uncharacteristic business expense resulting in an unusually high margin)).

As discussed above, it is not necessary to question the reliability of a calculated margin from a prior segment of the proceeding. Further, there are no circumstances indicating that this margin is inappropriate as facts available. In fact, this margin is Acindar's own from the just-completed 2000–2001 administrative review of OCTG. *See Notice of Final Results and Recision in Part of Antidumping Duty Administrative Review; Oil Country Tubular Goods, Other Than Drill Pipe, From Argentina*, 67 FR 13262 (March 19, 2003) (*Final Results*). Therefore, we preliminarily find that the 60.73 percent rate has probative value for use as adverse facts available.

Preliminary Partial Recision

On October 23, 2002, Siderca informed the Department that it did not ship OCTG to the United States during the POR, and requested recision of its administrative review. Information on the record indicates that there were no entries of this merchandise from Siderca during the POR. See the Department's verification report dated March 4, 2003, and the *Final Results* and the accompanying Decision Memorandum at Comment 7. Accordingly, we are preliminarily rescinding the review with respect to Siderca.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that a weighted-average dumping margin of 60.73 percent exists for Acindar for the period August 1, 2001, through July 31, 2002. Furthermore, we preliminarily determine to rescind this administrative review with respect to Siderca.

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in these proceedings are requested to submit with the argument: 1) a statement of the issue, 2) a brief summary of the argument, and (3) a table of authorities. An interested party may request a hearing within 30 days of publication. *See* CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). The Department will issue the final results of this administrative review, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

Assessment Rates

Upon completion of this administrative review, the Department will determine, and the BCBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to the BCBP within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct the BCBP to apply the assessment rate against the entered customs values for the subject merchandise on each of the importer's entries during the review period.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for the reviewed company will be the rate established in the final results of this administrative review (except that no deposit will be required if the rate is zero or *de minimis, i.e.*, less than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, any previous reviews, or the LTFV investigation, the cash deposit rate will be 1.36 percent, the ''all others'' rate established in the LTFV investigation. *See Antidumping Duty Order: Oil Country Tubular Goods from Argentina*, 60 FR 41055 (August 11, 1995).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: April 30, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–11175 Filed 5–5–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–882]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Refined Brown Aluminum Oxide (Otherwise known as Refined Brown Artificial Corundum or Brown Fused Alumina) from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Determination of Sales at Less Than Fair Value.

SUMMARY: We preliminarily determine that refined brown aluminum oxide from the People's Republic of China is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended. In addition, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to RBAO from the respondent in this investigation as well as all other producers/exporters.

Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 135 days after the date of publication of this preliminary determination.

EFFECTIVE DATE: May 6, 2003.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger, Jim Mathews or Tinna E. Beldin, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4136, (202) 482–2778 or (202) 482–1655, respectively.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that refined brown aluminum oxide (RBAO) from the People's Republic of China (PRC) is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice. In addition, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to RBAO from the respondent in this investigation as well as all other producers/exporters. The critical circumstances analysis for the preliminary determination is discussed below under ''Critical Circumstances.''

Case History

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigation: Refined Brown Aluminum Oxide (Otherwise known as Refined Brown Artificial Corundum or Brown Fused Alumina) from the People's Republic of China*, 67 FR 77223 (December 17, 2002) (*Initiation Notice*), the following events have occurred:

On January 6, 2003, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of RBAO from the PRC are materially injuring the United States industry. *See* ITC Investigation Nos. 731-TA-1022 (Publication No. 3572 *Refined Brown Aluminum Oxide from China*, 68 FR 3266 (January 23, 2003)).

On January 7, 2003, we issued an antidumping questionnaire to the PRC Ministry of Foreign Trade and Economic Cooperation (MOFTEC) with a letter requesting that it forward the questionnaire to PRC producers/exporters accounting for all known exports of subject merchandise from the PRC during the period of investigation (POI). We also sent courtesy copies of the antidumping questionnaire to the China Chamber of Commerce of Metals, Minerals, and Chemicals Importers and Exporters, and to all companies identified in the petition as exporters of RBAO for which we had complete addresses. These companies were: Zhengzhou Abrasives Factory; Guangzhou Grinding Wheel Factory; China No. 7 Grinding Wheel Co., Ltd.; China National Machinery and Equipment Import and Export Wuxi Co., Ltd.; Zibo Jinjingchuan Abrasives Co., Ltd.; ZYR Abrasives Company (New Name: Sunway Industries Co., Ltd.); Zhengzhou Zhongyue Abrasive & Abrasive Tools Co., Ltd.; Zhengzhou U&D Industrial Ceramics Co., Ltd.; Shenzhen Kaida Industry Co., Ltd.; Shenzhen Light Industry Imp. & Exp. Corp.; Guiyang Yungan Sanhaun Enterprises, Ltd.; Guiyang Baiyun Abrasives Co. Ltd.; Guangxi Abrasives Factory; Taiyuan Twin Tower Aluminum Oxide Co., Ltd.; White Dove (Group) Co., Ltd.; Guizhou No. 7 Grinding Wheel Co., Ltd.; Mount Tai Company; Nanchuan Minerals Group Co., Ltd.(Nanchuan); Baiyun Abrasives Factory; China Abrasives Import and Export Corporation (China Abrasives); and Guizhou Provincial Metals and Minerals Import and Export Corporation. The letters sent to MOFTEC and individual exporters provided deadlines for responses to the different sections of the questionnaire.

On January 28, 2003, Guiyang Baiyun Abrasives Co. Ltd. (Guiyang) informed the Department by fax that it did not export PRC-produced RBAO to the United States during the POI and, therefore, it did not intend to respond to the Department's questionnaire in this investigation.

During the period January through March 2003, the Department received responses to sections A, C, and D of the Department's original and supplemental questionnaires from Zibo Jinyu Abrasive Co. (Jinyu). No other responses to our questionnaires were submitted and properly filed from any of the other exporters noted above. While we received information from Nanchuan and China Abrasives during January and February 2003, neither party was able to provide the information in the format required by the statute and regulations despite the Department's attempts to assist both parties. *See* the Department's correspondence with each of these companies between January and February 2003. Subsequently, both parties advised the Department that they would not participate in this investigation. *See* February 24, 2003, fax from Nanchuan and March 7, 2003, fax from China Abrasives to the Department.

On February 18, 2003, the Department invited interested parties to comment on surrogate country selection and to provide publicly available information for valuing the factors of production. We received information from the petitioners (Washington Mills Company, Inc., C-E Minerals and Treibacher Schleifmittel Corporation), Jinyu, and Allied Minerals Products, Inc. (Allied), an importer and interested party, on March 20, 2003, and comments on March 27, 2003.

On March 14, 2003, the petitioners alleged that critical circumstances exist with respect to imports of RBAO from the PRC. Accordingly, pursuant to section 732(e) of the Act, on March 18, 2003, the Department requested information from Jinyu regarding monthly shipments of RBAO to the United States during the period January 2001 to March 2003. We received the requested information in April 2003. The petitioners supplemented their critical circumstances allegation with revised import data on April 11, 2003, pursuant to comments filed by Allied on April 1, 2003. Allied submitted additional comments on April 18, 2003. A non-petitioning U.S. producer of refined brown aluminum oxide, Great Lakes Minerals, LLC, submitted comments on April 22, 2003. The critical circumstances analysis for the preliminary determination is discussed below under ''Critical Circumstances.''

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On April 16, 2003, the sole respondent in this investigation, Jinyu, requested that the Department postpone its final determination until 135 days after the publication of the preliminary determination. Jinyu also included a request to extend the provisional measures to not more than six months. Accordingly, since we have made an affirmative preliminary determination and no compelling reasons for denial exist, we have postponed the final determination until not later than 135 days after the publication of the preliminary determination.

Period of Investigation

Pursuant to 19 CFR 351.204(b)(1), the POI for an investigation involving merchandise from a nonmarket economy (NME) is the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, October 2002). Therefore, in this case, the POI is April 1, 2002, through September 30, 2002.

Scope of Investigation

The merchandise covered by this investigation is ground, pulverized or refined brown artificial corundum, also known as refined brown aluminum oxide or brown fused alumina, in grit size of 3/8 inch or less. Excluded from the scope of the investigation is crude artificial corundum in which particles with a diameter greater than 3/8 inch constitute at least 50 percent of the total weight of the entire batch. The scope includes brown artificial corundum in which particles with a diameter greater than 3/8 inch constitute less than 50 percent of the total weight of the batch. The merchandise under investigation is currently classifiable under subheading 2818.10.20.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Nonmarket Economy Country Status

The Department has treated the PRC as an NME country in all past antidumping investigations. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998) (*Mushrooms*). A designation as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act.

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs us to base normal value (NV) on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the ''Normal Value'' section of the notice, below.

No party in this investigation has requested a revocation of the PRC's NME status. We have, therefore, preliminarily continued to treat the PRC as an NME.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. Jinyu is a joint venture between a PRC entity and a Singapore trading company. As the Singapore company owns a minority interest in the joint venture, a separate-rates analysis is necessary to determine whether Jinyu is independent from government control and is eligible for a separate rate.

The Department's separate rate test is not concerned, in general, with macroeconomic/ border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See, e.g., Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61758 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997); and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value*, 60 FR 14725, 14727 (March 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991), as modified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22587 (May 2, 1994) (*Silicon Carbide*). Under the separate rates criteria, the Department assigns separate rates in NME cases only if the respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities. *See Silicon Carbide and Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544 (May 8, 1995) (*Furfuryl Alcohol*).

1. Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See e.g., Silicon Carbide* and *Furfuryl Alcohol*.

Jinyu has placed on the record the following document to demonstrate absence of *de jure* control: ''Law of the People's Republic of China on Sino-foreign Equity Joint Ventures.''

In prior cases, the Department has analyzed this law and other, similar laws, and found that they establish an absence of *de jure* control. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Partial-Extension Steel Drawer Slides With Rollers From the People's Republic of China*, 60 FR 29571, 29573 (June 5, 1995);[1] *Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal From the People's Republic of China*, 60 FR 56045, 56046 (November 6, 1995). We have no new information in this proceeding which would cause us to reconsider this determination.

According to Jinyu, RBAO exports are not affected by export licensing provisions or export quotas. Jinyu claims to have autonomy in setting the contract prices for sales of RBAO through independent price negotiations with its foreign customers without interference from the PRC government. Based on the assertions of Jinyu, we preliminarily determine that there is an absence of *de jure* government control over the pricing and marketing decisions of Jinyu with respect to its RBAO export sales.

2. Absence of *De Facto* Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Mushrooms*, 63 FR at 72257. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in

[1] This determination was unchanged in the final determination. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China, 60 FR 54472, 54474 (October 24, 1995).

making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *Id.*

Jinyu has asserted the following: (1) it establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales and uses profits according to its business needs. Additionally, Jinyu's questionnaire responses indicate that it does not coordinate with other exporters in setting prices or in determining which companies will sell to which markets. This information supports a preliminary finding that there is an absence of *de facto* governmental control of the export functions of this company. Consequently, we preliminarily determine that Jinyu has met the criteria for the application of separate rates.

PRC-Wide Rate and Use of Facts Otherwise Available

As in all NME cases, the Department implements a policy whereby there is a rebuttable presumption that all exporters or producers located in the NME comprise a single exporter under common government control, the ''NME entity.'' The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate.

Section 776(a)(2) of the Act provides that if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadline, or in the form or manner requested; (C) significantly impedes a proceeding; or (D) provides such information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Information on the record of this investigation indicates that there are numerous producers/exporters of the subject merchandise in the PRC. As noted in the ''Case History'' section above, all exporters were given the opportunity to respond to the Department's questionnaire. Based upon our knowledge of these PRC exporters, including correspondence received in this proceeding, and the fact that U.S. import statistics show that the responding company, Jinyu, did not account for all imports into the United States from the PRC during the POI, we have preliminarily determined that PRC exporters of RBAO failed to respond to our questionnaire. As a result, use of facts available (FA), pursuant to section 776(a)(2)(A) of the Act, is appropriate.

In selecting among the facts otherwise available, section 776(b) of the Act authorizes the Department to use adverse facts available (AFA) if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026, 19028 (April 30, 1996); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). MOFTEC was notified in the Department's questionnaire that failure to submit the requested information by the date specified might result in use of FA. The producers/exporters that decided not to respond to the Department's questionnaire failed to act to the best of their ability in this investigation. Absent a response, we must presume government control of these companies. The Department has determined, therefore, that in selecting from among the facts otherwise available an adverse inference pursuant to section 776(b) of the Act is warranted.

In accordance with our standard practice, as AFA, we are assigning as the PRC-wide rate the higher of: (1) the highest margin stated in the notice of initiation; or (2) the highest margin calculated for any respondent in this investigation. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People's Republic of China*, 65 FR 34660 (May 31, 2000) and accompanying decision memorandum at *Comment 1*. In this case, the preliminary AFA margin is 218.93 percent, which is the margin calculated for the respondent in this investigation (Jinyu).

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103–316 (1994) (SAA), states that ''corroborate'' means to determine that the information used has probative value. *See* SAA at 870; 19 CFR 351.308(d).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, in an investigation, if the Department chooses as facts available a calculated dumping margin of another respondent, it is not necessary to question the reliability of that calculated margin. With respect to relevance, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin may not be appropriate, the Department will attempt to find a more appropriate basis for facts available. *See, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as adverse best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin). In this investigation, there is no indication that the highest calculated margin is unreliable or irrelevant and, hence, inappropriate to use as adverse facts available. Thus, the Department has preliminarily determined the PRC-wide rate to be 218.93 percent.

Fair Value Comparisons

To determine whether sales of RBAO from the PRC were made at LTFV, we compared the EP to the NV, as described in the ''Export Price,'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act and 19 CFR 351.414(c), we compared POI weighted-average EPs by product to the appropriate product-specific NV.

Export Price

In accordance with section 772(a) of the Act, we based our calculations on EP for Jinyu because the subject merchandise was sold by the producer/exporter outside of the United States directly to the first unaffiliated

purchaser in the United States prior to importation. We based EP on the packed, FOB PRC port or CIF price to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, foreign brokerage and handling, international freight, and marine insurance, in accordance with section 772(c) of the Act. Because these movement services were provided by NME service providers or paid for in an NME currency, we based these expenses on surrogate values from India or other market economy rates. For further discussion of our use of surrogate value data in this proceeding, as well as the selection of India as the appropriate surrogate country, see the ''Normal Value'' section of this notice, below.

To value foreign inland trucking charges, we relied on Indian freight rates published in February through June 2000 editions of *Chemical Weekly*, as compiled and applied in the preliminary results of the 2001 - 2002 administrative review of bulk aspirin from the PRC. Foreign brokerage and handling expenses were based on November 1999 price quotes from Indian freight forwarders, as originally obtained in the antidumping duty investigation of bulk aspirin from the PRC. Ocean freight was based on the market economy ocean freight expenses reported in the public version response of a respondent in the 2000 - 2001 administrative review of persulfates from the PRC. For marine insurance, we used a rate quote that was originally obtained in the 1996 - 1997 administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished, from the PRC. A more detailed discussion of the valuation methodology for these expenses is described in *Preliminary Determination Valuation Memorandum*, Memorandum to the File dated April 29, 2003 (*Valuation Memo*).

Where appropriate, we adjusted the values in Indian rupees to reflect inflation up to the POI using the wholesale price indices (WPI) for India published by the International Monetary Fund (IMF).

Normal Value

A. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department has determined that India, Pakistan, Indonesia, Sri Lanka, and the Philippines are countries comparable to the PRC in terms of overall economic development. *See* the January 13, 2002{sic}, memorandum from Jeffrey May to Louis Apple entitled ''Antidumping Duty Investigation of Refined Brown Aluminum Oxide (Otherwise known as Refined Brown Artificial Corundum or Brown Fused Alumina) from the People's Republic of China (PRC): Request for a List of Surrogate Countries.''

According to the available information on the record, we have determined that India is the only country among the countries mentioned above that is at a level of economic development comparable to the PRC and is a significant producer of RBAO. Therefore, we have selected India as the surrogate country. Accordingly, we have calculated NV using Indian values for the PRC producer's factors of production wherever possible. We have obtained and relied upon publicly available information wherever possible.

B. Factors of Production

For purposes of calculating NV, we valued the PRC producer's factors of production, in accordance with section 773(c)(1) of the Act. Factors of production include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital cost, including depreciation. In examining surrogate values, we selected, where possible, the publicly available value which was: (1) an average non-export value; (2) representative of a range of prices within the POI or most contemporaneous with the POI; (3) product-specific; and (4) tax-exclusive. For a more detailed explanation of the methodology used in calculating various surrogate values, *see* the *Valuation Memo.*

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. In accordance with the decision in *Sigma Corporation v. United States*, 117 F. 3d 1401, 1407–08 (Fed. Cir. 1997), when using an import surrogate value, we have added to the CIF surrogate value freight cost using the shorter of the reported distances from the domestic supplier to the factory or the nearest seaport to the factory. For a discussion of the valuation of Jinyu's freight costs, *see* the ''Export Price'' section of this notice, above.

To value crude brown aluminum oxide (CBAO), the only raw material consumed by Jinyu in its production process, we used the POI average unit value derived from U.S. import statistics of CBAO imported from Canada into the United States. We relied on this value because we were unable to identify a suitable surrogate value for CBAO from India or any other comparable economy. Indian import statistics do not differentiate between crude and refined aluminum oxide products and, thus, we could not rely on this information. We were also unable to obtain any Indian domestic price information on CBAO.

As we were unable to identify a suitable value from the surrogate country or other comparable economies, we considered data from other countries. The Mexican and South African import data suggested by the parties to the proceeding also did not differentiate between crude and refined aluminum oxide and, thus, were unsuitable for use as a value for CBAO. The only reliable data for CBAO available for the preliminary determination was the information from U.S. import statistics, which distinguishes between refined and crude aluminum oxide.

U.S. imports of crude aluminum oxide originate almost entirely from three countries: the PRC, Venezuela, and Canada. We excluded the PRC imports, as Department practice is to exclude import data from NME countries. As reported in attachment 2 of the December 2, 2002, Supplement to the Petition (Supplement), all crude imports from Venezuela are of white aluminum oxide. Because white aluminum oxide commands a higher price than brown aluminum oxide, we excluded import data from Venezuela. Based on information on the record (*i.e.*, Supplement at page 9 and attachments 2 and 6) and our own visit to a petitioner's Canadian production facility (*See* the January 14, 2003, memorandum to the file Re: Plant Tours and Product Characteristics Discussion), U.S. imports from Canada consist largely or entirely of CBAO. All other sources of U.S. crude aluminum oxide imports are in small quantities and of uncertain composition. Therefore, in order to insure that the surrogate value is limited to CBAO, we have relied only on the U.S. imports from Canada to value CBAO. For further discussion of this surrogate value selection, *see* the *Valuation Memo*.

In accordance with 19 CFR 351.408(c)(3), we valued labor based on a regression-based wage rate.

To value electricity, we used the 2000–2001 ''revised estimate'' average rate for industrial consumption as published in the Government of India's Planning Commission report, *The Working of State Electricity Boards & Electricity Departments Annual Report (2001–02)*.

To determine factory overhead, depreciation, SG&A expenses, interest expenses, and profit for the finished product, we relied on rates derived from the 2001–2002 annual report of Carborundum Universal Ltd. (CUMI), an Indian producer of RBAO.

Jinyu reported that it generated certain by-products (semi-abrasive iron and dust removing powder) as a result of the production of RBAO. We valued semi-abrasive iron based on the average unit value derived from *Monthly Statistics of the Foreign Trade of India (Indian Import Statistics*). We were unable to obtain an appropriate surrogate value for dust removing powder. Therefore, given the small quantity, we did not value this by-product for the preliminary determination.

To value reported packing materials, we used average unit values during the POI derived from *Indian Import Statistics*.

Critical Circumstances

On March 13, 2003, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of RBAO from the PRC. Following Allied's April 1, 2003, comments, the petitioners supplemented this allegation with revised import data on the subject merchandise in an April 11, 2003, submission. Allied filed additional comments on April 18, 2003. Because the petitioners' allegation was filed at least 20 days before the deadline for the Department's preliminary determination, we must issue, in accordance with 19 CFR 351.206(c)(2)(i), our preliminary critical circumstances determination no later than the preliminary determination of sales at LTFV.

Section 733(e)(1) of the Act provides that if a petitioner alleges critical circumstances, the Department will determine whether there is a reasonable basis to believe or suspect that:

(A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and

(B) there have been massive imports of the subject merchandise over a relatively short period.

With respect to the first criterion, *i.e.*, a history of dumping and material injury in the United States or elsewhere, the European Union (EU) imposed antidumping duty measures on artificial corundum, which included the merchandise under investigation in the instant case, beginning in1984. These antidumping duty measures expired on October 10, 2002. Based on the recent existence of antidumping duty measures, there is sufficient evidence to determine that there is a history of dumping of the subject merchandise and material injury as a result thereof. Because there is a history of dumping and material injury by reason of dumped imports in the EU of the subject merchandise, the first statutory criterion of the test for finding critical circumstances is met.

Because we have preliminarily found that section 733(e)(1)(A) is met, we must consider whether under section 733(e)(1)(B) imports of the merchandise have been massive over a relatively short period. According to 19 CFR 351.206(h), we consider the following to determine whether imports have been massive over a relatively short period of time: 1) volume and value of the imports; 2) seasonal trends (if applicable); and 3) the share of domestic consumption accounted for by the imports.

When examining volume and value data, the Department typically compares the export volume for equal periods immediately preceding and following the filing of the petition. Unless the imports in the comparison period have increased by at least 15 percent over the imports during the base period, we will not consider, under 19 CFR 351.206(h), the imports to have been ''massive.''

To determine whether or not imports of subject merchandise have been massive over a relatively short period, we compared the respondent's export volume for the four months after the filing of the petition (December-March 2003) to that during the four months before the filing of the petition (August-November 2002). These periods were selected based on the Department's practice of using the longest period for which information is available from the month that the petition was submitted through the effective date of the preliminary determination.

Based on our analysis, we preliminarily find that the increase in imports was significantly greater than 15 percent with respect to the respondent, Jinyu (see April 29, 2003, Memorandum to the File, entitled *Jinyu Shipment Data Analysis*). As discussed above, no other party responded to the Department's request for information and thus we relied on AFA for the rate applicable to the ''PRC entity'' (*i.e.*, the PRC-wide rate). Therefore, the use of AFA is also warranted in the critical circumstances analysis for the PRC entity. As AFA in this case, we relied on the import statistics through February 2003 (the latest month for which such data was available for the preliminary determination), after adjusting for HTSUS classification errors acknowledged by the petitioners (*see* the petitioners' April 14, 2003, letter). The adjusted import statistics showed an increase in imports that was significantly greater than 15 percent. Even if we were to subtract the shipment data provided by Jinyu from the adjusted aggregate import data and to compare the remaining volume of imports in the base period to the remaining imports in the comparison period, this comparison would indicate that massive imports occurred (see April 29, 2003, Memorandum to the file entitled *Preliminary Determination Import Statistics Analysis for Critical Circumstances*).

We have no information on the record that seasonal trends apply to either Jinyu's shipment history or the aggregate imports. Allied claims in its April 18, 2003, letter that imports under the HTSUS subheading for refined aluminum oxide follow a seasonal pattern, which includes an increase of December imports over November imports. Allied offers no additional information or support that the basis for the increase is related to seasonal patterns. Accordingly, we have an insufficient basis to conclude that the increase in imports for producers/exporters subject to the PRC-wide rate is solely or largely due to seasonal trends. With regard to the share of domestic consumption accounted for by imports, we were unable, pursuant to 19 CFR 351.206(h)(iii), to consider the share of domestic consumption accounted for by the imports because the available data did not permit such analysis.

Based on the foregoing analysis, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to RBAO from the respondent in

this investigation as well as all other producers/exporters.

We will make a final determination concerning critical circumstances when we make our final determination of sales at LTFV in this investigation.

Verification

As provided in section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin for all entries of RBAO from the PRC. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/Exporter	Weighted-average margin (in percent)
Zibo Jinyu Abrasive Co.	218.93
PRC-wide	218.93

The PRC-wide rate applies to all entries of the subject merchandise except for entries from the exporter/producer that is identified individually above.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than seven days after the date of the verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. See 19 CFR 351.309.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310.

We will make our final determination by 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: April 29, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-489–807]

Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request by the petitioner and one producer/exporter of the subject merchandise, the Department of Commerce is conducting an administrative review of the antidumping duty order on certain steel concrete reinforcing bars from Turkey. This review covers three manufacturers/exporters of the subject merchandise to the United States. This is the fifth period of review, covering April 1, 2001, through March 31, 2002.

We have preliminarily determined that sales have been made below the normal value by only two of the respondents in this proceeding, Colakoglu Metalurji A.S. and Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. In addition, we have preliminarily determined to rescind the review with respect to Diler Demir Celik Endustrisi ve Ticaret A.S./Yazici Demir Celik Sanayi ve Ticaret A.S./Diler Dis Ticaret A.S. and Ekinciler Demir Celik A.S. because these companies had no shipments of subject merchandise during the period of review. If these preliminary results are adopted in the final results of this review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

Finally, we have preliminarily determined not to revoke the antidumping duty order with respect to ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S.

We invite interested parties to comment on these preliminary results. Parties who wish to submit comments in this proceeding are requested to submit with each argument: (1) a statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: May 6, 2003.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Elizabeth Eastwood, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482–0656 or (202) 482–3874, respectively.