



Australian Government
**Department of Industry,
Innovation and Science**

**Anti-Dumping
Commission**

Received

Anti-Dumping Commission May 27, 2022

Application for an
anti-circumvention inquiry

APPLICATION UNDER SECTION 269ZDBC OF THE *CUSTOMS ACT 1901* FOR AN ANTI-CIRCUMVENTION INQUIRY

In accordance with subsection 269ZDBC(1) of the *Customs Act 1901* (the Act), I request that the Commissioner of the Anti-Dumping Commission conduct an anti-circumvention inquiry in relation to a notice published under subsections 269TG(2) or 269TJ(2) of the Act, in respect of the goods the subject of notice.

I consider that there are reasonable grounds to assert that one or more of the following circumvention activities, as prescribed by section 269ZDBB of the Act or in the *Customs (International Obligations) Regulation 2015*, have occurred:

- assembly of parts in Australia
- assembly of parts in a third country
- export of goods through one or more third countries
- arrangements between exporters
- slight modification of goods exported to Australia

This application is made by a person representing, or representing a portion of, the Australian industry producing like goods, that considers one or more circumvention activities in relation to the notice have occurred.

I consider that it may be appropriate to alter the notice because of the circumvention activities.

DECLARATION

I believe that the information contained in this application:

- provides reasonable grounds for the conduct of an anti-circumvention inquiry; and,
- is complete and correct to the best of my knowledge and belief.

Signature:



Name:

Austen Ramage

Position:

LCM Product Manager

Company:

LCM General Products Pty Ltd

ABN:

24 616 929 116

Date:

25 May 2022

PUBLIC VERSION
APPLICATION FOR ACCELERATED REVIEW

LCM General Products Pty Ltd (trading as Cromford Film)

- 1. Provide details of the name, street and postal address, of the applicant seeking the inquiry.**

Applicant: LCM General Products Pty Ltd

Address: 185-195 Frankston-Dandenong Road, Dandenong, Victoria 3175

ABN: 24 616 929 116

- 2. Provide details of the name of a contact person, including their position, telephone number and facsimile number, and e-mail address.**

Contact: Austen Ramage

Position: LCM Product Manager

Telephone: +61 3 9791 5633

Facsimile: +61 3 9794 0971

E-mail address: ARamage@martogg.com.au

- 3. Provide known names, addresses, telephone and facsimile numbers of other parties likely to have an interest in this matter, e.g., Australian manufacturers, importers, exporters and end users.**

Importer - Davmar Industries

NSW Office

Unit 11/30 Barry Rd,

Chipping Norton NSW 2170

(02) 9755 0716

VIC Office

108 Derrimut Drive,

Derrimut VIC 3026

(03) 9310 3892

QLD Office

Unit 1/2-4 Frank Heck Close,

Beenleigh QLD 4207

(07) 5628 0000

Exporters

Cromford is unable to confirm the identity of relevant exporters supplying the circumvented goods to Davmar, however submissions during the original investigation appeared to reveal that Davmar was sourcing product from the exporter, Unistar Industries Sdn. Bhd.

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4. Provide a description of the kind of goods that are the subject of the original notice.

The goods subject to the original notice 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.

5. Provide a description of the original notice, including:

- **whether the notice was a dumping and/or countervailing notice;**
- **the tariff classification/s of the goods;**
- **the countries and/or exporters covered by the notice; and**
- **the date of publication of the notice.**

The original dumping duty notice (refer to ADN 2021/149) was published on 17 December 2021, covering all exporters from Malaysia. The tariff classification for the subject goods are:

- 3920.10.00 (statistical code 20,21,22,25,40,41,51)

- 3920.90.90 (statistical code 16)

6. Provide a detailed statement regarding the circumvention activities in relation to the original notice that you consider have occurred. Applicants must provide evidence to support your view that there are reasonable grounds for asserting that one or more circumvention activities in relation to the notice have occurred.

The goods subject to the dumping duty notice covers concrete underlay film ranging in width from 2 metres to 6 metres. Whilst the Australian market for concrete underlay film is predominantly supplied in 4 metre rolls, there are circumstances where narrower 2m rolls and wider 6m rolls are preferred. Cromford included the width characteristic in the goods description to ensure that products outside of these parameters would not be unfairly captured by the measures.

Following the imposition of measures in December 2021, Cromford became aware that some importers were considering importing rolls of concrete underlay film that were just under the 2m width, or just over the 6m width, presumably with an expectation that those products would not be subject to the interim dumping duties. At that time, Cromford had no information to confirm whether importers were engaging in the importation and selling of concrete underlay film of modified widths into the Australian market.

However, Cromford has now confirmed that Davmar Industries is actively promoting and marketing rolls of concrete underlay film in modified widths of 1.95m. Refer to **Non-confidential Exhibit A**, which includes a photo of concrete underlay film marketed as complying with Australian Standard AS2870, but in a width of 1.95m. All of the film's other properties meet the physical characteristics of the goods subject to measures – being colour and thickness.

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The product marketed under the brand "Supercon" is also promoted on page 20 of Davmar's 2022 National Catalogue (refer to **Non-confidential Exhibit B**), in both medium and high impact film. It is important to note that Davmar's latest product offering does not include 2m rolls, which has instead been replaced by the modified 1.95m rolls. This is confirmed by comparing Davmar's latest product offering against the products offered in 2020 which covered the original investigation period. At page 25 of its 2020 Product Catalogue (refer to **Non-confidential Exhibit C**), Davmar only offered 2m, 4m and 6m rolls of imported concrete underlay film.

This confirms that Davmar has sought to replace the dumped 2m rolls from Malaysia which would be subject to measures, with rolls in modified widths of 1.95m. It is assumed that Davmar's import broker has been instructed to use exemption type "GOODS", when declaring and clearing these modified goods for home consumption.

Supplementary to the marketed 1.95m modified goods, Cromford has been informed that customers have been contacted by Davmar with offers of goods in modified widths of 6.05m.

It is clear that Davmar has sought to circumvent the measures by requesting the relevant Malaysian manufacturer to slightly modify its production, to allow for the modified goods to be exempted from measures. Based on Cromford's manufacturing experience, modifying the width of the film involves a simple adjustment to manufacturing equipment with immediate effect on output. The only other very slight and simple modification would involve cutting of the core to the desired finished film width.

Clearly, the decision to import and sell 1.95m concrete underlay film, when no such product existed prior to the measures, is intended to circumvent the measures. There is no other reason which would justify the importation of rolls that are 5cm narrower than the industry and market accepted 2m rolls, other than the benefit of not incurring interim dumping duties on such goods.

Since confirming Davmar's sales of the modified goods, Cromford also understands that other competing suppliers are offering similar concrete underlay film in modified widths. Unfortunately, due to the smaller size of their distribution operations and the lack of marketing material available, Cromford has not been able to confirm with evidence.

Cromford therefore requests that the Commission initiate a circumvention inquiry into slightly modified imports of concrete underlay film from Malaysia. The Commission will be able to easily identify those importers (along with corresponding exporters) that have entered goods for home consumption using exemption code "GOODS", to understand the scope of the circumvention activity taking place.

7. Provide a description of the alterations to the original notice that you consider should be made.

Cromford considers that the description of the goods subject to the original notice, should be altered to deter circumvention of the measures by the slight modification of the width of concrete underlay film rolls. The proposed altered goods description would remove the reference to widths such that all Malaysian exports of black concrete

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underlay films with a thickness between 150-230 microns, would be covered by the altered dumping duty notice. The altered description would be:

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.