THE FIRM ON THE AVENUE

16 October 2026

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

By email: investigations3@adcommission.gov.au

PUBLIC RECORD

Dear Manager Operations 3,

RE: Continuation Inquiry No. 696: Certain concrete underlay film exported to Australia from Malaysia
Submission in response to SEF 696

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1. Introduction and scope of this response

1.1 We act for Great Cosmo Industries Sdn Bhd ('GCI'). This submission responds to the public record submission made by LCM General Products Pty Ltd, trading as Cromford Film (Cromford), dated 14 October 2026 (Cromford Submission), in Continuation Inquiry No. 696.

1.2 This response focuses on the economic and policy premises underlying Cromford's submission, in particular:

1. Cromford's treatment of profitability and "continued dumping" concepts, including the suggestion that stable prices or duty absorption necessarily indicates continuing dumping; and

2. the proper role of domestic sales (and profit outcomes on those sales) in the normal value framework where the producer's commercial reality is that the relevant goods are produced primarily for export and only sold domestically in small volumes.

1.3 We do not accept that the existence of a higher profit level domestically (as compared to export markets), or the existence of profitability overall, can properly be used as a proxy for "dumping intent", "unfair trade", or a justification to extend measures beyond what is necessary to address injurious dumping as defined.

1.4 GCI is an established Malaysian plastics manufacturer, founded in 2006, with 20 years of operating history. GCI has received multiple business excellence awards, which reflect its long-standing commitment to innovation, quality and customer satisfaction. GCI was also the first organisation in Malaysia to be awarded the MS 1479 licence by SIRIM for its polyethylene sheeting products, as recognised by the Malaysia Book of Records. This underlines GCI's commitment to producing goods that meet rigorous regulatory standards.

1.5 GCI does not accept that it has engaged in dumping during the life of the measures. The dumping margin of 16.7% found for GCI, we submit, is the result of an inflated profit rate. That rate was derived solely from [NUMBER] domestic sales of the black variant, which together represent only [percentage less than 1]% of GCI's export volume of black variants.

1.6 GCI has cooperated fully with the Commission since the original investigation (REP 554) and is the only cooperating exporter in the present continuation inquiry; and

1.7 GCI submits that it is the only genuine producer of concrete underlay film in Malaysia and has never been involved in any circumvention activity.

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2. Anti-dumping law addresses defined price discrimination causing injury, not "success" in export markets

2.1 Anti-dumping is an exceptional remedy. Under Article VI of GATT 1994 and the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement), dumping is a defined concept based on a comparison between export price and normal value. Anti-dumping measures are authorised only where dumped imports cause or threaten material injury (or materially retard establishment of an industry).

2.2 Consistent with that architecture, exporter profitability is not determinative of whether dumping exists. A producer may be profitable overall yet still be found to dump if export price is below the properly established normal value; and a producer may also be unprofitable

overall without dumping. Profitability is not an independent legal standard for dumping or injury.

2.3 It follows that the Commission's task is not to ensure parity of profitability between domestic producers and foreign exporters, nor to insulate the domestic industry from competitive pressure that arises from legitimate differences in commercial strategy, scale, or cost efficiencies. The Commission's task is to apply the statutory tests, consistent with WTO disciplines, to identify and remedy injurious dumping (if any) as defined.

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3. Export markets and domestic markets are different markets; higher domestic profitability can reflect market structure, not "dumping behaviour"

3.1 Cromford's submission proceeds on an implicit premise that a producer whose domestic market returns are higher than export market returns must, by that fact, be "dumping" in export markets in a manner warranting continuation of measures.

3.2 That premise is economically incomplete and legally unsafe. It is common commercial reality that:

1. domestic sales occur into a home market with established distribution channels, differentiated customer preferences, and different levels of competition; while
2. export sales occur into markets that are not the producer's "home market", often characterised by different product specifications, demand profiles, and competitive conditions.

3.3 In that context, domestic profitability may be higher simply because the domestic market is structured differently (including different levels of customer switching, purchasing power, product preferences, or competitive intensity). That does not demonstrate that export prices are "abnormally low" in the WTO sense, nor that they are "unfair" in a way the anti-dumping system is designed to address.

3.4 In particular, where the producer is (commercially) an export-oriented supplier for the goods under consideration, export pricing strategies are driven by export market conditions. The fact that export market profit is lower than domestic profit does not itself imply that export prices are below a proper normal value, or that any price difference is attributable to dumping rather than ordinary market segmentation.

3.5 It is GCI's submission that in fact the converse is present – the domestic market value is "abnormally high" for reasons outlined below.

4. Small-volume domestic sales and export-oriented production: implications for "ordinary course of trade" analysis and constructed normal value

4.1 Cromford submits (in the Cromford Submission) that low volume is not a condition of profit calculation under Regulation 45(2) and relies on a statement from the Commission's Manual that profit under Regulation 45(2) "can pertain to sales of like goods that have occurred in low volumes", provided they were made in the ordinary course of trade.

4.2 We accept that, as a matter of principle, "low volume" is not automatically disqualifying. However, the practical question remains whether the domestic sales relied upon (and the profit outcomes inferred from them) are an appropriate and reliable basis to construct a normal value that is intended to approximate a fair market price in the domestic market of the exporting country.

4.3 Where the producer's business reality is that the goods are produced primarily for export (and only incidentally sold domestically, in small volumes), the domestic market is not necessarily the principal commercial market for those goods. That matters because constructed normal value is intended to approximate normal pricing behaviour under domestic market conditions, not to generate an elevated benchmark derived from atypical domestic pricing outcomes that occur in a market that is not the producer's primary market for the goods. If those same goods were sold in the domestic market for a loss, the negative profit margin would not be adopted for the purpose of constructing a normal value.

4.4 In such circumstances, a higher domestic profit level can be the product of:

- small domestic sales volumes;
- discrete domestic customer segments purchasing outside the producer's main business plan for the goods; and/or
- domestic pricing that is not reflective of the exporter's ordinary export-facing commercial reality for the relevant goods.

4.5 This is not an invitation to disregard verified domestic sales. Rather, it is a submission that the Commission should be cautious not to treat small-volume domestic profitability outcomes as necessarily representing the "normal" commercial reality for an export-oriented producer's goods, especially where the exporter's principal market for the goods is export, not domestic consumption.

4.6 Cromford argues that volume is not a condition of Regulation 45(2), and that the only requirement is that the domestic sales were made in the ordinary course of trade. That is

precisely the issue. GCI's domestic sales were not made in the ordinary course of trade, because they are not part of GCI's normal business operations. In particular:

(a) **Irregular and opportunistic sales.** GCI has no ongoing domestic customers. Domestic sales occur only when a buyer happens to make an enquiry and this is rare.

(b) **Small-quantity premium.** Domestic customers typically buy in small quantities and pay a premium for doing so. That premium is a feature of these atypical transactions, not of the normal pricing of the goods.

(c) **Export-oriented business.** GCI's production is planned around export orders. Domestic sales are incidental, for example sales of surplus or leftover stock.

4.7 The margins earned on these sales therefore reflect the unusual conditions under which they were made, not normal commercial profit. None of these matters is addressed in the SEF. The Commission appears to have found that GCI's domestic sales of the black variant were made in the ordinary course of trade simply because they were largely profitable. GCI maintains its submission that Regulation 45(2) is not the appropriate method for determining profit in this case. GCI submits that profit should instead be determined under Regulation 45(3)(c), by reference to GCI's audited financial statements for the 2025 financial year, as these most accurately reflect GCI's overall profit in the domestic market over the investigation period.

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5. Profitability and the feasibility of ceasing domestic sales: why this matters to "dumping intent" arguments

5.1 Cromford advances arguments in the Cromford Submission that rely on an assumption of continuing intent to supply Australia "at low prices", including by reference to circumvention findings and the proposition that an exporter absorbing duties by lowering price is "still dumping".

5.2 Without commenting on issues outside the scope of this response, we submit the following is critical to keep the legal inquiry properly framed:

- anti-dumping disciplines do not regulate "intent" to sell in export markets; they regulate whether export price is below normal value and whether injury is caused; and

- the Commission should be cautious not to infer “dumping intent” merely from the fact that export prices are lower than domestic prices, particularly where the exporter is fundamentally an export market supplier; and
- behaviours of uncooperative exporters and findings in alternate inquiries should not overwhelm findings against our client in this investigation.

5.3 In that commercial setting, it is feasible for an export-oriented producer to cease selling identical goods domestically (especially where domestic volumes are small) and to concentrate on export markets. If the producer were to stop selling identical goods domestically, the normal value methodology would necessarily change, and the domestic-profit comparison Cromford relies upon would no longer be available in the same way.

5.4 That practical point underscores why the anti-dumping framework cannot be allowed to drift into a policy outcome that effectively requires an export-oriented producer to price exports at a level anchored to a small-volume domestic market that is not, commercially, its market for the goods.

5.5 Put differently: a higher domestic profit outcome is not evidence that export prices are “unfair” or “illegitimate”; it is often evidence that the producer is competing in an export market that is not its home market for the goods and in which competitive conditions differ.

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6. WTO-consistent policy: remedies must remain remedial and proportionate

6.1 The WTO framework authorises anti-dumping duties as a remedy against injurious dumping, not as an instrument to equalise profitability, preserve domestic market power, or penalise exporters for being competitive in export markets.

6.2 Accordingly, the Commission’s approach should avoid outcomes where:

1. constructed normal value is effectively anchored to a high domestic profitability outcome arising from small and atypical domestic volumes; and
2. continuation of measures becomes a mechanism to prevent ordinary export market competition rather than to remedy injurious dumping as defined and evidenced.

6.3 This is particularly important in continuation inquiries, where the statutory test is prospective and where there is an inherent risk that the inquiry becomes focused on maintaining a protective status quo rather than assessing, on evidence, the likelihood of continuation or recurrence of dumping and material injury in a way that remains disciplined by the remedial purpose of the regime.

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7. Conclusion

7.1 For the reasons above, we submit that the Commission should treat Cromford's reliance on profitability and domestic-versus-export profit differentials with caution. The exporter's continued profitability, and higher domestic profitability relative to export profitability, does not support any presumption of "dumping intent" or a WTO-consistent basis for continuation of measures beyond what is necessary to address injurious dumping as defined.

7.2 The Commission should ensure that the continuation inquiry remains anchored to the legal tests and the remedial purpose of the anti-dumping regime, consistent with WTO policy, and should avoid allowing atypical small-volume domestic market outcomes to drive a normal value benchmark that does not reflect the commercial reality of an export-oriented producer.

8. Response to Davmar's submission

8.1 In response to Davmar's recent submission, it is simply incorrect and untrue that Cromford imports a significant proportion of its concrete underlay film from GCI. GCI has had no transactions with Cromford.

Yours faithfully

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