

2 June 2017

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

Dear Director

**DUMPING INVESTIGATION 377 – COOLING TOWER WATER TREATMENT CONTROLLERS
EXPORTED FROM THE UNITED STATES OF AMERICA**

This submission is made by the Australian Industry in response to Waterdos Instruments Australasia (Waterdos) submission dated 11 May 2017¹.

Background

The Waterdos submission makes a number of claims, including the following:

- the dumping margin calculations may be erroneous by reason of a lack of understanding on the exporter's part as to the data requirements
- the Australian industry has not suffered material injury
- imports from the USA have not caused material injury to the Australian industry
- if the Australian industry was found to have suffered injury, such injury is likely the result of imports from countries other than the USA, and
- Waterdos has not undercut Aquarius' prices.

Dumping margin

It is Aquarius Technologies position that the Commission correctly assessed dumping margins ranging from approximately 110 – 131 percent² on goods exported from the USA during the investigation period. Aquarius Technologies submits that the **dumping margins are significant, some of the highest margins found by the Commission.**

Waterdos claims that the dumping margin calculations may be erroneous by reason of a lack of understanding on the exporter's part as to the data requirements. Aquarius Technologies' submits that the data requirements of the Exporter Questionnaire³ are quite explicit. This position is validated by Advantage Controls in its email forwarded to the Commission on 17 February 2017 where the exporter states that "*I have reviewed the Exporter Questionnaire, and find it be very detailed*"⁴.

Furthermore it is quite clear that Advantage Controls are aware they are dumping and have tried to justify it. In the Exporter Questionnaire Summary Advantage Controls states that "*our price to*

¹ EPR 377, Record No. 21, Waterdos Submission

² EPR 377, Record No. 15, ADN 2017/54 – PAD and Imposition of Securities

³ <http://www.adcommission.gov.au/cases/Pages/CurrentCases/ADC-377.aspx>

⁴ EPR 377, Record No. 4, Advantage Controls Submission

Waterdos for these units has not increased in the past few years, even though Advantage Controls has increased prices during that period”. Additionally they are aware of the lower currency exchange rate and are seeking to keep prices lower “to provide some relief from the unfavourable currency exchange rate”.⁵

Market demand

Imported and domestically produced cooling tower water treatment controllers are directly competitive products, that is, they are homogeneous products which compete on price or availability.

Due to the homogenous nature of the goods, and the availability of a number of models (including locally produced goods and imported goods), demand in the Australian cooling tower water treatment controller market demand is relatively elastic. This elasticity, and willingness for consumers to substitute one model of controller for another, can be demonstrated by the following finding by the Commission:

“The imported goods and domestically produced goods are directly competitive. Sales information obtained by the Commission suggest that buyers are willing to switch from locally produced goods to imported goods and vice versa.”⁶

In a price elastic market, price reductions of one model will result in an increase in the demand for that model, and a corresponding decrease in demand for other models of the same good. In such a price elastic market, a lower price attracts a higher volume of sales and greater market share.

In a relatively price elastic market where homogeneous products are available to all buyers, price discrimination is a major driver of demand.

In the Australian cooling tower water treatment controller market this can be evidenced by the lower prices of imports from the USA (found by the Commission to be dumped by approximately 110 – 131 per cent in the investigation period), corresponding with an increased sales volume and market share for the sellers of these goods, and lost sales volume and market share for the Australian industry.

Due to the fact that they are dumped, imports of cooling tower water treatment controllers from the USA are able to be sold at a lower price than ordinarily possible. In the price elastic cooling tower water treatment controller market, demand for the USA produced controllers is therefore higher than would have been in the absence of the dumping. Conversely, demand for the Australian manufactured cooling tower water treatment controllers is lower than would have been in the absence of the dumping, resulting in lost sales volume and market share, from the dumping.

The Australian industry has suffered material injury

Injury period

The injury period for the investigation is **July 2009 to June 2016**⁷. This period was determined for the following reasons:

- Up until 2009/10 the Australian market for controllers was relatively stable.

⁵ EPR 377, record No. 9, Advantage Controls Export Questionnaire Summary

⁶ EPR 377, Record No. 22, SEF 377 Cooling Tower Water Treatment Controllers – USA, Section 3.5.3

⁷ EPR 377, Record No. 1, ADN 2017/05 – Initiation of Investigation

- In 2010/11 Aquarius Technologies experienced a sudden and substantial drop in sales volume at the time Waterdos substantially increased imports of controllers from the USA. The Commission’s Consideration Report 377 confirms that “*imports of controllers from the USA commenced in significant volumes in the latter part of 2009/10 and have continued in significant volumes since* [Emphasis added]”⁸.

Waterdos claims that the purpose of the injury analysis period is not to establish the impact of imports on the Australian industry over that period, rather it is to establish trends in the Australian market and the Australian industry performance, in order to determine how imports during the period of investigation may have impacted the industry.

It is Aquarius Technologies position that although the Commission is not *examining/assessing dumping* in the period prior to the investigation period, given that there have been strong volumes of imports since 2010/11 and there *is* significant dumping in the investigation period, that imports from the USA prior to the investigation period are *not un-dumped* and have affected selling prices throughout the injury period. The Commission itself states in the SEF that it “*is unable to draw any conclusions on allegations of dumping prior to the investigation period*”⁹. It is not able to say that imports were dumped, but it is also unable to say that they were not dumped.

Figure 2 – Australian market shares – in the Commission’s SEF¹⁰ shows that imports of cooling tower water treatment controllers from the USA increased significantly, year on year from 2009/10 to 2012/13, decreased slightly in 2013/14, then remained relatively stable in 2014/15 and 2015/16.

The claim by some interested parties that imports from the USA were not dumped between 2009/10 and 2014/15 would have us believe that the market share of imports from the USA grew significantly between 2009/10 and 2012/13 at un-dumped prices, then remained stable from 2013/14 to 2014/15 at un-dumped prices, before remaining stable again in 2015/16, but with dramatically dumped prices of 110 -131 per cent.

It defies logic and economics that imports from the USA would increase in market share prior to the investigation period, at un-dumped prices, then demand (and market share) would remain stable in the investigation period at lower, massively dumped prices.

The significant increase in sales volume and market demand of USA imports over the injury analysis period, is only logically explained by the fact that these imports have been dumped over the entire injury analysis period, of which the investigation period is only anticipated to be a snapshot of.

Loss of sales volume

Aquarius Technologies application clearly shows that during the injury period the Australian industry’s sales volumes fell **significantly** between 2009/10 and 2012/13 (well before the release of the Ultima), and increased **marginally** between 2012/13 and 2015/16.

As noted in the application, the sales increase from the year 2012/13 was because of price reductions by Aquarius Technologies aimed at regaining some volume and market share. However,

⁸ EPR 377, Record No. 3, Consideration Report, Section 2.7, Page 13

⁹ EPR 377, Record No. 22, SEF 377 Cooling Tower Water Treatment Controllers – USA, Section 7.4

¹⁰ EPR 377, Record No. 22, SEF 377 Cooling Tower Water Treatment Controllers – USA, Section 7.5

though sales numbers increased, as the prices were lower, total income did not increase that much.¹¹

Aquarius Technologies’ sales volumes in 2015/16 are **significantly below** its sales volumes in 2009/10.

The Waterdos submission claims that the merger of Ecolab and Nalco in 2011/12 had a negative impact on Aquarius Technologies business. It states that up until 2011/12 Nalco was Aquarius’ largest customer, representing 25% of its overall sales and that after the merger it changed suppliers.

Aquarius Technologies considers this claim to be unsupported. The sales of Aquarius Technologies’ controllers to Ecolab represented only XX% of Aquarius Technologies’ domestic sales in 2011/12 as can be seen in the following table.

Year	Aquarius Technologies Total Domestic Sales		Sales to Ecolab	
	No	Value (AUD)	No	Value (AUD)
2011/12	XXX	XXXXXX	XXX	XXXXXX

Although the merged Ecolab/Nalco did not stop buying controllers from Aquarius, their acquisition effects on the market were taken into consideration when estimating the Australian market. Refer to the Application, Appendix A2, Aquarius estimated a 10% reduction in the Australian market in 2012/13 compared to 2011/12.

It is Aquarius Technologies’ position that the massively **dumped** cooling tower water treatment controllers exported from the USA has caused the Australian industry’s sales volumes, during the period of investigation, to be **significantly lower** than they would have been if the goods exported from the USA were not being **dumped** and at such large margins (approximately 110 – 131%).

Price depression and price suppression

Aquarius Technologies submits that during the injury period it reduced its prices of cooling tower water treatment controllers in an effort to regain some of the lost sales volume to imports from the USA.

During the course of this investigation Aquarius Technologies provided the Commission with cost to make and sell (CTMS) and selling price information, for the injury period, for two highest selling models during the injury period, the CT11330 and the CO11330.

The Commission has graphed movements in costs and revenue in the PAD¹².

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.

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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

¹¹ EPR 377, Record No. 2, Application, Section A-9, Page 45

¹² EPR, Record No. 15, ADN 2017/54 – PAD and Imposition of Securities, Section 8.4, Page 11

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also declined significantly in 2011/12 but has risen each year since, with the exception of a small decline in 2014/15.

As noted in the PAD, Aquarius Technologies provided further evidence to support this claim by way of invoices showing the decline in prices to the same customers over the injury period.

CT11330 and CO11330 models are still being sold and are an important product offering to our customers. Aquarius Technologies' claims of suppression and price depression caused by significant dumping of exports from the USA are supported by the following indicators during the period of investigation

- CT11330
 - unit sales revenue decreased
 - unit CTMS increased
 - negative margin between unit CTMS and unit sales revenue increased
- CO11330
 - unit sales revenue decreased
 - unit CTMS increased
 - negative margin between unit CTMS and unit sales revenue increased

Undercutting of Aquarius Technologies' prices

Waterdos claims that it has not undercut Aquarius prices, but that third country sales may have¹³.

Aquarius Technologies considers this claim to be unsupported.

Firstly, Aquarius Technologies notes the Commissions preliminary analysis in the PAD which 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 [Emphasis added].¹⁴*

Secondly, Waterdos claim that imports from a third country are undercutting is not corroborated by Convergent Water Controls (CWC), the largest importer of cooling tower water treatment controllers from a country other than the USA. Aquarius Technologies refers to the CWC Visit Report which states that CWC was "*sometimes not successful in winning business where Waterdos equipment was also quoted*".¹⁵

It is Aquarius Technologies' position that since FY2010/11 Aquarius Technologies' prices have been undercut by exported controllers from Advantage Controls and that after losing significant sales volumes, Aquarius Technologies was forced to reduce prices significantly to halt the loss of customers.

The Waterdos submission also claims that

"...the Applicant, and Waterdos, and other market participants here in Australia, do not sell cooling tower water treatment controllers in competition with each other"¹⁶.

¹³ EPR 377, Record No. 21, Waterdos submission, Section C, Page 6

¹⁴ EPR 377, Record No. 15, ADN 2017/54 – PAD and Imposition of Securities, Page 14

¹⁵ EPR 377, Record No. 8, CWC Importer Visit Report, Page 2

¹⁶ EPR 377, Record No. 21, Waterdos submission, Section D, Page 7

Aquarius Technologies strongly disagrees and refers to the Melbourne Health tender for controllers **Reference No. RFQ- TSER0295MH** in July/August 2014 in which Aquarius Technologies, Waterdos and Convergent Water Controls were invited for the same cooling tower water treatment controllers. A tender that Waterdos won.

Aquarius Technologies submits that since 2010/11 it has generally been unable to increase prices due to the dumped controllers exported from the USA.

Other economic factors

Appendix A7 requires applicants to provide the Commission with details on other injury factors. Accordingly the Australian industry submitted data on assets, capital investment, revenue capacity, capacity utilisation, employment and cash flow¹⁷.

Some of this information was updated during the Australian industry visit¹⁸.

In summary, Aquarius Technologies’:

- revenue in 2015/16 is **significantly below** its revenue in 2009/10
- capacity and capacity utilisation **decreased** over the injury period
- employment levels **decreased** over the injury period

Overall, the Australian industry has been adversely affected by imports of predatorily priced cooling tower water treatment controllers from the USA.

Other

“Cooling tower water treatment systems”

The term “cooling tower water treatment systems” used by Waterdos is not by nature something different to “cooling tower water treatment controllers”. Supplying cooling tower water treatment controllers in packages¹⁹ (or “systems” as called by Waterdos) to include manifold, pumps etc mounted on a backboard or installation of this “system” on skids and sometimes adding filters to make another “system” is not something new and is done by almost all controller suppliers into the Australian market upon customer request. Similarly, Aquarius Technologies sells many of their controllers in packages or “systems” as called by Waterdos. Adding controllers with dumped prices onto the “systems”, allows Waterdos “systems” to undercut the Australian industry “systems”.

Goods under investigation

Aquarius Technologies notes that Waterdos is attempting to limit the under investigation models to XSCF3-A7Y-3P1S and XSCF3E-A7Y-3P1S (equivalents to CT11330). Aquarius Technologies believes that Waterdos are very well aware that they are significantly price undercutting XSCPRF3-A7Y and XSCPRF3E-A7Y (equivalents to CO11330) as well and are trying to limit the Commission’s investigations on the models XSCF3-A7Y and XSCF3E-A7Y and prevent complete and exclusive investigations on all controllers which are imported with dumped prices and sold at prices that undercut Australian industry prices.

The “kits” mentioned in the Waterdos submission are actually the same under investigation controllers, XS series (refer to the four models mentioned above) which can be sold either as

¹⁷ EPR 377, Record No. 2, Application, Section A-8

¹⁸ EPR 377, Record No. 11, Industry Visit Report, Section 7.6, Page 26

¹⁹ EPR 377, Record No. 11, Australian Industry Visit Report, Section 3.4.2, Page 11

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standalone controllers or in packages. Aquarius Technologies submits that these so called kits are imported with dumped prices and these prices undercut Aquarius Technologies' prices for equivalent models.

In general, Aquarius Technologies submits that playing with words to refer to the under investigation controllers "kits" or "water controllers" does not change the facts about the cooling tower water treatment controllers imported from the USA are dumped, the margins are significant and the dumping has caused the Australian industry injury that is material.

Conclusion

As noted in the application Aquarius Technologies considers that prior to Waterdos entering the Australian market with dumped exports from the USA, competition between the Australian made cooling tower water treatment controllers and those imported by CWC was fair²⁰.

As a consequence of Waterdos substantially increased imports of the goods from the USA in the latter part of 2009/10

- Aquarius Technologies' market share in 2015/16 is **significantly below** its market share in 2009/10.
- The market share of imports from the USA in 2015/16 is **significantly greater** than its market share in 2009/10.
- The market share of imports from other sources in 2015/16 is **about the same** as it was in 2009/10.

Aquarius Technologies submits that:

- the Commission has correctly assessed dumping margins for exports from the USA
- the Australian industry has suffered material injury
- exports from the USA caused the material injury to the Australian industry
- Waterdos has undercut Aquarius' prices throughout the injury period
- the Australian industry has suffered material injury caused by dumped exports

Should the Commission require any further information, including model matching and packages for its price undercutting analysis please do not hesitate to contact us.

Regards

Aquarius Technologies team.

²⁰ EPR 377, Record No. 2, Application, Section A-4.2, Page 23