

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN LITHIUM ION BATTERIES,
BATTERY CELLS, BATTERY
MODULES, BATTERY PACKS,
COMPONENTS THEREOF, AND
PROCESSES THEREFOR**

Inv. No. 337-TA-1159

NOTICE OF COMMISSION DECISION
EXTENDING THE TARGET DATE FOR COMPLETION OF THE INVESTIGATION

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend the target date for completion of the investigation to October 26, 2020.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 708-2532. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 4, 2019, based on a complaint filed on behalf of LG Chem, Ltd. of Seoul, South Korea and LG Chem Michigan, Inc. of Holland, Michigan (collectively, "complainants" or "LG"). 84 FR 25858 (June 4, 2019). The complaint, as supplemented, alleges violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation and sale of certain lithium ion batteries, battery cells, battery modules, battery packs, components thereof, and processes therefor by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States, under subsection (a)(1)(A) of Section 337. The complaint, as supplemented, names SK Innovation Co., Ltd. of Seoul, South Korea and SK Battery America, Inc. of Atlanta, Georgia as the respondents (collectively, "respondents" or "SK"). The Office of Unfair Import Investigations ("OUII") was also named as a party in this investigation.

On November 5, 2019, LG moved for an order entering default judgment against the respondents due to contempt of Order No. 13, which granted in part complainants' motion to compel forensic examination of respondents' computer system due to spoliation of evidence. Respondents opposed the motion and OUII supported the motion.

On February 14, 2020, the ALJ issued the subject ID (Order No. 34) finding that the respondents spoliated evidence, and that the appropriate remedy is to find the respondents in default. The ID noted that complainants do not seek a general exclusion order, and therefore no issues remain to be litigated, and terminated the investigation. ID at 131.

On March 3, 2020, SK filed a petition for Commission review of the ID. On March 11, 2020, LG and OUII filed oppositions thereto.

On April 17, 2020, the Commission determined to review the ID in its entirety. 85 FR 22,753 (Apr. 23, 2020) ("Notice of Review"). The Notice of Review requested the parties to brief certain issues under review. The Notice of Review also sought briefing from the parties, interested government agencies, and any other interested parties on remedy, the public interest, and bonding.

On May 1, 2020, the parties filed their opening briefs on the issues under review, and on remedy, the public interest and bonding. SK also filed a short submission seeking a hearing before the Commission on remedy, the public interest, and bonding. *See* 19 CFR 210.50(a)(v). The Commission also received a number of comments from non-parties on remedy and the public interest. On May 12, 2020, the parties filed reply briefs on the issues under review, and on remedy, the public interest and bonding. Certain non-parties also submitted reply comments on remedy and the public interest. The investigation is under Commission consideration.

The Commission has determined to extend the target date for completion of the investigation from October 5, 2020 to October 26, 2020.

The Commission vote for this determination took place on September 25, 2020.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: September 25, 2020