IMPORTER QUESTIONNAIRE

**Anti-circumvention Inquiry No. 671**

**Case number:** 671

**Product:** Concrete Underlay Film

**From:** Malaysia

**Inquiry period:** From 1 July 2019

|  |  |
| --- | --- |
| **Section** | **Response due by** |
| **A** | 1 May 2025 |
| **B, C & D** | 21 May 2025 |

**Email response to:** [investigations@adcommission.gov.au](mailto:investigations@adcommission.gov.au)

**Anti-Dumping Commission website:** [www.adcommission.gov.au](http://www.adcommission.gov.au)

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# Instructions

**Why you have been asked to fill out this questionnaire?**

The Anti-Dumping Commission (the commission) is conducting an anti-circumvention inquiry into concrete underlay film (the goods) exported to Australia from Malaysia. The Anti-Dumping Notice No 2025/035[[1]](#footnote-2), available on the commission’s website, provides details of the goods under consideration, the application and the investigation procedures.

The initiation of this inquiry follows an application lodged by LCM General Products Pty Ltd (Cromford Film, or the applicant), a producer of like goods in Australia. Cromford Film alleges that there has been circumvention activity involving a slight modification of goods exported to Australia from Malaysia, within the meaning of subsection 48(2) of the *Customs International (Obligations) Regulation 2015* (the Regulation). Specifically, Cromford Film alleges that goods exported to Australia have been slightly modified to the colour grey so as to slightly fall outside the black colour described in the original notice.

The commission will examine, as part of this inquiry, grey colour concrete underlay film (the circumvention goods).

The commission will use the information you provide to determine whether a circumvention activity has occurred, and to make recommendations about potential alterations to the original notice should a circumvention activity be found to have occurred.

The ADC will collect and use information in accordance with the ADC Collection and Use of Information Policy.

**Inquiry Process**

The anti-circumvention inquiry will examine whether a circumvention activity involving a slight modification of goods exported to Australia from Malaysia has occurred.

The commission will examine alleged circumvention goods exported to Australia from Malaysia from 1 July 2019 to 31 March 2025 to determine whether the alleged circumvention activity has occurred.

After the inquiry, the Commissioner of the Anti-Dumping Commission (the Commissioner) will provide a report and recommendations to the Minister, unless the inquiry is terminated earlier. This report will recommend to the Minister that the original notice:

* remain unaltered; or
* be altered following a finding that circumvention activity in relation to the original notice has occurred, and alterations be made.

After considering the report and any other information that the Minister considers relevant, the Minister may leave the original notice unaltered or alter the original notice, specifying different goods that are subject to the notice/s, and altering variable factors in respect of certain exporters subject to the notice.

This inquiry will be carried out in accordance with Part XVB of the *Customs Act 1901* (the Act)

**If you do not import the goods or unsure whether you import the goods**

Our records indicate that your company is an importer of the goods, and as such, your company is being asked to complete this importer questionnaire. If this is incorrect and your company is not an importer of the goods, or if you are unsure whether the products imported by your company are the goods, please contact the commission as soon as possible.

**What happens if you do not respond to this questionnaire?**

You do not have to complete the questionnaire. However, if you do not respond, do not provide all the information sought, do not provide information within a reasonable time, or do not allow the commission to verify the information, the commission may have regard to any other matters or information that it considers relevant, including the information submitted by the applicant in its application.

**Extension requests**

If you require a longer period to complete all or parts of your response to this importer questionnaire, you must submit a request to the commission, in writing, for an extension to the due date for all or part of the questionnaire. This request must be made prior to the due date. A request for extension will be rejected if received after the due date.

When considering the extension request, the commission will have regard to:

* the commission’s responsibility to conduct the case in a timely and efficient manner
* the reasons why you could not provide a response within the whole period and not only the period remaining between the request and the due date
* ordinary business practices or commercial principles
* the commission’s understanding of the relevant industry
* previous correspondence and previous dealings with your company
* information provided by other interested parties.

More information on extensions can be found in the Customs (Extension of Time and Non-cooperation) Direction 2015 at <https://www.legislation.gov.au/Details/F2015L01736>.

You will be informed of the decision whether your request for an extension has been rejected, granted in full or granted in part. For example, you may be granted an extension to submit all sections except for Section A or you may be granted a shorter extension than you requested.

**Submitting a response to the importer questionnaire**

Responses to the importer questionnaire should be lodged by email listed on the cover page. In submitting the response to the importer questionnaire, you must answer all questions and include all attachments and spreadsheets.

You are required to lodge a confidential version (for official use only) and a non-confidential version (for public record) of your response to this questionnaire by the due date. Please ensure that each page of information you provide is clearly marked either ‘FOR OFFICIAL USE ONLY’ or ‘PUBLIC RECORD’.

All information provided to the commission in confidence will be treated accordingly. The public record version of your questionnaire will be placed on the public record and must contain sufficient detail to allow a reasonable understanding of the substance of the information but does not breach confidentiality nor adversely affect those interests.

A person is not required to provide a summary for the public record if the commission can be satisfied that no such summary can be given that would allow a reasonable understanding of the substance of the information.

All questionnaires are required to have a bracketed explanation of deleted or blacked out information for the public record version of the questionnaire. An example of a statement to accompany deleted/blacked out text is:

[Explanation of cost allocation through the divisions, by reference to machine hours or weight].

If such an explanation is not provided, the commission may disregard the information in the submission. Where the public record version of your response to the questionnaire does not contain sufficient detail, your company may be deemed to have significantly impeded the case and be deemed an uncooperative exporter.

**Verification of the information that you supply**

The commission may visit your company to verify the information your company provides. We will be in further contact with your company to negotiate a mutually convenient visit timeframe, if required.

For such a visit to run smoothly, the commission representatives will need to speak with key company personnel, such as those responsible for imports, sales, and company accounts. It would be appreciated if all relevant company records requested, including import documentation, sales information, financial data and any working papers were made available to the commission officers.

The commission appreciates that some of these documents, particularly financial statements, may be confidential to your business and understands a possible reluctance to supply such sensitive information. If the commission cannot gain access to the relevant documentation, it may not be able to use your cost and sales information and may have to rely on other information to assess the Australian industry’s claims.

It is important that you fully understand the anti-circumvention inquiry process, and the role of the commission in carrying out the inquiry. To this end, the proposed visit to your company will be useful for us to explain in detail the inquiry procedures and related issues.

For information on the commission’s verification procedures, refer to Anti-Dumping Notice No. 2016/30 available on the commission’s website.

**Important instructions for preparing your response**

* All questions in this importer questionnaire must be completed. If a question is not applicable to your situation, please answer the question with ‘Not Applicable’ and provide an explanation as to why.
* All questions must be answered in English. An English translation must be provided for documents not originally in English. To the extent that the foreign language version differs, the English translation will be given priority as a matter of interpretation in Australia.
* Clearly identify all units of measurement (e.g. KG) and currencies (e.g. AUD) used. Apply the same units of measurement consistently throughout your response to the questionnaire.
* Label all attachments to your response according to the section of the questionnaire it relates to (e.g. label the chart of accounts as Attachment D-18)
* The data must be created as spreadsheet files in Microsoft Excel.
* If you have used formulas to complete spreadsheets, these formulas must be retained and not hard-coded.
* You must retain all worksheets used in answering the questionnaire. Be prepared to provide these worksheets during the commission’s verification of your data.
* If you cannot present electronic data in the requested format, contact the commission as soon as possible.
* Where possible, electronic data should be shared with the commission via SIGBOX, a secure online document repository. Please contact the commission to request access to SIGBOX if required.
* Please be aware that, if at any stage during this inquiry you become aware that you have inadvertently received confidential information submitted by another party to this process (for example, via email), you have a responsibility to:
  + Notify the commission
  + Delete the information from your system and
  + Refrain from using, sharing, or retaining the information in any way.

# Goods subject to Anti-dumping measures

**Original notices**

On 17 December 2021, the then Minister for Industry, Energy and Emissions Reduction (the then Minister) imposed anti-dumping measures, in the form of a dumping duty notice, on exports of the goods from Malaysia following *Anti-Dumping Commission Report 554* (REP 554).[[2]](#footnote-3) The original notice applies to all exporters of the goods from Malaysia.

On 6 March 2023, the Minister for Industry and Science, altered the original notice to expand the width of the goods to 1-7 metres, with effect on and after 23 June 2022 following *Anti-Dumping Commission Report 606* (REP 606).[[3]](#footnote-4)

**The goods the subject of the notices**

The goods subject to the anti-dumping measures:

*Black concrete underlay film (also marketed as builders’ film), manufactured from either recycled and/or virgin resins, with a thickness ranging between 150-230 microns, and a width from 1-7 metres.*

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*.

|  |  |  |  |
| --- | --- | --- | --- |
| **Tariff Subheading** | **Statistical Code** | | **Description** |
| 3920 | OTHER PLATES, SHEETS, FILM, FOIL AND STRIP, OF PLASTICS, NONCELLULAR AND NOT REINFORCED, LAMINATED, SUPPORTED OR SIMILARLY COMBINED WITH OTHER MATERIALS: | | |
| 3920.10.00 | Of polymers of ethylene, Of polyethylene, Not exceeding 0.08 mm in thickness | | |
| 22 | Printed, embossed or otherwise surface-worked, except merely polished | |
| 20 | Other, low density | |
| 21 | Other, other | |
| Of polymers of ethylene, Of polyethylene, Exceeding 0.08 mm in thickness: | | |
| 25 | Printed, embossed or otherwise surface-worked, except merely polished | |
| 40 | Other, low density | |
| 41 | Other, other | |
| Of polymers of ethylene, Other: | | |
| 51 | Exceeding 0.08 mm in thickness | |
| 3921 | OTHER PLATES, SHEETS, FILM, FOIL AND STRIP, OF PLASTICS: | | |
| 3921.90.90 | Other: Other, of polymers of ethylene: | | |
| 16 | Low density polyethylene | |

# The circumvention goods

The goods subject to the anti-circumvention inquiry are described in the application as being grey concrete underlay film (also marketed as builders’ film), manufactured from either recycled and/or virgin resins, with thickness ranging between 150-230 microns, and width of 1-7 metres.

The commission will examine as part of the inquiry goods with the colour grey (the circumvention goods).

The circumvention goods are allegedly being imported into Australia from Malaysia under tariff subheading 3920.10.00, statistical code 22, 20, 21, 25, 40, 41, 51 and 3921.90.90, statistical code 16 of Schedule 3 to the *Customs Tariff Act 1995*.

**Model Control Code**

Details of the model control code (MCC) structure for the goods are in the table below. The sales data (Section C) submitted in this response must follow this MCC structure. At a minimum, the data must report sales separately for each of the mandatory MCC categories identified by the commission.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Item** | **Category** | **Sub-category** | **Identifier** | **Sales data** | **Costs data** |
| 1 | Impact Resistance | Medium | M | Mandatory | Mandatory |
| High | H |
| 2 | Actual Thickness | 150-179 microns | A1 | Mandatory | Mandatory |
| 180-230 microns | A2 |
| 3 | Nominal Thickness | 150 – 179 microns | N1 | Mandatory | Optional |
| 180 – 230 microns | N2 |

In constructing an MCC, use a ‘-’ between each category. For example: **M-A1-N1**

If there are models imported and sold by your company that do not align within the MCC structure above, this should be raised by lodging a submission with the commission as soon as is practicable, but no later than the time this questionnaire is due, otherwise the response may be considered deficient.

# Section A Company and supplier information

## A.1 Your company

1. Please nominate a contact person within your company:

Name:

Position in the company:

Telephone:

E-mail address:

1. If you have appointed a representative, provide their contact details:

Name:

Address:

Telephone:

E-mail address:

*In nominating a representative, you are granting authority to the commission to discuss matters relating to the case with the nominated representative, including your company’s confidential information.*

1. Provide the address of where your company’s importation, sales and financial records are held.
2. What is the legal name of your business and Australian Business Number?
3. Does your company trade under a different name and/or brand? If yes, provide details.
4. Was your company ever known by a different legal and/or trading name? If yes, provide details.
5. What is the overall nature of your company’s business? Include details of the products that your company imports and sells.
6. Does your company undertake all functions of the importation of the goods, including lodging the import declarations, paying importation costs (e.g. duties, broker’s fees, port charges), transportation from the port of discharge? If no, please provide details of the other company and the importation functions undertaken by that company.
7. What is the role of your company in the Australian market for the goods and the alleged circumvention goods? Include details of whether your company can be described as a trader, distributor, retailer or an end-user of the goods and/ or circumvention goods.
8. Complete the worksheet named ‘Part A - Supplier information’.

* This worksheet lists your suppliers and manufacturers (if different), their contact details and an estimation of the import volumes from each supplier of the goods and the alleged circumvention goods from 1 July 2019 to 31 March 2025.

1. The commission may seek to visit your company to discuss the case and to verify the data submitted in your import questionnaire responses.

* A visit by the commission is typically half a day but may take up to a full day.

# Section B the goods and the circumvention goods

## B.1 Ordering process

1. When did you first commence importing the alleged circumvention goods (i.e. grey concrete underlay film) into Australia?
2. Fully describe the ordering and purchase process from your overseas suppliers, from market offer through to invoicing, delivery and payment.
3. Does the process described above differ in any way between the goods and the alleged circumvention goods? Provide details.
4. Are the alleged circumvention goods that you imported into Australia during the inquiry period part of your supplier or suppliers’ standard product offering to Australia, or are they only available in special circumstances (e.g. through special order, to certain customers etc.)? Please provide details.
5. Are the alleged circumvention goods purchased in accordance with a supply agreement or contract? If so, please provide a copy of this supply agreement/contract.
6. Do you (or did you initially) specifically request the alleged circumvention goods?
7. What is the minimum order quantity from your supplier of the goods and the alleged circumvention goods?

## B.2 Purchase price

1. Is there a difference in purchase price from your supplier/s between the goods and the alleged circumvention goods, assuming all other factors of the sale were the same (e.g. order quantity, product characteristics, credit terms etc.) and taking into account any dumping duties payable? Provide details.

## B.3 Supplier relationships

If your company ‘shifted’ from importing the goods to the alleged circumvention goods at any point from 1 July 2019 to 31 March 2025, answer the following questions:

1. Which supplier(s) were supplying you the goods prior to shifting to imports of the circumvention goods?
2. What was the reason for this shift in imports?
3. What was this shift in response to?

## B.4 End use applications

1. After importing the alleged circumvention goods, explain the subsequent sales and distribution channel within the Australian market. For example, do you on-sell the products to other Australian entities for their use/consumption, or for their further on-sale?
2. In general, are there any specific purpose(s) and/or end use(s) that the alleged circumvention goods you import are suitable for that the goods are unsuitable for? Provide specific product details and supporting evidence where possible.
3. Are there any purpose(s) and/or end use(s) that the goods and the circumvention goods can be used interchangeably for?
4. What standards/specifications are the goods and the alleged circumvention goods manufactured to? What are the relevant tolerances that apply to the manufacture of the products?
5. If you are importing both the goods and the alleged circumvention goods, explain why you are importing a mix of these products to Australia.
6. If your company on-sells the circumvention goods to other parties within the Australian market, please refer to questions at sections B.5 and B.6 below.

## B.5 Selling price in the Australian market

1. Is there a difference in selling price between the goods and the alleged circumvention goods to your Australian customer/s, assuming all other factors of the sale were the same (e.g. order quantity, product characteristics, credit terms etc.) and taking into account any dumping duties payable? Provide details.

## B.6 General questions

1. Did your company import the goods from Malaysia within the period of from 1 July 2019 to 31 March 2025 for the purposes of supplying the Australian market with concrete underlay film?
2. Did your company import the alleged circumvention goods from Malaysia to supply the Australian market from 1 July 2019 to 31 March 2025?
3. If your company has shifted to purchasing the alleged circumvention goods from Malaysia, what is the reason for this shift? For instance, if your customer(s) changed their preference from purchasing the goods to the alleged circumvention goods, please indicate what factors may have contributed to this, e.g. price, end use, quality, any other factors etc.
4. Do you sell the alleged circumvention goods to your customer/s in the Australian market in accordance with a supply agreement or contract? If so, please provide a copy of this supply agreement/contract.
5. How are the goods and the alleged circumvention goods marketed in the Australian market? In your response, address the following:
   1. the applications and end uses that the goods and the alleged circumvention goods are marketed for
   2. the type of customers (end users, retailers etc.) the marketing of the goods and the alleged circumvention goods is targeted at
   3. the advertising and marketing costs incurred in respect of the goods and the alleged circumvention goods.

# Section C Imports & forward orders

Please complete this part after the commission has provided you with your detailed spreadsheets of imports, and return this part, along with your response to Part D no later than 21 May 2025.

After receiving Part A of the questionnaire, the commission will provide you with a full list of import declarations from the Australian Border Force import database of the goods and the alleged circumvention goods imported by your company from 1 July 2019.

Within this spreadsheet, you will be required to identify all the circumvention goods. Please note that you cannot complete this part of the questionnaire until the Commission provides you with the list of your imports. The commission will provide this list to you after receiving your response to Part A of the questionnaire.

Please review this spreadsheet and confirm whether this is a complete listing of the importation of the goods and alleged circumvention goods from 1 July 2019 to 31 March 2025 according to your company’s records. If the import listing provided does not include all your importations of the goods or alleged circumvention goods over the period, or you have identified any other issues, please contact the case manager as soon as possible.

## C.1 Forward orders

1. Complete the worksheet named ‘Part C - Forward Orders’.

* This worksheet lists your current forward orders of the goods.
* You must provide this list in electronic format using the template provided.

# Section D Sales

## D.1 Sales

Please provide details of all your sales of the goods and the circumvention goods, in the Australian market from 1 July 2019 to 31 March 2025.

If possible, and where appropriate, the following data should be provided in Microsoft Excel format (a suggested spreadsheet Part D – Sales is provided within the “Importer Questionnaire Spreadsheets” workbook).

Please include:

* customer name
* customer level of trade (distributor, end user etc.)
* customer’s location (state/territory, city)
* MCC code
* colour
* width
* length
* thickness
* standard of goods
* invoice number
* invoice date
* delivery terms (e.g. free into store, ex-warehouse)
* payment terms (including number of days)
* product code
* product description
* quantity (including unit of quantity)
* packaging type
* total invoice value
* unit invoice price
* off invoice discount/rebate amount (if applicable, list each type of discount/rebate individually)
* net unit sales price
* your supplier of the goods
* purchase order number to supplier
* country of origin.

1. The Anti-Dumping Notice No 2025/035 [↑](#footnote-ref-2)
2. Electronic Public Record (EPR) [REP 554](https://www.industry.gov.au/sites/default/files/adc/public-record/554_-_048_-_report_-_final_report_-_rep_554.pdf), item 48. [↑](#footnote-ref-3)
3. EPR [REP 606](https://www.industry.gov.au/sites/default/files/adc/public-record/2023-03/606_-_16_-_report_-_final_report_-_rep_606_0.pdf), item 16. [↑](#footnote-ref-4)