

For Publication

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The Director - Investigations 3
Australian Trade Remedies Commission
GPO Box 2013
Canberra ACT 2601
investigations3@artc.gov.au

Dear Director

Submission - Inquiry into the Continuation of Anti-Dumping Measures on Certain Concrete Underlay Film Exported to Australia from Malaysia - SEF 696

We act for Davmar Industries Pty Ltd (**Davmar**).

We refer to the Australian Trade Remedies Commission's (**ARTC**) inquiry into the continuation of anti-dumping measures on certain concrete underlay film exported to Australia from Malaysia following an application lodged by LCM General Products Pty Ltd trading as Cromford Film (**Cromford**).

1. Overview

1.1 On 24 September 2026, the ATRC published Statement of Essential Facts No. 696 (**SEF**). In the SEF, the ARTC proposed to recommend that the Minister:

- (a) continue the anti-dumping measures which are due to expire on 17 December 2026; and
- (b) increase the dumping duty applicable to all exporters except Great Cosmo Industries Sdn. Bhd. (**Great Cosmo**) by a significant margin.

1.2 Davmar submits that, when the evidence before the ATRC is properly understood:

- (a) there is no proper basis for the anti-dumping measures to be continued; and
- (b) if the measures are continued, there is no proper (or, indeed, rational) basis to increase the dumping margins as proposed in the SEF.

1.3 Davmar accordingly urges the ATRC to terminate the continuation inquiry. Alternatively, Davmar asks the ATRC to recommend that the Minister continue the imposition of dumping duties in respect of concrete underlay film exported from Malaysia to Australia on their current terms as set out in the ATRC's Report No. 554 (Alleged Dumping of Concrete Underlay Film Exported from Malaysia) (**Report 554**).

2. Davmar's Business

2.1 Davmar is a significant importer and distributor of commercial building products, with branches in Sydney, Melbourne and Brisbane. It plays a very significant role in the Australian building materials industry - which feeds directly into national interest areas such as construction and housing.

2.2 Davmar presently imports concrete underlay film from Malaysia for sale to Australian steelmakers, recyclers, concrete suppliers and hardware stores. Davmar's customers generally buy large volumes at a time. Of the largest sellers of concrete underlay film in Australia (which includes L&N Group, Sadleirs, Australian Recycling Corporation and Cromford), Davmar is the largest.

2.3 Since March 2026, Davmar's import freight costs for concrete underlay film have risen by more than 400%. That is a significant cost on landed import prices which Australian purchasers absorb. Should the anti-dumping measures continue, it will no longer be viable for Davmar to import concrete underlay film from Malaysia. Its costs, and those of its end-customers, will necessarily increase to the detriment of the local construction sector.

3. Non-injurious price

3.1 In Report 554, ATRC determined that the non-injurious price (**NIP**) was less than the normal value for all exporters of the goods from Malaysia, except L&L Trading, and recommended that the Minister have regard to the desirability of applying the lesser duty rule to exports of the goods from Malaysia.¹

3.2 The SEF now states that the NIP is not less than the normal values calculated for Great Cosmo and all other exporters from Malaysia, such that the lesser duty rule does not apply and measures should be imposed at the full dumping margins.²

3.3 That conclusion is not supported by, nor consistent with, the findings made by the ATRC in the SEF that, as a result of the current margins:

- (a) the Australian industry has improved its position;³
- (b) profitability remained positive and relatively stable;⁴
- (c) Cromford's sale volumes have increased by 22.7% as compared with the original period of investigation;⁵
- (d) Cromford's profitability appears to have improved in line with increased sales;⁶
- (e) Cromford did not experience significant price depression;⁷
- (f) Cromford has experienced a "*greatly increased*" return on investment;⁸

¹ Report 554 at [10.1].

² SEF at [8.1].

³ SEF at [5.1].

⁴ SEF at [5.1].

⁵ SEF at [5.4.1].

⁶ SEF at [5.1].

⁷ SEF at [5.5.1].

⁸ SEF at [7.7.4].

- (g) Cromford has experienced improvements in the majority of economic factors since the measures were introduced;⁹
 - (h) Cromford did not claim to have experienced injury with respect to other matters such as value of assets, capital investment, revenue or employment;¹⁰ and
 - (i) the Australian industry's increased sales are consistent with the measures having been effective.¹¹
- 3.4 The evidence demonstrates that the Australian industry - which is made up of a sole member - has improved throughout the investigation period on every measure which the SEF considered. A healthier and more profitable Australian industry leads to a lower NIP, not a higher one.
- 3.5 The fact that the existing margins, with the lesser duty rule applied, protected Cromford from suffering injury is strong evidence to suggest that imposing full dumping margins, as proposed in the SEF, would lead to proceeds which exceed "*the minimum price necessary to prevent the injury, or the recurrence of the injury*" caused by the dumped goods: *Customs Act 1901* (Cth) (Act) s 269TACA.
- 3.6 In other words, as the ATRC has concluded that the measures have been effective whilst the lesser duty rule was used,¹² then it cannot follow, as a matter of logic, that greater margins are now necessary to prevent injury. Indeed, the evidence demonstrates that the measures should not be continued at all - given the domestic industry was able to significantly improve its position over this time, notwithstanding Cromford's considerable inefficiencies (as to which, see Part 6 below).
- 3.7 Further, the NIP was calculated by using the profit margin on Cromford's orange underlay film as a proxy for a profit margin that could reasonably have been achieved.¹³ This is notwithstanding that Report 554 found that orange underlay film was not a like good. It is unclear how, in those circumstances, the ATRC concluded that orange underlay film and black underlay film are "similar" for the purposes of calculating the NIP.
- 3.8 In any event, the SEF observed that "*industry prices from before [2021] are too dated to be an accurate representation of contemporary Australian industry prices in a market unaffected by dumping*".¹⁴ However, the price data for orange underlay film used to determine the USP was verified in Report 554, approximately five years ago.
- 3.9 The SEF states that there is "*no recent period unaffected by dumping*" but elsewhere, it states that Cromford's improved performance shows that the measures have been effective. If the measures have removed the injurious effect of dumping (which all the metrics suggest to be the case), Cromford's own prices during the investigation period ought to have been adopted as

⁹ SEF at [5.7].

¹⁰ SEF at [5.7].

¹¹ SEF at [7.7.1].

¹² SEF at [7.7.1].

¹³ SEF at [8.3.1].

¹⁴ SEF at [8.3.1].

the basis for determining the NIP (as set out in the Dumping and Subsidy Manual), rather than outdated price data of a product which the ATRC has previously determined is not a 'like good'.

4. The 63.6% rate for uncooperative and all other exporters

4.1 In determining the export price, the Minister is required to have regard to "*all relevant information*": s 269TAB(3) of the Act.

4.2 The ATRC adopted the lowest weighted average of a single Malaysian exporter, rather than the weighted average across all uncooperative Malaysian exporters. One stated reason is that the lower weighted average is a price at which a new exporter "may" export to Australia.

4.3 That reasoning is problematic for multiple reasons, including because:

- (a) it is speculative and leads to arbitrary results;
- (b) it matches the lowest export price of one supplier with the internal cost structures and domestic margins of other entities. As the submission from Solary correctly notes, "*[s]ynthesizing one company's cost base with another supplier's floor export price creates a synthetic, hypothetical construct disconnected from commercial reality*"; and
- (c) it does not fairly determine the appropriate dumping rate. This last point can be tested by the fact that the uncooperative dumping margin has increased almost 3x as a result of the adoption of this new methodology that was not used in REP 554.

4.4 Instead, the ARTC should use the weighted average across all uncooperative Malaysian exporters, which produces an export price which better incorporates "*all relevant information*" as required by s 269TAB(3) of the Act.

4.5 Further, as noted above, the rate for uncooperative and all other exporters under REP 554 was 23.2%. That rate was sufficient to not only maintain, but improve, the performance of Cromford and the Australian industry as set out in paragraph 3.3 above. An increase of almost 3x (40.04%) for uncooperative and all other exporters far exceeds what is necessary to prevent material injury.

5. Injury to Australian industry (if any) is not attributable to Malaysian dumping

5.1 The evidence before the ARTC demonstrates that:

- (a) Cromford "*has considerable regard to import prices when setting its own pricing*";¹⁵ and
- (b) the "*market for concrete underlay film is highly price sensitive*".¹⁶

5.2 Throughout the investigation period, Malaysia's share of imports fell from 87.9% to 44.4%, whilst Vietnam's share grew significantly. Vietnamese prices are described in the SEF as "*broadly*

¹⁵ SEF at [7.1.3].

¹⁶ SEF at [1.4.2].

comparable" to Malaysian prices and were lower in one quarter of the investigation period.¹⁷ Vietnamese concrete underlay film is not subject to any measures.

- 5.3 Given the above, Cromford will need to match Vietnamese prices in any event (which necessarily means that any challenges it faces are not being caused by dumping from Malaysia). In this way, price pressure on Cromford (if any) is therefore at least equally explained by imports from Vietnam, and the SEF does not distinguish the effects of Vietnamese and Malaysian imports on Australian industry, nor explain how the ATRC has concluded that any injury to the Australian market can be attributed to dumped Malaysian imports (in circumstances where, in 2024 and 2025, Vietnam's market share was almost equal to Malaysia's).¹⁸
- 5.4 However, as stated in paragraph 6.3(c) below, Cromford's decision to price low and take the advantage of volume is a strategic decision which must not be misinterpreted as a consequence of dumping.
- 5.5 The above comments are also sufficient to dispose of each of the matters that the ARTC considered at SEF [1.4.3] to suggest that the Australian industry remains susceptible to injury. The susceptibility, properly understood, is not from dumping from Malaysia but from Cromford's inability to compete with Vietnamese exports that are not subject to measures.

6. Broader concerns regarding Cromford's Business

- 6.1 The SEF records that:
- (a) Cromford has a single manufacturing facility in Pendle Hill, NSW.¹⁹ This necessarily leads to extremely high freight costs to transport concrete underlay film across Australia²⁰ (*contra.*, for example, Davmar which has branches in various states). Those freight costs are included in Cromford's pricing;²¹ and
 - (b) Cromford has not made any investment in plant and equipment to expand its manufacturing capabilities or efficiencies.²²
- 6.2 We are instructed by Mr Martyn Williams, Davmar's director and a veteran of the concrete underlay film industry in Australia (for over 30 years), that:
- (a) Cromford is at its capacity in terms of production of concrete underlay film and is incapable of manufacturing sufficient concrete underlay film to supply the entire Australian market (such that imports are crucial);
 - (b) as a result of (a) above, Cromford imports a significant proportion of its concrete underlay film from Great Cosmo; and

¹⁷ SEF at [7.6.2].

¹⁸ SEF at [7.5.1].

¹⁹ SEF at [3.4.2].

²⁰ Which is what Cromford does - see SEF at [4.3.1].

²¹ SEF at [4.6.1].

²² See SEF at [3.6.2] where it is recorded that the Commission "*observed there had been no material change in the manufacturing process since INV 554*".

- (c) the price at which Cromford sells concrete underlay film is generally cheaper than Davmar's (despite Davmar's product being imported from Malaysia) - with Cromford choosing to compete on volume.

6.3 Four significant issues follow from the above:

- (a) *First*, the SEF finds that like goods are "*wholly manufactured in Australia*" and relies on Cromford's sales data without any fresh verification.²³ As Cromford now imports finished concrete underlay film from Great Cosmo and resells it in Australia, that film is not Australian production and any injury from those imports is self-inflicted. Indeed, Davmar's sales team have received reports from customers that Cromford advertises two products: Australian-made concrete underlay film and imported concrete underlay film.
- (b) *Second*, it is concerning, and worthy of further verification by the ATRC, that the only Malaysian exporter that is not subject to the 63.6% dumping rate and is instead subject to a significantly lower rate, is the Malaysian exporter from which Cromford purchases concrete underlay film. Cromford gains an unfair advantage if the effect of the increased dumping rates is that Malaysian exporters (except Great Cosmo) are priced out of the Australian market, but it remains economical for Cromford to continue to purchase a proportion of its concrete underlay film from Great Cosmo.
- (c) *Third*, Cromford's decision to compete with other Australian sellers by selling concrete underlay film at lower prices and high volumes is not price suppression caused by dumping. The SEF acknowledges that profit followed volume,²⁴ and Cromford's commercial decision to take advantage of that must not to be misinterpreted as a consequence of dumping.
- (d) *Fourth*, the SEF forecasts that Cromford would lose sales volume and market share if the measures expire.²⁵ However, as Cromford is at full capacity in terms of Australian manufacturing, the volumes it "loses" are volumes it could not have supplied in any event. That loss cannot be material injury caused by dumping. The more likely effect of continuing dumping measures is that the market share which Malaysian exporters lose will be taken up by other non-subject countries (including Vietnam) or there will be a supply shortage.

6.4 In relation to the fourth point above, we are further instructed by Mr Williams that the Vietnamese industry for manufacturing concrete underlay film is in its infancy, and Vietnamese exporters are not presently capable of supplying the volume of concrete underlay film which is presently supplied by Malaysian exporters. As a result, the continuation of anti-dumping measures will likely cause Malaysia's market share to continue to shrink, creating a supply shortage which both Cromford and Vietnamese exporters are incapable of filling based on their current production capabilities. It would not increase Cromford's volumes of concrete underlay film "*wholly manufactured in Australia*".

²³ SEF at [2.4.1].

²⁴ SEF at [5.6].

²⁵ SEF at [7.7.1].

- 6.5 Cromford's market share is limited only by its production capabilities. Cromford's lack of investment in plant and equipment, its single manufacturing plant in Sydney, and its high freight costs to other Australian states and territories are the reason for Cromford's position. Those factors are unrelated to dumping and they cogently explain why Cromford's market share was "*relatively unchanged*" during the investigation period, despite the substantial reduction in Malaysia's market share during that period.
- 6.6 The factors limiting Cromford's growth are consistent with the factors which led other Australian companies to stop manufacturing concrete film underlay in Australia. In short, the Australian industry's structural problems which limit Australian manufacturers from expanding their market share and increasing profitability are domestic costs, not Malaysian dumping.

Yours sincerely



Zac Chami, Partner
+61 2 9353 4744
zchami@claytonutz.com

George Pasas, Special Counsel
+61 2 9353 5620
gpasas@claytonutz.com

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