

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 in 1984. 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