

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 A COMMISSION DETERMINATION TO EXTEND THE DATE
FOR DETERMINING WHETHER TO REVIEW ORDER NO. 34 AND EXTENSION OF
THE TIME FOR FILING PETITIONS FOR REVIEW AND RESPONSES THERETO**

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 date for determining whether to review Order No. 34 until April 17, 2020. The time for filing petitions for review of Order No. 34 is extended until March 3, 2020 and any response thereto is due March 11, 2020.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (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 South Korea and LG Chem Michigan, Inc. of Holland, Michigan (collectively, "complainants"). 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 South Korea and SK Battery America, Inc. of Atlanta, Georgia as the respondents. The Office of Unfair Import Investigations (“OUII”) was also named as a party in this investigation.

On November 5, 2019, complainants 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, and spoliation of evidence. Respondents opposed the motion and OUII supported the motion.

On February 14, 2020, the ALJ issued an ID finding that the respondents spoliated evidence, and that the appropriate remedy is 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 before the ALJ.

Respondents have requested an extension of time to file their petition for review until February 28, 2020, instead of February 25, 2020. Respondents explain that this three-day extension is necessary due to the complexity and serious nature of the ID.

The Commission has determined to treat this initial determination under Commission Rules 210.42(a)(1)(i) & 210.42(h)(2) and to extend the date for determining whether to review Order No. 34 until April 17, 2020. The Commission extends the time for filing petitions for review of Order No. 34 to March 3, 2020. Any response to a petition for review is due March 11, 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: February 20, 2020