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# ANTI-DUMPING NOTICE NO. 2020/104

*Customs Act 1901 (Cth)*

***Customs (Preliminary Affirmative Determinations) Direction 2015***

**Certain concrete underlay film**

**Exported from Malaysia**

**Investigation No. 554 into alleged dumping**

**Day 60 Status Report**

## **Introduction**

The purpose of this Status Report is to set out the reasons why I, Dale Seymour, Commissioner of the Anti-Dumping Commission (Commissioner) have not made a preliminary affirmative determination (PAD) under section 269TD(1) of the *Customs Act 1901 (Cth)* (the Act) on 14 September 2020.<sup>1</sup> It is 60 days since the initiation date of the investigation into the alleged dumping of certain concrete underlay film (the goods) exported to Australia from Malaysia.

This report reflects the status of the investigation at day 60. My findings in respect of the investigation may change as a result of further information, submissions, analysis or verification. Accordingly, at any time from day 60 onwards, during the investigation, I may make a PAD, if I am satisfied of the requirements set out in section 269TD(1) of the Act.

## **Background**

On 15 July 2020, I initiated an investigation into the alleged dumping of concrete underlay film following an application by LCM General Products Pty Ltd trading as Cromford Film (Cromford Film) under section 269TB of the Act. Further details can be found in the public notice published on 15 July 2020 (refer to *Anti-Dumping Notice No. 2020/073* at [www.adcommission.gov.au](http://www.adcommission.gov.au)).

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<sup>1</sup> Day 60 of the investigation is 13 September 2020. However as that date falls on a Sunday, the earliest day a PAD can be made is the next business day, 14 September 2020.

Under section 269TD(1) of the Act, I may make a PAD at any time, not earlier than 60 days after I initiate an investigation in relation to the publication of a dumping duty or countervailing duty notice, if I am satisfied that:

- there appears to be sufficient grounds for the publication of such a notice; or
- it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

In accordance with the *Customs (Preliminary Affirmative Determinations) Direction 2015* (the Direction), 60 days after the initiation of such an investigation I must either make a PAD or publish a Status Report outlining the reasons why I have not made a PAD.

## **Reasons**

### *Information considered*

In deciding whether to make a PAD on day 60 of this investigation, I have, in accordance with section 269TD(2) of the Act, had regard to:

- Cromford Films' application; and
- any other matters considered relevant to this investigation.

The Commission<sup>2</sup> did not receive submissions from interested parties within the legislated 37 day period in response to the initiation of the investigation.

On 31 August 2020, the Commission published a file note on the electronic public record (EPR)<sup>3</sup> detailing the extensions of time granted to various exporters of the goods from Malaysia. Four of the six exporters granted extensions of time will provide a response to the Commission's exporter questionnaire after 14 September 2020, being the earliest date available to make a PAD.

The Commission has also requested further data from Cromford Film, to include updated sales and cost data for the period between 1 March 2020 and 30 June 2020, which has not been received at the time of publishing this report.

The verification of the information received to date by the applicant, importers and exporters has also been delayed by circumstances arising from the COVID-19 pandemic.

### *Reasons for not making a PAD*

The Commission is currently examining various issues in the investigation, including:

- the size of the Australian market for the goods;
- the scope of goods captured by the goods description;
- export prices, normal values and volume of the goods exported from Malaysia; and
- whether those goods, if dumped at above negligible levels, have caused or are causing material injury to the Australian industry.

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<sup>2</sup> References to 'the Commission' mean 'the Anti-Dumping Commission'.

<sup>3</sup> Refer to Document No. 4 on EPR 554.

Presently, information available to the Commission at Day 60 of the investigation, in connection with these issues, is not yet sufficient to ascertain:

- if the goods exported to Australia have been dumped at above negligible levels; and
- whether those goods, if dumped at above negligible levels, have caused or are causing material injury to the Australian Industry.

As a result, at the time of making this report, I am unable to establish that there appear to be sufficient grounds for the publication of a notice, or that it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods.

Accordingly, I have not made a PAD at this time.

### **Other considerations**

#### *Relevant matters – section 269TD(2)(b)*

In accordance with the Direction and for the purposes of section 269TD(2)(b) of the Act, I have considered the desirability of providing relief to an injured Australian industry as quickly as possible, where warranted.

I have decided relief is not warranted at this particular time, because I am not satisfied that there appears to be sufficient grounds to establish that the goods are dumped, or to establish a causal link between the dumped goods and material injury, for the reasons outlined above.

#### *Reconsideration of making a PAD – section 269TDAA*

After publishing this report, I must reconsider whether to make a PAD at least once prior to the publication of the Statement of Essential Facts (SEF) required under section 269TDAA of the Act. The SEF is due to be published on 2 November 2020. Prior to the publication of the SEF, or in the SEF itself, I will advise whether a PAD is warranted and the reasons for my decision.

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

Enquiries about this report may be directed to the case manager via email at:  
[investigations4@adcommission.gov.au](mailto:investigations4@adcommission.gov.au).

Dale Seymour  
Commissioner  
Anti-Dumping Commission

14 September 2020