IMPORTER QUESTIONNAIRE

ANTI-CIRCUMVENTION INQUIRY NO. 606

**ALLEGED SLIGHT MODIFICATION OF CONCRETE UNDERLAY FILM EXPORTED TO AUSTRALIA FROM MALAYSIA**

This questionnaire seeks information in relation to imports and sales of certain concrete underlay film (**the goods**) with a width less than 2 metres and greater than 6 metres (**the circumvention goods**), exported to Australia from Malaysia.

This information will assist in determining whether a circumvention activity in the form of a slight modification of goods has occurred in relation to concrete underlay film exported to Australia from Malaysia.

Anti-Dumping Notice No. 2022/054 provides details of the goods the subject of the inquiry and inquiry procedures.

|  |  |  |
| --- | --- | --- |
| **Part A**  | **Company and overseas supplier information** | **Return as quickly as possible but no later than 13 July 2022** |
| **Part B** | **The goods and the circumvention goods** |
| **Part C** | **Imports and forward orders** | **Return as soon as possible after receiving the commission’s detailed spreadsheets but no later than 1 August 2022** |
| **Part D** | **Sales and expenses** |

**Return E-mail**: investigations3@adcommission.gov.au

# INSTRUCTIONS

## Why fill out this questionnaire?

The Anti-Dumping Commission (**the commission**) is conducting an anti-circumvention inquiry in relation to the dumping duty notice (**the original notice**) applying to Concrete underlay film (**the goods**) exported to Australia from Malaysia.

The initiation of this inquiry follows an application lodged by LCM General Products Pty Ltd (**Cromford Film**, or **the applicant**), a producer of like goods in Australia. Cromford Film alleges that there has been circumvention activity involving a slight modification of goods exported to Australia from Malaysia, within the meaning of subsection 48(2) of the *Customs International (Obligations) Regulation 2015* (**the Regulation**). Specifically, Cromford Film alleges that the goods exported to Australia have been slightly modified to a width of 1.95 metres so as to slightly fall outside of the 2 to 6 metre width range covered by the original notice.

The commission will examine as part of this inquiry goods with a width outside of 2-6 metres.

The commission will use the information you provide to determine whether a circumvention activity has occurred, and to make recommendations about potential alterations to the original notice should a circumvention activity be found to have occurred.

## Inquiry process

The anti-circumvention inquiry will examine whether a circumvention activity involving a slight modification of goods exported to Australia from Malaysia has occurred.

The commission will examine alleged circumvention goods exported to Australia from Malaysia from 1 July 2019 to determine whether the alleged circumvention activity has occurred.

After the inquiry, the Commissioner of the Anti-Dumping Commission (**the Commissioner**) will provide a report and recommendations to the Minister, unless the inquiry is terminated earlier. This report will recommend to the Minister that the original notice:

* remain unaltered, or
* be altered following a finding that circumvention activity in relation to the original notice has occurred, and the alterations to be made.

After considering the report and any other information that the Minister considers relevant, the Minister may leave the original notice unaltered or alter the original notice, specifying different goods that are subject to the notice/s, and altering variable factors in respect of certain exporters subject to the notice.

The inquiry will be carried out in accordance with Part XVB of the *Customs Act 1901* (**the Act**).

## What happens if you do not respond to this questionnaire?

You do not have to complete the questionnaire. However, if you do not respond, do not provide all of the information sought, do not provide information within a reasonable time period, or do not allow the commission to verify the information, the commission may have regard to any other matters or information that it considers relevant, including the information submitted by the applicant in its application. Therefore, it is in your interest to provide a complete and accurate response to this questionnaire, capable of verification.

Alternatively, you may wish to make a submission concerning the inquiry, no later than 1 August 2022. Instructions on making a submission are in Anti-Dumping Notice No. 2022/054.

## Extension requests

If you require a longer period to complete your response to this questionnaire, you must submit a request to the commission, in writing, for an extension to the due date for all or part of the questionnaire. This request must be made prior to the due date. A request for extension will be rejected if received after the due date.

When considering the extension request, the commission will have regard to:

* the commission’s responsibility to conduct the case in a timely and efficient manner
* the reasons why you could not provide a response within the whole period and not only the period remaining between the request and the due date
* ordinary business practices or commercial principles
* the commission’s understanding of the relevant industry
* previous correspondence and previous dealings with your company, and
* information provided by other interested parties.

More information on extensions can be found in the Customs (Extension of Time and Non-cooperation) Direction 2015 at <https://www.legislation.gov.au/Details/F2015L01736>.

You will be informed of the decision whether your request for an extension has been rejected, granted in full or granted in part.

A summary of any requests and grants of extensions to submit a response to this questionnaire will be published in the public record.

## Submitting a response to the questionnaire

Responses to the questionnaire should be lodged by email to the address listed on the cover page.

## Confidential and non-confidential responses

You are required to lodge a confidential version (for official use only) and a non-confidential version (for public record) of your response to this questionnaire by the due date. Please ensure that *each page* of information you provide is clearly marked either ‘FOR OFFICIAL USE ONLY’ or ‘PUBLIC RECORD’.

All information provided to the commission in confidence will be treated accordingly. The public record version of your questionnaire will be placed on the public record, and must contain sufficient detail to allow a reasonable understanding of the substance of the information, but does not breach confidentiality nor adversely affect those interests.

A person is not required to provide a summary for the public record if the commission can be satisfied that no such summary can be given that would allow a reasonable understanding of the substance of the information.

All questionnaires are required to have a bracketed explanation of deleted or blacked out information for the public record version of the questionnaire. An example of a statement to accompany deleted/blacked out text is:

[Explanation of cost allocation through the divisions, by reference to machine hours or weight].

If such an explanation is not provided, the commission may disregard the information in the submission. Where the public record version of your response to the questionnaire does not contain sufficient detail, your company may be deemed to have significantly impeded the case and be deemed an uncooperative exporter.

## Verification of the information that you supply

The commission may elect to undertake verification of the information you provide in your questionnaire response. The commission remains committed to ensuring that data submitted by parties is complete, relevant and accurate. The commission will contact you if it wishes to undertake verification, following receipt of your response. If an onsite visit is not possible, the commission may elect to undertake alternative verification activities. This includes but is not limited to remote verification, desktop assessments or delaying verification activities until such time as onsite verification is possible.

A verification visit, or any verification activity is not meant to be a chance for you to provide new or additional information. The commission expects your response to the questionnaire to be relevant, complete and accurate.

Onsite verification is usually conducted over 4 days, remote and desktop verification may take a longer period of time. In complex cases, a verification visit, if conducted, may be scheduled over
5 days. A desktop verification may require a longer period.

Any verification activity will include a detailed examination of your company’s records and we will collect copies of relevant documents. The verification will require the participation of key staff, including your financial accountant, production manager and sales staff. A tour of the manufacturing facility, should an onsite visit be possible, may also be required during the verification visit.

Note that the commission may disregard any data or information that is not verified, including new or additional information provided after the verification activity.

A report will be prepared following the verification visit, which details the outcomes of the visit. You will be provided with an opportunity to comment on the accuracy and confidentiality of the verification report prior to its publication on the public record.

For information on the commission’s verification procedures, refer to Anti-Dumping Notice No. 2016/30 available on the commission’s website.

## Important instructions for preparing your response

* Please answer all questions. If a question is not applicable to your situation, please answer the question with ‘Not Applicable’ and provide an explanation as to why.
* All questions must be answered in English. An English translation must be provided for documents not originally in English.
* Clearly identify all units of measurement (e.g. KG, tonne) and currencies (e.g. AUD) used. Apply the same measurement consistently throughout your response to the questionnaire.
* Label all attachments to your response according to the section of the questionnaire it relates to (e.g. label the chart of accounts as Attachment A-4.6)
* The data must be created as spreadsheet files in Microsoft Excel.
* If you have used formulas to complete spreadsheets, these formulas must be retained and not hard-coded.
* You must retain all worksheets used in answering the questionnaire. Be prepared to provide these worksheets during the commission’s verification of your data.
* If you cannot present electronic data in the requested format contact the case officer as soon as possible.
* Where possible, electronic data should be emailed or shared with the commission via SIGBOX, a secure online document repository. Please contact the commission to request access to SIGBOX if required.

# Goods subject to Anti-dumping measures

**Original notices**

The anti-dumping measures, in the form of a dumping duty notice, were imposed on 17 December 2021 by the then Minister for Industry, Energy and Emissions Reduction (**the Minister**) after consideration of *Anti-Dumping Commission Report No. 554* (**REP 554**).[[1]](#footnote-2) The original notice applies to all exporters of the goods from Malaysia.

**The goods the subject of the notices**

The goods the subject of the original notices 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.*

The goods are generally, but not exclusively, classified to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*.

|  |  |  |
| --- | --- | --- |
| **Tariff Subheading** | **Statistical Code** | **Description** |
| 3920 | OTHER PLATES, SHEETS, FILM, FOIL AND STRIP, OF PLASTICS, NON-CELLULAR AND NOT REINFORCED, LAMINATED, SUPPORTED OR SIMILARLU COMBINED WITH OTHER MATERIALS: |
| 3920.10.00 | Of polymers of ethylene, Of polyethylene, Not exceeding 0.08 mm in thickness. |
| 22 | Printed, embossed or otherwise surface-worked, except merely polished |
| 20 | Other, Low density |
| 21 | Other, other |
|  | Of polymers of ethylene, Of polyethylene, Exceeding 0.08 mm in thickness: |
| 25 | Printed, embossed or otherwise surface-worked, except merely polished |
| 40 | Other, low density |
| 41 | Other, other |
|  | Of polymers of ethylene, Other: |
| 51 | Exceeding 0.08 mm in thickness |
| 3921 | OTHER PLATES, SHEERS, FILM, FOIL AND STRIP, OF PLASTICS |
| 3921.90.90 | Other: Other, of polymers of ethylene |
| 16 |  Low density polyethylene |

# Goods subject to the inquiry (the circumventioN goods)

The goods subject to the anti-circumvention inquiry are described in the application as having a width of 1.95 metres.

The commission will examine as part of this inquiry goods with a width outside of 2-6 metres (**the circumvention goods**).

The circumvention goods are allegedly being imported into Australia from Malaysia under tariff subheading 3920.10.00, statistical code 22, 20, 21, 25, 40, 41, 51 and 3921.90.90, statistical code 16 of Schedule 3 to the *Customs Tariff Act 1995*.

# Part A Company and overseas supplier information

## A.1 Your company

|  |  |
| --- | --- |
| Company Name |  |
| ABN: |  |
| Contact name: |  |
| Position: |  |
| Mailing address: |  |
|  |  |
|  |  |
|  |  |
|  |  |
| Telephone: |  |
| Facsimile: |  |
| E-mail address: |  |

Provide details on the ownership of your company and major shareholders:

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Describe the role of your company in the Australian market for Concrete underlay film – for example, buying or selling agent, importer/distributor, importer/wholesaler, importer/retailer or importer/end-user.

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At what level of trade is each of your customers – for example, distributor, wholesaler, retailer or end-user?

|  |  |
| --- | --- |
| **Customer** | **Level of trade** |
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## A.2 Your overseas supplier(s) of the goods and the alleged circumvention goods

Please complete the below information for each of your overseas suppliers of the goods and the circumvention goods (using a new box for each supplier).

If you source the goods or circumvention goods from a country other than Malaysia, please provide details of the supplier(s) of this Concrete underlay film (using a new box for each supplier).

|  |  |
| --- | --- |
| Commodity:  | Concrete underlay film |
| Supplier name: |  |
| Is the supplier the manufacturer?If ‘no’, please also answer question A.3 in relation to this supplier. |  |
| Width per square metre supplied: |  |
| Country of origin: |  |
| Contact name: |  |
| Position: |  |
| Mailing address: |  |
|  |
|  |
|  |
|  |
| Telephone: |  |
| Facsimile: |  |
| E-mail address: |  |

## A.3 Overseas manufacturer(s) of the goods and the alleged circumvention goods

If the supplier(s) listed in your response to question A.2 above is not the manufacturer of the Concrete underlay film supplied, please complete the below for each manufacturer of the Concrete underlay film supplied (using a new box for each supplier).

|  |  |
| --- | --- |
| Commodity:  | Concrete underlay film |
| Supplier name (from A.2): |  |
| Manufacturer name: |  |
| Country of origin: |  |
| Manufacturer contact name: |  |
| Position: |  |
| Mailing address: |  |
|  |
|  |
|  |
|  |
| Telephone: |  |
| Facsimile: |  |
| E-mail address: |  |

## A.4 Verification of information provided

The commission may visit or otherwise undertake remote verification activities to verify the data submitted within import questionnaire responses and discuss the inquiry. If necessary, these activities would take place as soon as possible after 1 August 2022.

Can you please advise what dates are suitable to your company for this activity?

Please note that it may be helpful to consider the availability of key staff, such as your accountant, purchasing officer or sales staff.

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Address for proposed visit, if one takes place (the address at which your accounting records are held):

|  |  |
| --- | --- |
| Street address: |  |
|  |
|  |
|  |
|  |
| Telephone: |  |
| Facsimile: |  |

# Part B The Goods And The Circumvention Goods

Please return your response to Part C along with your response to Part A no later than 13 July 2022.

## B.1 Ordering process

1. When did you first commence importing the alleged circumvention goods (i.e. black concrete underlay film outside the 2-6 metre width) into Australia?
2. Fully describe the ordering and purchase process from your overseas suppliers, from market offer through to invoicing, delivery and payment.
3. Does the process described above differ in any way between the goods and the alleged circumvention goods? Provide details.
4. Are the alleged circumvention goods that you imported into Australia during the inquiry period part of your supplier or suppliers’ standard product offering to Australia, or are they only available in special circumstances (e.g. through special order, to certain customers etc.)? Please provide details.
5. Are the alleged circumvention goods purchased in accordance with a supply agreement or contract? If so, please provide a copy of this supply agreement/contract.
6. Do you (or did you initially) specifically request the alleged circumvention goods?
7. What is the minimum order quantity from your supplier of the goods and the alleged circumvention goods?

## B.2 Purchase price

1. Is there a difference in purchase price from your supplier/s between the goods and the alleged circumvention goods, assuming all other factors of the sale were the same (e.g. order quantity, product characteristics, credit terms etc.) and taking into account any dumping duties payable? Provide details.
2. If the answer to the above is yes, quantify the price difference for each year of the inquiry period from 1 July 2019 (i.e. 1 July 2019 to 30 June 2020, 1 July 2020 to 30 June 2021, 1 July 2021 to 30 June 2022). Provide any documents that support this price difference (e.g. price lists, comparable invoices, etc.).

## B.3 Supplier relationships

1. If your company ‘shifted’ from importing the goods to the alleged circumvention goods during the inquiry period, answer the following questions:

1. Which supplier(s) were supplying you the goods prior to shifting to imports of the circumvention goods?
2. What was the reason for this shift in imports?
3. What was this shift in response to?

## B.4 End use applications

1. After importing the alleged circumvention goods, explain the subsequent sales and distribution channel within the Australian market. For example, do you on-sell the products to other Australian entities for their use/consumption, or for their further on-sale?
2. In general, are there any specific purpose(s) and/or end use(s) that the alleged circumvention goods you import are suitable for that the goods are unsuitable for? Provide specific product details and supporting evidence where possible.
3. Are there any purpose(s) and/or end use(s) that the goods and the circumvention goods can be used interchangeably for?
4. What standards/specifications are the goods and the alleged circumvention goods manufactured to? What are the relevant tolerances that apply to the manufacture of the products?
5. If you are importing both the goods and the alleged circumvention goods, explain why you are importing a mix of these products to Australia.
6. If your company on-sells the circumvention goods to other parties within the Australian market, please refer to questions at sections B.5 and B.6 below.

## B.5 Selling price in the Australian market

1. Is there a difference in selling price between the goods and the alleged circumvention goods to your Australian customer/s, assuming all other factors of the sale were the same (e.g. order quantity, product characteristics, credit terms etc.) and taking into account any dumping duties payable? Provide details.
2. If the answer to the above is yes, quantify the price difference for each year of the inquiry period from 1 July 2019. Provide any documents that support this price difference (e.g. price lists, comparable invoices, etc.).

## B.6 General questions

1. If your customer(s) changed their preference from purchasing the goods to the circumvention goods, please indicate what factors may have contributed to this, e.g. price, end use, quality, any other factors etc.
2. Do you sell the alleged circumvention goods to your customer/s in the Australian market in accordance with a supply agreement or contract? If so, please provide a copy of this supply agreement/contract.
3. Is the width of the goods that you supply to your Australian customers described on any of the commercial or other documentation associated with that sale, including your offer for sale to your Australian customers? If so, please provide documentary evidence of this (invoice, purchase order, offer for sale, etc.).
4. How are the goods and the alleged circumvention goods marketed in the Australian market? In your response, address the following:
	1. the applications and end uses that the goods and the alleged circumvention goods are marketed for
	2. the type of customers (end users, retailers etc.) the marketing of the goods and the alleged circumvention goods is targeted at
	3. whether the goods and the alleged circumvention goods are marketed as proprietary/private label brands (whether they be the customer’s or manufacturer’s) or generic brands
	4. the advertising and marketing costs incurred in respect of the goods and the alleged circumvention goods.

# Part CImports and forward orders

Please complete this part after the commission has provided you with your detailed spreadsheets of imports, and return this part, along with your response to Part D no later than 1 August 2022.

To assist with the identification of imports of the goods and the circumvention goods, the commission will provide you with spreadsheets of your reported imports of Concrete underlay film from 1 July 2019.

Within this spreadsheet, you will be required to identify all the circumvention goods. Please note that you cannot complete this part of the questionnaire until the Commission provides you with the list of your imports. The commission will provide this list to you after receiving your response to Part A and Part B of the questionnaire.

## C.1 Forward orders

Please complete the Part C – Forward Orders spreadsheet within the “Concrete underlay film Importer Questionnaire Spreadsheets” workbook.

# Part D Sales

Please return your responses to Part C along with your response to Part D no later than 1 August 2022.

## D.1 Your sales

Please provide details of all your sales of Concrete underlay film, including the circumvention goods, in the Australian market from 1 July 2019.

If possible, and where appropriate, the following data should be provided in Microsoft Excel format (a suggested spreadsheet Part D – Sales is provided within the “Concrete underlay film Importer Questionnaire Spreadsheets” workbook).

Please include:

* customer name
* customer level of trade (distributor, end user etc.)
* customer’s location (state/territory, city)
* width of goods
* invoice number
* invoice date
* delivery terms (e.g. free into store, ex-warehouse)
* payment terms (including number of days)
* product code
* product description
* quantity (including unit of quantity)
* packaging type
* total invoice value
* unit invoice price
* off invoice discount/rebate amount (if applicable, list each type of discount/rebate individually)
* net unit sales price
* your supplier of the goods
* purchase order number to supplier
* country of origin.
1. Anti-Dumping Notice (ADN) No. [2021/149](https://www.industry.gov.au/sites/default/files/adc/public-record/554_-_049_-_notice_adn_-_adn_2021-149_-_findings_in_relation_to_a_dumping_investigation.pdf) refers. [REP 554](https://www.industry.gov.au/sites/default/files/adc/public-record/554_-_048_-_report_-_final_report_-_rep_554.pdf) is available on the Anti-Dumping Commission website. [↑](#footnote-ref-2)