic industry. In doing so, as stated above, the Commission will need to demonstrate a causal relationship between the subject imports from the United States and any injury to the domestic industry. This appears to be challenging in light of record evidence in the SEF showing a lack of correlation between subject imports from the United States and Aquarius’ market share, sales volumes, total profits and profitability from 2012/13 to 2015/16. For example, as subject imports declined in 2013/14, 2014/15, and 2015/16, the domestic industry’s sales volumes increased from 2012/13 to 2015/16

and market share increased from 2013/14 to 2015/2016. *See* paragraphs 7.5 and Figures 1 and 2 of the SEF. Similarly, there is little consistent correlation between Aquarius's total profits/profitability and subject imports; its profits/profitability was only positive in 2012/13 (when subject imports held their highest market share), deteriorated in 2013/14 and 2014/15 (as subject imports' market share declined), and improved in 2015/16 (as subject imports' market share declined). *See* paragraph 7.7 and Figure 2 of SEF.

- Ensure that the Commission is not attributing any injury from other known factors (such as increases in imports from a non-subject country, and record evidence provided by one of the largest water treatment service companies in Australia that it had “no confidence in the ability of the Australian industry to provide support and after sales service for its controllers”) to subject imports from the United States. *See* paragraph 8.8.5 and Figure 2.

III. Conclusion

Given all of the above, the United States has significant concerns regarding the conclusions reached by the Commission thus far in this investigation. In addition, it is our understanding that during the 20-day comment period following the issuance of the SEF, the U.S. responding parties have submitted or will submit arguments and concerns regarding the Commission's preliminary determination and SEF. As the Commission considers its upcoming recommendations in this investigation, we urge the Commission to carefully consider and address these arguments, as well as the comments we have put forth in this letter. The United States also urges the Commission to abide by its WTO obligations and examine whether there is sufficient positive evidence to support a finding of both dumping and injury to the domestic industry by reason of subject imports from the United States. In the absence of such evidence,

the Commission should recommend a negative determination. The United States looks forward to Australia's final resolution in this proceeding, which we anticipate will fully address all concerns raised in this proceeding in a fair and objective manner consistent with Australia's WTO obligations.