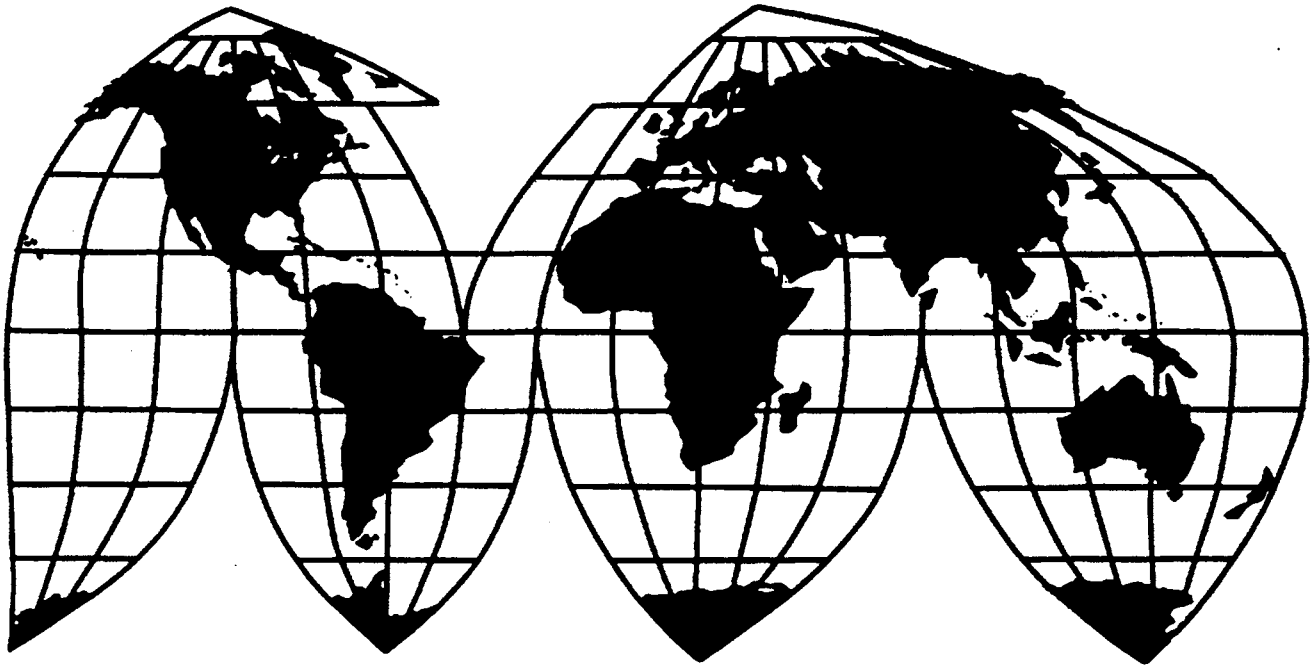
Refined Brown Aluminum Oxide From China

Investigation No. 731-TA-1022 (Final)

Publication 3643 **November 2003**

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Deanna Tanner Okun, Chairman
Jennifer A. Hillman, Vice Chairman
Marcia E. Miller
Stephen Koplan
Charlotte R. Lane
Daniel R. Pearson

Robert A. Rogowsky
Director of Operations

Staff assigned:

Jim McClure, *Investigator*
Larry Johnson, *Industry Analyst*
Amelia Preece, *Economist*
Justin Jee, *Accountant*
Peter Sultan, *Attorney*
Steven Hudgens, *Senior Statistician*

Jim McClure, *Supervisory Investigator*

Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

Refined Brown Aluminum Oxide From China

Investigation No. 731-TA-1022 (Final)

Publication 3643

November 2003

CONTENTS

	Page
Determination	1
Views of the Commission	3
Part I: Introduction	I-1
Background	I-1
Summary data	I-1
Nature and extent of sales at LTFV	I-2
The subject product	I-2
Physical characteristics and uses	I-2
Manufacturing process and facilities and production employees	I-3
Interchangeability and customer and producer perceptions	I-3
Channels of distribution	I-4
Price	I-4
Part II: Conditions of competition in the U.S. market	II-1
Channels of distribution and market characteristics	II-1
Supply and demand considerations	II-1
U.S. supply	II-1
Chinese supply	II-2
U.S. demand	II-2
Substitutability issues	II-4
Factors affecting purchasing decisions	II-5
Comparison of domestic and Chinese imported RBAO	II-7
Elasticity estimates	II-9
U.S. supply elasticity	II-9
U.S. demand elasticity	II-9
Substitution elasticity	II-10
Part III: U.S. producers' production, shipments, and employment	III-1
U.S. producers	III-1
Part IV: U.S. imports, apparent consumption, and market shares	IV-1
U.S. importers	IV-1
U.S. imports	IV-1
Apparent U.S. consumption	IV-4
U.S. market shares	IV-5
Critical circumstances	IV-5
Part V: Pricing and related information	V-1
Factors affecting prices	V-1
Raw material costs	V-1
U.S. inland transportation costs and geographic markets	V-1
Exchange rates	V-2
Pricing practices	V-2
Pricing methods	V-2
Sales terms and discounts	V-2
Price data	V-3
Price trends and comparisons	V-4
Lost sales and lost revenues	V-6
Lost sales	V-6
Lost revenues	V-6

CONTENTS–*Continued*

	Page
Part VI: Financial experience of U.S. producers	VI-1
Background	VI-1
Operations on RBAO	VI-1
Domestic value added	VI-6
Capital expenditures, R&D expenses, and investment in productive facilities	VI-6
Capital and investment	VI-7
Part VII: Threat considerations	VII-1
The industry in China	VII-1
U.S. inventories of product from China	VII-1
U.S. importers' current orders	VII-3
Antidumping duty orders in third-country markets	VII-4

Appendixes

A.	*Federal Register* notices	A-1
B.	List of witnesses	B-1
C.	Summary data	C-1
D.	Supplementary price data	D-1
E.	Alleged effects of subject imports on U.S. producers' existing development and production efforts, growth, investment, and ability to raise capital	E-1

Note.–Information that would reveal confidential operations of individual concerns may not be published and, therefore, has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1022 (Final)

REFINED BROWN ALUMINUM OXIDE FROM CHINA

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission (Commission) determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of refined brown aluminum oxide, provided for in subheading 2818.10.20 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV). Concurrently, the Commission finds that critical circumstances do not exist with respect to imports of the subject product from China.

BACKGROUND

The Commission instituted this investigation effective November 20, 2002, following receipt of a petition filed with the Commission and Commerce by Washington Mills Company, Inc., North Grafton, MA.[3] The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of refined brown aluminum oxide from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of May 23, 2003 (68 FR 28255). The hearing was held in Washington, DC, on September 23, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on November 10, 2003. The views of the Commission are contained in USITC Publication 3643 (November 2003), entitled *Refined Brown Aluminum Oxide from China: Investigation No. 731-TA-1022 (Final)*.

---

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioner Daniel R. Pearson not participating.

[3] On November 27, 2002, the petition was amended to include two additional petitioners, C-E Minerals, King of Prussia, PA, and Treibacher Schleifmittel Corporation, Niagara Falls, NY.

VIEWS OF THE COMMISSION

Based on the record in this investigation, we determine that an industry in the United States is materially injured by reason of imports of refined brown aluminum oxide ("BAO") from China that the U.S. Department of Commerce ("Commerce") has determined to be sold in the United States at less than fair value ("LTFV").[1]

I. BACKGROUND AND SUMMARY

Refined BAO is a solid inorganic chemical derived from the aluminum oxide in mined bauxites and produced by crushing, grinding, and sieving BAO in ingot or crude form. The product is sold in a range of sizes, generally but not always with a diameter of 3/8 inch or less, to end users and to distributors. Refined BAO is used in refractory applications for lining furnaces and crucibles; in bonded/coated applications for grinding wheels and coated abrasives; and in general industrial applications for surface preparation, including polishing, buffing and blasting. Market participants generally reported declining demand for refined BAO in the United States.

There are currently five producers of refined BAO in the United States: C-E Minerals, Detroit Abrasives, Great Lakes Minerals ("Great Lakes"), Treibacher Schleifmittel Corporation ("Treibacher"), and Washington Mills Company, Inc. ("Washington Mills").[2] Four of these producers are dependent upon imported crude BAO, which is not produced in the United States, as a raw material. One of the companies, Great Lakes, is largely dependent upon imports of the subject merchandise, a portion of which it further processes in the United States and a portion of which it sells without further processing. We exclude Great Lakes from our definition of the domestic industry due to its strong interest in maintaining access to these imports and our finding that it is shielded from the effects of subject imports.

U.S. producers supply the larger portion of the U.S. market, followed closely by subject imports from China. Imports of refined BAO from nonsubject countries, primarily Canada and secondarily Brazil, have diminished as a source of supply since 2000. Refined BAO from all of these sources is generally interchangeable.

Over the period examined, refined BAO suppliers have competed intensely for market share in a diminishing market. Although the quantity of subject imports from China decreased after peaking in 2001 (partly due to the transformation of one former importer into a domestic producer), U.S. importers continued to hold significant inventories of refined BAO from China and accounted for a substantial share of U.S. shipments through the first half of 2003, even after the filing of the petition. While Great Lakes was responsible for a sizeable portion of subject imports, the balance of subject imports alone accounted for a significant share of the U.S. market.

Imports of refined BAO from China undersold the domestic like product in four-fifths of the observations over the period examined. Consistent with the high degree of interchangeability between U.S.-produced and imported refined BAO and the importance of price in purchasing decisions for product of comparable quality, purchasers confirmed many of the domestic industry's allegations of lost sales and lost revenues over the period examined. Consistently low and in some instances declining prices for the subject imports depressed U.S. prices to a significant degree, and falling U.S. prices outpaced the domestic industry's cost reductions.

The domestic industry's performance throughout the period examined was weak, despite U.S. producers' attempts to generate revenue profitably while taking steps to reduce raw material costs. Indeed, internal documents from one producer (***) demonstrates a pattern of costly price reductions in

---

[1] Commissioner Pearson did not participate in this investigation.

[2] C-E Minerals, Treibacher, and Washington Mills are petitioners.

the face of determined competition from subject imports that ultimately eroded that company's ability to compete in the U.S. market. The domestic industry was unable to operate above 50 percent of its capacity after 2000. Output, sales, and employment all declined between 2000 and 2002. The domestic industry remained marginally profitable in 2000 and 2001. By 2002, however, the cumulative impact of significant volumes of low-priced subject imports depressed prices significantly and contributed materially to operating losses for the domestic industry.

II. DOMESTIC LIKE PRODUCT

A. In General

To determine whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[3] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[4] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation ...."[5]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[6] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[7] The Commission looks for clear dividing lines among possible like products, and disregards minor variations.[8] Although the Commission must accept the determination of Commerce as to the scope of the

---

[3] 19 U.S.C. § 1677(4)(A).

[4] Id.

[5] 19 U.S.C. § 1677(10).

[6] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case' "). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[7] See, e.g., S. Rep. No. 96-249, at 90-91 (1979).

[8] Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the domestic like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

imported merchandise that has been found to be subsidized or sold at less than fair value, the Commission determines what domestic product is like the imported articles Commerce has identified.[9]

B. Product Description

Commerce has defined the imported merchandise within the scope of this investigation as:

> ground, pulverized or refined artificial corundum, also known as brown aluminum oxide or brown fused alumina, in grit size of 3/8 inches 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).[10]

Refined BAO is a solid inorganic chemical, and is one of the forms of aluminum oxide in mined bauxites. It is made by crushing, grinding, and sieving aluminum oxide ingot or crude BAO.[11]

Refined BAO has three general uses: production of refractories (heat-resistant furnace linings); production of abrasives (bonded abrasives such as grinding wheels, and coated abrasives such as sandpaper); and general industrial uses (such as in polishing and blasting).[12]

C. Domestic Like Product

In the preliminary phase of this investigation we found the domestic like product to be coextensive with the scope of the investigation. We considered whether the domestic like product should include white and pink aluminum oxide, and concluded that it should not.[13] In the final phase of this investigation, the petitioners argued that the like product again should be defined as coextensive with the scope of the investigation. Respondents[14] argued that the size and weight parameters in the definition of

---

[9] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single domestic like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission's determination of six domestic like products in investigations where Commerce found five classes or kinds).

[10] Notice of Final 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, 68 Fed. Reg. 55589 (September 26, 2003).

[11] Confidential Staff Report ("CR") at I-3-4, Public Report ("PR") at I-2-3.

[12] CR at I-3, PR at I-2.

[13] No party has suggested that we should expand the domestic like product to include white and pink aluminum oxide, and no information has been developed in the final phase of this investigation to cause us to revisit this issue.

[14] Respondents are Allied Mineral Products, Inc., Cometals, a Division of Commercial Metals Company; Saint-Gobain Corporation; Dauber Company, Inc.; Golden Dynamic Inc.; White Dove Group Import and Export Inc.; Henan Mianchi Great Wall Corundum Co., Ltd.; and Hainan Meida Import and Export Company Ltd..

the scope of this investigation are not a commercially meaningful dividing line to define refined BAO.[15] Respondents did not, however, advocate expanding the domestic like product to include refined BAO that exceeds the size and weight parameters.[16] We have nonetheless examined whether the size and weight parameters in the scope of the investigation constitute a clear dividing line between refined BAO and crude BAO.

Commerce's scope definition distinguishes between crude and refined BAO on the basis of the size of the aluminum oxide particles in a particular batch. Crude BAO (which is not within the scope) is – according to the scope definition – a product in which particles with a diameter greater than 3/8 inch constitute at least 50 percent of the total weight of an entire batch. Refined BAO is defined as product in which particles with a diameter of 3/8 inch or more constitute less than 50 percent of the total weight of an entire batch.[17] The record in this final phase investigation indicates that while most refined BAO falls within the 3/8 inch size parameter, a very small amount of refined product is produced in larger sizes.[18] Thus, the size and weight parameters contained in the scope definition do not reflect precisely the understanding within the industry of the distinction between refined and crude BAO. Rather, the record shows that an important distinction between crude and refined product in the industry is that the refined product has been sized and thus is ready for use by industrial consumers.[19]

An analysis under our traditional like product criteria supports defining the domestic like product to include (1) all domestically produced merchandise corresponding to the definition in the scope of the investigation, as well as (2) any BAO for which particles with a diameter greater than 3/8 inch constitute at least 50 percent of the total weight of the entire batch, as long as this product has been crushed, screened, and sorted into consistent sizes.

First, products on both sides of the 3/8 inch size parameter that have been screened and sorted share similar physical characteristics and end uses. The particles are all of aluminum oxide, and are relatively uniform in size. While it appears that the larger particles are not used for abrasives and general industrial uses, the record indicates that refined BAO both above and below 3/8 inch in diameter is used for refractories.[20] Second, crushed, screened, and sorted BAO particles with a diameter in excess of 3/8

---

[15] Respondents' Prehearing Brief at 10, Hearing Transcript at 14 (O'Brien, Baker & McKenzie).

[16] Hearing Transcript at 202 (Murray, Baker & McKenzie).

[17] 68 Fed. Reg. 55589 (September 26, 2003).

[18] The domestic industry data collected in this investigation includes the small amount of domestic refined BAO that exceeds the size parameters of the scope. Product larger than 3/8 inch sold by C-E Minerals, Treibacher, and Washington Mills accounted for *** percent of their cumulative sales in 2000, 2001, 2002, and interim 2003, respectively. Great Lakes and Detroit Abrasives reported not producing refined BAO larger than 3/8 inch. CR at III-7 n.32, PR at III-5 n.32.

[19] For example, as one witness at the hearing explained:

> A grain (i.e., refined product) product has been further processed so that the size distribution of the particles has been narrowed significantly. If you look at that bag of crude, you will see everything from one inch all the way down to dust. Well, general industrial users don't want a product like that. They want something that is very specifically sized. It might be very, very fine, or it might be quite coarse, but they don't want the full range.

Hearing Transcript, pp. 80-81 (Plonsker, AGSCO Corporation), See also, pp. 157-159 (Gibson, Allied Mineral Products).

[20] Hearing Transcript at 80 (Durstberger, Treibacher).

inch may not be directly interchangeable with smaller particles. However, since most refined BAO is produced to specific customer size specifications,[21] a lack of direct interchangeablility does not distinguish crushed, screened, and sorted BAO particles with a diameter in excess of 3/8 inch from smaller particles along the continuum of refined BAO. Indeed, different sizes are not necessarily interchangeable even within the range of product below the 3/8 inch size parameter as users of refined BAO order their product to a specific needed size.[22] Third, screened and sorted product on either side of the 3/8 inch size parameter share the same channels of distribution, that is, it is sold to distributors and end users.[23] Fourth, there is no indication that the three producers that make screened and sorted product larger than 3/8 inch in diameter (C-E Minerals, Treibacher, and Washington Mills) do so using different manufacturing facilities and employees than they use for the smaller sized product.[24] Fifth, customers perceive product on either side of the 3/8 inch size parameter to be refined BAO, as long as it is screened and sorted.[25] Finally, there is no evidence of a significant difference in price between product on either side of the 3/8 inch size parameter.

Accordingly, we define the domestic like product to include all merchandise corresponding to the scope of the investigation, as well as any BAO where particles with a diameter greater than 3/8 inch constitute at least 50 percent of the total weight of the entire batch, as long as this product has been crushed, screened, and sorted into consistent sizes.

III. DOMESTIC INDUSTRY AND RELATED PARTIES

A. Domestic Industry

The domestic industry is defined as "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[26] In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic producers of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[27]

Based on our domestic like product finding, we conclude that the domestic industry consists of all U.S. producers of the domestic like product, as defined above, with the exception of Great Lakes Minerals ("Great Lakes"), which we exclude from the domestic industry as a related party, as discussed below.

---

[21] Hearing Transcript at 210 (O'Brien, Baker & McKenzie).

[22] Hearing Transcript at 76 (Schagrin, Schagrin & Associates)

[23] Refined BAO with larger grit size tends to be for refractory applications. Hearing Transcript at 80 (Durstberger, Treibacher) and 82 (Williams, Washington Mills). Refined BAO for such applications is sold to both end users and distributors. CR at II-1, PR at II-1.

[24] See Hearing Transcript at 80 (Durstberger, Treibacher) and 82 (Williams, Washington Mills).

[25] Hearing Transcript at 80-81 (Plonsker, AGSCO Corporation) and 157-159 (Gibson, Allied Mineral Products).

[26] 19 U.S.C. § 1677(4)(A).

[27] See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F. 3d 1352 (Fed. Cir. 1996).

B. Great Lakes' Production-Related Activity

Before addressing the question of whether it is appropriate to exclude Great Lakes under the related party provision of the statute, we first consider whether Great Lakes engages in sufficient production related activity in the United States to qualify as a domestic producer.[28]

Source and extent of Great Lakes' capital investment. Great Lakes was formed in March 1999. The company's total original cost of property, plant and equipment to produce refined BAO was less than $*** in 2002,[29] compared to more than $38 million for all reporting U.S. producers.[30] Great Lakes' capital expenditures, however, were *** than those of the other reporting U.S. producers in 2000, 2001, and January-June 2003.[31] With respect to the source of Great Lakes' capital investment, the company reported that it came from private U.S. sources.[32]

Technical expertise involved in U.S. production activities. The record indicates that the degree of technical expertise involved in Great Lakes' processing operations is not great. Indeed, a sizeable minority of the company's imports of the subject merchandise are not processed at all.[33] The company's processing operations are limited to *** the remainder of its imports of the subject merchandise.[34] Moreover, Great Lakes reported *** research and development expenses related to refined BAO for the

---

[28] In deciding whether a firm qualifies as a domestic producer, the Commission generally has analyzed the overall nature of a firm's production-related activities in the United States, bearing in mind that production-related activity at minimum levels may be insufficient to constitute domestic production. The Commission generally considers six factors:

(1) source and extent of the firm's capital investment;
(2) technical expertise involved in U.S. production activities;
(3) value added to the product in the United States;
(4) employment levels;
(5) quantity and type of parts sourced in the United States; and
(6) any other costs and activities in the United States directly leading to production of the like product.

No single factor is determinative and the Commission may consider any other factors it deems relevant in light of the specific facts of any investigation. See DRAMs and DRAM Modules from Korea, Inv. No. 701-TA-431 (Preliminary), USITC Pub. 3569 (December 2002) at 7-11(casing activities are production); Greenhouse Tomatoes from Canada, Inv. No. 731-TA-925 (Final), USITC Pub. 3499 (April 2002) at 10-11 (packers included in the industry along with growers); Certain Cut-to-Length Steel Plate from France, India, Indonesia, Italy, Japan, and Korea, Inv. Nos. 701-TA-387-391, 731-TA-816-821 (Final), USITC Pub. 3273 at 9 (Jan. 2000). See also Large Newspaper Printing Presses from Germany and Japan, Inv. Nos. 731-TA-736-737 (Final) USITC Pub. 2988 at 7-8 (Aug. 1996). Commission practice has not clearly established a specific level of U.S. value added, or product finished value, required to qualify a company as a domestic producer.

[29] Great Lakes Prehearing Brief at 2.

[30] CR/PR at Table VI-6.

[31] CR/PR at Table VI-7.

[32] Great Lakes Prehearing Brief at 2.

[33] Great Lakes Prehearing Brief at 4 (the company processed *** percent of its refined BAO sales during 2000 through August 2003).

[34] CR at III-4-5, PR at III-3.

entire period examined.[35] Despite the relatively limited nature of technical expertise involved in Great Lakes' processing operations, however, we note that the process employed by the company does not differ from that employed by other responding U.S. producers,[36] and that the total research and development expenses for the entire domestic industry is limited, ranging from a low of *** to a high of ***.[37]

Value added to the product in the United States. Great Lakes processed *** percent of its refined BAO sales in the period 2000 through August 2003.[38] The degree of value added by Great Lakes' domestic processing ranged from a high of *** percent in 2000 to a low of *** percent in 2002. While the value added by Great Lakes was *** than that of the domestic industry as a whole, which *** between 2000 and 2002, the company's value added was *** to that of ***.[39]

Employment levels. Great Lakes states that it has *** employees, *** of whom "are involved in the production process."[40] The entire refined BAO industry had only 166 production and related workers in interim 2003.[41]

Quantity and type of parts sourced in the United States. The production of refined BAO does not involve the use of "parts." All of Great Lakes' raw material input is imported, but this is also true for all other domestic refined BAO producers, as there is no domestic production of crude BAO. All of Great Lakes' processing equipment was sourced in the United States.[42]

We conclude, on balance, that the record in this investigation favors a finding that Great Lakes engages in sufficient production-related activity in the United States to qualify as a member of the domestic industry. We find the issue to be a close one, in terms of the factors that we generally consider in addressing whether a firm qualifies as a domestic producer. We are persuaded, however, that the company's production-related activities are substantially similar in nature to those of some other U.S. producers, even if they differ somewhat in magnitude from those of others.

C. Related Parties

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act. That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.[43] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[44]

---

[35] Producers questionnaire response of Great Lakes.

[36] CR at I-4, PR at I-3.

[37] CR /PR at Table VI-6.

[38] Great Lakes Prehearing Brief at 4

[39] CR/PR at Table VI-5.

[40] Great Lakes Prehearing Brief at 4.

[41] CR/PR at Table III-1.

[42] Great Lakes Prehearing Brief at 4.

[43] 19 U.S.C. § 1677(4)(B).

[44] Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the

There were six domestic producers of refined BAO during at least part of the period examined: 3M (no longer producing refined RBAO), C-E Minerals,[45] Detroit Abrasives, Great Lakes, Treibacher, and Washington Mills.[46] All of these companies, except 3M, imported the subject merchandise during the period examined[47] and thus are related parties under the statute. Accordingly, we examine whether appropriate circumstances exist to exclude any of these firms from the domestic industry.

1. C-E Minerals

C-E Minerals is owned by Imerys, a multinational corporation with headquarters in France. Prior to 2002, C-E Minerals was a substantial importer of subject merchandise, accounting for *** percent and *** percent of total subject imports in 2000 and 2001, respectively.[48] In July 2000, Imerys acquired the domestic refined BAO producer Treibacher, and subsequently decided that C-E Minerals would cease importing the subject merchandise to limit competition with Treibacher's production.[49] C-E Minerals stopped importing and began to produce refined BAO in the United States in June 2002;[50] the company accounted for *** percent of domestic production in 2002.[51] There appears to be little or no temporal overlap between the company's sales of imports and the start of its production operations, and the data on its production operations do not appear to have been distorted by any benefit from its importation of the subject merchandise. The financial results reported for the company are for its domestic production operations only,[52] and thus would not reflect any substantial benefit derived from its prior activities as an importer. The company is a petitioner. Accordingly, we determine that appropriate circumstances do not exist to exclude C-E Minerals from the domestic industry.

---

related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14 n.81.

[45] C-E Minerals began domestic production in June 2002. CR at III-4 n.17, PR at III-3 n.17.

[46] Washington Mills acquired domestic producer Exolon-ESK Co. ("Exolon") in August 2001. CR at III-2, PR at III-1-2.

[47] CR/PR at Table IV-2.

[48] CR at III-4 n.15, PR at III-3 n.15.

[49] CR at IV-1 n.1, PR at IV-1 n.1.

[50] CR at IV-1, PR at IV-1.

[51] CR at III-4, PR at III-3.

[52] CR at III-4 n.15, PR at III-3 n.15.

2. Great Lakes

Great Lakes accounted for *** percent of domestic production in 2002.[53] The company ***[54] Great Lakes imports the subject merchandise from China and processes a portion of its imports by further crushing, sizing, and/or packaging the product. Because Great Lakes relied virtually entirely on subject merchandise as an input for its further processing, its shipments of imports of refined BAO from China were equivalent to *** percent of its U.S.-produced commercial shipments in 2000, 2001, 2002, and early 2003.[55] The company was a major importer of the subject merchandise throughout the period examined; it accounted for *** percent of total imports from China in 2000, 2001, 2002, and interim 2003, respectively.[56] In the course of interim 2003, Great Lakes began to shift from importing the subject merchandise to importing BAO that exceeded the grain size and weight parameters of the scope.[57]

As in the preliminary determination, we find that appropriate circumstances exist to exclude Great Lakes from the definition of the domestic industry. The company ***, and thus has a strong interest in maintaining its access to these imports. The company's sales volumes and overall financial results towards the end of the period examined reflect ***. Indeed, Great Lakes' sales of refined BAO ***, and its financial results ***[58]

3. Other U.S. Producers

As noted above, Detroit Abrasives, Treibacher, and Washington Mills also imported the subject merchandise during the period examined.[59] In each case, however, the amount of the company's imports was relatively insignificant in comparison with its domestic production. We incorporate by reference the findings of the Commission in the preliminary phase of this investigation and conclude that appropriate circumstances do not exist to exclude any of these companies from the domestic industry.[60]

---

[53] CR at III-5, PR at III-3.

[54] CR at III-4 n.19, PR at III-3 n.19.

[55] CR at III-5, PR at III-3.

[56] CR at III-5, PR at III-3.

[57] CR at III-6 n.27, PR at III-4 n.27.

[58] CR/PR at Table VI-2.

[59] Treibacher and Washington Mills are petitioners. Detroit Abrasives *** the petition.

[60] During the period examined Detroit Abrasives imported *** tons of the subject merchandise in 2002, which was equivalent to *** percent of its 2002 production. CR at III-6 n.28, PR at III-4 n.28. Treibacher's imports of the subject merchandise were equivalent to *** percent of its production in 2000, 2001, and 2002, respectively. CR at III-3 n.12, PR at III-2 n.12. Washington Mills' imports of the subject merchandise were equivalent to *** percent of its production in 2000, 2001, and 2002, respectively. CR at III-2 n. 4, PR at III-1 n.4.

V. MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS[61]

In the final phase of antidumping or countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[62] In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[63] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[64] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[65] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[66]

For the reasons discussed below, we determine that the domestic industry producing the domestic like product is materially injured by reason of subject imports from China that are sold in the United States at LTFV.

A. Conditions of Competition

The following conditions of competition in the refined BAO industry inform our determination.

Demand for refined BAO declined over the period examined. This decline reportedly was caused by factors such as an overall deterioration in the economy, weak conditions in the refractory and steel industries, and increasing imports of downstream products.[67] Data collected in this investigation show that the quantity of apparent U.S. consumption decreased by *** percent between 2000 and 2001, and by *** percent between 2001 and 2002. Apparent U.S. consumption in interim 2003 was *** percent lower than in interim 2002.[68]

Washington Mills acquired the refined BAO operations of another domestic producer, Exolon, during the period examined,[69] while a second U.S. producer, 3M, halted production in June 2002.[70] In addition, a new domestic producer began production in the period examined. In 2000, Imerys (a

---

[61] There is no issue regarding negligibility because imports of refined BAO from China constituted substantially more than 3 percent of total imports in the period October 1, 2001 through September 30, 2002, the most recent 12 months for which import data are available. See 19 U.S.C. §1677(24) and CR/PR at IV-1.

[62] 19 U.S.C. §§ 1671b(a), 1673b(a).

[63] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B); see also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[64] 19 U.S.C. § 1677(7)(A).

[65] 19 U.S.C. § 1677(7)(C)(iii).

[66] 19 U.S.C. § 1677(7)(C)(iii).

[67] CR at II-4, PR at II-3.

[68] CR/PR at Table C-2. As discussed below, the decline in apparent U.S. consumption may be overstated due to misclassification of refined and crude BAO and overinclusion of white and pink aluminum oxide in the relevant HTSUS subheading (HTSUS data were used for nonsubject import volume).

[69] CR at III-2, PR at III-1.

[70] CR at III-7, PR at III-4.

multinational corporation headquartered in France) acquired existing domestic producer Treibacher. Imerys also owns C-E Minerals, which was importing subject merchandise from China. After Imerys' acquisition of Treibacher, a decision was made that C-E Minerals would stop importing and become a domestic producer.[71] C-E Minerals began domestic production of refined BAO in early 2002.

Another condition of competition affecting the supply of refined BAO was the sale at low prices by the Defense Logistics Agency ("DLA") of its stockpile of crude aluminum oxide (the raw material used by domestic producers) in 2001 and 2002. One domestic producer, Washington Mills, purchased this raw material from the DLA stockpile.[72] With the exception of the DLA stockpile sales, all domestic producers of refined BAO obtained their raw material from foreign sources, as there is no domestic production of crude BAO.[73]

All responding purchasers characterized price as a very important factor in their purchasing decisions.[74] While quality was the primary consideration for most purchasers,[75] most purchasers reported that the U.S. and Chinese products are comparable in terms of quality and product consistency, as well as in terms of availability, discounts offered, minimum quantity requirements, packaging, product range, reliability of supply, and U.S. transportation costs.[76] Most purchasers ranked the U.S. product as superior to the Chinese product in terms of technical support and service and inferior only in terms of (lowest) price.[77] Overall, U.S. producers, importers and purchasers reported that refined BAO produced in the United States and China are generally interchangeable.[78] Based on the foregoing information from producers, importers, and purchasers, we find that there is a moderate to high degree of substitutability between refined BAO from China and the domestic like product.

Finally, we note that the volume of nonsubject imports declined over the period examined.[79] Indeed, official import statistics for refined BAO from Brazil and Canada (the only two nonsubject countries believed to supply refined BAO) suggest that the quantity of such imports declined by 42,574 short tons between 2000 and 2002, and was 1,541 short tons lower in January-June 2003 than in January-June 2002.[80] These data, however, may suffer from misclassification of refined and crude BAO and from overinclusion (the relevant HTSUS subheading also includes white and pink aluminum oxide, which are

---

[71] CR at III-3-4, PR at III-2-3.

[72] CR at III-2 n.5 and n.6., PR at III-1 n.5 and n.6.

[73] CR at I-3, PR at I-3.

[74] CR/PR at Table II-2.

[75] CR/PR at Table II-1.

[76] CR/PR at Table II-3.

[77] Id. Similarly, purchasers generally characterized imported refined BAO from other countries as comparable to that produced in the United States and China. Observations were extremely limited, however, as only seven firms could compare U.S. and "other" refined BAO, and only a single firm could compare Chinese and "other" refined BAO.

[78] All four responding U.S. producers, six out of eight responding importers and 14 of the 16 responding purchasers reported that U.S. and Chinese refined BAO are interchangeable. CR/PR at Table II-5 and CR at II-10, PR at II-7.

[79] CR/PR at Table IV-1.

[80] CR and PR at Table IV-1. Such steep declines would represent more than 80 percent of the overall decrease in apparent U.S. consumption between 2000 and 2002, and more than 43 percent of the decrease in interim 2003 as compared to interim 2002.

not within the scope of investigation).[81] Record evidence suggests that while nonsubject import volume did decline, the decline was likely from a much smaller base.[82]

B. Volume of the Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[83]

The quantity of subject imports was 68,994 short tons in 2000, 80,547 short tons in 2001, and 57,172 short tons in 2002. In interim 2002 and interim 2003, subject imports were 24,259 short tons and 22,073 short tons, respectively.[84] [85] The quantity of U.S. shipments of subject imports was 66,046 short tons in 2000, 71,461 short tons in 2001, and 68,864 short tons in 2002. In interim 2002 and interim 2003, the quantity of U.S. shipments of subject imports was 40,391 short tons and 28,262 short tons, respectively.[86] The market share of subject imports (measured on the basis of U.S. shipments of such imports) was high throughout the period examined: *** percent in 2000, *** percent in 2001, *** percent in 2002, *** in interim 2002, and *** percent in interim 2003.[87] The ratio of subject import volume to production in the United States was 55.7 percent in 2000, 71.0 percent in 2001, 51.9 percent in 2002, and 52.2 percent and 34.3 percent in interim 2002 and interim 2003, respectively.[88]

Based on the foregoing data, we find the volume of the subject imports, both in absolute terms, and relative to production and to apparent consumption in the United States, to be significant, particularly in light of the moderate to high degree of substitutability between subject imports and the domestic product, the importance of price in purchasing decisions, and the prevalence of underselling by substantial margins as discussed below.[89] [90]

---

[81] CR at IV-2, PR at IV-1.

[82] As noted above, few purchasers reported any knowledge of imported refined BAO from countries other than China. Moreover, only one firm reported imports of refined BAO from a country other than China. In its questionnaire response, ***.

[83] 19 U.S.C. § 1677(7)(C)(i).

[84] CR/PR at Table IV-2.

[85] See CR/PR at Table IV-2. Contrary to respondents' arguments (see Respondents' Prehearing Brief at 32-37) the domestic industry (excluding Great Lakes) did not account for a significant proportion of the subject imports during the period examined. Domestic producers other than Great Lakes (not taking into account imports by C-E Minerals in 2000 and 2001, when it was not a domestic producer) accounted for the following proportions of total subject imports during the period examined: *** percent in 2000, *** percent in 2001, *** percent in 2002, *** percent in interim 2002, and *** percent in interim 2003. See CR/PR at Table IV-2.

[86] CR/PR at Table IV-3.

[87] CR/PR at Table IV-4.

[88] CR/PR at Table IV-1.

[89] We recognize that the increase in the market share of subject imports was achieved in large measure at the expense of nonsubject imports, and not directly at the expense of U.S. producers' domestic shipments. See CR/PR at Table IV-4. We nonetheless find the volume of subject imports to have been significant throughout the period examined, particularly in light of their substantial market share, high substitutability, and low prices.

[90] In examining the volume of subject imports, the Commission normally considers all subject imports. Respondents, however, argue that we should discount the significance of imports of subject merchandise by Great Lakes because that company consumes most of those imports to produce refined BAO in the

Further, we find that the decline in the volume and market share of subject imports in interim 2003, as compared with interim 2002, is related to the pendency of this investigation,[91] and accordingly, pursuant to 19 U.S.C. § 1677(7)(I), we reduced the weight given this decline.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
>
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[92]

As explained above, the record in this final phase investigation indicates that there is a moderate to high degree of substitutability between refined BAO from China and the domestic like product, and that price is an important factor in purchasing decisions.

United States. Respondents' Final Comments dated October 17, 2003, at 1. Great Lakes has stated that it further manufactured *** percent of its refined BAO sales from 2000 through August 2003. Great Lakes Prehearing Brief at 4. Respondents appear to be arguing that we should treat those subject imports that are further processed by Great Lakes as not competing directly with domestic product. We take no position on this argument because, even were we to accept it and look solely at subject imports not imported by Great Lakes, we would find that volume itself to be significant (and even if we were to accept respondents' apparent argument, the volume of subject imports considered to be competing directly with domestic product would need to be supplemented by Great Lakes' subject imports that it does not further process, making the relevant volume higher than that discussed below).

The quantity of subject imports imported by entities other than Great Lakes was *** short tons in 2000, *** short tons in 2001, *** short tons in 2002, and *** short tons and *** short tons in interim 2002 and interim 2003, respectively. The quantity of U.S. shipments of subject imports imported by entities other than Great Lakes was *** short tons in 2000, *** short tons in 2001, *** short tons in 2002, and *** short tons and *** short tons in interim 2002 and interim 2003, respectively. See CR/PR at Table IV-3. The market share of subject imports (measured on the basis of U.S. shipments of those imports) imported by entities other than Great Lakes was *** percent in 2000, *** percent in 2001, *** percent in 2002, *** in interim 2002, and *** in interim 2003. CR/PR at Table IV-4.

We find even this lesser volume of subject imports to be significant, both in absolute terms and relative to production and consumption in the United States, particularly in light of the moderate to high degree of substitutability between subject imports and domestic product, the importance of price in purchasing decisions, and the prevalence of underselling by substantial margins as discussed below.

[91] See, e.g., CR at III-6 n.27, PR at III-4 n.27. We note, for example, that some of this volume decline is due to Great Lakes' shift during interim 2003 to imports of out of scope merchandise.

[92] 19 U.S.C. § 1677(7)(C)(ii).

The Commission sought pricing data for four types of refined BAO.[93] Subject imports undersold the domestic like product in 46 out of the 56 calendar quarters in which comparisons were possible, and the weighted-average margins of underselling were substantial. For product 1, subject imports undersold the domestic product in 8 out of the 14 calendar quarters in which comparisons were possible, and the weighted-average margins of underselling ranged from *** percent to *** percent.[94] For product 2, subject imports undersold the domestic product in all of the 14 calendar quarters in which comparisons were possible, and the weighted-average margins of underselling ranged from *** percent to *** percent.[95] For product 3, subject imports undersold the domestic product in 12 out of the 14 calendar quarters in which comparisons were possible, and the weighted-average margins of underselling ranged from *** percent to *** percent.[96] For product 4, subject imports undersold the domestic product in 12 out of the 14 calendar quarters in which comparisons were possible, and the weighted-average margins of underselling ranged from *** percent to *** percent.[97] We find this underselling to be significant.

The record indicates that prices for both the domestic like product and subject imports generally declined over the period examined, with the exception of the prices of Chinese pricing product 4, which increased somewhat.[98] We recognize that declining prices for refined BAO may have been attributable in part to a decline in raw material costs during the period examined, but the decline in prices cannot be completely attributed to falling raw material costs, as is apparent from the increase in the domestic industry's ratio of cost of goods sold to sales from 2001 to 2002, and between interim 2002 and interim 2003.[99] We also recognize that weak demand for refined BAO during the period examined may have played a role in declining prices, but weak demand does not explain the increase in market share of low-priced subject imports between 2000 and 2001. Moreover, there is ample documentary evidence in the record that the domestic producer Exolon lost substantial sales to subject imports from China, and was pressured by its customers to reduce its prices in the face of these imports, before the company was sold

---

[93] CR at V-4, PR at V-3. In the preliminary phase of this investigation the Commission collected pricing data for two products. It recognized that these pricing data *** of domestically produced refined BAO and of subject imports and it stated that it would consider collecting pricing data for additional refined BAO products in any final phase investigation. USITC Pub. 3572 at 11 n.63. Respondents argued that the underselling found in this final-phase investigation is not "commercially significant" because the reported prices for the four pricing products made up only a small share of U.S. producers' domestic sales. Respondents' Prehearing Brief at 41. We note that respondents were given an opportunity in this final phase investigation to comment on the selection of pricing products, and at their suggestion pricing product 4 was added to the questionnaire for this investigation. Moreover, because there are hundreds of different products in the refined BAO industry, the Commission's ability to cover a sizable share of imports and domestic sales in the collection of pricing data is necessarily circumscribed.

[94] CR/PR at Table D-3. For comparisons for pricing products 1 and 4, we relied on Tables D-3 and D-4, which exclude sales of these products by Great Lakes (which we have excluded from the domestic industry as a related party). ***

[95] CR/PR at Table V-2.

[96] CR/PR at Table V-3.

[97] CR/PR at Table D-4.

[98] CR/PR at Tables V-2, V-3, D3, and D4.

[99] See CR/PR at Table C-2.

to Washington Mills in 2001.[100] Finally, purchasers confirmed a substantial number of instances of lost sales (17) and lost revenues (15) alleged by the domestic industry.[101]

For these reasons, we find that there has been significant underselling by the subject imports as compared with the prices of the domestic like product, and that the significant volumes of the subject merchandise depressed prices to a significant degree. Therefore, we consider the price effects of the subject imports to be significant.

D. Impact of the Subject Imports

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[102] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[103] [104]

Most of the domestic industry's performance indicators were weak throughout the period examined and many worsened over the period.[105] At the same time, from 2000 onward, subject imports were present in significant volumes, and were underselling domestic producers by significant margins. The domestic industry's market share remained below 50 percent from 2000 to 2002 (although it rose to *** percent in interim 2003, during the pendency of the investigation).[106] Although the industry's market share improved over the period examined, this reflected the apparent decline in nonsubject imports, as subject imports were a significant presence in the market throughout the period examined. While the domestic industry's capacity increased over the period examined (presumably as a result of C-E Minerals commencing domestic production),[107] production fell sharply from 2000 to 2002, although it

---

[100] See, e.g., Petitioners' Posthearing Brief at 5-10 and Exhibits 4-7 and 9-13.

[101] CR/PR at Tables V-7 and V-8 and CR at V-5-22, PR at V-6. We have taken into consideration the fact that *** identified *** as customers for ***. *** is among the companies that confirmed lost revenue allegations and *** is among those that confirmed lost sales allegations.

[102] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885).

[103] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 and Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25 n.148.

[104] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final antidumping determination, Commerce found a dumping margin of 135.18 percent for Zibo Jinyu Abrasive Co., Ltd. and used this margin as the country-wide rate. 68 Fed. Reg. 55589, 55590 (September 26, 2003).

[105] As noted above, we discount the significance of interim 2003 data due to the pendency of this investigation at that time.

[106] The market share of subject imports on a quantity basis was *** percent in 2000, *** percent in 2001, *** percent in 2002, and *** percent and *** percent in interim 2002 and interim 2003. CR/PR at Table C-2.

[107] Total domestic capacity was *** short tons in 2000 and 2001, and then rose to *** short tons in 2002. Total domestic capacity rose *** in interim 2002 to *** in interim 2002. CR/PR at Table C-2. See also Petitioners' Posthearing Brief at A-11.

showed some improvement over the interim periods.[108] Shipments and net sales showed similar trends,[109] and capacity utilization rates, which were already low in 2000, reflected the sharp drop in production.[110] The domestic industry's inventories remained fairly constant over the period examined.[111]

The domestic industry's employment and wages generally declined over the period examined,[112] while productivity fluctuated.[113] Capital expenditures rose substantially in 2002, reflecting ***.[114]

The domestic industry's overall financial performance was poor, and deteriorated during the period examined.[115] In particular, the industry's operating income as a ratio to net sales was *** percent in 2000, rose slightly to *** percent in 2001, then fell to negative *** percent in 2002, and was *** percent and negative *** percent, respectively, in interim 2002 and interim 2003.[116] We recognize that there were substantial variations in the financial results of domestic producers.[117] *** than other domestic producers. However, as with other domestic producers, *** suffered from lower prices. As discussed above, the record indicates that subject imports had a significant negative price effect, and thus *** are due in significant part to subject imports.[118] Respondents also attribute ***.[119] To the extent that this

---

[108] Domestic production was *** short tons in 2000, *** short tons in 2001, *** short tons in 2002, and *** short tons and *** short tons in interim 2002 and interim 2003, respectively. CR/PR at Table C-2.

[109] The domestic industry's U.S. shipments fell from *** short tons in 2000 to *** short tons in 2001, and then rose to *** short tons in 2002. U.S. shipments were *** short tons and *** short tons in interim 2002 and interim 2003, respectively. Id. The industry's total shipments fell from *** short tons in 2000 to *** short tons in 2001 and then rose to *** short tons in 2002. Total shipments were *** short tons and *** short tons in interim 2002 and interim 2003, respectively. Id.

[110] Capacity utilization rates were *** percent in 2000, *** percent in 2001 and *** percent in 2002; they were *** percent and *** percent, respectively, in interim 2002 and interim 2003. CR/PR at Table C-2.

[111] Inventories were *** short tons in 2000, *** short tons in 2001 and *** short tons in 2002. Inventories were *** short tons and *** short tons in interim 2002 and interim 2003, respectively. CR/PR at Table C-2.

[112] The number of production workers dropped from *** in 2000 to *** in 2001 and *** in 2002, and was *** and *** in interim 2002 and interim 2003, respectively. CR/PR at Table C-2. The domestic industry paid its workers *** million in 2000, *** million in 2001, and *** million in 2002, and *** million in interim 2002 and *** million in interim 2003. Id.

[113] The industry's productivity was *** short tons per 1,000 hours in 2000, *** short tons per 1,000 hours in 2001 and *** short tons per 1,000 hours in 2002 . In interim 2002 and interim 2003 productivity was *** shorts tons per 1,000 hours and *** shorts tons per 1,000 hours, respectively. CR/PR at Table C-2.

[114] CR at VI-9 and n.3, PR at VI-6 and n.3. Capital expenditures were *** in 2000, *** in 2001, *** in 2002, and *** and *** in interim 2002 and interim 2003, respectively. CR/PR at Table C-2.

[115] Operating income was *** in 2000, *** in 2001, and a loss of *** in 2002, and *** and a loss of ***, respectively, in interim 2002 and interim 2003. CR/PR at Table C-2.

[116] CR/PR at Table C-2.

[117] We note that we are required to consider the domestic industry as a whole. 19 U.S.C. § 1677(4)(A). E.g., Copperweld Corp. v. U.S., 652 F. Supp. 552, 569 (Ct. Int'l Trade 1988).

[118] Respondents argue that these weaker results were attributable to the company's decision to source its raw material (crude BAO) from a plant that it owns in Canada, instead of from China, as other domestic producers do. However, respondents also argue that Washington Mills shifted its crude BAO sourcing to China over the course of the period examined. See also, CR at III-1-2, PR at III-1. Thus, despite a shift away from higher-cost inputs by the largest U.S. producer, the domestic industry's performance declined in the fact of subject imports' adverse effect on prices.

[119] Respondents' Prehearing Brief at 26-29.

*** had a negative effect on *** performance, this can be traced back to the deleterious effects of subject imports on ***.[120]

It is clear that declining demand for refined BAO also played a role in the domestic industry's worsening performance over the period examined. However, declining demand does not detract from the fact that the significant underselling of subject imports, which were present in large volumes and increasing market share during the period, themselves had a significant adverse impact on the domestic industry.

In sum, the record shows that the volume and market share of subject imports was significant throughout the period examined, and that subject imports undersold the domestic merchandise and had a significant depressing effect on domestic prices. The domestic industry's limited market share and lower prices in the U.S. market led to a deterioration in the domestic industry's performance, particularly its financial performance, which was poor even at the beginning of the period examined. Accordingly, we find that subject imports are having a significant adverse impact on the domestic industry.

VI. CRITICAL CIRCUMSTANCES

In its final determination, Commerce made an affirmative critical circumstances finding with respect to all refined BAO produced and/or exported from China.[121] Because we have determined that the domestic refined BAO industry is materially injured by reason of subject imports from China, we must further determine "whether the imports subject to the affirmative {Commerce critical circumstances} determination . . . are likely to undermine seriously the remedial effect of the antidumping duty order to be issued."[122] The SAA indicates that the Commission is to determine "whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order."[123]

The statute further provides that in making this determination the Commission shall consider, among other factors it considers relevant:

> (I) the timing and the volume of the imports,
> (II) a rapid increase in inventories of the imports, and
> (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.[124]

---

[120] The record contains ample evidence of the injurious effects of subject imports on Exolon. For example in a July 2001 letter to stockholders explaining the merger of Exolon into Washington Mills – a letter written well before the petition was filed in this case – the Board of Directors of Exolon noted the "serious competition *** from substantial imports into the United States of aluminum oxide and SiC produced by several developing nations, primarily the People's Republic of China" and that the company had seen "its profit margins in aluminum oxide and SiC erode to unsatisfactory levels." Petitioners' Posthearing Brief at Exhibit 16, p. 11. See also Petitioners' Posthearing Brief at 5-10 and Exhibits 4-7 and 9-13.

[121] 68 Fed. Reg. 55589, 55590 (Sept. 26, 2003).

[122] 19 U.S.C. § 1673d(b)(4)(A)(i).

[123] SAA at 877.

[124] 19 U.S.C. § 1673d(b)(4)(A)(ii).

Consistent with Commission practice,[125] in considering the timing and volume of subject imports, we consider import quantities prior to the filing of the petition with those subsequent to the filing of the petition using monthly statistics on the record regarding exporters for which Commerce has made an affirmative critical circumstance determination.

Washington Mills filed the petition that led to the initiation of this investigation on November 20, 2002. Comparing the six-month period June 2002 - November 2002 with the six-month period December 2002 - May 2003, imports for which Commerce made affirmative critical circumstances determinations increased from *** short tons to *** short tons, or by 0.6 percent.[126] Despite the substantial volumes of subject refined BAO at issue, we do not consider the modest increase in subject imports in the six months following the filing of the petition as likely to undermine seriously the remedial effect of the antidumping duty order.

We also have considered the extent to which there was an increase in inventories of the subject imports. U.S. importers' end-of-period inventories in June 2003 were *** short tons, an amount that is less than the *** short tons in inventory as of June 2002.[127] Therefore, despite the substantial volumes of subject refined BAO at issue, we find that there has not been a rapid increase in inventories of the imports following the filing of the petition.

We also have considered other circumstances relevant to the remedial effect of the antidumping order. Prices for refined BAO in the first half of 2003 were in some instances higher and in some instances lower than during the second half of 2002.[128] We find that the mixed instances of price increases support a conclusion that the imports in question are not likely to undermine seriously the remedial effect of the order. Accordingly, we do not view the recent price levels or trends of refined BAO from China as sufficient to merit an affirmative finding of critical circumstances.

We have evaluated the timing and the volume of the imports, the levels of inventories of the imports, and any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined. Based on the record in this investigation, we find that the imports subject to Commerce's affirmative critical circumstances determinations are not likely to undermine seriously the remedial effect of the antidumping duty order to be issued, and therefore make a negative finding with respect to critical circumstances.

CONCLUSION

For the reasons stated above, we determine that the domestic industry producing refined BAO is materially injured by reason of imports from China that are sold in the United States at less than fair value.

---

[125] See, e.g., Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Final), USITC Pub. 3617 at 20-22 (Aug. 2003); Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3338 at 12-13 (Aug. 2000).

[126] CR at IV-7, PR at IV-5. Comparing the three-month period September 2002 - November 2002 with the three-month period December 2002 - February 2003, imports for which Commerce made affirmative critical circumstances determinations decreased from *** short tons to *** short tons, or by 11.3 percent.

[127] CR/PR at Table VII-2.

[128] Prices for product 1 from China were *** in the second half of 2002, compared to *** in the first half of 2003. Prices for product 2 from China were *** in the second half of 2002, compared to *** in the first half of 2003. Prices for product 3 from China were *** in the second half of 2002, compared to *** in the first half of 2003. Prices for product 4 from China were *** in the second half of 2002, compared to *** in the first half of 2003. CR/PR at Tables V-2, V-3, D-3, and D-4.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by Washington Mills Company, Inc. (Washington Mills), North Grafton, MA, on November 20, 2002, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of refined brown aluminum oxide (RBAO)[1] from China. On November 27, 2002, the petition was amended to include two additional petitioners, C-E Minerals, King of Prussia, PA, and Treibacher Schleifmittel Corporation (Treibacher), Niagara Falls, NY. Information relating to the background of the investigation is provided below.[2]

Date	*Action*
November 20, 2002 .	Petition filed with Commerce and the Commission; institution of Commission investigation
December 17, 2002 .	Commerce's notice of initiation
January 6, 2003	Commission's preliminary determination
May 6, 2003	Commerce's preliminary determination (68 FR 23966); scheduling of final phase investigation (68 FR 28255, May 23, 2003)
September 23, 2003 .	Commission's public hearing[3]
September 26, 2003 .	Commerce's final determination (68 FR 55589)
October 22, 2003 ...	Commission's vote
November 10, 2003 .	Transmittal of Commission's determination to Commerce.

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, tables C-1 and C-2. Except as noted, U.S. industry data are based on questionnaire responses of five firms that accounted for 100 percent of U.S. production of aluminum oxide during 2002. U.S. imports are based on importer questionnaire responses for China[4] and official statistics for all other sources.[5]

---

[1] A complete description of the imported products subject to this investigation is presented in the section of the report entitled *The Subject Product.*

[2] *Federal Register* notices cited in the tabulation are presented in app. A.

[3] A list of witnesses that appeared at the hearing is presented in app. B.

[4] Importer questionnaire responses have been used for China with the view that they convey a more complete representation of the volume of imports from China than official statistics. During the preliminary phase of the investigation, the Commission became aware that in some instances certain of the imports of subject product were entered under subheading 2818.10.10 of the Harmonized Tariff Schedule of the United States (HTS) (the subheading for crude product) rather than the correct HTS subheading (2818.10.20) for refined product.

[5] Insofar as imports from other sources, other than imports from Canada and possibly Brazil, the imports are believed to be predominately, if not totally, white and pink refined product (not included in this investigation). Consequently, imports from "other sources" represent imports from Canada and Brazil only. To the extent white and pink product (in particular from Brazil) are included in the official statistics for those countries, imports of RBAO from other sources are overstated.

NATURE AND EXTENT OF SALES AT LTFV

Based on a comparison of export price to normal value, Commerce calculated a final LTFV margin of 135.18 percent *ad valorem* for both Zibo Jinyu Abrasive Co. (Jinyu)[6] and all other producers and exporters in China. The period of investigation for Commerce's investigation was April 1, 2002, through September 30, 2002. Additionally, Commerce made a final determination that critical circumstances exist with respect to imports of RBAO from China.

THE SUBJECT PRODUCT

In its notice of final determination, Commerce defined RBAO as--

> *". . . 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 50 percent of the total weight of the entire batch.. "*[7]

The Commission's determination regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.[8]

Physical Characteristics and Uses

RBAO is a solid inorganic chemical of the formula Al_2O_3. It is one of the forms of aluminum oxide (alumina) in mined bauxites. It is mainly used in the manufacture of a variety of abrasive products, such as grinding wheels, discs, and blast media, and in various refractory applications, such as the linings of furnaces and ovens. It is also used in the production of some ceramics, pigments, and chemical reagents.

---

[6] Jinyu was the only respondent in Commerce's investigation.

[7] 68 FR 55589, September 26, 2003. RBAO is provided for in HTS subheading 2818.10.20 with a normal trade relations tariff rate of 1.3 percent *ad valorem*, applicable to imports from China. Crude product is provided for in subheading 2818. 10.10.

[8] *See*, generally, petitioners' prehearing brief, pp. 4-10, for comments with respect to refined white and pink aluminum oxide as a "like product." Respondents did not offer comments with respect to refined white and pink aluminum oxide as a "like product" in either their prehearing or posthearing briefs or in testimony at the hearing in this investigation.

Refined white and pink aluminum oxide are more chemically pure (in terms of aluminum oxide content) than RBAO,[9] and are ordinarily used in separate, specialized abrasive and refractory applications where brown aluminum oxide, because of its impurities, will not suffice.[10]

Manufacturing Process and Facilities and Production Employees

Production of RBAO uses bauxite ores which have been oven dried at high heat (calcined) to drive off both free moisture and chemically combined water. The calcined bauxite is then heated to its melting point (about 2100 degrees F) in an electric arc furnace.[11] The varying amounts of impurities, such as iron oxide, silica, and titania, are removed in the electric arc furnace by melting the calcined bauxite with additions of carbon and iron. The carbon reacts with the oxygen in the impurities to form carbon monoxide gas, and the impurities are reduced to their corresponding metals, which, being heavier than aluminum oxide, settle to the bottom of the melt. The addition of iron to the melt results in the formation of iron salts (e.g., ferrosilicates) which also settle to the bottom. The brown aluminum oxide ingot is cooled and removed from the vessel. The impurities are removed from the bottom of the ingot, and the brown aluminum oxide is then refined (crushed, ground, and screened) into specific particle sizes.[12] The sized material is then packaged for shipping to end users and distributors.

RBAO is produced in facilities separate from white and pink aluminum oxide because there must be no mixture of brown aluminum oxide into the white and pink products.[13] [14] Washington Mills produces its brown and white products in separate facilities. Likewise, Treibacher produces its brown and white products in separate facilities; the brown is produced in Niagara Falls, NY, and the white in Andersonville, GA.

Interchangeability and Customer and Producer Perceptions

U.S. producers, importers, and purchasers responding to Commission questionnaires agreed that U.S.-produced, Chinese RBAO, and nonsubject RBAO are interchangeable. They noted that the product is made to American National Standards Institute (ANSI) specifications, with many customers asking for certification. Both U.S. and Chinese producers will certify that their products have met the ANSI standards.[15]

Purchaser questionnaire respondents reported that refined white and pink aluminum oxide are perceived differently than RBAO by both end users and sellers and are ordinarily used in specialized applications where RBAO is not suitable.

---

[9] According to testimony by Washington Mills, the white and pink products range from "99.5 to 99.9 percent pure versus a normal range of 93 to 97 percent for brown grain, for brown crude ore." *See,* testimony of Peter H. Williams, President, Washington Mills, hearing transcript, p. 24.

[10] Petitioners' postconference brief, pp. A-4-A-5. Questionnaire respondents reporting on the differences in characteristics between RBAO and the pink and white products noted purity, hardness, and friability.

[11] None of the U.S. producers operates an electric arc furnace in the United States.

[12] Petitioners and respondents indicated that they were not aware of any U.S. companies that crush product without also sizing it for use by customers. *See,* testimony of Peter H. Williams, President, Washington Mills, hearing transcript, pp. 61-62 and respondents' posthearing brief, p. 1.

[13] Petitioners' postconference brief, p. A-5 and ***.

[14] *See,* testimony of Peter H. Williams, President, Washington Mills, hearing transcript, p. 24.

[15] *See*, testimony of Peter H. Williams, President, Washington Mills, hearing transcript, p. 55; Roger B. Schagrin, Schagrin & Associates, hearing transcript, pp. 75-76; and Bernd Durstberger, CEO, Treibacher, hearing transcript, pp. 76-77.

Channels of Distribution

In general, questionnaire respondents indicated that RBAO shares the same channels of distribution as refined white and pink aluminum oxide, being sold to distributors and end users. During the period examined, U.S. producers sold more of their RBAO to end users, whereas importers generally sold more to distributors. In 2002, U.S. producers sent 52.4 percent of their product to end users and 47.6 percent to distributors, while importers sent 37.9 percent to end users and 62.1 percent to distributors. More detailed information on channels of distribution can be found in Part II of this report, *Conditions of Competition in the U.S. Market.*

Price[16]

Information with regard to prices of RBAO is presented in Part V of this report, *Pricing and Related Information.* With respect to prices for RBAO compared with those for refined white and pink aluminum oxide, questionnaire respondents agreed that RBAO was significantly less expensive, selling for about half the price of the white and pink products.[17]

---

[16] On November 16, 1948, the U.S. District Court for the Western District of New York entered a final judgment perpetually enjoining Exolon Company (now owned by Washington Mills) and other named defendants from circulating or exchanging, directly or indirectly, any price lists or price quotations, with or among any manufacturer of artificial abrasive grain (aluminum oxide and silicon carbide) in advance of the publication, circulation, or communication of such price lists or price quotations to its purchasers and distributors. None of the other current U.S. producers are known to have been named defendants.

[17] According to Washington Mills, it is "because white and pink refined prices are nearly double those for brown, they're only used where absolutely required." *See,* testimony of Peter H. Williams, President, Washington Mills, hearing transcript, p. 24.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET[1]

CHANNELS OF DISTRIBUTION AND MARKET CHARACTERISTICS

RBAO is produced from crude brown aluminum oxide. There are currently no U.S. producers of crude brown aluminum oxide and five U.S. producers of RBAO. Producers sell RBAO to distributors and end users. The refractory market is the largest, consisting of comparatively fewer customers requiring large quantities of relatively coarser RBAO. These customers use RBAO as a heat-resistant lining to furnaces and crucibles for ultimate use in foundry, iron, and steel industries. The bonded/coated market uses the product to make grinding wheels (bonded) and coated abrasives, such as sand paper and abrasive cloth. RBAO serves as a cutting tool to grind down ferrous material, such as in ceramic deburring, or to roughen, shape, buff, polish, or finish a workpiece. The general industrial market consists of varied surface preparation applications such as blasting (such as pressure-blasting prior to painting to create a smooth finish), polishing, buffing, and rust removal. Petitioners note that the refractory and bonded/coated customers tend to purchase directly from manufacturers or importers, while general industrial customers tend to purchase from distributors.

Twenty-four purchasers, 15 end users, and nine distributors responded to the purchaser questionnaire. The end users reported that most of the RBAO they purchased was used to produce grinding wheels, refractories, cleaning, stripping products, or that they used RBAO for blasting. Distributors reported that most of the RBAO they sold was used for blasting, nonskid surfaces, resin fillers, grinding wheels, refractories, and abrasive coatings.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Based on available information, U.S. producers have the ability to respond to changes in demand with moderate to large changes in the quantity of shipments of U.S.-produced RBAO to the U.S. market. The main factors examined in assessing this degree of responsiveness are unused capacity, the existence of alternate markets, and inventories.

Industry Capacity

Data provided by U.S. producers in their questionnaire responses indicate that capacity utilization rates declined from 57.0 percent in 2000, to 52.2 percent in 2001, and 44.6 percent in 2002. Interim data, however, show increased capacity utilization, with the rate at 41.2 percent in January-June 2002 and 48.1 percent in January-June 2003. These data indicate that U.S. producers have a *** of unused capacity with which they could increase production in response to price changes for RBAO.

Inventory Levels

Data from U.S. producers indicate that inventories as a percent of total shipments of RBAO rose between 2000 and 2002, rising from *** percent in 2000 to *** percent in 2001, but then falling to ***

---

[1] In part II of this report, U.S. producers' responses to the importers' questionnaires are not included in the importers' responses and ***. Each of the U.S. producers provided identical responses to both the producers' and the importers' questionnaires. Therefore to obtain the responses of all importers, (including the U.S. producers) the producers' and importers' answers can be combined.

percent. These data indicate U.S. producers have the ability to use inventories as a means of responding to price changes. RBAO crushing automatically produces a range of sizes of RBAO product. This results in inventories being created of sizes that may not be required at the specific time. As a result, U.S. producers sometimes purchase imports of specific items to round out their inventories.[2]

Export Markets

Only two producers reported exports of RBAO.[3] Information from U.S. producers' questionnaire responses indicates that U.S. producers exported RBAO to *** during the period for which data were collected. U.S. producers' exports accounted for between *** and *** percent of their total shipments of RBAO. This *** level of exports indicates that U.S. RBAO producers have the ability to divert shipments to or from the U.S. market.

Production Alternatives

In questionnaire responses, U.S. producers reported that ***. Thus, the domestic supply response is constrained by this inability to switch production between RBAO and other products.

Chinese Supply

Nine Chinese producers provided information on Chinese supply. The Chinese producers reported that capacity utilization rates increased from 72.6 to 75.2 percent between 2000 and 2002. Inventories fell from 20.8 percent of production to 12.2 percent. Most Chinese-produced RBAO was exported, although Chinese home market consumption rose from 33.1 percent to 36.6 percent of total shipments. The share of all Chinese RBAO shipments that were exports to the United States fell from 18.2 percent in 2000 to 13.2 percent in 2002. Thus, Chinese producers have a moderate to high ability to shift product to the United States, although this may have fallen slightly between 2000 and 2002.

U.S. Demand

The petitioners report that of the three major markets for RBAO, refractory producers and grinding wheal manufactures typically buy directly from the manufacturers or importers on annual contracts, while the general industrial customers typically buy on spot through distributors.[4] Cometals, an importer selling to the refractory market stated that all its customers purchased a RBAO in combination with other mineral products.[5] The mineral products are loaded and shipped together. Based on available information, U.S. aggregate demand for RBAO is likely to respond moderately to changes in RBAO prices. The lack of viable substitute products reduces demand responsiveness to price changes, however the potential imports of some downstream products increases demand responsiveness.

---

[2] *See*, testimony of Roger Schagrin, Schagrin and Associates, hearing transcript, p. 64.

[3] ***.

[4] *See*, testimony of Don McLeod, Vice President of Sales and Marketing, Washington Mills, hearing transcript, pp. 34-35

[5] *See*, testimony of Dennis Gates, Vice President, Cometals, hearing transcript, pp. 172, 175.

Demand Characteristics

Ten of 15 responding purchasers reported changes in demand for the products that they produce using RBAO since January 1, 2000. Of the ten purchasers reporting changes, seven reported decreases, two reported increases, and one reported demand fluctuating with the economy. Both firms reporting increased consumption reported that new products had increased demand. Reasons given for decreased demand included deteriorating economy, Chinese imports of the products produced using RBAO, and problems in the steel industry.

Producers and importers were asked about changes in demand for RBAO since January 2000. Three of the four responding producers reported declining demand, and the one producer that did not report declining demand reported that demand fluctuated with auto and steel production. One producer reported that the decline in demand was caused by increased imports of finished products and new manufacturing methods that eliminated the need for deburring. In addition, the petitioners reported that as U.S. manufacturers have closed plants, there is less demand in the United States for product.[6] Six of eight responded importers reported that demand fell, one reported that demand fluctuates with the economy, and one reported that the market has not changed overall since 2000. Reasons cited by importers for falling demand included the economy, financial problems in the refractory and steel industries, plant closures, process changes, and imports of grinding wheels and refractory products.

Importers and U.S. producers were asked if there had been changes in the product range or marketing of RBAO in the past 5 years. Three of four U.S. producers and six of nine importers reported changes. Three U.S. producers and two importers reported increased Chinese product, two importers reported a more competitive market, and one importer reported that customers demand imported RBAO so they can stay in business and compete with imported wheels.

Substitute Products

Most responding purchasers (13 out of 20) reported that there were no substitutes for RBAO. The remaining seven reported substitutes including out of specification material, white or pink aluminum oxide, tabular aluminum, bauxite, garnet, Saint-Gobain stone blast, Dupont Strautolite, starblast, coal slag, steel grit, steel shot, organic abrasives, plastic and glass beads, and sinterball. However, a number of those reporting substitutes also reported that substitution would either reduce quality or greatly increase costs. When asked if the price of substitute products had changed relative to the price of RBAO, seven reported changes; however, six of these also reported that these relative changes did not affect purchases of RBAO.

Purchasers were asked to compare pink aluminum oxide and white aluminum oxide to RBAO. Ten of eleven responding purchasers reported differences in characteristics between white/pink and RBAO including friability, purity, and hardness. Four purchasers reported that white/pink were not interchangeable with RBAO while eight reported that white/pink could be used to replace RBAO, although a number of these reported that RBAO could not be used in applications that used white/pink. Six purchasers reported that white/pink were sold in similar channels or produced by the same firms; three reported that they were sold through different channels. Nine purchasers reported that white/pink were not perceived as the same as RBAO by either end users or sellers; three reported that they were perceived as the same. All ten purchasers comparing white/pink with RBAO reported that RBAO was significantly less expensive.

Two of four responding U.S. producers and two of seven responding importers reported that there were no commercially viable substitute products for RBAO. Possible substitutes reported by the

---

[6] *See*, testimony of Harvey Plonsker, President, AGSCO, hearing transcript, p. 72.

other two U.S. producers and four importers included emery, garnet, silicon carbide, white fused aluminum, bauxite, glass beads, steel shot and grit, sand, slag, and zirconia aluminum. A number of firms noted that substitution would require greater spending, reengineering, and/or result in poorer performance.

Cost Share

Purchasers were asked to report the end use products that they produced and the share of total costs accounted for by RBAO. Twelve firms responded. For grinding uses (including cleaning and stripping products) the reported cost share of RBAO ranged from 5 to 50 percent, with four of the six responding firms reporting cost shares in the range of 6 to 18 percent. Refractory uses tended to have a higher percentage cost of RBAO, which ranged from 27 to 64 percent of the cost, with three of the five responding firms reporting between 27 and 33 percent. One firm reported that the costs for share of RBAO for blasting was 6 to 8 percent. Respondents reported that RBAO accounted for 20 to 40 percent of the costs for bonded applications and 10 to 20 percent of costs for coated applications.[7]

Purchasers were also asked to report the share of RBAO they used for each of four end uses: abrasives, refractory, general industrial, and other. Most firms reported that they used RBAO for only one end use. Eight purchasers used RBAO only in abrasives, five only in refractory, three only in general industrial use, while two reported product in more than one category.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported RBAO depends upon such factors as relative prices, quality, and conditions of sale. Based on available data staff believes that there is a moderate degree of substitution between domestic RBAO and subject imports from China.

Respondents report that RBAO is a very important component in bonded and coated applications. For these products, RBAO is the grinding or sanding agent that touches the surfaces being ground. This makes its quality and consistency critical and as a result customers normally do not switch suppliers based solely on price. In addition, for blasting applications, many of the products produced are very high priced, and as a result, product is certified for specific customers or to a specific specification, as a result customers do not purchase just on price.[8]

Twenty-one of 24 responding purchasers required prequalification of the RBAO that they purchased with all but two of these requiring prequalification on all the RBAO they purchased. Qualification of material usually required that the material met specifications of the purchasing firm or met industry standards. The time required for qualification ranged from 40 hours to 12 months, with seven of the 12 responding firms reporting time required for qualification was between 2 and 4 months.

Substitutability is also reflected to some extent in the frequency that purchasers change suppliers. Eleven of the 23 purchasers responding reported they seldom or never changed suppliers, one reported changing suppliers once in the last 4 years, three reported 3 years between changes, two reported 2 years between changes, four reported using multiple suppliers, two changed suppliers annually, and one changed suppliers depending on market conditions.

---

[7] *See*, testimony of Kelleen Loewen, Marketing Manager, Abrasive Materials, Saint-Gobain, hearing transcript, p. 169.

[8] *See*, testimony of Kelleen Loewen, Marketing Manager, Abrasive Materials, Saint-Gobain, hearing transcript, pp. 169-170.

Factors Affecting Purchasing Decisions

Purchasers were asked to identify the three major factors considered by their firm in deciding from whom to purchase RBAO (table II-1). Sixteen of the 21 responding purchasers reported that quality was the most important factor, price was reported as the second most important factor by 14 purchasers, and availability was reported as the third most important factor by 12 purchasers.

Table II-1
RBAO: Most important factors in selecting a RBAO supplier

Factor	First	Second	Third
Quality	16	3	2
Price	3	14	4
Contract/traditional supplier	4	0	2
Availability/delivery	0	5	12
Service	0	1	1
Product line	0	0	2
Reliability	0	0	1

Source: Compiled from data submitted in response to Commission questionnaires.

Purchasers were asked what factors determined the quality of RBAO. The most commonly mentioned factors were meeting industrial standard, performance, grade, dust, chemistry, hardness, bulk density, lack of contamination/purity, particle size distribution, and shape. Other factors included radioactivity, packaging, friability, amount of specific contaminants, thermal expansion, specific gravity, capacity to be reused, and color.

Purchasers were asked whether they always, usually, sometimes, or never purchased the lowest priced material. None of the firms reported always buying the lowest priced RBAO, 11 reported usually buying the lowest priced RBAO, 11 reported sometimes buying the lowest priced RBAO, and two reported that they never bought the lowest priced RBAO. Purchasers were also asked if they purchased RBAO from one source although a comparable product was available at a lower price from another source. Sixteen firms reported reasons for purchasing more expensive product, including lead times, availability, contracts, terms, packaging, quality, inventories near the purchaser's plant, and relationship with supplier.

Purchasers were asked to rate the importance of 15 factors in their purchasing decisions (table II-2). The factor most frequently reported as very important was price, reported as very important by all 23 purchasers; followed by product consistency, very important for 22 purchasers; availability and reliability of supply very important for 21 purchasers; and meets quality standard very important for 20 firms. Purchasers were asked for country-by country comparisons on the same 15 factors (table II-3). The most frequently reported differences between U.S. and Chinese product were technical support and delivery time (with U.S. reported as superior by 13 of the 17 or 18 responding firms). Also, U.S. price was reported as inferior (higher) by 12 of the 17 responding purchasers.

Table II-2
RBAO: Importance of purchase factors, as reported by purchasers

Factor	Very important	Somewhat important	Not important
	Number of firms responding		
Availability	21	2	0
Delivery terms	13	10	0
Delivery time	15	8	0
Discounts offered	11	8	3
Lower price	23	0	0
Minimum quantity requirements	4	15	4
Packaging	12	10	1
Product consistency	22	1	0
Quality meets industry standards	20	2	1
Quality exceeds industry standards	13	8	2
Product range	9	14	0
Reliability of supply	21	2	0
Technical support/service	9	12	2
Transportation network	11	12	0
U.S. transportation costs	14	9	0

Source: Compiled from data submitted in response to Commission questionnaires.

Table II-3
RBAO: Comparisons of product by source country, as reported by purchasers

Factor	U.S. vs China			U.S. vs other			China vs other		
	S	C	I	S	C	I	S	C	I
	Number of firms responding								
Availability	7	10	1	2	4	1	0	1	0
Delivery terms	7	9	2	1	5	1	0	1	0
Delivery time	13	5	0	2	3	2	0	0	1
Discounts offered	4	11	0	1	6	0	0	0	1
Lowest price [1]	1	4	12	0	6	1	1	0	0
Minimum quantity requirements	5	13	0	0	7	0	0	1	0
Packaging	5	13	0	0	6	1	0	1	0
Product consistency	7	9	0	0	7	0	0	1	0
Quality meets industry standards	3	14	1	0	7	0	0	1	0
Quality exceeds industry standards	6	9	1	0	7	0	0	1	0
Product range	7	11	1	1	6	0	0	0	1
Reliability of supply	6	11	0	0	6	1	0	1	0
Technical support/service	13	4	0	2	5	0	0	0	1
Transportation network	8	9	0	0	7	0	0	1	0
U.S. transportation costs	4	11	2	0	7	0	0	1	0

[1] A rating of superior means that the price of the country listed first is lower than the price of the country /group listed second.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior.

Note.–Some companies reported data for U.S. product compared to product from more than one nonsubject country. All these responses are reported above.

Note.–Not all companies gave responses for all factors.

Source: Compiled from data submitted in response to Commission questionnaires.

Comparison of Domestic and Chinese Imported RBAO

Purchasers were asked to report if RBAO from different countries was used in the same applications. Fourteen of the 16 responding purchasers reported U.S. and Chinese product could be used in the same applications, one reported that they were sometimes interchangeable and sometimes not interchangeable, and one reported that they could not be used interchangeably. Nine out of ten purchasers reported that U.S. and nonsubject RBAO could be used in the same applications, and all four purchasers comparing Chinese and nonsubject RBAO reported that they could be used in the same applications. Purchasers were asked if they or their customers ever specifically request RBAO from a

single country; seven out of the 23 responding firms reported purchasing from specific countries. Of these, three reported preferring U.S. RBAO, one reported that U.S. and Chinese RBAO were preferred, one reported U.S. and Austrian RBAO were preferred, one reported Chinese product was preferred for price and U.S. product was preferred for better availability of specific material, and one stated it had a 2-year contract and as a result bought U.S. product.

Only five of the 23 responding purchasers reported that certain types of RBAO were only available from a single source but only three of these reported the specific sources for RBAO. One each reported that Washington Mills offered grades with slightly higher purity, that Treibacher provided all grades, and that certain grades were only available from Brazil.

All four responding producers reported that there were no differences between U.S. product and Chinese product, in contrast four out of six importers reported that there were differences (table II-4). Three importers reported specific differences including that Chinese RBAO was better in quality, higher density, lower iron, better availability, better price; in contrast U.S. demand higher minimum order, U.S. product has the advantage of made in U.S. label, and U.S. producers can reprocess grit size. U.S. producers and importers were in general agreement that there were no differences between U.S.-produced and nonsubject RBAO, and Chinese and nonsubject RBAO (table II-4). The one importer reporting differences reported that there was little availability of nonsubject RBAO.

Table II-4
RBAO: Perceived differences in product characteristics for U.S. sales of RBAO produced in the United States and in other countries[1]

Country pair	Number of U.S. producers reporting		Number of U.S. importers reporting	
	Yes	No	Yes	No
U.S. vs. China	0	4	4	2
U.S. vs. other	0	4	1	5
China vs. other	0	4	1	5

[1] Firms were asked if there were any differences in product characteristics or sales conditions between U.S.-produced RBAO and RBAO imported from China and nonsubject countries.

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. producers and most importers reported that U.S.-produced, Chinese RBAO, and nonsubject RBAO were interchangeable, with *** among producers (table II-5). Importers that reported limitations in the degree of interchangeability cited differences in quality levels of RBAO and availability (noting a difficulty in obtaining product from international sources other than China).

Table II-5
RBAO: Perceived degree of interchangeability of product produced in the United States and in other countries[1]

Country pair	Number of U.S. producers reporting		Number of U.S. importers reporting	
	Yes	No	Yes	No
U.S. vs. China	4	0	6	2
U.S. vs. other	4	0	5	0
China vs. other	4	0	4	2

[1] Firms were asked whether or not U.S.-produced and imported RBAO are generally used interchangeably.

Source: Compiled from data submitted in response to Commission questionnaires.

ELASTICITY ESTIMATES

This section discusses elasticity estimates. Parties were requested to provide comments in their prehearing briefs. Petitioners' comments are reported below, respondents had no comments on the values of the elasticity estimates.

U.S. Supply Elasticity[9]

The domestic supply elasticity for RBAO measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of RBAO. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced RBAO. Analysis of these factors earlier indicates that the U.S. industry is likely to be able to increase or decrease shipments to the U.S. market; an estimate in the range of 4 to 8 is suggested.[10]

U.S. Demand Elasticity

The U.S. demand elasticity for RBAO measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of RBAO. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the RBAO in the production of any downstream products. Based on the available information, the aggregate demand for RBAO is likely to be in a range of -0.6 to -1.0.

---

[9] A supply function is not defined in the case of a non-competitive market.

[10] In exhibit 5 of the respondents' posthearing brief respondents use this estimate to analyze the change in RBAO prices. There are a number of reasons that this analysis may not be correct. First, this analysis assumes that there are no other changes such as changes in costs, changes in order size etc. that influence the prices. Second, unit values are used as price in the respondents' analysis, however; since RBAO is not a homogenous product, unit values will vary depending on the product mix.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[11] Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (availability, sales terms/discounts/promotions, etc.). Staff initially estimated that the elasticity of substitution between U.S.-produced RBAO and imported RBAO was in the range of 3 to 5. Petitioners argue that this estimate of substitution elasticity is too low, that there is a very high degree of substitution between domestic and subject imported RBAO. Petitioners argue that quality is the most important factor in purchasing decisions; however, "the evidence of the record overwhelmingly indicates that Chinese RBAO is now seen as comparable if not identical to domestic RBAO in quality."[12] Petitioners propose that the elasticity of substitution be in the range of 6 to 9;[13] however, much of this product is sold on contract, most purchasers require prequalification, and almost half of the purchasers reported that they seldom changed suppliers. All these factors would reduce purchasers' substitution between U.S. and Chinese product in the short run. On the other hand, the price of RBAO is particularly important to purchasers, with all 23 responding purchasers reporting that price is a very important factor, and fewer firms reporting any other factor is very important. Staff has therefore re-evaluated the elasticity of substitution and estimates it to be between 4 and 8.

---

[11] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

[12] Petitioners' prehearing brief, pp. 22-23.

[13] Petitioners' prehearing brief, p. 24.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the final margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of five firms that accounted for all U.S. production of RBAO during 2002.

U.S. PRODUCERS

Petitioner Washington Mills produces a wide range artificial abrasives, including aluminum oxide abrasives, at facilities located in Tonawanda, NY, Niagara Falls, NY, and North Grafton, MA.[1] In addition, it also has aluminum oxide production facilities located in Canada and the United Kingdom.[2] In 2002, Washington Mills accounted for *** percent of domestic production of RBAO.[3] In its plants in Canada, Washington Mills produces crude aluminum oxide from bauxite in electric arc furnaces, performs coarse crushing, and then ships this output to its facilities in the United States where it further crushes, grinds, and sieves the product, and ultimately packs the product for sale to its customers. In addition to crude product from Canada, Washington Mills uses crude aluminum oxide imported from China [4] as well as product purchased from the U.S. government Defense Logistics Agency (DLA) stockpile from ***.[5] [6]

Washington Mills' original production facility, established in 1868, is located in North Grafton, MA. In 1986, Washington Mills acquired the electromaterials operations of Carborundum Co., which owned and operated a production facility in Niagara Falls, NY.[7] In August 2001, Washington Mills

---

[1] Washington Mills is headquartered in North Grafton, MA.

[2] On its website, Washington Mills describes itself as follows: "The largest producer of abrasives and electro minerals in the world, Washington Mills offers customers a rich array of standard abrasive grain and specialty electro-fused minerals from its multi-plant locations." *See,* website of Washington Mills, *http://washingtonmills.com/welcome.html.*

[3] In 2002, ***. Washington Mills' producer questionnaire.

[4] Crude aluminum oxide is not subject to this investigation. In addition to the crude imports, Washington Mills also reported imports of the refined product, stating: "***" Washington Mills' importer questionnaire.

As a share of total reported imports of refined product from China, Washington Mills' imports amounted to *** percent in 2000, 2001, and 2002, respectively. Washington Mills' imports of refined product from China were equivalent to *** percent of its production in 2000, 2001, and 2002. Washington Mills reported *** imports of RBAO during January-June 2003.

[5] With respect to the DLA purchases, Washington Mills stated:

> "In 1999 and 2000, we were able to purchase large quantities of U.S. government DLA stockpile crude ore at extremely low prices. Much of this low-cost crude was released to us and used in 2001 and 2002. . . There is no more crude ore remaining in the DLA stockpile."

See, testimony of Peter H. Williams, President, Washington Mills, hearing transcript, pp. 25-26.

[6] Washington Mills' purchases of crude product from the DLA stockpile amounted to *** short tons in ***, respectively. Additionally, Washington Mills purchased ***.

[7] This facility became the Washington Mills Electro Minerals Corp., a subsidiary of Washington Mills, as a result of the acquisition.

acquired Exolon-ESK Co., an aluminum oxide producer with production facilities located in Tonawanda, NY.[8] With respect to its acquisition of Exolon, Washington Mills stated:

> "By the end of 2000, Exolon Company was clearly in shaky financial condition. We purchased Exolon for a fraction of its asset value in August 2001. Had we not purchased it, Exolon would have gone bankrupt. Our plans were to help consolidate the industry, cut costs and make both Washington Mills and Exolon's aluminum oxide business profitable again . . . In our purchase of Exolon, formerly a publicly traded company, we combined the two largest abrasive grain companies in North America and the two largest refined brown aluminum oxide producers in the United States. In a mature industry, this makes sense.
>
> "We proceeded to cut costs and rationalize production between Washington Mills and Exolon. Moreover, we ended Exolon's self-defeating price strategy of trying to match Chinese prices to sustain their volume. However, our strategy did not entirely succeed as the surge in imports from China and the growth of their market share driven by their very low prices is now the most significant factor affecting the U.S. market."[9]

The two other petitioning firms, Treibacher and C-E Minerals, are both owned by Imerys, a multinational corporation headquartered in France and a world leader in the refractory and abrasives fields.[10] Treibacher is a worldwide producer of minerals for the abrasives industry[11] while C-E Minerals is a producer of minerals primarily for the refractory industry. Treibacher produces RBAO at its manufacturing facility in Niagara Falls, NY[12] and is affiliated with Treibacher Schleifmittel Guizhou Co., Ltd., a Chinese producer of RBAO.[13]

C-E Minerals is a sister company of Treibacher, with 100 percent common ownership, and has a plant in Newell, WV, that produces the subject product.[14] Prior to Imerys' July 2000 acquisition of

---

[8] Washington Mills also has the following foreign RBAO production facilities: ***.

[9] *See*, testimony of Peter H. Williams, President, Washington Mills, hearing transcript, pp. 24-25.

[10] Imerys purchased Treibacher in 2000. Conference transcript, p. 12. Imerys is also a 50-percent owner (through C-E Minerals) of Graystar LLC (Graystar) located in Bluffton, SC, an importer of RBAO from China. Petition, p. 4.

[11] On its website, Treibacher characterizes itself as follows: "Treibacher Schleifmittel is the worldwide leading producer of fused aluminum oxide." *See,* website of Treibacher, *http://www.treibacher-schleifm.com/.*

[12] Conference transcript, p. 16. Additionally, Treibacher produces white aluminum oxide at its production facility in Andersonville, GA. Id. White aluminum oxide is not subject to this investigation. In 2002, Treibacher accounted for *** percent of reported domestic production of RBAO with ***. Treibacher producer questionnaire. Treibacher also imports RBAO from China. As a share of total reported imports from China, Treibacher's imports amounted to *** percent for 2000, 2001, 2002, and January-June 2003, respectively. Treibacher indicated that it imported from China as a "***." Treibacher importer questionnaire. Treibacher's imports of refined product from China were equivalent to *** percent of its production in 2000, 2001, 2002, and January-June 2003, respectively.

[13] In addition to the U.S. and Chinese operations, Treibacher has RBAO production facilities located in Domodossola, Italy (Treibacher Schleifmittel, S.p.A) and Ruse, Slovenia (Treibacher Schleifmittel, d.o.o.). With the exception of a purchase from ***. *See,* letter from Roger B. Schagrin, Schagrin Associates, to James McClure, U.S. International Trade Commission, October 1, 2003.

[14] The Newell facility originally started in the late 1980s as a joint venture operation of Frankenshulte, a minerals trading company, and Allied Mineral Products (Allied) of Columbus, OH, which is presently an importer of subject product. According to Allied, the facility's mission was "to crush, screen, package, and market refractory materials." In November 1999, the operation was sold to C-E Minerals, as Allied began sourcing product from China. *See,* testimony of Thomas E. Gibson, VP of Corporate Development, Allied, pp. 150-153.

Treibacher's worldwide operations, C-E Minerals had been a "major importer" of RBAO from China and did not produce the product domestically.[15] As part of the post-acquisition business plans, the decision was made to cease C-E Minerals' imports of RBAO into the United States which were in competition with Treibacher's production.[16]

Subsequently, C-E Minerals made a minimal investment, approximately a "twentieth" of Treibacher's investment in its Niagara Falls operations, to produce three or four grades of RBAO grain for a few refractory customers.[17] By comparison, Washington Mills and Treibacher produce "hundreds of different sizes of brown aluminum oxide."[18] During 2002, when it ceased importation from China and began domestic production, C-E Minerals accounted for *** percent of reported U.S. production of RBAO.

Great Lakes Minerals, LLC (Great Lakes), was formed in March 1999 as a joint venture owned by ALCOA World Chemicals (***), PE Materials (***), and PR Minerals (***), with production facilities located in Wurtland, KY.[19] On May 31, 2003, Alcoa World Chemicals sold its interest to ***. *** percent interest in Great Lakes.[20] Great Lakes' plant was designed to ***.[21] *** of Great Lakes' purchases for further processing are imported from China.[22] As a share of total reported imports from China, Great Lakes' imports amounted to *** percent for 2000, 2001, 2002, and January-June, respectively. Great Lakes accounted for *** percent of reported U.S. RBAO production in 2002. Its shipments of imports of RBAO from China were equivalent to *** percent of its U.S.-produced commercial shipments in 2000, 2001, 2002, and January-June 2003.

For purposes of the preliminary phase of the investigation, the Commission concluded that appropriate circumstances existed to exclude Great Lakes from the definition of the domestic industry and stated its intention "to reexamine the question of whether appropriate circumstances exist to exclude Great Lakes Minerals in any final phase investigation."[23] [24] [25] Subsequent to the filing of the petition,

---

[15] Conference transcript, p. 17. As a share of total reported imports from China, C-E Minerals' imports amounted to *** percent for 2000 and 2001, respectively. In 2002, C-E Minerals ceased its importing activities when it began U.S. production operations.

[16] Id.

[17] Id., pp. 17-18. C-E Minerals began production in June 2002 with ***. C-E Minerals producer questionnaire. From 1999 to 2001, C-E Minerals ***. C-E Minerals importer questionnaire. As a producer, C-E Minerals has sourced ***. *See,* letter from Roger B. Schagrin, Schagrin Associates, to James McClure, U.S. International Trade Commission, October 1, 2003.

[18] Id., p. 18. According to Berndt Durstberger, CEO, Treibacher, and COO, C-E Minerals: "This recent change in C-E's business plan has probably had a short-term impact on Chinese imports of grain. However, there is no question in my mind that with the huge excess capacity in China to produce brown aluminum oxide grain and their ridiculously low prices other importers will quickly rush to fill in this void."

[19] In the final phase of the investigation, Great Lakes has indicated that it ***. In the preliminary phase of investigation, Great Lakes ***.

[20] *See,* letter from Barbara A. Murphy, Adduci, Mastriani, & Schaumberg, LLP, to Marilyn R Abbott, Secretary, U.S. International Trade Commission, October 1, 2003.

[21] Great Lakes' producer questionnaire. In 2002, ***.

[22] Great Lakes has ***. *See,* letter from Barbara A. Murphy, Adduci, Mastriani, & Schaumberg, LLP, to Marilyn R Abbott, Secretary, U.S. International Trade Commission, October 1, 2003.

[23] *Refined Brown Aluminum Oxide from China*, Inv. No. 731-TA-1022 (Preliminary), USITC Pub. 3572, Jan. 2003, p. 7 and table C-2.

[24] Table C-2 presents summary data with Great Lakes' producer data excluded.

[25] In their prehearing brief, petitioners argued that the Commission "should again" determine to exclude Great Lakes from the domestic industry, stating:

(continued...)

Great Lakes' imports of "subject product" ***, as it *** importing ***[26] during January-June 2003. In response to questions from the Commission staff asking for an explanation of the *** and inquiring as to whether it was importing *** from China, Great Lakes offered the following: "***"[27]

Detroit Abrasives is located in Owosso, MI. It purchases crude brown aluminum oxide from Canada and China, then crushes it and sieves it into RBAO as a final product.[28] In 2002, Detroit Abrasives accounted for *** percent of domestic RBAO production.

3M produced RBAO for its own use at a plant in, St. Paul, MN, using crude product primarily imported from Washington Mills in Canada until June 2002, when it closed the facility "because it was too small and outdated to be competitive."[29] Following the plant's closure, 3M's Coated Abrasives Division entered into a long-term RBAO supply agreement with Washington Mills. According to 3M, the RBAO it now sources from Washington Mills is refined in the United States from crude product imported from Canada and China by Washington Mills.[30] [31]

---

[25] (...continued)

"The questionnaire responses confirm that Great Lakes is essentially an importer. A refractories end user indicates it ***.'

"Inclusion of Great Lakes data would have a distortive effect on the aggregate domestic industry data. The sales volume and financial results for Great Lakes continue to 'reflect ***.' The Commission properly observed that 'Great Lakes ***.'

"For all the above reasons, the Commission should again determine to exclude Great Lakes from the domestic industry."

See petitioners' prehearing brief, pp. 12. 13.

In their posthearing brief, respondents argued that Great Lakes' data should be treated as that of a domestic producer, basing a good deal of their argument on an analysis of six factors the Commission "traditionally" takes into account in determining whether a producer engages in sufficient production of the like product under consideration to qualify as a domestic producer. In so doing, respondents compared the responses of *** and concluded that the analysis "reveals that Great Lakes qualifies as a domestic producer under these traditional six factors at least as well, and sometimes better than, producers that the Commission has already accepted as part of the U.S. industry. *See,* respondents' posthearing brief, exh. 1, pp. 6-11.

See, Part VI of this report, *Financial Experience of U.S. Producers,* for a presentation of domestic value added by each of the U.S. producers (page VI-6, table VI-5).

[26] ***.

[27] See, letter from Richard M. Silvestri, Manager, Great Lakes Minerals, LLC, to James McClure, U.S. International Trade Commission, August 26, 2003. With respect to its imports of ***, Great Lakes reported that it "***." *See,* letter from V. James Adduci II, Adduci, Mastriani, & Schaumberg, LLP, counsel to Great Lakes, to James McClure, U.S. International Trade Commission, September 5, 2003. Great Lakes' imports of subject RBAO during January-June 2003 were *** during January-June 2002. Its imports of ***. *See,* letter from Barbara A. Murphy, Adduci, Mastriani, & Schaumberg, LLP, counsel to Great Lakes, to Jim McClure, U.S. International Trade Commission, October 3, 2003.

[28] Detroit Abrasives ***. ***. In 2002, ***. Detroit Abrasives' producer questionnaire.

[29] *See,* prehearing brief of 3M, p. 2 and staff interview with ***.

[30] Id.

[31] 3M provided ***.

Data provided by U.S. producers with respect to production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators are provided in table III-1.[32]

[32] In their prehearing brief and at the hearing in this investigation, respondents expressed concern that certain products marketed by U.S. producers which are "out of scope merchandise" (i.e., 3/4 x 3/8) were included in the data submitted by U.S. producers and "must be removed from the data submitted by the domestic industry to the Commission." *See,* respondents' prehearing brief, p. 10, and testimony of Lisa A. Murray, Baker & McKenzie, hearing transcript, p. 202. In response to the Commission's request for data on sales of refined product above 3/8 inch included in data submitted to the Commission, C-E Minerals, Treibacher, and Washington provided data that indicates sales of product above 3/8 inch accounted for *** percent of their sales in 2000, 2001, 2002, and January-June 2003, respectively. *See*, petitioners' posthearing brief, p. 1 and exh.1. Great Lakes reported that it "***." *See,* letter from Barbara A. Murphy, Adduci, Mastriani, & Schaumberg, LLP, to Marilyn R Abbott, Secretary, U.S. International Trade Commission, October 1, 2003. Finally, Detroit Abrasives reported that it produces ***.

Table III-1
RBAO: U.S. production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 2000-2002, January-June 2002, and January-June 2003

Item	Calendar year			January-June	
	2000	2001	2002	2002	2003
Capacity (*short tons*)	217,400	217,400	246,600	112,900	133,700
Production (*short tons*)	123,918	113,396	110,074	46,468	64,297
Capacity utilization (*percent*)	57.0	52.2	44.6	41.2	48.1
U.S. shipments:[1]					
Quantity (*short tons*)	110,414	96,434	109,808	49,657	59,272
Value (*1,000 dollars*)	51,543	46,506	48,019	22,733	24,796
Unit value (*per short ton*)	466.82	482.26	437.30	457.80	418.34
Exports:					
Quantity (*short tons*)	***	***	***	***	***
Value (*1,000 dollars*)	***	***	***	***	***
Unit value (*per short ton*)	***	***	***	***	***
Total shipments:					
Quantity (*short tons*)	***	***	***	***	***
Value (*1,000 dollars*)	***	***	***	***	***
Unit value (*per short ton*)	***	***	***	***	***
Inventories (*short tons*)	41,923	53,811	47,322	47,245	48,055
Ratio of inventories to total shipments (*percent*)	***	***	***	***	***
Production and related workers (PRWs)	186	168	168	168	166
Hours worked by PRWs (*1,000 hours*)	388	354	332	162	171
Wages paid to PRWs (*1,000 dollars*)	7,618	6,846	6,187	3,200	3,462
Hourly wages	$19.63	$19.34	$18.64	$19.75	$20.25
Productivity (*tons per 1,000 hours*)	319.4	320.3	331.5	286.8	376.0
Unit labor costs (*per short ton*)	$61.48	$60.37	$56.21	$68.86	$53.84

[1] Captive shipments amounted to *** percent of total reported U.S. shipments in 2000, 2001, 2002, and January-June 2003, respectively.

Note.–Because of rounding, figures may not add to the totals shown. Inventory/production/shipment data do not reconcile because of ***.

Source: Compiled from data submitted in response to Commission questionnaires.

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

Fourteen firms, believed to account for virtually all imports of RBAO from China, provided trade data to the Commission. As noted earlier in this report, each of the five U.S. producers of RBAO imported the subject product from China during all or part of the period examined in this investigation. U.S. producers Great Lakes and C-E Minerals were *** during the period, accounting for *** percent and *** percent, respectively, of reported imports from China in 2000 through June 2003. Great Lakes imported ***, while C-E Minerals ceased importation in 2002 when it began its U.S. production operations in Newell, WV.[1] In 2002, petitioners Washington Mills and Treibacher accounted for *** percent and *** percent, respectively, of total reported imports from China.[2]

Aside from the producers, nine other firms reported imports of subject product, with three who are parties to the investigation (Allied of Columbus, OH; Cometals of Fort Lee, NJ; and Saint-Gobain of Worcester, MA) accounting for the major portion of those imports.[3] Other companies providing import data are ***; Dauber Co., of Tonica, IL; ***; and Golden Dynamic of Gahanna, OH.[4]

U.S. IMPORTS

Table IV-1 presents data on U.S. imports of RBAO based on importer questionnaire responses for China and official statistics of Commerce for other sources. Importer questionnaire responses have been used for China with the view that they convey a more complete representation of the volume of imports from China than official statistics. During the preliminary phase of the investigation, the Commission became aware that in some instances certain of the imports of subject product were entered under HTS subheading 2818.10.10 (the subheading for crude product) rather than the correct HTS subheading (2818.10.20) for refined product. Insofar as imports from other sources, other than imports from Canada and possibly Brazil, the imports are believed to be predominately, if not totally, white and pink refined product (not included in this investigation). Consequently, imports from "other sources" represent imports from Canada and Brazil only. To the extent white and pink product (in particular from Brazil) are included in the official statistics for those countries, imports of RBAO brown product from other sources are overstated.

---

[1] As noted earlier in this report, C-E Minerals is a sister company of Treibacher, ***, with 100 percent common ownership. Prior to Imerys' July 2000 acquisition of Treibacher's worldwide operations, C-E Minerals had been a "major importer" of RBAO from China. As part of that acquisition, the decision was made to cease C-E Minerals' imports of RBAO into the United States, which were in competition with Treibacher's production. Conference transcript, p. 17.

[2] Treibacher and Washington Mills were the *** and *** largest importers, respectively, of subject product during the period examined. The other U.S. producer, Detroit Abrasives, reported *** tons of subject product imports during the period.

[3] Allied is independently owned and ***. Cometals is a division of the Commercial Metals Co., and generally sells into the refractories market. *See,* testimony of Dennis Gates, VP, Cometals, hearing transcript, pp. 172-177. Saint-Gobain is owned by the French multinational, Companie de Saint-Gobain, that also owns Chinese producer Zhengzhou Saint-Gobain White Dove Ceramic Materials Co., Ltd. Saint-Gobain sells to related companies and unrelated customers in the abrasives (bonded, coated, and general industrial applications) end use and distributor markets. *See,* testimony of Kelleen Loewen, Market Manager, Abrasives, Saint-Gobain, hearing transcript, p. 168.

[4] ***.

Table IV-1
RBAO: U.S. imports, by sources, 2000-2002, January-June 2002, and January-June 2003

Source	Calendar year			January-June	
	2000	2001	2002	2002	2003
			Quantity (*short tons*)		
China	68,994	80,547	57,172	24,259	22,073
Other sources[1]	52,247	28,632	9,673	5,489	3,948
Total	121,241	109,179	66,844	29,748	26,021
			Value (*1,000 dollars*)[2]		
China	19,553	20,604	14,664	6,420	6,036
Other sources[1]	20,465	11,399	5,763	3,227	2,654
Total	40,019	32,003	20,428	9,647	8,690
			Unit value (*per ton*)[2]		
China	283.41	255.80	256.50	264.66	273.48
Other sources[1]	391.70	398.14	595.83	587.81	672.16
Average	330.08	293.13	305.60	324.29	333.96
			Share of quantity (*percent*)		
China	56.9	73.8	85.5	81.5	84.8
Other sources[1]	43.1	26.2	14.5	18.5	15.2
Total	100.0	100.0	100.0	100.0	100.0
			Share of value (*percent*)		
China	48.9	64.4	71.8	66.6	69.5
Other sources[1]	51.1	35.6	28.2	33.4	30.5
Total	100.0	100.0	100.0	100.0	100.0
			Ratio of imports to U.S. production quantity (*percent*)		
China	55.7	71.0	51.9	52.2	34.3
Other sources[1]	42.2	25.2	8.8	11.8	6.1
Total	97.8	96.3	60.7	64.0	40.5

[1] Includes undetermined amounts of white and pink aluminum oxide.
[2] Landed, duty-paid.

Note.–Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires (China) and official Commerce statistics.

U. S. producers of RBAO accounted for a substantial portion of imports of the product from China, as shown in table IV-2.

Table IV-2
RBAO: Total imports from China, U.S. producers' imports from China, by firm, and U.S. producers' imports as a share of total imports from China, 2000-2002, January-June 2002, and January-June 2003

Source	Calendar year			January-June	
	2000	2001	2002	2002	2003
Total imports from China (*short tons*)	68,994	80,547	57,172	24,259	22,073
U.S. producers' imports from China (*short tons*):					
C-E Minerals	***	***	***	***	***
Detroit Abrasives	***	***	***	***	***
Great Lakes	***	***	***	***	***
Treibacher	***	***	***	***	***
Washington Mills	***	***	***	***	***
Total	***	***	***	***	***
U.S. producers' imports as a share of total imports (*percent*):					
C-E Minerals	***	***	***	***	***
Detroit Abrasives	***	***	***	***	***
Great Lakes	***	***	***	***	***
Treibacher	***	***	***	***	***
Washington Mills	***	***	***	***	***
Total	***	***	***	***	***
U.S. producers' imports as a share of total U.S. production (*percent*):					
C-E Minerals	***	***	***	***	***
Detroit Abrasives	***	***	***	***	***
Great Lakes	***	***	***	***	***
Treibacher	***	***	***	***	***
Washington Mills	***	***	***	***	***
Total	***	***	***	***	***

Note.–Numbers may not add due to rounding.

Source: Compiled from data submitted in response to Commission questionnaires.

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption are presented in table IV-3.

Table IV-3
RBAO: U.S. producers' U.S. shipments, U.S. imports, by sources, and apparent U.S. consumption, 2000-2002, January-June 2002, and January-June 2003

Item	Calendar year			January-June	
	2000	2001	2002	2002	2003
			Quantity (*short tons*)		
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. shipments of imports from–					
China (Great Lakes)	***	***	***	***	***
China (all other)	***	***	***	***	***
China (total)	66,046	71,461	68,864	40,391	28,262
Other sources[1]	52,247	28,632	9,673	5,489	3,948
Total	118,293	100,093	78,536	45,880	32,210
Apparent U.S. consumption	***	***	***	***	***
			Value (*1,000 dollars*)		
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. shipments of imports from–					
China (Great Lakes)	***	***	***	***	***
China (all other)	***	***	***	***	***
China (total)	21,796	22,456	22,057	12,772	9,939
Other sources[1]	20,465	11,399	5,763	3,227	2,654
Total	42,262	33,855	27,820	15,999	12,592
Apparent U.S. consumption	***	***	***	***	***

[1] Represents imports rather than shipments of imports, and includes undetermined amounts of white and pink aluminum oxide.

Note.–To avoid double-counting, U.S. producers' shipments exclude those of Great Lakes; data on imports from China reflect U.S. shipments of imports as reported in questionnaires.

Source: Compiled from data submitted in response to Commission questionnaires (U.S. and China) and official Commerce statistics.

U.S. MARKET SHARES

Data concerning U.S. market shares are presented in table IV-4.

Table IV-4
RBAO: Apparent U.S. consumption and market shares, 2000-2002, January-June 2002, and January-June 2003

* * * * * * *

CRITICAL CIRCUMSTANCES

As indicated in Part I, Commerce made a final finding that critical circumstances exist with respect to imports of RBAO from China. Commerce's determination was company specific only as it applied to Jinyu; otherwise Commerce applied adverse facts available for all other producers/exporters as an adverse inference that critical circumstances apply for companies that refused to cooperate with its request for information.[5] Monthly import data as supplied by U.S. importers accounting for 96.5 percent of reported imports of RBAO in 2002 are presented in the tabulation below (in short tons, from June 2002 through May 2003):

* * * * * * *

[5] 68 F.R. 55590, September 26, 2003.

PART V: PRICING AND RELATED INFORMATION[1]

FACTORS AFFECTING PRICES

Raw Material Costs

The basic raw material used in the production of RBAO is crude brown aluminum oxide. There is currently no production of crude brown aluminum oxide in the United States. Crude brown aluminum oxide is imported in loose bulk by producers with crushing capabilities who produce various types of grain. The petitioner, Washington Mills, obtains its crude brown aluminum oxide from Canada. After importation it is crushed, screened, sieved, and packaged into a final product, RBAO, at one of Washington Mills' three facilities: the North Grafton, MA facility, the Niagara Falls, NY facility, and the Tonawanda, NY facility. Four domestic RBAO producers, Detroit Abrasives, Treibacher (owned by Imerys), C.E. Minerals (owned by Imerys), and Washington Mills, import crude brown aluminum oxide for processing.

The petitioners report that crude brown aluminum oxide accounted for from 50 to 60 percent of the cost of RBAO.[2] In contrast, 3M, which closed its small RBAO production in 2001, reported that crude brown aluminum oxide accounted for 70 to 80 percent of the cost of RBAO.[3]

U.S. Inland Transportation Costs and Geographic Markets

Three out of four producers and three of the eight responding importers sell RBAO throughout the entire United States, with a few firms reporting that their sales were concentrated in the Mideast or Midwest regions. Lead times vary from 1 to 2 days to 3 to 4 months. All four responding U.S. producers and four out of seven importers reported delivery times of between 1 and 7 days. The other three importers reported lead times from 70 to 120 days.[4]

Transportation costs of RBAO for delivery within the United States vary from firm to firm but tend to account for a relatively small percentage of the total cost of the product. For U.S. producers, these costs accounted for between 2 and 10 percent of the total cost of RBAO, with a simple average of approximately 6 percent. For the importers who provided usable responses to this question, these costs accounted for between 2 and 14 percent of the total cost of the product, with a simple average of approximately 11 percent.

Responses were mixed from U.S. producers and importers with regard to whether RBAO is sold on an f.o.b. or delivered basis. All producers reported that they sold the RBAO on an f.o.b. plant or warehouse basis, with all but one indicating that transportation was arranged by the producer. Importers were more varied; three out of six reported sales on an f.o.b. plant or warehouse basis, two reported selling both f.o.b. and delivered, and one reported selling c.i.f. port. Four out of the seven responding

---

[1] In Part V of this report, U.S. producers' responses to the importers' questionnaires are not included in the importers' responses and ***. Each of the U.S. producers provided identical responses to both the producers' and the importers' questionnaires. Therefore to obtain the responses of all importers (including the U.S. producers), the producers' and importers' answers can be combined. Note that appendix D contains pricing tables with Great Lakes as a producer and out altogether.

[2] *See* testimony of Peter Williams, President, Washington Mills, hearing transcript, pp. 88-89 and Bernd Durstberger, CEO, Treibacher, COO, C-E Minerals, hearing transcript, p. 90.

[3] Prehearing brief of 3M, pp. 2-3.

[4] One of these importers reported that warehouse sales took 1 to 2 weeks while product shipped from China took 77 to 84 days.

importers reported arranging transportation to their customers, the other three reported that the purchasers arranged transportation.

Firms were also requested to provide estimates of the percentages of their shipments that were made within specified distance ranges. One U.S. producer reported that it shipped the majority of its product within 100 miles of its plant and the other three reported shipping the majority of their product between 101 and 1,000 miles of their plant. For the importers that provided usable responses to this question, one shipped the majority of its product less than 100 miles, five reported shipping the majority of their product between 101 and 1,000 miles, and one shipped the majority of its product more than 1,000 miles.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Chinese yuan is pegged to the U.S. dollar and, thus, remained essentially unchanged (relative to the U.S. dollar) from January 2000 through June 2003. Real values for the Chinese yuan cannot be calculated due to the unavailability of the relevant Chinese producer price information.

PRICING PRACTICES

Pricing Methods

Three U.S. producers reported how they sold RBAO, with two reporting selling most of their RBAO on contract, and the other reported selling half on contract and half on a spot basis. The importer responses were more varied with four out of the seven responding importers reporting selling the majority of their product on contract, while the other three importers reported selling all their product on a spot basis. Three out of four producers price RBAO on a case-by-case basis and the remaining producer uses a price list. Three of the seven responding importers reported customer by customer prices, two reported market prices, one reported contract prices, and one reported price list and contracts. The three responding producers all reported that contracts were for 1 year. One producer reported that price was fixed during the contract, one reported both price and quantity were fixed, and the other reported sometimes price was fixed, sometimes quantity was fixed, and sometimes both were fixed. No producer reported a meet-or- release clause in their contracts and only one of the three responding producers had a standard quantity requirement. Importers' contracts varied between contracts for each shipment to open-ended contracts with two of the five importers reporting 1 year contracts and one reporting contracts of 1 to 3 years. Two of the five responding importers reported that both quantity and price were fixed; one reported fixed prices; one reported price was fixed for a given quantity; and one reported that contract prices were used as a guideline for pricing under contracts. Only one of the five responding importers reported having a meet-or-release provision in its contracts. Three of the four responding importers reported standard quantity requirements including pallet quantities, truck loads, and 18 to 20 metric tons.

Sales Terms and Discounts

Three of the four U.S. producers and two of the eight responding importers reported quantity discounts, three importers also reported that they offered discounts in order to be competitive, one importer reported cash discounts, and one U.S. producer and three importers reported no discount

policy.[5] All four responding U.S. producers and five of the seven importers reported selling on a net 30 basis; the other two importers sometimes sold on up to net 60 day basis.

PRICE DATA

The Commission requested quarterly data for the total quantity and f.o.b. value of four RBAO products. Data were requested for the period January 2000 through June 2003. The products for which pricing data were requested are as follows:

Product 1.–RBAO (94-97% Al_2O_3 by weight by difference) in American National Standards Institute Table 2 sizing, Grit size 80.

Product 2.--RBAO (94-97% Al_2O_3 by weight by difference) in American National Standards Institute Table 3 sizing, Grit size 60.

Product 3.–RBAO (94-97% Al_2O_3 by weight by difference) in American National Standards Institute Table 3 sizing, Grit size 220.

Product 4.--RBAO (94-97% Al_2O_3 by weight by difference), sizing 1 to 3 mm or its U.S. mesh size equivalent.

Three U.S. producers[6] and seven importers[7] provided usable pricing data for sales of the requested products in the U.S. market, although not all firms reported pricing data for all products for all quarters. The reported price data accounted for *** percent of the quantity of domestically produced commercial shipments of RBAO in 2002, and *** percent of shipments of RBAO from China in 2002.

[5] One importer reported both quantity discounts and discounts to be competitive.

[6] ***. *** also provided pricing data for its sales of RBAO in the U.S. market; these data have been included in the importer data because ***.

[7] ***.

Data on reported weighted-average prices and quantities for products 1 through 4 are presented in tables V-1 through V-4, and figure V-1.

Table V-1
RBAO: Weighted-average f.o.b. selling prices and quantities for product 1, and margins of underselling/(overselling), by quarters, January 2000-June 2003

* * * * * * *

Table V-2
RBAO: Weighted-average f.o.b. selling prices and quantities for product 2, and margins of underselling/(overselling), by quarters, January 2000-June 2003

* * * * * * *

Table V-3
RBAO: Weighted-average f.o.b. selling prices and quantities for product 3, and margins of underselling/(overselling), by quarters, January 2000-June 2003

* * * * * * *

Table V-4
RBAO: Weighted-average f.o.b. selling prices and quantities for product 4, and margins of underselling/(overselling), by quarters, January 2000-June 2003

* * * * * * *

Figure V-1
Weighted-average f.o.b. prices and total quantities for products 1 through 4, by countries and by quarters, January 2000-June 2003

* * * * * * *

Price Trends and Comparisons

During the period for which data were collected, prices for both domestic and Chinese RBAO generally declined, although the price of Chinese product 4 increased. Price comparisons, number of quarters of over/underselling and average margins of over/underselling are in tables V-5 and V-6.

Table V-5
RBAO: Summary of weighted-average f.o.b. prices for products 1 through 4, by countries

Country	Number of quarters	Highest price	Lowest price	Change in price
		Per pound	*Per pound*	*Percent*
	Product 1			
United States	14	$***	$***	-8.5
China	14	***	***	-7.6
	Product 2			
United States	14	***	***	-7.5
China	14	***	***	-27.8
	Product 3			
United States	14	***	***	-14.1
China	14	***	***	-0.6
	Product 4			
United States	14	***	***	-37.0
China	14	***	***	+10.9

Source: Compiled from data submitted in response to Commission questionnaires.

Table V-6
RBAO: Summary of Chinese underselling/overselling, by year

	Number of quarters of underselling	Number of quarters of overselling	Simple average margin of underselling/ (overselling)	Weighted average margin of underselling/ (overselling)
2000	15	1	20.5	32.2
2001	16	0	22.7	31.1
2002	14	2	18.4	21.2
2003 (January-June)	7	1	12.0	10.9
Total	52	4	19.3	25.6

Source: Compiled from data submitted in response to Commission questionnaires.

LOST SALES AND LOST REVENUES

The petition contained information on 22 allegations of lost sales due to imports of RBAO from China. The final producer questionnaires included 36 additional lost sales allegations and 22 lost revenue allegations. The 58 reported allegations of lost sales totaled between $*** and involved *** short tons of RBAO. The 22 lost revenue allegations totaled $*** and involved *** short tons of RBAO. The lost sales and lost revenue allegations are reported in tables V-7 and V-8 and additional information provided by purchasers follows.[8]

Table V-7
RBAO: Lost sales allegations as reported by U.S. producers

* * * * * * *

Lost Sales

* * * * * * *

Table V-8
RBAO: Lost revenue allegations as reported by U.S. producers

* * * * * * *

Lost Revenues

* * * * * * *

[8] Petitioners also alleged lost sales to purchasers ***, but did not provide requisite quantity and/or price data.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Five producers, which together accounted for all known U.S. commercial shipments and internal consumption and/or transfers to related companies of RBAO, supplied financial data on their RBAO operations during the period examined.[1] Only two producers (***) reported transfers of RBAO to related firms (approximately *** percent of 2002 total sales value).

The questionnaire data of Treibacher were verified with its company records at its corporate facilities, and the financial data of Washington Mills were reviewed with its company records at Commission offices. Their verification and office review adjustments were incorporated in this final report. ***. The financial data of Washington Mills were changed to ***.

OPERATIONS ON RBAO

The aggregate results of the U.S. producers' operations on RBAO are presented in table VI-1. While total sales volume and value decreased from 2000 to 2001, operating income actually increased for the same period due to an increase in the average sales value per short ton. From 2000 to 2001, the per-short-ton sales value increased by $10 and per-short-ton total cost (combined cost of goods sold (COGS) and SG&A expenses) decreased by $1 per short ton, resulting in an increase in the operating income by $11 per short ton in 2001. Even though both total sales volume and value increased from 2001 to 2002, operating income decreased from 2001 to 2002, mainly due to a decrease in the average unit sales value (by $45 per short ton), in spite of a decrease in the average total cost by $35 per short ton.

Both total sales volume and value increased from interim 2002 to interim 2003. However, operating income in interim 2002 turned to an operating loss in interim 2003. The per-short-ton net sales value decreased substantially from interim 2002 to interim 2003, by $39, whereas total cost decreased by $18, resulting in an operating loss of $10 per short ton in interim 2003, compared to an operating income of $11 per short ton in interim 2002.

[1] All producers' fiscal years end on December 31. ***.

Table VI-1
Results of operations of U.S. producers in the production of RBAO, calendal years 2000-02, January-June 2002, and January-June 2003

Item	Calendar year			January-June	
	2000	2001	2002	2002	2003
	Quantity (*short tons*)				
Commercial sales	***	***	***	***	***
Internal consumption	0	0	0	0	0
Related company transfers	***	***	***	***	***
Total net sales	121,353	105,083	117,874	53,815	63,717
	Value (*$1,000*)				
Commercial sales	***	***	***	***	***
Internal consumption	0	0	0	0	0
Related company transfers	***	***	***	***	***
Total net sales	57,626	50,947	51,837	24,976	27,056
COGS	52,491	44,981	47,081	22,397	25,675
Gross profit	5,135	5,966	4,756	2,579	1,381
SG&A expenses	4,490	4,304	4,126	1,980	2,035
Operating income (loss)	645	1,662	630	599	(654)
Interest expense	474	751	525	316	251
Other expense	221	410	615	120	263
Other income	556	549	227	48	62
Net income (loss)	506	1,050	(283)	211	(1,106)
Depreciation/amortization	952	892	1,803	710	1,113
Cash flow	1,458	1,942	1,520	921	7
	Ratio to net sales (*percent*)				
COGS	91.1	88.3	90.8	89.7	94.9
Gross profit	8.9	11.7	9.2	10.3	5.1
SG&A expenses	7.8	8.4	8.0	7.9	7.5
Operating income (loss)	1.1	3.3	1.2	2.4	(2.4)
	Number of firms reporting				
Operating losses	2	1	1	2	2
Data	4	4	5	5	5

Table continued on next page.

Table VI-1--*Continued*
Results of operations of U.S. producers in the production of RBAO, calendar years 2000-02, January-June 2002, and January-June 2003

Item	Calendar year			January-June	
	2000	2001	2002	2002	2003
	Unit value (*per short ton*)				
Net sales	$475	$485	$440	$464	$425
COGS	433	428	399	416	403
Gross profit	42	57	40	48	22
SG&A expenses	37	41	35	37	32
Operating income (loss)	5	16	5	11	(10)
Source: Compiled from data submitted in response to Commission questionnaires.					

The results of operations by individual firms are presented in table VI-2. The table presents selected financial data on a company-by-company basis for net sales (quantity and value), operating income/(loss), and the ratio of operating income/(loss) to net sales value. *** experienced operating income for the entire period since the company began operations in June 2002, while *** had operating losses for the entire period. Per-short-ton sales values differed substantially among producers, for instance ranging from *** in interim 2003. ***.[2] ***.

Table VI-2
Results of operations of U.S. producers, by firms, in the production of RBAO, calendar years 2000-02, January-June 2002, and January-June 2003

* * * * * * *

Selected aggregate per-short-ton cost data of the producers on their operations, i.e., COGS and SG&A expenses, are presented in table VI-3. Total cost per short ton decreased overall over the period, except for an increase in SG&A expenses in 2001.

[2] ***.

Table VI-3
Per-short-ton costs of U.S. producers in the production of RBAO, calendar years 2000-02, January-June 2002, and January-June 2003

Item	Calendar year			January-June	
	2000	2001	2002	2002	2003
COGS:					
Raw materials	$273	$248	$241	$249	$256
Direct labor	40	40	36	42	37
Factory overhead	119	140	122	125	110
Total COGS	433	428	399	416	403
SG&A expenses:					
Selling expenses	11	12	10	12	11
G&A expenses	26	29	25	25	21
Total SG&A expenses	37	41	35	37	32
Total cost	470	469	434	453	435

Source: Compiled from data submitted in response to Commission questionnaires.

A variance analysis showing the effects of prices and volume on the producers' sales of RBAO, and of costs and volume on their total cost, is shown in table VI-4. The analysis is summarized at the bottom of the table. The analysis indicates that the decrease in operating income ($15,000) between 2000 and 2002 was attributable mainly to the negative effects of decreased price ($4.137 million) and lower sales volume ($18,000), combined with the positive effect of the decreased costs and expenses ($4.14 million). A decrease in operating income between the interim periods was attributable mainly to an unfavorable price variance (a decrease in unit sales value), combined with a favorable net cost/expense variance (decreased unit costs and expenses) and a favorable sales volume variance (increased sales volume).

Table VI-4
Variance analysis of operations of U.S. producers in the production of RBAO, calendar years 2000-02, January-June 2002, and January-June 2003

Item	Between calendar years			January-June
	2000-02	2000-01	2001-02	2002-03
	Value (*$1,000*)			
Net sales:				
Price variance	(4,137)	1,047	(5,311)	(2,516)
Volume variance	(1,652)	(7,726)	6,201	4,596
Total net sales variance	(5,789)	(6,679)	890	2,080
Cost of sales:				
Cost variance	3,905	472	3,375	843
Volume variance	1,505	7,038	(5,475)	(4,121)
Total cost variance	5,410	7,510	(2,100)	(3,278)
Gross profit variance	(379)	831	(1,210)	(1,198)
SG&A expenses:				
Expense variance	235	(416)	702	309
Volume variance	129	602	(524)	(364)
Total SG&A variance	364	186	178	(55)
Operating income variance	(15)	1,017	(1,032)	(1,253)
Summarized as:				
Price variance	(4,137)	1,047	(5,311)	(2,516)
Net cost/expense variance	4,140	56	4,077	1,152
Net volume variance	(18)	(86)	202	110

Note.--Unfavorable variances are shown in parentheses; all others are favorable.
Source: Compiled from data submitted in response to Commission questionnaires.

DOMESTIC VALUE ADDED

The domestic value added by individual producers as a percent of total processing costs are presented in table VI-5. The analysis of valued-added shows two ratios: (A) a ratio of the sum of direct labor and factory overhead (conversion costs) to COGS; and (B) a ratio of conversion costs plus SG&A expenses to the sum of COGS and SG&A expenses.

Table VI-5
The domestic value added by U.S. producers, by firms, in the production of RBAO, calendar years 2000-02, January-June 2002, and January-June 2003

* * * * * * *

CAPITAL EXPENDITURES, R&D EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

U.S. producers' capital expenditures and research and development (R&D) expenses, together with the value of their fixed assets, are presented in table VI-6. Capital expenditures decreased between 2000 and 2001 (three companies, ***, spent substantial amounts on capital expenditures in 2000) and increased substantially between 2001 and 2002.[3] Capital expenditures decreased in interim 2003 from interim 2002. Capital expenditures by individual firms are presented in table VI-7.

Only two producers, ***, reported R&D expenses. Aggregated R&D expenses remained relatively the same level throughout the period. The original cost of fixed assets increased over the period, while net book value decreased over the same period except for 2002 which reflected ***.

Table VI-6
Capital expenditures, R&D expenses, and assets utilized by U.S. producers in their production of RBAO, calendar years 2000-02, January-June 2002, and January-June 2003

Item	Calendar year			January-June	
	2000	2001	2002	2002	2003
	Value (*$1,000*)				
Capital expenditures	1,382	362	8,833	8,578	320
R&D expenses	***	***	***	***	***
Productive facilities:					
Original cost	28,776	29,113	38,045	37,780	38,352
Book value	5,991	5,329	12,339	13,179	11,502

Source: Compiled from data submitted in response to Commission questionnaires.

[3] ***.

Table VI-7
Capital expenditures by U.S. producers, by firms, in their production of RBAO, calendar years 2000-02, January-June 2002, and January-June 2003

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual negative effects on their return on investment, or their growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of RBAO from China. The producers' comments are presented in appendix E.

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN CHINA

The abrasives industry in China began in the 1940s, when what became known as Grinding Wheel Factory No. 1 was started by the Japanese. During the next two decades, the industry expanded with the assistance and transfer of technology from East Germany. This expansion was a part of the Chinese government's First Five Year Program. Each new factory was given the name Grinding Wheel Factory with a sequential number. The term "Grinding Wheel Factory" was all-inclusive, and any factory could be assigned to produce one or more of the following: raw materials for bonded and coated abrasives, bonded abrasives, coated abrasives, refractories, and superabrasives. Grinding Wheel Factories No. 1 through No. 7 were established, each with its own mission and area of specialization. In addition, numerous other small manufacturers of abrasive materials were formed throughout China. Both refined and crude brown aluminum oxide are still produced by several of the Grinding Wheel Factories.[1]

According to information provided in the petition, China's level of production of brown aluminum oxide (refined and crude) in 2001 was estimated to be 550,000 to 600,000 short tons.[2] According to Chinese customs figures, China exported nearly 490,000 short tons of fused alumina (85 to 90 percent is estimated to have been brown aluminum oxide (refined and crude)).[3] In 2000, the United States (28.7 percent) was the top export market for Chinese exports, followed by Japan (27.0 percent), South Korea (7.7 percent), the Netherlands (4.5 percent), and South Africa (4.3 percent). Other export destinations included Canada, India, Italy, Taiwan, and Thailand.[4]

Petitioners provided a list of known Chinese producers[5] and exporters[6] of RBAO. The producers and exporters are among the larger operations in both categories and are believed to account for most of the product exported to the United States. The Commission faxed foreign producer questionnaires to 15 producers and six exporters requesting information on the Chinese industry. Nine producers and four exporters responded to the request, and their data are presented in table VII-1.[7]

U.S. INVENTORIES OF PRODUCT FROM CHINA

Inventories of product reported by U.S. importers are presented in table VII-2.

---

[1] *www.ceramicindustry.com/CDA/ArticleInformation/coverstory/BNPCoverStoryItem,* posted August 6, 2000.

[2] Petition, exhibit 33, *Industrial Minerals,* September 2001. At the conference in this investigation, a capacity estimate of 800,000 to 1 million tons was also given. Conference transcript, p. 44.

[3] Petition, exhibit 33, *Industrial Minerals,* September 2001.

[4] Id.

[5] Petition, exhibit 5.

[6] Id., exhibit 6.

[7] Only one producer, ***, responded in the preliminary phase of the investigation. ***

Table VII-1
RBAO: China's production capacity, production, shipments, and inventories, 2000-2002, January-June 2002, January-June 2003, and projected 2003-2004

Item	Actual experience					Projections	
				January-June			
	2000	2001	2002	2002	2002	2003	2004
	Quantity (*short tons*)						
Capacity	155,809	193,879	219,027	111,116	122,429	236,857	289,564
Production	113,098	144,185	164,795	80,803	84,828	181,798	220,232
End of period inventories	23,476	17,910	20,134	20,509	19,646	18,273	19,866
Shipments: Internal consumption	2,493	5,257	4,654	2,692	2,054	3,749	4,131
Home market	64,310	88,940	94,279	46,927	44,300	83,934	108,340
Exports to-- The United States	35,286	29,801	34,173	17,905	16,263	22,075	10,882
All other markets	91,941	123,830	124,807	54,620	71,779	150,254	180,498
Total exports	127,227	153,631	158,980	72,525	88,042	172,329	191,380
Total shipments	194,030	247,828	257,913	122,144	134,396	260,012	303,851
	Ratios and shares (*percent*)						
Capacity utilization	72.6	74.4	75.2	72.7	69.3	76.8	76.1
Inventories to production	20.8	12.4	12.2	12.7	11.6	10.1	9.0
Inventories/shipments	12.1	7.2	7.8	8.4	7.3	7.0	6.5
Share of total shipments: Internal consumption	1.3	2.1	1.8	2.2	1.5	1.4	1.4
Home market	33.1	35.9	36.6	38.4	33.0	32.3	35.7
Exports to-- The United States	18.2	12.0	13.2	14.7	12.1	8.5	3.6
All other markets	47.4	50.0	48.4	44.7	53.4	57.8	59.4
All export markets	65.6	62.0	61.6	59.4	65.5	66.3	63.0

Note.–Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires.

Table VII-2
RBAO: U.S. importers' end-of-period inventories of imports, 2000-2002, January-June 2002, and January-June 2003

Item	Calendar year			January-June	
	2000	2001	2002	2002	2003
Imports from China (Great Lakes):					
Inventories (*short tons*)	***	***	***	***	***
Ratio to imports (*percent*)	***	***	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***	***	***
Imports from China (all other):					
Inventories (*short tons*)	***	***	***	***	***
Ratio to imports (*percent*)	***	***	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***	***	***
Imports from China (total):					
Inventories (*short tons*)	29,858	38,487	29,983	24,151	17,605
Ratio to imports (*percent*)	43.3	47.8	52.4	49.8	39.9
Ratio to U.S. shipments of imports (*percent*)	45.2	53.9	43.5	29.9	31.1
Imports from all other sources:					
Inventories (*short tons*)	0	0	0	0	0
Ratio to imports (*percent*)	0.0	0.0	0.0	0.0	0.0
Ratio to U.S. shipments of imports (*percent*)	0.0	0.0	0.0	0.0	0.0
Imports from all sources:					
Inventories (*short tons*)	29,858	38,487	29,983	24,151	17,605
Ratio to imports (*percent*)	42.7	47.4	52.0	49.4	39.6
Ratio to U.S. shipments of imports (*percent*)	44.6	53.3	43.2	29.8	31.0

Note.--Ratios are based on firms that provided both inventory data and import and/or shipment data. January-June ratios are based on annualized shipment data.

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. IMPORTERS' CURRENT ORDERS

One importer reported orders for approximately *** short tons of imported product to be delivered in July and August 2003. Otherwise, questionnaire respondents reported they had no imports slated for delivery after June 30, 2003.

ANTIDUMPING DUTY ORDERS IN THIRD-COUNTRY MARKETS

In October 1997, an antidumping duty order on all types of fused alumina (including RBAO) from China was put in place by the EU. The duty was a flat rate of 240 Euros per metric ton. The EU order expired in October of 2002. According to Bernd Durstberger, CEO of Treibacher, the order was somewhat ineffective. At the conference in this investigation, he stated:

> "What we had observed over these past five years was that there was a very weak enforcement occurring in Europe {during} which we saw Chinese imports continue pouring into Europe unhindered basically through falsified country of origin certificates, material coming from South Africa and Vietnam where we know there is no production. Hence, our conclusion was in order to protect the honest customers who did not cheat, the correct thing, the proper thing to do as a producer was to say the material is coming in anyhow, and we do not support an antidumping duty that protects the cheaters and hurts honest people who do not resort to buying cheaper Chinese imports, and I think our opinion was heard being the major producer in Europe was decisive."[8]

U.S. importer, Allied offered its view of Treibacher's decision, as follows: "***."[9]

In response to Allied's comments, Treibacher stated:

> "As indicated at the Commission hearing, Treibacher has no intention of marketing in the United States refractories produced in Europe. The refractories exported to the United States from Plibrico Germany and Plibrico Netherlands were shipped for repair of furnaces that were originally built in Europe whose U.S. owners wanted refractories that were the same as the original ones. Moreover, the exports from Plibrico Netherlands did not contain any brown aluminum oxide. Accordingly, the total exports to the United States of refractories with brown aluminum oxide totaled one-half ton in 2002 and zero tons in 2003."[10]

[8] Conference transcript, p. 33.

[9] Allied importer questionnaire.

[10] Petitioners' posthearing brief, p. 11, fn. 9.

APPENDIX A

FEDERAL REGISTER NOTICES

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-852]

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 Tipna 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.

[FR Doc. 03-11171 Filed 5-5-03; 8:45 am]

BILLING CODE 3510-DS-S

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1022 (Final)]

Refined Brown Aluminum Oxide From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–1022 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China of refined brown aluminum oxide, provided for in subheading 2818.10.20 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: May 6, 2003.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), Office of

[1] For purposes of this investigation, the Department of Commerce has defined the subject merchandise as "ground, pulverized or refined artificial corundum, also known as brown aluminum oxide or brown fused alumina, in grit size of ⅜ inch or less. Excluded from the scope of the investigation is crude artificial corundum in which particles with a diameter greater than ⅜ 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 ⅜ inch constitute less than 50 percent of the total weight of the batch."

Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of refined brown aluminum oxide from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on November 20, 2002, by Washington Mills Company, Inc., North Grafton, MA.[2]

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on September 10, 2003, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on September 23, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 15, 2003. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 18, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is September 17, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is September 30, 2003; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before September 30, 2003. On October 15, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before October 17, 2003, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: May 19, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–12936 Filed 5–22–03; 8:45 am]

BILLING CODE 7020–02–P

[2] On November 27, 2002, the petition was amended to include two additional petitioners, C-E Minerals, King of Prussia, PA, and Treibacher Schleifmittel Corporation, Niagara Falls, NY.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-882]

Notice of Final 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.

EFFECTIVE DATE: September 26, 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.

FINAL DETERMINATION:

We 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 735 of the Tariff Act of 1930, as amended (the Act). In addition, we determine that critical circumstances exist with respect to all PRC producers/exporters of the subject merchandise. The estimated margins of sales at LTFV are shown in the "Continuation of Suspension of Liquidation" section of this notice.

SUPPLEMENTARY INFORMATION:

Background

The preliminary determination in this investigation was published on May 6, 2003. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Refined Brown Aluminum Oxide (Otherwise known as Refined Brown Artificial Corundum or Brown Fused Alumina) from the People's Republic of China*, 68 FR 23966 (*Preliminary Determination*). Since the preliminary determination, the following events have occurred.

In July 2003, we conducted verification of the questionnaire responses of the sole participating respondent in this case, Zibo Jinyu Abrasive Co., Ltd. (Jinyu).

We gave interested parties an opportunity to comment on the preliminary determination. In August 2003, we received case and rebuttal briefs from the following parties: the petitioners, C-E Minerals, Treibacher Schleifmittel Corporation, and Washington Mills Company, Inc.; the respondent Jinyu; and interested third parties Allied Mineral Products, Inc., Cometals, a Division of Commercial Metals Co., Saint Gobain Corporation, Dauber Company, Inc., Golden Dynamic Inc., China Abrasives Import and Export Corporation, and White Dove Group Import and Export Inc. (hereinafter interested third parties). The Department held a public hearing on August 20, 2003, at the request of the petitioners and the interested third parties.

Due to the closure of the federal government on September 18-19, the deadline for this final determination is September 22, 2003.

Scope of the 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.

Period of Investigation

Pursuant to 19 CFR 351.204(b)(1), the period of investigation is April 1, 2002, through September 30, 2002, which corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, October 2002).

Nonmarket Economy Status for the PRC

The Department has treated the PRC as a nonmarket economy (NME) country in all past antidumping investigations. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form from the People's Republic of China*, 66 FR 49345, 49346 (September 27, 2001). A designation as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act. No party in this investigation has requested a revocation of the PRC's NME status. Therefore, we have continued to treat the PRC as an NME in this investigation. For further details, see *Preliminary Determination* at 23968.

Separate Rate

In our preliminary determination, we found that Jinyu had met the criteria for receiving a separate antidumping rate. We have not received any information since the preliminary determination which would warrant reconsideration of our separate-rate determination with respect to this company. Therefore, we continue to find that Jinyu should be assigned an individual dumping margin.

Surrogate Country

For purposes of the final determination, we continue to find that India is the appropriate primary surrogate country for the PRC. For further discussion and analysis regarding the surrogate country selection for the PRC, see *Preliminary Determination* at 23970.

PRC-Wide Rate and Use of Facts Otherwise Available

As discussed in the Department's *Preliminary Determination*, Jinyu was the only exporter to respond to the Department's questionnaire and to cooperate in this investigation. Therefore, we have continued to calculate a company-specific rate for Jinyu only. However, in the preliminary determination, we stated that our review of U.S. import statistics from the PRC revealed that Jinyu did not account for all imports into the United States from the PRC. For this reason, we determined that some PRC exporters of subject merchandise failed to cooperate in this

investigation and assigned to them a rate based on adverse facts available pursuant to section 776(b) of the Act. *See Preliminary Determination* at 23969. These facts have not changed since the preliminary determination. Therefore, in accordance with our standard practice, as adverse facts available, we are continuing to assign as the PRC-wide rate the higher of: (1) the highest margin listed in the notice of initiation; or (2) the margin calculated for Jinyu. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products From The People's Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying Issues and Decision Memorandum at Comment 1. For purposes of the final determination of this investigation, we are using the margin calculated for Jinyu as adverse facts available because it is higher than the margin of 131.38 percent stated in the notice of initiation.

Analysis of Comments Received

All issues raised in the case briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Decision Memorandum, which is adopted by this notice. A complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum is on file in the Central Records Unit, room B-099, of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes to the margin calculations. These changes include:

- We used the value reported in the Defense Logistics Agency FY2000 Annual Report as the surrogate value for crude brown aluminum oxide.
- Based on our verification findings, we have included an additional sale of the subject merchandise in our final determination analysis, which Jinyu had inadvertently omitted in its original reporting.
- We revised Jinyu's reported consumption of electricity by allocating electricity consumption only to the brown and white aluminum oxide production, based on our verification findings.
- We recalculated Jinyu's labor factor by allocating labor based on actual production, rather than theoretical production, based on our verification findings.
- We did not add a separate packing labor factor to our calculation of normal value to avoid double-counting because we found at verification that the reported packing labor is part of the production line labor, which is already included in the direct labor factor.

For a discussion of these changes, see the "Margin Calculations" section of the Decision Memorandum and the Decision Memorandum comments.

Critical Circumstances

In our preliminary determination, we found, pursuant to section 733(e)(1) of the Act, that there was a reasonable basis to believe or suspect that critical circumstances exist with respect to the subject merchandise from the respondent and all other producers/exporters. As discussed in detail in the preliminary determination, we first found that there is a history of dumping and material injury by reason of dumped imports. We then analyzed the import volume and value data placed on the record, in accordance with 19 CFR 351.206, and preliminarily determined that imports of the subject merchandise have been massive over the short period of time subsequent to the filing of the petition. *See Preliminary Determination* at 23971. In accordance with section 735(a)(3) of the Act, and based upon our verification of Jinyu's shipment data placed on the record, we determine that critical circumstances exist with respect to RBAO from Jinyu. We applied adverse facts available for all other producers / exporters as an adverse inference that critical circumstances apply for companies that refused to cooperate with the Department's requests for information. *See* September 18, 2003, Memorandum to File entitled *Jinyu Shipment Data Analysis for the Final Determination* and Decision Memorandum at Comments 1 and 2. Therefore, we are directing the U.S. Bureau of Customs and Border Protection (BCBP) to continue to suspend liquidation of any unliquidated entries of subject merchandise on or after the date 90 days prior to the date of publication of the preliminary determination in the Federal Register, as discussed below in the "Continuation of Suspension of Liquidation" section.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by Jinyu.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the BCBP to continue to suspend liquidation of all entries of RBAO from the PRC that are entered, or withdrawn from warehouse, for consumption on or after February 5, 2003, the date 90 days prior to the date of publication of the preliminary determination in the Federal Register, in accordance with our critical circumstances finding.

Effective on or after the date of publication of the Department's final determination, BCBP shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price or constructed export price, as appropriate, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Margin Percentage	Critical Circumstances
Zibo Jinyu Abrasive Co., Ltd.	135.18	Yes
PRC-wide Rate	135.18	Yes

The PRC-wide rate applies to all entries of the subject merchandise except for entries from Jinyu.

Disclosure

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

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the BCBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: September 22, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

Appendix Issues in the Decision Memorandum

Comments

1. Use of Adverse Facts Available for Critical Circumstances
2. Seasonal Trend for Jinyu's Shipments
3. Surrogate Value for Crude Brown Aluminum Oxide
4. Application of Verification Findings

[FR Doc. 03–24396 Filed 9–25–03; 8:45 am]

BILLING CODE 3510–DS–S

APPENDIX B

LIST OF WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Refined Brown Aluminum Oxide from China

Inv. No.: 731-TA-1022 (Final)

Date and Time: September 23, 2003 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room (room 101), 500 E Street, SW, Washington, D.C.

In Support of the Imposition
of Antidumping Duties:

Schagrin Associates
Washington, D.C.
on behalf of

C-E Minerals
Treibacher Schleifmittel Corporation
Washington Mills Company, Inc.

Peter H. Williams, President, Washington Mills Company, Inc.

Bernd Durstberger, Chief Executive Officer, Treibacher Schleifmittel Corporation; Chief Operating Officer, C-E Minerals

Fred Silver, Former President, Exolon Company, a division of Washington Mills Company, Inc.

Don McLeod, Vice President, Marketing and Sales, Washington Mills Company, Inc.

Harvey Plonsker President, AGSCO Corporation

Webb Kane, President, Midvale Industries, Inc.

In Support of the Imposition
of Antidumping Duties (continued):

Thom Bell, Vice President and Sales Manager,
Precision Finishing, Inc.

Gary Waterhouse, President, Local 4447-06, United
Steelworkers of America

Lowell (Pete) Strader, Legislative Director, PACE
International

Robert A. Blecker, Professor of Economics, American
University

Roger B. Schagrin) – OF COUNSEL

In Opposition to the Imposition
of Antidumping Duties:

Baker & McKenzie
Washington, D.C.
on behalf of

Allied Mineral Products, Inc. ("Allied")
Cometals, a division of Commercial Metals Company ("Cometals")
Saint-Gobain Corporation ("Saint-Gobain")
Dauber Company, Inc. ("Dauber")
Golden Dynamic Inc. ("Golden Dynamic")
White Dove Group Import and Export Inc. ("White Dove")
Henan Mianchi Great Wall Corundum Co., Ltd. ("Henan Mianchi")
Hainan Meida Import and Export Company Ltd. ("Hainan Meida")
China Chamber of Commerce of Metals, Minerals & Chemicals
Importers & Exporters

Thomas E. Gibson, Vice President, Corporate Development, Allied

Douglas K. Doza, Senior Vice President, Manufacturing and
Research, Allied

Dennis Gates, Vice President, Cometals

Kelleen Loewen, Market Manager, Abrasive Materials, Saint-Gobain

In Opposition to the Imposition
of Antidumping Duties (continued):

John L. Redshaw, Sales & Marketing, Dauber

Daniel W. Klett, Consultant, Capital Trade, Inc.

Chen Haoran, Chairman, China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters

Liu Zhimei, Director, Bidding Department, China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters

Liu Jianwei, Deputy Director, Legal Service, China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters

Fan Feihua, Case Handler, Legal Service, China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters

Kevin M. O'Brien)
Stuart P. Seidel) – OF COUNSEL
Lisa A. Murray)

APPENDIX C

SUMMARY DATA

Table C-1
RBAO: Summary data concerning the U.S. market, 2000-2002, January-June 2002, and January-June 2003
(Quantity=*Short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per ton*; and period changes=*percent*, except where noted)

Item	Calendar year			January-June		Period changes			
	2000	2001	2002	2002	2003	2000-2002	2000-2001	2001-2002	Jan.-June 2002-Jan.-June 2003
U.S. consumption quantity:[1] Amount	***	***	***	***	***	***	***	***	***
Producers' share[2]	***	***	***	***	***	***	***	***	***
Importers' share:[2]									
China (Great Lakes)	***	***	***	***	***	***	***	***	***
China (all other)	***	***	***	***	***	***	***	***	***
China (total)	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. consumption value: Amount	***	***	***	***	***	***	***	***	***
Producers' share[2]	***	***	***	***	***	***	***	***	***
Importers' share:[2]									
China (Great Lakes)	***	***	***	***	***	***	***	***	***
China (all other)	***	***	***	***	***	***	***	***	***
China (total)	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. shipments of imports from--									
China (Great Lakes) Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***	***	***	***
China (all other) Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***	***	***	***
China (total) Quantity	66,046	71,461	68,864	40,391	28,262	4.3	8.2	-3.6	-30.0
Value	21,796	22,456	22,057	12,772	9,939	1.2	3.0	-1.8	-22.2
Unit value	$330.02	$314.24	$320.29	$316.22	$351.67	-2.9	-4.8	1.9	11.2
Ending inventory	29,858	38,487	29,983	24,151	17,605	0.4	28.9	-22.1	-27.1
Other sources:[3] Quantity	52,247	28,632	9,673	5,489	3,948	-81.5	-45.2	-66.2	-28.1
Value	20,465	11,399	5,763	3,227	2,654	-71.8	-44.3	-49.4	-17.8
Unit value	$391.70	$398.14	$595.83	$587.81	$672.16	52.1	1.6	49.7	14.3
Ending inventory	0	0	0	0	0	(4)	(4)	(4)	(4)
All sources: Quantity	118,293	100,093	78,536	45,880	32,210	-33.6	-15.4	-21.5	-29.8
Value	42,262	33,855	27,820	15,999	12,592	-34.2	-19.9	-17.8	-21.3
Unit value	$357.26	$338.24	$354.23	$348.71	$390.95	-0.8	-5.3	4.7	12.1
Ending inventory	29,858	38,487	29,983	24,151	17,605	0.4	28.9	-22.1	-27.1

Table continued on next page.

(Quantity=*Short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per ton*; and period changes=*percent*, except where noted)

Item	Calendar year			January-June		Period changes			
	2000	2001	2002	2002	2003	2000-2002	2000-2001	2001-2002	Jan.-June 2002-Jan.-June 2003
U.S. producers'--									
Capacity quantity	217,400	217,400	246,600	112,900	133,700	13.4	0.0	13.4	18.4
Production quantity	123,918	113,396	110,074	46,468	64,297	-11.2	-8.5	-2.9	38.4
Capacity utilization[2]	57.0	52.2	44.6	41.2	48.1	-12.4	-4.8	-7.5	6.9
U.S. shipments:									
Quantity	110,414	96,434	109,808	49,657	59,272	-0.5	-12.7	13.9	19.4
Value	51,543	46,506	48,019	22,733	24,796	-6.8	-9.8	3.3	9.1
Unit value	$466.82	$482.26	$437.30	$457.80	$418.34	-6.3	3.3	-9.3	-8.6
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	41,923	53,811	47,322	47,245	48,055	12.9	28.4	-12.1	1.7
Inventories/total shipments[2]	***	***	***	***	***	***	***	***	***
Production workers	186	168	168	168	166	-9.7	-9.7	0.0	-1.2
Hours worked (*1,000 hours*)	388	354	332	162	171	-14.4	-8.8	-6.2	5.6
Wages paid (*1,000 dollars*)	7,618	6,846	6,187	3,200	3,462	-18.8	-10.1	-9.6	8.2
Hourly wages	$19.63	$19.34	$18.64	$19.75	$20.25	-5.1	-1.5	-3.6	2.5
Productivity (*tons per 1,000 hours*)	319.4	320.3	331.5	286.8	376.0	3.8	0.3	3.5	31.1
Unit labor costs	$61.48	$60.37	$56.21	$68.86	$53.84	-8.6	-1.8	-6.9	-21.8
Net sales:									
Quantity	121,353	105,083	117,874	53,815	63,717	-2.9	-13.4	12.2	18.4
Value	57,626	50,947	51,837	24,976	27,056	-10.0	-11.6	1.7	8.3
Unit value	$474.86	$484.83	$439.77	$464.11	$424.63	-7.4	2.1	-9.3	-8.5
COGS	52,491	44,981	47,081	22,397	25,675	-10.3	-14.3	4.7	14.6
Gross profit or (loss)	5,135	5,966	4,756	2,579	1,381	-7.4	16.2	-20.3	-46.5
SG&A expenses	4,490	4,304	4,126	1,980	2,035	-8.1	-4.1	-4.1	2.8
Operating income or (loss)	645	1,662	630	599	(654)	-2.3	157.7	-62.1	(5)
Capital expenditures	1,382	362	8,833	8,578	320	539.1	-73.8	2340.1	-96.3
Unit COGS	$432.55	$428.05	$399.42	$416.19	$402.95	-7.7	-1.0	-6.7	-3.2
Unit SG&A expenses	$37.00	$40.96	$35.00	$36.79	$31.94	-5.4	10.7	-14.5	-13.2
Unit operating income or (loss)	$5.32	$15.82	$5.34	$11.13	$(10.26)	0.6	197.6	-66.2	(5)
COGS/sales[2]	91.1	88.3	90.8	89.7	94.9	-0.3	-2.8	2.5	5.2
Operating income or (loss)/sales[2]	1.1	3.3	1.2	2.4	(2.4)	0.1	2.1	-2.0	-4.8

[1] To avoid double-counting, apparent consumption calculations exclude U.S. shipments of "domestic" product reported by Great Lakes.
[2] "Reported data" are in percent and "period changes" are in percentage points.
[3] U.S. imports from other sources.
[4] Not applicable.
[5] Undefined.

Note.–Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission producer and importer (China) questionnaires and official Commerce statistics.

Table C-2
RBAO: Summary data concerning the U.S. market (excluding all "domestic" data reported by Great Lakes),[1] 2000-2002, January-June 2002 and January-June 2003

(Quantity=*Short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per ton*; and period changes=*percent*, except where noted)

Item	Calendar year			January-June		Period changes			
	2000	2001	2002	2002	2003	2000-2002	2000-2001	2001-2002	Jan.-June 2002-Jan.-June 2003
U.S. consumption quantity: Amount	***	***	***	***	***	***	***	***	***
Producers' share[1]	***	***	***	***	***	***	***	***	***
Importers' share:[1]									
China (Great Lakes)	***	***	***	***	***	***	***	***	***
China (all other)	***	***	***	***	***	***	***	***	***
China (total)	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. consumption value: Amount	***	***	***	***	***	***	***	***	***
Producers' share[1]	***	***	***	***	***	***	***	***	***
Importers' share:[1]									
China (Great Lakes)	***	***	***	***	***	***	***	***	***
China (all other)	***	***	***	***	***	***	***	***	***
China (total)	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. shipments of imports from--									
China (Great Lakes)									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***	***	***	***
China (all other)									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***	***	***	***
China (total)									
Quantity	66,046	71,461	68,864	40,391	28,262	4.3	8.2	-3.6	-30.0
Value	21,796	22,456	22,057	12,772	9,939	1.2	3.0	-1.8	-22.2
Unit value	$330.02	$314.24	$320.29	$316.22	$351.67	-2.9	-4.8	1.9	11.2
Ending inventory	29,858	38,487	29,983	24,151	17,605	0.4	28.9	-22.1	-27.1
Other sources:[2]									
Quantity	52,247	28,632	9,673	5,489	3,948	-81.5	-45.2	-66.2	-28.1
Value	20,465	11,399	5,763	3,227	2,654	-71.8	-44.3	-49.4	-17.8
Unit value	$391.70	$398.14	$595.83	$587.81	$672.16	52.1	1.6	49.7	14.3
Ending inventory	0	0	0	0	0	(3)	(3)	(3)	(3)
All sources:									
Quantity	118,293	100,093	78,536	45,880	32,210	-33.6	-15.4	-21.5	-29.8
Value	42,262	33,855	27,820	15,999	12,592	-34.2	-19.9	-17.8	-21.3
Unit value	$357.26	$338.24	$354.23	$348.71	$390.95	-0.8	-5.3	4.7	12.1
Ending inventory	29,858	38,487	29,983	24,151	17,605	0.4	28.9	-22.1	-27.1

Table continued on next page.

(Quantity=*Short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per ton*; and period changes=*percent*, except where noted)

Item	Calendar year			January-June		Period changes			
	2000	2001	2002	2002	2003	2000-2002	2000-2001	2001-2002	Jan.-June 2002-Jan.-June 2003
U.S. producers'--									
Capacity quantity	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***
Capacity utilization[1]	***	***	***	***	***	***	***	***	***
U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventories/total shipments[1]	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***
Hours worked (*1,000 hours*)	***	***	***	***	***	***	***	***	***
Wages paid (*1,000 dollars*)	***	***	***	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***	***	***	***
Productivity (*tons per 1,000 hours*)	***	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***	***
Net sales:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
COGS	***	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***	***
COGS/sales[1]	***	***	***	***	***	***	***	***	***
Operating income or (loss)/sales[1]	***	***	***	***	***	***	***	***	***

[1] "Reported data" are in percent and "period changes" are in percentage points.
[2] U.S. imports from other sources.
[3] Not applicable.
[4] Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission producer and importer (China) questionnaires and official Commerce statistics.

APPENDIX D

SUPPLEMENTARY PRICE DATA

Table D-1
RBAO: Weighted-average f.o.b. selling prices and quantities for product 1, and margins of underselling/(overselling), by quarters, January 2000-June 2003 (Great Lakes as domestic)

* * * * * * *

Table D-2
RBAO: Weighted-average f.o.b. selling prices and quantities for product 4, and margins of underselling/(overselling), by quarters, January 2000-June 2003 (Great Lakes as domestic)

* * * * * * *

Table D-3
RBAO: Weighted-average f.o.b. selling prices and quantities for product 1, and margins of underselling/(overselling), by quarters, January 2000-June 2003 (Great Lakes out of price data)

* * * * * * *

Table D-4
RBAO: Weighted-average f.o.b. selling prices and quantities for product 4, and margins of underselling/(overselling), by quarters, January 2000-June 2003 (Great Lakes out of price data)

* * * * * * *

APPENDIX E

ALLEGED EFFECTS OF SUBJECT IMPORTS ON U.S. PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested U.S. producers to describe any actual or potential negative effects on their return on investment, growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of refined brown aluminum oxide from China. (Questions III-8 and III-9). Their responses are as follows:

Actual Negative Effects

C-E Minerals	***
Detroit	***
Great Lakes	***
Treibacher	***
Washington Mills	***

Anticipated Negative Effects

C-E Minerals	***
Detroit	***
Great Lakes	***
Treibacher	***
Washington Mills	***