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# ANTI-DUMPING NOTICE NO. 2020/073

## Public notice under section 269TC(4) of the *Customs Act 1901*

### Certain concrete underlay film

### Exported from Malaysia

### Initiation of Investigation No 554 into alleged dumping

*Customs Act 1901* – Part XVB<sup>1</sup>

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission (the Commissioner) have initiated an investigation following an application lodged by LCM General Products Pty Ltd trading as Cromford Film, a manufacturer of certain concrete underlay film (the goods) in Australia. The application seeks the publication of a dumping duty notice in respect of certain concrete underlay film exported to Australia from Malaysia.

The application alleges that the goods have been exported to Australia at prices less than their normal value and that the dumping has caused material injury to the Australian industry producing like goods through:

- price suppression;
- price depression;
- reduced profits;
- reduced profitability;
- loss of sales; and
- lost market share.

The non-confidential version of the application, which contains the basis of the alleged grounds for dumping and injury, is available on the public record.

Particulars of the reasons for the decision to initiate this investigation are in *Anti-Dumping Commission Consideration Report No. 554*, which is available on the public record.

The date of initiation of this investigation is the date of publication of this notice.

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<sup>1</sup> Unless stated otherwise, all legislative references in this notice are to the *Customs Act 1901*.

## **The Goods**

The goods the subject of the application are:

*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 2-6 metres.*

## **Tariff Classification**

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

- 3920.10.00 (statistical codes 25, 40 and 41).

These tariff classifications and statistical codes may include goods that are both subject and not subject to this investigation. The listing of these tariff classifications and statistical codes are for convenience or reference only and do not form part of the goods described above. Please refer to this description for authoritative detail regarding the goods, the subject of this investigation.

## **Investigation Process**

The investigation period is 1 July 2019 to 30 June 2020. I will examine exports of the goods to Australia during this period to determine whether dumping has occurred. I will examine details of the Australian market from 1 March 2017 for the purposes of injury analysis.

Where the Minister for Industry, Science and Technology (the Minister) is satisfied, as to goods of any kind, that: <sup>2</sup>

- (a) the amount of the export price of the goods that have already been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been (or is being) caused or threatened, or the establishment of an Australian industry producing like goods has been (or may be) materially hindered;

the Minister may, by public notice, impose interim dumping duties.

Where there are grounds for the Minister to publish a dumping duty notice in respect of the goods, I will examine whether the trade in the dumped goods give rise to retrospective notices being published pursuant to section 269TN, and make recommendations to the Minister accordingly.<sup>3</sup>

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<sup>2</sup> In accordance with section 269TG.

<sup>3</sup> In accordance with sections 269TG(1) and 269TJ(1).

## **Proposed model control code structure**

On 9 August 2018, the Commission advised in Anti-Dumping Notice (ADN) No. 2018/128 that a model control code (MCC) structure would be implemented in new investigations, reviews of exporters generally or continuations for cases initiated after this date, as required.<sup>4</sup>

As noted in that ADN, in developing the MCC structure the Commission will have regard to differences in physical characteristics that give rise to distinguishable and material differences in price. The Commission's proposed MCC structure is as follows:

	<b>Category</b>	<b>Sub-category</b>	<b>Identifier</b>	<b>Sales data</b>	<b>Cost data</b>
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		

Table 1 – Proposed MCC for Certain Concrete Underlay Film

The Commission welcomes submissions with respect to the proposed MCC structure. Submissions should be raised as soon as is practicable, but no later than **21 August 2020**, being the day submissions concerning this investigation are due.

Interested parties are also encouraged to make submissions on whether the proposed MCC structure should be accepted by the Commission in their particular circumstances. All submissions with respect to the proposed MCC structure will be considered by the Commission and reported in verification reports or in the Statement of Essential Facts (SEF).

## **Public Record**

I must maintain a public record of each investigation. Documents included in the public record are available at: [www.adcommission.gov.au](http://www.adcommission.gov.au)

The public record will contain, among other things, a copy of the application, *Anti-Dumping Commission Consideration Report No. 554* and copies of all non-confidential submissions from interested parties. Letters and electronic mail are generally regarded as submissions, if they contain information relevant to the investigation.

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<sup>4</sup> Full guidance regarding the Commission's application of an MCC structure is provided in ADN No. 2018/128 on the Commission website, [www.adcommission.gov.au](http://www.adcommission.gov.au).

## **Lodgement of Submissions**

Interested parties, as defined by section 269T(1), are invited to lodge submissions concerning the publication of the dumping duty notice sought in the application, no later than the close of business on **21 August 2020**, addressed to:

Director  
Investigations 4  
GPO Box 2013  
Canberra ACT 2601  
Australia

Or by email to: [investigations4@adcommission.gov.au](mailto:investigations4@adcommission.gov.au)

Interested parties wishing to participate in the investigation must ensure that submissions are lodged by the due date. Interested parties should note that I am not obliged to have regard to a submission received after the date above if to do so would, in my opinion, prevent the timely placement of the SEF on the public record.

Interested parties should also note that I am directed to consider the matters set out in the *Customs (Extensions of Time and Non-cooperation) Direction 2015* in certain circumstances.<sup>5</sup> This is available at [www.legislation.gov.au](http://www.legislation.gov.au).

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the SEF.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (a) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (b) satisfy me that there is no way such a summary can be given to allow a reasonable understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "FOR OFFICIAL USE ONLY".

Interested parties must lodge a non-confidential version or a summary of their submission in accordance with the requirement above (clearly marked "PUBLIC RECORD").

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<sup>5</sup> Certain powers and functions under the *Customs (Extensions of Time and Non-cooperation) Direction 2015* have been delegated to the Anti-Dumping Commission's General Managers (Anti-Dumping Notice No. 2017/10, available at [www.adcommission.gov.au](http://www.adcommission.gov.au) refers).

## **Lodgement of Exporter Questionnaires**

Exporters of the goods to Australia are invited to participate in this investigation by completing the exporter questionnaire and the associated spreadsheets by **21 August 2020**.

The exporter questionnaire and the associated spreadsheets are available under the case information for ADC 554 (which can be found under 'current cases and their electronic public record' on the Commission website, [www.adcommission.gov.au](http://www.adcommission.gov.au)). Alternatively, exporters can email [investigations4@adcommission.gov.au](mailto:investigations4@adcommission.gov.au) and the Commission will forward the exporter questionnaire and spreadsheets for completion.

## **Provisional Measures**

Pursuant to section 269TD, I will make a preliminary affirmative determination (PAD) provided I am satisfied that there appears to be sufficient grounds for the publication of a dumping duty notice or there appears that there will be sufficient grounds for the publication of a dumping duty notice subsequent to the importation of the goods into Australia. This can occur no earlier than day 60 of an investigation.

In accordance with section 269TD, the Commonwealth may apply provisional measures, including the taking of securities under section 42, in respect of interim dumping duty that may become payable on the goods, where: a PAD has been made; and the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues.

Where a PAD is not made 60 days after initiation of the investigation, the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the PAD Direction) directs me to publish a status report providing reasons why a PAD was not made. The PAD Direction is available on the Federal Register of Legislation website, [www.legislation.gov.au](http://www.legislation.gov.au)

## **Statement of Essential Facts**

The dates specified in this notice for lodging submissions must be observed to enable me to report to the Minister within the legislative timeframe. In accordance with section 269TDAA of the Act, a SEF will be placed on the public record by **2 November 2020**, or by such later date as allowed in accordance with section 269ZHI.<sup>6</sup> The SEF will set out the essential facts on which I propose to base my recommendations to the Minister. Interested parties are invited to lodge submissions in response to the SEF within 20 days of it being placed on the public record.

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<sup>6</sup> On 14 January 2017, certain powers and functions of the Minister under section 269ZHI were delegated to the Commissioner of the Anti-Dumping Commission. Refer to ADN No. 2017/10 for further information.

Submissions received in response to the SEF within 20 days of that statement being placed on the public record will be taken into account in completing the report and recommendation to the Minister.

### **Report to the Minister**

A recommendation to the Minister will be made in a report on or before **17 December 2020** (or such later date as allowed under section 269ZHI), on the basis of the examination of exportations of the goods to Australia during the investigation period, unless I terminate the investigation.

The Minister must make a declaration within 30 days after receiving the report, or such longer period as the Minister considers appropriate.

### **Anti-Dumping Review Panel**

Certain persons will have the right to seek review with the Anti-Dumping Review Panel in accordance with Division 9 of Part XVB in relation to a decision by me to terminate the investigation or a decision of the Minister to publish (or not to publish) a dumping duty notice after considering my report.

### **Interested Party List**

Throughout the investigation, the Commission will maintain an internal list of interested parties. Updates on the investigation will be sent to parties on this list. If you would like to be added to the interested party list, please email: [investigations4@adcommission.gov.au](mailto:investigations4@adcommission.gov.au)

### **Anti-Dumping Commission Contact**

Enquiries about this notice may be directed to the Case Manager on telephone number +61 2 6276 1404, or by email to: [investigations4@adcommission.gov.au](mailto:investigations4@adcommission.gov.au)

Dale Seymour  
Commissioner  
Anti-Dumping Commission

10 July 2020