

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 111th Congress¹**

[Date approved: March 5, 2010]²

Bill No. and sponsor: S. 2105 (Mr. Carl Levin of Michigan).

Proponent name,³ location: General Motors Company, Detroit, MI.

Other bills on product (111th Congress only): None.

Nature of bill: Temporary duty reduction through December 31, 2011.

Retroactive effect: None.

Suggested article description(s) for enactment (including appropriate HTS subheading(s)):

Lithium-ion battery cells (provided for in subheading 8507.80.40), certified by the importer for use as the primary source of electrical power for electrically powered vehicles of subheading 8703.90 in which an onboard gasoline engine is used to run a generator that recharges the electric drive motor battery.

Check one: Same as that in bill as introduced.
 Different from that in bill as introduced (see Technical comments section).

Product information, including uses/applications and source(s) of imports:

Lithium-ion (li-ion) storage battery cells are one of the battery types used to power the electric motors that move electric vehicles. The cells are the principal units performing the electrochemical reactions that generate electrical energy. Secondary battery cells such as these can be discharged and recharged many times. Lithium-ion batteries are manufactured from a variety of cathodes and electrolytes. The anode (negative electrode) is typically made of graphite, but the cathode (positive electrode) chemistry varies by manufacturer, with cost, durability, performance, and safety being critical determinants in cathode selection. The electrolyte is usually a solution of a lithium salt in an organic solvent. These battery cells can be cylindrical or prismatic (rectangular) in shape.

To power a vehicle, the li-ion cells are connected together to generate the necessary voltage for power requirements and are packaged in another larger container or packed with external electrical connectors and sensors to create a larger battery pack. The configuration and structure of each battery pack reflect individual company design as well as its intended use.

The batteries covered by the proposed legislation are prismatic li-ion cells that will be assembled into an electric battery pack. The pack will be charged by a generator that is powered by an internal combustion

¹ Industry analyst preparing report: Deborah McNay (202-205-3425); Tariff Affairs contact: Jan Summers (202-205-2605).

² Access to an electronic copy of this memorandum is available at http://www.usitc.gov/tariff_affairs/congress_reports/.

³ The sponsor/proponent did not identify any additional beneficiaries of this bill.

engine. Unlike the engine in a traditional motor vehicle, the engine in these electric vehicles has no mechanical connection to the wheels. These li-ion cells are specifically designed and engineered for the vehicle, and will be imported from Korea.

Estimated effect on customs revenue for the subject product classifiable in HTS subheading 8507.80.40:

The estimated value of dutiable imports was determined by using the aggregate value of January-September 2009 imports under HTS subheading 8507.80.40⁴ that were reported as originating in Korea. This estimated value of dutiable imports may not fully or accurately reflect the actual imports of the subject product for the period 2010 through 2014. Because the subject battery is being imported for a vehicle that is not yet in volume production in the United States, the product is not believed to have been imported into the United States in any significant quantity to date. Although the proponent has provided to the Commission an estimated value of dutiable imports for the subject product, the information has been withheld because of its business confidential nature. While it may appear that enacting this bill as a duty suspension rather than a duty reduction might be appropriate, we note again that the data shown below do not include the proponent’s projected imports. Based on the confidential data, the Commission can confirm that the estimated Customs revenue loss is not expected to exceed \$500,000 annually for the period 2010 through 2014. Because the subject product is specially designed for use in a specific electric-powered vehicle, it is unclear whether other entities would import the subject product under the proposed provision.

	2010	2011	2012	2013	2014
Col. 1-General rate of duty	3.4%	3.4%	3.4%	3.4%	3.4%
Estimated value <i>dutiable</i> imports ^a	\$336,080	\$336,080	\$336,080	\$336,080	\$336,080
Customs revenue loss ^{b c}	\$639	\$639	\$639	\$639	\$639

a/ Although the proponent has provided to the Commission an estimated value of dutiable imports for this product, the information has been withheld because of its business confidential nature.

b/ At the request of Congress, customs revenue loss is provided for 5 years, although the effective period of the proposed legislation may differ.

c/ The estimated customs revenue loss is based on a temporary reduction of the general rate of duty from 3.4 percent ad valorem to 3.21 percent ad valorem, a reduction of 0.19 percentage points.

Contacts with domestic firms/organizations (including the proponent):

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
		(Yes/No)		
General Motors (Proponent) Tori Barnes, 202-775-5030	11/17/2009	No	No	No

⁴ The subheading includes storage batteries, other than lead-acid, nickel-cadmium, and nickel-iron, of a kind used as the primary source of electrical power for electrically powered vehicles of subheading 8703.90.

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
		(Yes/No)		
A123 Systems, Inc. David Vieau, Fax: 617-924-8910	11/27/2009	No	Yes	Yes
Chrysler Group LLC Kathleen Hennessey, 202-414-6707	11/25/2009	No	No	No
Enerdel Casey Butler, 317-585-3400	11/23/2009	No	No	No
Ford Motor Corporation J. T. Young, jyoun134@ford.com	11/23/2009	No	No	No
Honda of North America, Inc. Toni Harrington, toni_harrington@hna.honda.com	11/23/2009	No	No	No
Johnson Controls Mark F. Wagner, mark.f.wagner@jci.com	11/27/2009	No	No	No
Motor & Equipment Manufacturers Association Catherine Boland, cboland@MEMA.ORG	11/27/2009	No	No	No
Nissan U.S.A. Yuko Hanada, yuko.hanada@Nissan-Usa.com	11/24/2009	No	No	No
Toyota Motor Sales U.S.A., Inc. David Vennett, dvennett@tma.toyota.com	11/23/2009	No	No	No
Valence Technology, Inc. Robert L. Kanode, Fax: 512-527-2910	11/27/2009	No	No	No

Technical comments:⁵

It is suggested that the article description of the proposed heading be worded as shown on page 1. We did not suggest a change in the referenced HTS subheading that may apply to the end-use electric vehicles, which is included in the description for added clarity. The proponent identified HS subheading 8703.90 as the subheading where any U.S. imports of the type of vehicle it manufactures (and for which the subject products are destined) would be classified. It is unclear whether that classification is correct. We note that it is the responsibility of the U.S. Customs and Border Protection (CBP) to classify imported goods. Until CBP issues a ruling on the classification of imported vehicles of the type produced by the proponent, any proposed classification is speculative. If CBP issues a ruling classifying imported vehicles of the type produced by the proponent in a subheading other than HS 8703.90, such a ruling could likely cause the proposed heading to be ineffective, but at the present time we cannot offer an alternative classification.

⁵ The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

111TH CONGRESS
1ST SESSION

S. 2105

To reduce temporarily the duty on certain lithium-ion battery cells.

IN THE SENATE OF THE UNITED STATES

OCTOBER 29, 2009

Mr. LEVIN introduced the following bill; which was read twice and referred
to the Committee on Finance

A BILL

To reduce temporarily the duty on certain lithium-ion battery
cells.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CERTAIN LITHIUM-ION BATTERY CELLS.**

4 (a) IN GENERAL.—Subchapter II of chapter 99 of
5 the Harmonized Tariff Schedule of the United States is
6 amended by inserting in numerical sequence the following
7 new heading:

“	9902.01.00	Lithium-ion battery cells (provided for in subheading 8507.80.40), certified by the importer for use as the primary source of electrical power for electrically powered vehicles of subheading 8703.90 in which an on board gasoline engine is used to run a generator that recharges the electric drive motor battery	3.21%	No change	No change	On or before 12/31/2011	”.
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1 (b) EFFECTIVE DATE.—The amendment made by
 2 subsection (a) applies to goods entered, or withdrawn from
 3 warehouse for consumption, on or after the 15th day after
 4 the date of the enactment of this Act.

