

quantities of fines that were recycled and consumed in the production from the total quantities of fines included in the total production quantities and (2) recalculate respondents' factor usage rates using the reduced production quantities. Petitioners explain that the volume of fines recycled by BAS during the POI is not in the record of this investigation, and therefore, as facts available, the Department should subtract the volume of fines sold that was verified from the total quantity of fines produced during the POI. Alternatively, petitioners also suggest that the Department could estimate the volume of fines recycled by BAS using the percentage amount of fines recycled by Kremny in relation to its total output.

BAS and RTL contend that the Department determined in its *Final Determination* that 0–5 mm silicon metal, or fines, should be included in the production quantity because “excluding fines from the production quantity used to calculate the reported factors would overstate the factors of production.” See *Issues and Decision Memorandum*, at Comment 11. BAS and RTL argue that the Department noted: That fines were within the scope of this investigation; that it verified that BAS made sales of fines; and that these sales were not made at a very substantial discount compared to normal-sized silicon metal. See *id.* Thus, BAS and RTL argue that the Department determined that fines produced by BAS were commercial-grade silicon metal. Accordingly, BAS and RTL explain that pursuant to *Silicon Metal from Brazil*, the Department properly determined that production costs should be allocated to fines produced by BAS.

BAS and RTL also contend that recycled fines were not included in the reported production quantities for BAS, which is demonstrated by the record. BAS and RTL explain that production documents show a small amount of material added to prevent the molten metal from sticking to the slab, but this amount was not included in BAS's reported total production quantity.

#### Department's Position

We disagree with petitioners.

Petitioners' request that the Department exclude recycled fines from the production quantity is not ministerial in nature, but rather involves a methodological change. This is because if the Department were to remove recycled fines from the total production quantity of silicon metal, we would not be allocating any costs to their production. Therefore, we would, in effect, be treating recycled fines as byproducts because the Department

does not allocate costs to byproducts. This would be contrary to the Department's decision in the *Final Determination*. See *Issues and Decision Memorandum*, at Comment 11. A ministerial error is defined under 19 CFR 351.224(f) as “an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.” Petitioners' request, however, would require the Department to revisit its entire methodology for recognizing fines. Accordingly, we have not made the requested change, because it is not “ministerial” in nature.

#### Indirect Labor

Petitioners contend that the Department did not include indirect labor in the calculation of normal value for BAS in its *Final Determination*. Petitioners argue that the Department indicated that it intended to include both direct labor and indirect labor in the calculation of normal value for BAS, according to the *BAS and RTL Final Analysis Memorandum*. See *Analysis Memorandum of Bratsk Aluminum Smelter and Rual Trade Limited: Final Determination in the Less Than Fair Value Investigation of Silicon Metal from the Russian Federation*, at page 5 (February 3, 2003) (“*BAS and RTL Final Analysis Memo*”) (under the Normal Value calculation heading: “TOT LABOR = DIRLAB\_F + INDLAB\_F”). Petitioners explain that it is necessary to include indirect labor in the calculation of normal value because the surrogate-valued amount for factory overhead used by the Department does not include any amount for indirect labor. Petitioners explain that the computer program used by the Department to calculate the final margin for BAS does not include indirect labor in the calculation of normal value. Petitioners contend that the Department should include indirect labor in the calculation of normal value for BAS.

BAS and RTL contend that petitioners have identified a methodological issue regarding how to account for labor costs not directly related to production of subject merchandise under a non-market economy methodology, rather than an arithmetic or duplication error that is appropriate to address as a ministerial error. BAS and RTL explain that BAS reported, as indirect labor, the per-unit hours of personnel involved in the maintenance and servicing (e.g., cleaning, catering) of the production facilities, and involved in the handling of transportation of raw materials and

finished goods. BAS and RTL note that BAS included an allocated amount for the hours of executives, managers, and specialists who are involved indirectly in the production of silicon metal, in its reported direct labor. BAS and RTL contend that the labor cost of such personnel is normally classified as factory overhead or selling, general and administrative expenses under standard accounting principles. Accordingly, because the Department values factory overhead and general and administrative expenses using the financial statements of a surrogate company, under the non-market economy methodology, it is not necessary to include an amount for indirect labor in the Department's margin calculation, because this would double-count these labor expenses. Therefore, because BAS's reported direct labor already includes allocated amounts for indirect labor, and because indirect labor is also included in the surrogate financial information used in the margin calculation, the Department should not include additional labor hours in its margin calculation.

#### Department's Position

We agree with petitioners. We inadvertently excluded indirect labor in the calculation of normal value for BAS in the *Final Determination*. As BAS explained above, its reported indirect labor consists of the per-unit hours of personnel involved in the maintenance and servicing (e.g., cleaning, catering) of the production facilities, and involved in the handling of transportation of raw materials and finished goods, and is properly classified as indirect labor. Therefore, we revised our *Final Determination*, to include BAS's reported indirect labor in BAS's margin program calculation.

#### Wood Charcoal Freight Cost

Petitioners argue that the Department incorrectly calculated the wood charcoal freight cost for BAS in its *Final Determination*. Petitioners argue that the Department calculated the wrong weighted-average distance between BAS and wood charcoal suppliers. Petitioners contend that the Department should correct its wood charcoal freight cost calculation.

BAS and RTL agree with petitioners that the Department miscalculated the weighted-average distance of BAS's wood charcoal suppliers. However, BAS and RTL disagree with petitioners' calculation of the per-unit freight cost for wood charcoal, and propose their own calculation of the per-unit freight cost for wood charcoal.