

9 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 comments made in the following submissions:

- Integra Water Pty Ltd email, received by the Anti-Dumping Commission on 30 May 2017
- United States Department of Commerce International Trade Administration, dated 2 June 2017,
- Iwaki America Inc. in response to the Statement of Essential Facts (SEF), dated 5 June 2017
- Waterdos Instruments Australasia submission, dated 7 June 2017.

Injury period

The Australian industry notes comments by interested parties regarding 2009/2010 being an appropriate starting point. As stated in our submission to the SEF:

- Up until 2009/10 the Australian market for controllers was relatively stable.
- In 2010/11 the Australian industry experienced a **sudden and substantial** drop in sales volume coinciding with the time Waterdos **substantially** increased imports of controllers from the USA.

The fact that Waterdos commenced supplying the marked in **substantial quantities** in 2009/10 is evidenced by Integra in its email¹ where it provides details on its purchase history for the period 2008/09 to 2010/11.²

For the record, Australian industry's sales of like goods in 2008/09 was not less than its sales of like goods in 2009/10, refer **confidential attachment A**.

¹ EPR 377, Record No. 26, Integra water Pty Ltd

² EPR 377, record No. 26, Integra Water Pty Ltd

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In its application, Aquarius Technologies provided data for the period when dumping started and the period immediately prior, as the form requests. Aquarius Technologies' selection of these dates was supported by the Commission's finding 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.

Market demand

As stated in our submission dated 2 June 2017 the Australian industry's position is that imported and domestically produced cooling tower water treatments are competitive products, that is, they are homogenous products which compete on price or availability.

Contrary to the Waterdos claim that *controllers do not compete in the same market* the Integra email³ shows that between 2007/08 and 2008/09 Integra NSW shifted its purchases from Aquarius Technologies to CWC and between 2009/10 and 2010/11 Integra again shifted its purchases from CWC to Waterdos⁴.

Aquarius Technologies' understanding is that the Integra NSW office switched its purchases of cooling tower water treatment controllers from Aquarius Technologies to CWC because it was based in Sydney. Aquarius Technologies is not aware of any price cuts by CWC in 2007/08. Aquarius Technologies submits that Integra's switch from Aquarius to CWC was not about the quality of services but their quick and easy accessibility, i.e. **availability**.

The figures for 2009/10 and 2010/11 show that once again Integra switched the majority of its purchases, this time from CWC to Waterdos. Aquarius Technologies submits that the Advantage Controls' products imported by Waterdos are a very low cost source of equipment for Integra which could potentially enable them to take part in tenders with lower **prices**. Aquarius Technologies' view is that it is in Integra's financial interest to support its suppliers of low priced equipment.

For completeness, Aquarius Technologies submits sales data showing Integra's total purchases of like goods from Aquarius Technologies for the period 2007/08 to 2010/11. **See Confidential Attachment B**. In 2007/08 and 2008/09 Integra's offices in Victoria and Queensland had a continual and reasonable level of business with Aquarius Technologies. These sales quickly dropped in 2009/10 when Waterdos started importing Advantage Controls products with dumped prices.

Market share

Several parties have made claims about Aquarius Technologies *slight* increase in market share from 2013/14 to 2015/16 and how this *slight* increase indicates that Aquarius Technologies has not suffered material injury. Aquarius Technologies submits this simple viewpoint ignores the significant and deeply unprofitable price reductions made by Aquarius Technologies to make these *slight* gains on the significant market share losses experienced between 2009/10 and 2015/16.

Importantly, Aquarius Technologies *slight* increases in market share that coincided with Aquarius Technologies' significant price reductions is further evidence that the goods and like goods are homogenous products which compete on price or availability. This further supports Aquarius Technologies' claims of material injury including (but not limited to) loss of sales volumes, loss of market share and loss of profits, due to the low sales price of dumped imports from the US into the Australian market.

³ EPR 377, Record No. 26, Integra Water Pty Ltd

⁴ EPR 377, Record No. 26, Integra Water Pty Ltd

Price injury

Aquarius Technologies finds the assertion that Waterdos has not undercut Aquarius Technologies' prices unsupported. Waterdos seem to be actively ignoring the fact that the goods description defines the controllers "with or without" accessories..." and we suggest that Waterdos re-do its analysis in accordance with the goods description. The addition of these items, normally procured locally, such as backing boards and manifolds are unlikely to make the price of the "packages" more competitive as all controller suppliers try to procure them with lowest possible prices.

For Waterdos to assert that the Commission has not analysed the cost proportion of the cooling tower water treatment controllers with regard to the packages they are sometimes sold as, and not had regard to this in the undercutting analysis is grasping at straws.

In its submission, Waterdos claimed that the Commission's finding of price undercutting is wrong due to an incorrect comparison of models but yet, Waterdos have redacted the names of the models which they think should be used for model matching purposes. The Australian industry finds this quite odd given that Waterdos have been provided the opportunity to provide comment on the models proposed by Aquarius Technologies and the Commission, why then seek to hide the models they are proposing be used? If the models proposed are going to even be considered by the Commission, they must be made public to give Aquarius Technologies and other interested parties the opportunity to comment.

Profit/Profitability

The Waterdos submission ignores the *trend* of Aquarius' profits over the *injury analysis period*, and selectively focuses on the level of profit achieved in the investigation period compared to one year before it. The legislation clearly outlines an injury analysis period, and discusses its use in examining *trends* in the Australian Industry's performance.

Similarly the US Administration submission ignores the relevant facts with regard to Aquarius Technologies experiencing a **temporary increase** in revenue during one year of the injury analysis period from selling a **significant quantity** of product to un-related customers obtained from a sister company that had ceased trading. The **temporary increase in revenue** provided for overheads to be spread over a larger quantity of goods, thus reducing cost allocations for cooling tower water treatment controllers. "**No other year was impacted by this factor**".⁵

Injury from other factors

Waterdos, Integra and the US Department of Commerce continue to emphasize that while price is one important factor after sales service and support are important considerations and that Integra has "*no confidence in the ability of the Australian industry to provide support and after sales service for its controllers*".⁶

Aquarius Technologies submits that this claim is unsupported and should be rejected outright. As mentioned above when Integra NSW switched its purchases from Aquarius Technologies to CWC (when CWC opened up its business in Sydney), Integra's Victoria and Queensland offices **continued to purchase** from Aquarius Technologies.

⁵ EPR 377, Record No. 22, Statement of Essential Facts, Section 7.7

⁶ EPR 377, Record No. 25, US Department of Commerce International Trade Administration, Section II

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Confidential attachment B shows Integra's yearly purchases, of like goods, from Aquarius Technologies by Total and by NSW, for the period 2007/08 to 2010/11. Aquarius Technologies has also provided supporting sales data.

This **fact**, that Integra continued to purchase Aquarius Technologies controllers, refutes claims of no confidence in the Australian industry's support and aftersales service.

Furthermore Aquarius Technologies submits that the abovementioned claim is aimed at diverting the Commission's attention from the dumped cooling tower water treatment controllers imported by Waterdos.

The fact is, prior to the current Director Waterdos taking this position he was the Sales Manager responsible for Aquarius Technologies' customer support for many years. It is quite contradictory that the manager responsible for Aquarius Technologies' customer support at the time when Integra switched a majority of its NSW purchases, from Aquarius Technologies to CWC (2007/08 to 2008/09)⁷ is making claims that the customer service and support for which he was responsible was inadequate and the reason for Aquarius Technologies losing sales.

In the words of Integra, the market for cooling tower water treatment controllers "is a competitive market driven heavily by **price** [emphasis added]"⁸ and the former Aquarius Technologies' Sales Manager had intimate knowledge of Aquarius Technologies' pricing when he took up the position with Waterdos.

Transparency

Aquarius Technologies requests that the models Waterdos has submitted for model matching purposes on page 5 of its submission (paragraph B)3)(a)) be un-redacted. In its submissions, and the Commission's reports, Aquarius Technologies and the Commission have been transparent in which models are comparable for model matching purposes. The models that Waterdos sells are publicly available, so in redacting the models they are proposing as comparable for an undercutting analysis, one can only surmise that they are seeking to take from Aquarius Technologies and other interested parties the natural justice in being able to freely know and discuss the comparison of different models.

Dumping margins

Aquarius Technologies notes the muteness of interested parties as to the magnitude of the dumping margins and relevance of these dumping margins with regard to the Minister determining whether material injury to the Australian industry has been, or is being, caused or threatened.

Aquarius Technologies submits that the magnitude of the dumping margins of the goods exported from the USA, between approximately 110 and 131% is extraordinary and provides the importer with a significant cost advantage which has resulted in these dumped imports being above 25% of the total market volume during the investigation period. Noticeably, the market share of imports from other sources is at about the same level during the investigation period as it was at the start of the injury period.

Conclusion

⁷ EPR 377, Record No. 26, Integra Water Pty Ltd

⁸ EPR 377, Record No. 26, Integra Water Pty Ltd

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As an SME Aquarius Technologies did not have the luxury of carrying lost profits for even a small period of time. Aquarius Technologies team was so intent on supporting their company and promoting it in the market, that whilst they were aware of dumping occurring in 2009/10, before lodging anti-dumping application, they stood behind Aquarius Technologies and worked hard, hand in hand, to minimise the company costs and keep it working. This price-cutting campaign by Advantage Controls and Waterdos unified the Aquarius Technologies team and should have, *but for the dumping*, resulted in an even higher level of profit for Aquarius Technologies. However, in the face of the dumping, Aquarius Technologies was forced to continue cutting its already low sales prices in order to win back some of the lost sales to the dumped US imports.

Aquarius Technologies submits that a logical analysis of the facts shows that:

- the dumping margins of exports from the USA are significant, some of the highest margins found by the Commission
- the Australian industry has suffered material injury
- exports from the USA caused the material injury to the Australian industry, and
- Waterdos has undercut Aquarius' prices throughout the injury period.

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

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Confidential attachment A

Confidential attachment B