



SOLARY SDN BHD (1223316-W)

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**The Director, Investigations 3
Anti-Dumping Commission**
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SUBMISSION TO THE STATEMENT OF ESSENTIAL FACTS NO. 696 FOR THE CONTINUATION OF ANTI-DUMPING MEASURES ON CERTAIN CONCRETE UNDERLAY FILM EXPORTED TO AUSTRALIA FROM MALAYSIA

A. INTRODUCTION AND EXECUTIVE SUMMARY

1. We, Solary Sdn. Bhd. ("Solary"), a manufacturer and exporter of concrete underlay film in Malaysia, file this submission in response to Statement of Essential Facts No. 696 ("SEF 696") published by the Anti-Dumping Commission ("the Commission") on 24 September 2026.
2. We wish to state for the record that we have on 11 March 2026 and 30 March 2026 provided responses to the Questionnaire in this Continuation application, including relevant data for the Commission's consideration. Notwithstanding, the Commission has classified Solary as an uncooperative exporter under section 269T(1) of the Customs Act 1901 (Cth) ("the Act").
3. Be that as it may and regardless of Solary's status as cooperative or uncooperative, there are areas in SEF 696 which does not legally justify the continuation of anti-dumping measures. In this submission, Solary urges the Commissioner to revise the preliminary findings on three (3) fundamental grounds:
 - a. **First:** The preliminary uncooperative dumping margin of 63.6% is constructed using an artificial, composite methodology that combines mismatched data sources, representing an unjustified departure from established Commission practice in Investigation 554 ("INV 554");
 - b. **Second:** The economic evidence confirms that the sole Australian industry producer, LCM General Products Pty Ltd trading as Cromford Film ("Cromford"), is in a robust economic condition with strikingly little to no evidence of price depression or material injury; and



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- c. **Third:** Any market shifts or price pressures observed in Australia are driven by duty-free, non-subject imports from the Socialist Republic of Vietnam ("Vietnam"), which cannot be attributed to Malaysian exports under mandatory trade remedy non-attribution principles. In short, even if the domestic industry (Cromford) suffered material injury (which we say they have not), the legal requirement for causation has still not been met.
4. For the record, there are other grounds and areas of concern that are not highlighted in this submission. This submission is not intended to be exhaustive but seeks to highlight the foundational elements that have met the respective legal thresholds.

B. SUBMISSIONS

B.1 The Variable Factors Methodology for Uncooperative Exporters is Punitive, Artificial, and an Arbitrary Departure from INV 554

5. Under section 269TACAB(1) of the Act, where an exporter is deemed uncooperative, export price and normal value are determined under sections 269TAB(3) and 269TAC(6) respectively, having regard to "all relevant information". While the Commission possesses statutory discretion under these provisions, that discretion must be exercised reasonably, objectively, and in accordance with the statutory purpose of establishing realistic variable factors, not imposing punitive tariffs.
6. In SEF 696, the Commission established an uncooperative dumping margin of 63.6%. This represents nearly a threefold increase over the current uncooperative rate of 23.2% established in REP 554, and almost quadruple the verified rate of 16.7% determined for the sole cooperating exporter, Great Cosmo Industries Sdn. Bhd. ("GCI").
7. This extraordinary escalation is the direct result of a hybrid methodology, which we respectfully submit lacks commercial reality. The Commission paired the lowest weighted-average Free on Board ("FOB") export price identified across all uncooperative transactions in the Australian Border Force ("ABF") import database with GCI's constructed normal value. Solary submits that this approach is fundamentally flawed and distortive for the following reasons:
 - a. **Mismatch of Unrelated Operational Entities:** The methodology pairs the isolated, lowest export price of one commercial supplier with the internal production cost structure, SG&A overheads, and domestic profit margins of an entirely separate entity



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(GCI). Synthesizing one company's cost base with another supplier's floor export price creates a synthetic, hypothetical construct disconnected from commercial reality.

b. **Model Control Code (MCC) Disconnect:** The lowest price entry in the ABF database reflects specific, high-volume transactions or thinner film specifications. Combining this isolated low price against GCI's overall weighted-average constructed normal value creates an unadjusted model mismatch that artificially inflates the dumping calculation.

c. **Unjustified Departure from INV 554 Precedent:** In the original investigation (REP 554), the Commission established uncooperative variable factors by referencing the lowest export price and highest normal value from among cooperative, verified exporters. In SEF 696, the Commission departed from this coherent benchmark to construct a composite proxy.

8. The primary objective of "facts available" under WTO principles and domestic law is to bridge data gaps to determine a fair reflection of dumping, not to fabricate a "worst-case" composite.¹ We submit that rather than relying on an artificial composite, the Commission should calculate the uncooperative export price using the weighted average FOB export price of all uncooperative imports in the ABF database or align the uncooperative rate more reasonably with verified exporter benchmarks.

Factor / Variable	Original Investigation (INV 554 / REP 554)	Current Continuation Inquiry (SEF 696)
Export Price (EP)	Lowest ascertained EP among verified cooperative exporters.	Lowest weighted-average FOB price in ABF import database across uncooperative exporters.
Normal Value (NV)	Highest ascertained NV among verified cooperative exporters.	Constructed NV of single cooperating exporter (GCI).
Uncooperative Dumping Margin	23.2%	63.6% (Nearly 3x increase via hybrid proxy).

¹ See *US – Hot Rolled Steel (WT/DS184/AB/R)* paras. 84, 99, 102 and 193; *Mexico – Anti-Dumping Measures on Rice (WT/DS295/AB/R)* paras. 289-296; *US – Carbon Steel (India) (WT/DS436/AB/R)* paras. 4.417-4.426 and 4.468



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B.2 The Domestic Industry is Flourishing, Precluding Any Legal Basis for Recurrence of Material Injury

9. Under section 269ZHF(2) of the Act, the Commissioner must not recommend continuation of measures unless satisfied that expiration would lead, or be likely to lead, to a continuation or recurrence of the material injury that the measure was intended to prevent. The statutory threshold of "likely" requires a higher degree of probability than mere possibility or speculation.
10. The Commission's economic assessment in section 5 of SEF 696 demonstrates that Cromford is currently operating from a position of exceptional financial strength:
 - a. **Expanding Volume and Market Share:** Since the original investigation period (FY 2020), the Australian market expanded by 22.3%.² Far from suffering volume injury, Cromford achieved its highest recorded sales volumes during the inquiry period, representing a 22.7% increase compared to INV 554.³
 - b. **Peak Profitability:** Cromford remained consistently profitable throughout the injury analysis period. Profitability reached its highest level in the September 2025 quarter, driven by strong domestic sales.⁴
 - c. **Substantial Increase in Return on Investment (ROI):** Calculated via Return on Sales (ROS), Cromford's ROI greatly increased compared to the levels observed in INV 554.⁵
 - d. **Absence of Price Depression or Suppression:** Figure 5 of SEF 696 confirms that Cromford's unit selling price remained consistently above its Cost to Make and Sell (CTMS) throughout the entire analysis period. The Commission explicitly found no price depression.⁶
 - e. **Zero Injury in Other Economic Factors:** Cromford suffered no injury in capital investment, asset values, revenue, or employment.⁷

² Paras. 1.4.2, 4.1, 4.5, 7.7.1, SEF

³ Para. 5.4.1, SEF

⁴ Para. 5.6, SEF

⁵ Para. 7.7.4, SEF

⁶ Para. 5.5.1, SEF

⁷ Para. 5.7, SEF



11. The Commission's assertion that injury would recur relies on the premise that flat domestic prices reflect "price suppression" caused by Malaysian exports. However, this ignores basic raw material dynamics. Polyethylene resin (LDPE/LLDPE) constitutes approximately 70% of the cost of manufacturing builders' film.⁸ Following post-2021 global spikes, resin prices stabilized across 2024–2025.⁷ Steady selling prices above CTMS reflect stable input costs, not price suppression.⁹
12. Given Cromford's robust economic indicators, finding that material injury is "likely to recur" absent measures is regrettably speculative and unsupported by positive evidence.

B.3 Non-Attribution: Market Shifts and Price Dynamics Are Driven by Duty-Free Imports from Vietnam

13. Under established trade remedy principles, injury caused by factors other than dumped imports must not be attributed to the subject imports. SEF 696 reveals a fundamental structural shift in the Australian market that breaks any causal link between Malaysian exports and the condition of the domestic industry.
14. While Malaysian exports comprised 87.9% of all imports during FY 2020, Malaysian market share contracted sharply to 44.4% during the inquiry period.¹⁰ Crucially, this market share was not captured by Cromford, but by duty-free, non-subject imports, predominantly from Vietnam. Vietnam accounted for 81.2% of all non-subject imports during the injury analysis period.¹¹
15. The Commission's price analysis in paragraph 7.6.2 confirms that FOB export prices from Vietnam were highly competitive and, in certain quarters, lower than Malaysian export prices.
16. Because Vietnamese imports enter Australia free of anti-dumping duties and at lower price points, any price negotiation pressure experienced by Cromford is directly attributable to Vietnamese supply. Imposing an inflated 63.6% duty on Malaysian suppliers will not protect Cromford; it will merely accelerate the substitution of Malaysian film with non-subject Vietnamese film.

⁸ PDF page 7-8, Form B600 - Application for the Continuation of a Notice or Undertaking

⁹ Para. 5.5.1, SEF; and PDF page 7-8, Form B600 - Application for the Continuation of a Notice or Undertaking

¹⁰ Para. 7.7.1, SEF

¹¹ Para. 7.6.2, SEF



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17. As elaborated above, there is no longer any material injury suffered by the domestic industry to justify the continuation of measures. Even if such material injury has been established (which we say, it has not), the legal requirement for causation has not been met. Injury driven by non-subject volume cannot legally support the continuation of measures against Malaysia.

C. CONCLUSION AND REQUESTED RECOMMENDATIONS

18. For the reasons set out above, Solary respectfully requests that the Commissioner reconsider:
- a. the variable factors methodology for uncooperative exporters and calculate the export price using a representative weighted average of ABF import transactions rather than a punitive composite proxy;
 - b. the economic health of the domestic industry and conclude that material injury is not likely to recur upon expiry of the measures; and
 - c. that non-subject imports from Vietnam are the primary driver of market price dynamics in Australia.
19. We respectfully request that the Commission find that there is no legal basis warranting the continuation of anti-dumping measures. We thank the Commission in advance for its due and full consideration of the points highlighted and look forward to receiving the Final Report in due course.
20. For the avoidance of doubt, this submission is without prejudice to our rights, including our right to challenge and/or review any decision made in respect of this proposed continuation or any measures imposed eventually. In such case, we may refer to all input provided to the Commission, including this submission. As mentioned before, this submission is not intended to be exhaustive.

Thank you.

Yours sincerely,

SOLARY SDN BHD

Name: Hor Swee Siang
Designation: Director

