rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (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 review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: January 4, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–752 Filed 1–12–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–99–02]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: January 20, 1999 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. AA1921–188 (Review) (Prestressed Concrete Steel Wire Strand from Japan)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on February 2, 1999.)
5. Outstanding action jackets:

(1.) Document No. GC–98–061: Decision on petition of complainant Atmel for relief from final determination finding U.S. Patent No. 4,451,903 unenforceable in Inv. No. 337-TA–395 Certain EPROM, EEPROM, Flash Memory, and Flash Microcontroller Semiconductor Devices and Products Containing Same).

(2.) Document No. GC–98–068: Whether to review final initial determination finding no violation of section 337 in Inv. No. 337-TA–403 (Certain Acesulfame Potassium and Blends and Products Containing Same).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: January 11, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–850 Filed 1–11–99; 2:56 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 98–22]

Yi Heng Enterprises Development Co. and Luciano Martinez & cia S.C.S.; Suspension of Shipments

On March 4, 1998, the then-Acting Deputy Administrator of the Drug Enforcement Administration (DEA) issued two Orders to Suspend Shipment to Yi Heng Enterprises Development Company (Yi Heng) of Hong Kong, China, notifying it that DEA had ordered the suspension of two shipments of 10,000 kilograms each of potassium permanganate that were transshipped through the Port of Oakland, California on December 6 and 28, 1997, on their way to its customer Luciano Martinez y cia S.C.S. (Martinez) of Bogota, Colombia. The Orders to Suspend Shipment stated that DEA believed that the listed chemical may be diverted based on failure to notify DEA of the transshipments in violation of 21 CFR 1313.31 and on alleged diversionary practices by Martinez.

On April 7, 1998, a hearing was requested on the suspension of shipments on behalf of both Yi Heng and Martinez and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Both Yi Heng and Martinez waived the requirement set forth in 21 U.S.C. 971(c)(2) that the hearing be held within 45 days after the request for a hearing is filed, but did not waive their right to a hearing at a later date. During prehearing procedures, the issue was raised whether Martinez was entitled to participate in the hearing. In a Memorandum to Counsel, Ruling, and Order for Prehearing Statements dated May 4, 1998, Judge Bittner concluded, as will be discussed in more detail below, that Martinez is entitled to participate in a hearing on the record pursuant to 21 U.S.C. 971(c).

The hearing in this matter was scheduled to begin on August 11, 1998. However, on August 5, 1998, counsel for Martinez and Yi Heng filed a Notice of Waiver of Hearing, stating that they ''have concluded that the suspension orders can be sustained based on the absence of notice pursuant to 21 CFR 1313.12, 21 CFR 1313.21, and 21 CFR 1313.31,'' and that they therefore ''waive their right to a hearing on the suspension of shipments orders.'' On August 6, 1998, the Government filed a response to the Notice of Waiver of Hearing indicating that it did not object to the waiver of the hearing, but arguing that the issues cannot be limited to those set forth in the notice. Thereafter, on August 7, 1998, Judge Bittner issued an Order which terminated the proceedings before her and indicated that the file would be forwarded to the Deputy Administrator.

On August 11, 1998, counsel for Yi Heng and Martinez submitted a letter to Government counsel forwarding additional documents to be included in the file for consideration by the Deputy Administrator. In that letter, counsel for Yi Heng and Martinez states that ''(n)otwithstanding the fact that the proceedings before the administrative law judge have been terminated, we have not withdrawn our legal arguments set forth in our filings before the ALJ. Those legal arguments, as set forth in our prehearing conference statements are now to be submitted for review and determination by the Deputy Administrator.''

The Deputy Administrator concludes that Yi Heng and Martinez are deemed to have waived their opportunity for a hearing. After considering relevant material from the file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1313.54(c) and 1313.57.

First, the Deputy Administrator must address whether Martinez was entitled to participate in these proceedings. Pursuant to 21 U.S.C. 802(35) and 21 CFR 1310.04, potassium permanganate is a List II chemical because it is a chemical that is used in the illegal manufacturing of a controlled substance. Each regulated person who imports or exports a listed chemical is required to notify DEA of the importation or exportation not later than 15 days before the transaction is to take place. See 21 U.S.C. 971(a). A regulated person is defined in 21 U.S.C. 802(38) as ''a person who manufacturers, distributes, imports or exports a listed chemical. * * *'' DEA may order the suspension of any importation or exportation of a listed chemical pursuant to 21 U.S.C. 971(c) on the ground ''that the chemical may be diverted to the clandestine manufacture of a controlled substance,'' and a regulated person to whom an order to

suspend shipment applies is entitled to a hearing.

In addition, the regulations implementing these provisions of the law also require advance notification to DEA if a listed chemical meeting certain criteria is ''transferred or transshipped within the United States for immediate exportation. * * *'' See 21 CFR 1313.31. While transshipment is not defined, the regulations do define ''chemical export'' as ''transferring ownership or control, or the sending or taking of threshold quantities of listed chemical out of the United States * * *'' and ''chemical exporter'' as ''a regulated person who, as the principal party in interest in the export transaction, has the power and responsibility for determining and controlling the sending of the listed chemical out of the United States.'' See 21 CFR 1300.02(b)(5) and (6). Further, 21 CFR 1300.02(b)(7) and (8) define ''chemical import'' as ''any bringing in or introduction of such listed chemical into either the jurisdiction of the United States or into the Customs Territory of the United States * * *'' and ''chemical importer'' as ''a regulated person who, as the principal party in interest in the import transaction, has the power and responsibility for determining and controlling the bringing in or introduction of the listed chemical into the United States.''

In its prehearing filings, the Government essentially argued that Yi Heng imported the potassium permanganate into the United States for transshipment to Colombia and therefore is the ''regulated person'' to whom the order of suspension applies and as a result is the only one entitled to participate in these proceedings. Yi Heng and Martinez asserted that Martinez purchased the potassium permanganate from Yi Heng F.O.B. Huangpu, China which means that Martinez assumed title to, the obligation to pay transportation charges for, and the risk of loss of the goods when Yi Heng delivered the potassium permanganate to the carrier.

Judge Bittner noted that all parties seem to be in agreement that Yi Heng is entitled to participate in these proceedings, but that ''the statute does not specify that only one party in a transaction is entitled to a hearing. Furthermore, the statute provides the opportunity for a hearing to 'a regulated person to whom an order (suspending shipment) applies,' not necessarily the person to whom the order was issued.'' Thus Judge Bittner concluded and the Deputy Administrator agrees that if the title to the potassium permanganate passed to Martinez before the chemical entered the United States, then Martinez is the principal party in interest. There is no evidence in the file to refute the position of Yi Heng and Martinez that the title passed to Martinez when the goods were given to the carrier in China. Therefore, Martinez should be considered an importer of the potassium permanganate into the United States and an exporter of the chemical from the United States, and as such is a regulated person. As a regulated person to whom the suspension order applies, Martinez is entitled to participate in these proceedings pursuant to 21 U.S.C. 971(c).

The Deputy Administrator finds that based upon the assertions of Yi Heng and Martinez in their Notice of Waiver of Hearing, it is undisputed that no advance notification of the December 6 and 28, 1997 shipments of potassium permanganate was provided to DEA as required by the regulations, and that this provides a basis for the suspension of these shipments. In its August 11, 1998 letter to Government counsel, counsel for Yi Heng and Martinez indicate that they have not withdrawn their legal arguments set forth in their filings before Judge Bittner. However, all but one of Yi Heng and Martinez' arguments relate to whether advance notice was required and whether the suspensions and seizures of the shipments of the potassium permanganate were proper. In its Notice of Waiver of Hearing, Yi Heng and Martinez concede that ''the suspension orders can be sustained based on the absence of notice.'' In other words, Yi Heng and Martinez concede that advance notice of the shipments was required and that the failure to provide such notice is a basis for the suspension of the shipments. Therefore, the Deputy Administrator finds it unnecessary to address the earlier arguments of Yi Heng and Martinez.

However, counsel for Yi Heng and Martinez does raise the argument in its August 11, 1998 letter that all evidence regarding the activities of Martinez' customers is irrelevant and should not be considered in rendering a decision in this matter. Specifically, counsel argues that 21 CFR 1316.59 provides *inter alia* that only relevant evidence should be considered; that Martinez engaged in a legitimate business; that there are no allegations that Martinez knew of the improper conduct of its customers; that Martinez cannot be held responsible for the bad acts of its customers; and that Martinez has no control over potassium permanganate once it is sold to its customers. The Deputy Administrator disagrees with Yi Heng and Martinez and finds that evidence relating to the activities of Martinez' customers is relevant. In order to suspend a shipment, the Deputy Administrator must find that the chemical at issue may be diverted to the clandestine manufacture of a controlled substance. The prior conduct of Martinez' customers regarding potassium permanganate is clearly relevant in determining whether the shipments may be diverted.

After reviewing the file in this matter, the Deputy Administrator finds that there is ample evidence that these chemicals may be diverted to the clandestine manufacture of a controlled substance. Information in the file indicates that one customer purchases 50% of all of Martinez' sales of potassium permanganate. A review of that customer's sales invoices for October 1 through December 31, 1997, revealed that the company made numerous sales of potassium permanganate to individuals with non-existent addresses. In addition, the company sold large quantities of potassium permanganate to customers that did not have chemical permits authorizing them to purchase more than 5 kilograms or 5 liters of the chemical at a time. When told to stop this practice, the company told its customers to gather identification from their employees. The company then used this information for its records to indicate sales of potassium permanganate to individuals in quantities less than 5 kilograms where no permit would be required. There is also information in the file that another of Martinez' customers employed this same practice.

The Deputy Administrator also finds that a review of the file in this matter revealed that Martinez sold 1,000 kilograms of potassium permanganate to a company that had gone out of business approximately two years before the sale, and that it sold the chemical to another company at an address that had been abandoned for at least seven months before the sale.

The Deputy Administrator further finds that the suspension orders specifically noted that in 1993 the Colombian National Police seized Martinez' stock of potassium permanganate for exceeding its import quota in violation of Colombian law. However, the Deputy Administrator finds that there is evidence in the file that this seizure was based upon an importation of 17,500 kilograms of the chemical. Martinez had received authorization to import 16,000 kilograms. Information in the file indicates that the chemicals were in a sealed drum on its way to Martinez when it realized that the shipment

exceeded its import quota, and it sought authorization for the other 1,500 kilograms. Martinez was cleared by the Colombian government of any wrongdoing in this matter.

The Deputy Administrator finds it significant that at the time of the December 6 and 28, 1997 shipments to Martinez the United States had decertified the Government of Colombia after a determination was made by the President of the United States that the controls utilized by the Government of Colombia to prevent the processing and trafficking of illicit drugs were inadequate. This caused DEA to issue a policy statement indicating that a heightened review process would be used for shipments of listed chemicals to Colombia. See 61 FR 13,759 (1996).

Pursuant to 21 U.S.C. 971(c), and the delegation of authority found in 28 CFR 0.100(b) and 0.104, the Deputy Administrator may ''order the suspension of any importation or exportation of a listed chemical * * * on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance.'' The Deputy Administrator concludes that there is substantial evidence to support the conclusion that these shipments of potassium permanganate may be diverted to the clandestine manufacture of a controlled substance. No advance notification of the shipments was provided to DEA as required by 21 CFR 1313.31 Yi Heng and Martinez have conceded that advance notification was required and that the suspension of the shipments can be sustained based upon the failure to file such notification. In addition, there is evidence in the file that both Martinez and its customers have improperly sold potassium permanganate in the past. Finally, the decertification of the Government of Colombia at the time of the shipments leads to the conclusion that this shipment of a list chemical may be diverted to the clandestine manufacture of a controlled substance.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 971 and 28 CFR 0.100(b) and 0.104, hereby order that the proposed transshipments described above, be, and they hereby are, suspended, and that these proceedings are hereby concluded. This final order is effective immediately.

Dated: January 6, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–687 Filed 1–12–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board Meeting

TIME AND DATE: 8:30 a.m. to 5:00 p.m. on Monday, February 8, 1999 and 8:00 a.m. to 12 noon on Tuesday, February 9, 1999.

PLACE: Westin Fairfax Hotel, 2100 Massachusetts Avenue N.W., Washington, DC 20008.

STATUS: Open.

MATTERS TO BE CONSIDERED: Updates on Strategic Planning and Interstate Compact Activities and Program Division Reports.

CONTACT PERSON FOR MORE INFORMATION: Larry Solomon, Deputy Director, 202–307–3106, ext. 155.

Morris L. Thigpen,

Director.

[FR Doc. 99–721 Filed 1–12–99; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act. NACOSH will hold a meeting on February 10 and 11, 1999, in Room N3437 A–D of the Department of Labor Building located at 200 Constitution Avenue NW, Washington, D.C. The meeting is open to the public and will begin at 2:00 p.m. lasting until approximately 5:30 p.m. the first day, February 10. On February 11, the meeting will begin at 8:30 a.m. and last until approximately 4:00 p.m.

During its last meeting November 9–10, NACOSH decided that one of its areas of activity over the next two years should be to study OSHA's standard-setting and regulatory process. The Committee plans to examine and discuss the different models available to the agency for promulgating standards and regulations, including the full 6(b) process, negotiated rulemaking, and the use of standards advisory committees. NACOSH will also examine the use of voluntary consensus standards and guidelines in the standard setting process; models used in other jurisdictions; and the role of professional organizations in the process. The Committee will focus on specific standards to inform its discussions. Methylene chloride will be used as an example of the 6(b) process, steel erection as an example of negotiated rulemaking, and metal working fluids as an example of the standards advisory committee model. NACOSH will invite key players who were or are involved in each of these regulatory areas to make presentations at upcoming meetings. These include representatives from industry and labor, employers, involved health and safety professionals; and others, as well as the involved government officials from OSHA and NIOSH. Members of the public are invited to submit comments.

Discussion Points for Presentations on Different Models for OSHA's Regulatory Process

Presenters are asked to address the following issues/questions in their remarks.

1. How did you become involved in the process? What was the role?
2. What were the key issues in the process? (e.g., technical, economic, political feasibility; scope of the standard; nature of the regulated community)
3. What went right and what went wrong with the process? That is, what were the major obstacles and what were the strengths of the process?
4. Based on your experience and expertise, how could the process be improved? That is, how could it be done better, faster, more efficiently, less contentiously, etc.? Consider what all the different parties might contribute in this context—not just what the agency should do.
5. What advice would you give OSHA if it were to embark on another rulemaking using the same process?

The entire morning of February 11 will be devoted to this subject. Other agenda items will include: a brief overview of current activities of the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH), a brief discussion of OSHA's regulatory agenda for the coming three years, a presentation by NIOSH on the changing workforce and nature of work, workgroup reports and a committee discussion of how to structure its interest in partnerships over the coming year.