



**KEMENTERIAN PERDAGANGAN ANTARABANGSA DAN INDUSTRI**  
**MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY**

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25 July 2022

The Director  
Investigations 3  
Anti-Dumping Commission  
GPO Box 2013  
Canberra ACT 2601  
Australia

Dear Sir/Madam,

**INITIATION OF THE ANTI CIRCUMVENTION INVESTIGATION ON IMPORTS OF  
CONCRETE UNDERLAY FILM (HS CODE 3920.10.00 & 3921.90.90)**

Reference is made to the initiation of the anti-circumvention investigation on imports of Concrete Underlay Film by the Anti-Dumping Commission, Department of Industry, Science, Energy and Resources, Australia on **23 June 2022** which was published on the Commission's website through Anti-Dumping Notice 2022/054.

2. Pursuant to the registration of Government of Malaysia (GOM) on **28 June 2022**, the Ministry of International Trade and Industry Malaysia would also like to convey the concerns of the GOM on Australian Anti-Dumping Commission's (AADC) decision to initiate an anti-circumvention investigation on an anti-dumping investigation that was recently concluded on 17 December 2021, which is less than seven months ago. The anti-dumping investigation on concrete underlay film from Malaysia was initiated on 15 July 2020 based on the petition submitted by Cromford Film (Petitioner). In their application submitted on 25 May 2020, the Petitioner clearly indicated that the goods 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 ranging from 2 – 6 metres."* [emphasis added]

3. Subsequently, the same description was used by AADC in determining the goods subject to the anti-dumping investigation in the exporter's questionnaire issued to Malaysian's exporters. Hence, the exporter's questionnaire responses submitted by participating Malaysian exporters are also **limited to the description of the goods subject to the investigation, which is a width ranging from 2 – 6 metres**. Again, in the Final Report published on 17 December 2021, AADC maintained the scope of the goods as described by the Petitioner. Based on the questionnaire responses submitted by Malaysian exporters, which are limited to the scope of goods subject to the investigation, AADC had calculated the effective rate of interim anti-dumping duties for each of the participating Malaysian exporters. **It is clear that throughout the original investigation the width outside of the range of 2 – 6 metres was not considered in the dumping and injury analysis.**

4. In relation to that, GOM would like to highlight that **the concrete underlay film outside the width range of 2 – 6 metres** (alleged circumvented goods) **should have been included as the goods subject to the original investigation to ensure a thorough dumping and injury analysis.** As shown in Figure 1 of the Consideration Report, the highest volume of alleged circumvented goods exported to Australia from Malaysia was in 2021Q3. At that time, the anti-dumping investigation on imports of concrete underlay film from Malaysia was still on-going, the alleged circumvented goods could have been included in the investigation. The decision to exclude the alleged circumvented goods as the goods subject in the original anti-dumping investigation and include it under anti-circumvention application within less than seven months of the conclusion of the original investigation, raise concerns on the accuracy of the application submitted by the Petitioner and the findings by the AADC.

5. Furthermore, the Petitioner mentioned in its anti-circumvention application that **the inclusion of the width characteristic in the goods description was to ensure that products outside of these parameters would not be unfairly captured by the measures.** This proves that the alleged circumventing goods may have been exported to Australia from Malaysia prior to the anti-dumping investigation conducted by AADC and should have been included as goods subject to the original investigation. Moreover, the exclusion of a certain width from the dumping and injury analysis from the original investigation may have skewed the findings and could have been intentionally excluded by the Petitioner to influence the outcome of the investigation. Surely, the expansion of the width characteristics at this stage would significantly be in favour of the Petitioner.

6. In relation to that, Malaysian companies that has been exporting alleged circumvented goods prior to the anti-dumping investigation should not be affected by any anti-circumvention measure taken by AADC in the future. It is also worth noting that any genuine Malaysian manufacturers that did not export to Australia during the period of investigation for the anti-dumping investigation should be given opportunities to request for an expedited review or new shipper review as stipulated in Article 9.5 of the WTO Anti-Dumping Agreement.

7. In light of the comments presented, GOM strongly urges the AADC to reconsider and subsequently to terminate this anti circumvention investigation against producers/exporters of the alleged circumvented goods from Malaysia. GOM is confident that AADC will give the greatest dedication and continue to conduct the investigation in a fair and objective manner in accordance to the relevant act and regulations.

Thank you.

Yours sincerely,



(NORAZAH ABDUL JABBAR)

Director

Trade Practices Section

for Secretary General

Ministry of International Trade and Industry Malaysia

CC:

**The Australian High Commission**

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