

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of

**CERTAIN MODIFIED VACCINIA
ANKARA (“MVA”) VIRUSES AND
VACCINES AND PHARMACEUTICAL
COMPOSITIONS BASED THEREON**

Investigation No. 337-TA-550

**NOTICE OF COMMISSION DECISION TO EXTEND THE TARGET DATE FOR
COMPLETION OF THE INVESTIGATION
AND TO EXTEND THE DEADLINE FOR DETERMINING
WHETHER TO REVIEW THE ADMINISTRATIVE LAW JUDGE’S FINAL INITIAL
DETERMINATION**

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 and the deadline for determining whether to review the final initial determination (“final ID”) of the presiding administrative law judge (“ALJ”).

FOR FURTHER INFORMATION CONTACT: James A. Worth, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. 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 (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://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: This investigation was instituted on September 23, 2005, based on a complaint filed by Bavarian Nordic A/S of Denmark (“Bavarian Nordic”). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain modified vaccinia ankara (“MVA”) viruses and vaccines and pharmaceutical compositions based thereon by reason of infringement of various claims of United States Patent Nos. 6,761,893 and 6,913,752. The complaint also alleged violations of

section 337 in the importation of certain MVA viruses and vaccines and pharmaceutical compositions based thereon or in the sale of such articles 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. The complaint named a single respondent, Acambis PLC (“Acambis”) of the United Kingdom.

On April 14, 2006, the ALJ issued an ID (Order No. 26) terminating the trade secret portion of this investigation based on an agreement to arbitrate between Bavarian Nordic and Acambis. On May 9, 2006, the Commission declined to review this ID.

On April 17, 2006, the ALJ issued an ID (Order No. 27) granting in part respondent’s motion for summary determination with regard to the conversion claim. In a separate notice issued on May 9, 2006, the Commission reviewed the ID on the conversion claim, affirming the dismissal of the conversion claim and taking no position on the ALJ’s finding of no jurisdiction over the conversion claim.

After a hearing and post-hearing briefing, the ALJ issued his final ID on September 6, 2006, finding no violation of section 337. Bavarian Nordic, Acambis, and the Commission investigative attorney have petitioned for review of the final ID. The Commission has determined to extend the target date for completion of the investigation to Monday, January 8, 2007, and to extend the date for determining whether to review the final ID to Wednesday, November 22, 2006.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and Commission Rules 210.42(h) and 210.51(a), 19 C.F.R. §§ 210.42(h), 210.51(a).

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: October 20, 2006