UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

In the Matter of **Certain Shrimp and Products Containing Same**	Docket No. 337-3945

PROPOSED RESPONDENT NEKKANTI SEA FOODS LTD.'S REQUEST FOR NON-INSTITUTION

Proposed Respondent Nekkanti Sea Foods Ltd. ("Nekkanti") respectfully requests that the Commission decline to institute an investigation based on the complaint filed on October 28, 2026 by Versaggi Shrimp Corporation and W&W Dock LLP ("Complainants"). Complainants ask the Commission to exclude all Nekkanti shrimp based on a theory that a violation of Section 307 of the Tariff Act of 1930, 19 U.S.C. § 1307 ("Section 307"), is an "unfair act" that can be remedied under Section 337(a)(1)(A), 19 U.S.C. § 1337(a)(1)(A). The Commission should decline to institute for two independent reasons.

First, the Complaint does not allege injury that can reasonably be attributed to Nekkanti. Nekkanti supplied roughly 2% of U.S. frozen shrimp imports over 2021–2025, and its 2025 volume was nearly half its 2021 level. The Complaint offers no Nekkanti-specific pricing, no lost sale, and no causal link between Nekkanti's alleged conduct and any Complainant's results, and it acknowledges that duties and tariffs likely drove a recent price recovery. ***Second***, the Complaint asks the Commission to enforce Section 307, a statute that Congress assigned to U.S. Customs and Border Protection ("CBP") under a specific regulatory scheme and that gives competitors no private right of action. The Commission declined to institute analogous customs-law claims in *Certain Disposable Vaporizer Devices*, Inv. No. 337-TA-1381.

I. COMPLAINANTS DO NOT ALLEGE AN INJURY THAT CAN BE REASONABLY ATTRIBUTED TO NEKKANTI

To establish a Section 337 violation under subsection (a)(1)(A), a complainant must show a threat or effect of substantial injury to a domestic industry *and* "a causal nexus between the unfair acts of the respondents and the injury." *Certain Rubber Resins*, Inv. No. 337-TA-849, Comm'n Op. at 59–61 (Feb. 26, 2014) (citing *Bally/Midway Mfg. Co. v. ITC*, 714 F.2d 1117, 1125 (Fed. Cir. 1983)). The Commission looks to the respondent's import volume and market penetration, lost sales, underselling, and the complainant's declining production and profits. *Id.* Complainants' theory depends on a complex chain of events: that Nekkanti's use of forced labor causes its costs to fall, which causes Nekkanti's prices to fall, which causes the U.S. wholesale price for Asian white shrimp to fall, which causes prices for U.S. wild-caught shrimp to fall, which reduces the prices Complainants receive and their ability to invest. The Complaint does not support that chain as to Nekkanti at any stage.

A. Nekkanti's Market Share Is Small and Has Decreased During the Relevant Time Period

Complainants allege that low-priced Indian imports, "including those of Proposed Respondents, flooded the U.S. market" beginning in 2021. Compl. ¶ 79. The table below shows that Nekkanti supplied only about 2% of U.S. frozen shrimp imports by quantity and value from 2021 to 2025. Its entries fell 48.2%, from 24,466 to 12,669 metric tons, and its share of all U.S. imports by quantity fell from 3.23% to 1.77%. Entries fell 60% between 2021 and 2023, the period in which Complainants say the price premium for domestic shrimp eroded, Compl. ¶ 79, before partially recovering from a 2023 low of 9,747 metric tons. Complainants' own Exhibit 74 shows imports from the four Asian countries it covers falling 22% over the same period.

Year	Nekkanti entries (metric tons)	% of four-country imports (Compl. Ex. 74, quantity)	% of all U.S. imports (quantity)	% of all U.S. imports (value)
2021	24,466	3.82%	3.23%	2.82%
2022	13,812	2.40%	2.33%	2.40%
2023	9,747	1.84%	1.37%	1.38%
2024	11,883	2.25%	1.73%	1.71%
2025	12,669	2.53%	1.77%	2.14%

Given Nekkanti's limited market share, which in 2025 was well below its 2021 level, the Complaint does not plausibly allege that Nekkanti's pricing moved prices for U.S. wild-caught shrimp.

B. The Complaint Offers No Nekkanti-Specific Price or Sales Evidence

The Complaint relies on Urner Barry wholesale series for generic "Farm-Raised, Asian, White" shrimp (Exs. 72–73), as well as the Commission's earlier findings about Indian imports as a whole. Compl. ¶¶ 75–77, 79. It identifies no Nekkanti prices, no margin of underselling, and no sale or customer any Complainant or processor lost to Nekkanti. Complainants principally sell to processors, and their claimed injury is highly attenuated: their processor customers allegedly cut their own prices and then cut what they pay Complainants. *Id.* ¶ 78. The only support is Mr. Versaggi's statement that "Indian imports" generally have been "driving the market price down." *Id.* Injury attributed to an entire country's exports is not injury attributable to Nekkanti.

C. The Complaint Acknowledges Other Drivers of the Market

Complainants acknowledge that their finances improved in 2024 and 2025, and that those gains are likely the result of the antidumping and countervailing duty proceedings and the 2025 tariffs of 10% and then 50% on Indian goods. Wholesale Asian White prices rose 29% between January 2024 and September 2025, and domestic wholesale prices rose as well (for example, 21–25 count Gulf Brown rose about 28% between 2023 and 2025). Compl. ¶¶ 83–84. Over the same

2023–2025 period, Nekkanti's entries rose about 30%, from 9,747 to 12,669 metric tons, so domestic prices recovered while Nekkanti's volume increased, not while it fell. Complainants' response is that those measures "likely" would have helped more "but-for" Nekkanti. *Id.* ¶ 84. This amounts to no more than speculation, and the remaining price gap is measured against *all* Asian white shrimp, not Nekkanti's.

II. COMPLAINANTS' ATTEMPT TO CREATE A PRIVATE RIGHT OF ACTION UNDER SECTION 307 SHOULD BE REJECTED

The only unfair act Complainants allege is a violation of Section 307. Compl. ¶¶ 26, 30, 36, 43, 58, 66. But that statute has a specific enforcement mechanism that has been delegated to CBP, not the Commission.[1] Complainants' attempt to circumvent that mechanism to create a private right of action via Section 337 is improper and fails under established precedent.

For instance, in *Certain Disposable Vaporizer Devices*, the Commission declined to institute an investigation predicated on alleged violations of the Customs laws, including 19 U.S.C. § 1484. *See* Inv. No. 337-TA-1381, EDIS Doc. ID 810442 (Dec. 15, 2023). The Commission found that an alleged violation of Customs law and regulations "does not allege an unfair method of competition or an unfair act cognizable under Section 337 as required by the statute and the Commission's rules." *Id.* at 3. The Commission noted that "enforcement of the Customs laws is within the province of CBP's authority and there is no private right of action to enforce the Customs laws." *Id.* That is consistent with the Federal Circuit's decision in *Amarin Pharma, Inc.*

[1] Section 307 prohibits entry of certain goods and directs the Secretary of the Treasury "to prescribe such regulations as may be necessary for the enforcement of this provision." 19 U.S.C. § 1307. The Secretary of the Treasury delegated its authority to CBP, which set forth regulations for its enforcement. *See Int'l Rights Advocates v. Mullin*, No. 2024-2316, slip op. at 3 & n.1 (Fed. Cir. June 5, 2026); *see also* 19 C.F.R. §§ 12.42–12.45. The regulations include specific facts that must be set forth in a petition to CBP and certain safeguards and defenses that importers may rely on to rebut the allegations on an entry by entry basis. 19 C.F.R. §§ 12.42(b), 12.42(g), 12.43.

v. ITC, 923 F.3d 959, 965–68 (Fed. Cir. 2019) (affirming non-institution where the claim depended on proving a violation of a statute enforced by another agency), and with the Commission's earlier decision in *Certain Trolley Wheel Assemblies*, Inv. No. 337-TA-161, Initial Determination, 1984 ITC LEXIS 142, at *8 (Aug. 29, 1984) (failure to comply with customs country-of-origin statute not an actionable unfair act). Complainants may not simply ignore the congressionally approved procedure because they prefer the regulatory framework under Section 337. *See* Compl. ¶ 42.[2]

Complainants' "predicate statute" examples in the Complaint also do not help them. *See* Compl. ¶ 29. The Lanham Act, the Sherman Act, and the PACT Act each expressly authorize suits by injured competitors or permit holders. *See* 15 U.S.C. § 1125(a)(1) (giving a civil action to "any person who believes that he or she is or is likely to be damaged" by the false designation or false advertising); 15 U.S.C. § 15(a) (authorizing treble-damages suits by "any person" injured by an antitrust violation); 15 U.S.C. § 378(d) (permitting any permit holder to bring a suit in an appropriate United States district court). The Customs laws do not.

III. IN THE ALTERNATIVE, THE COMMISSION SHOULD DESIGNATE THE INVESTIGATION FOR THE 100-DAY PROGRAM

If the Commission determines to institute an investigation, it should designate the question of whether Complainants plead a cognizable unfair act under Section 337 for the 100-day program. The issue can be resolved based on the pleadings and statute alone. The Commission should also stay unrelated party discovery until this threshold issue is resolved.

IV. CONCLUSION

For these reasons, Nekkanti respectfully requests that the Commission decline to institute the investigation requested by Complainants.

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[2] Contrary to the allegations in the Complaint (*e.g.*, ¶ 85), the holding in *TianRui Grp. Co.* does not transform all overseas competition into an injury within the meaning of Section 337. *See Certain Rubber Resins*, Inv. No. 337-TA-849, Comm'n Op. at 59–61.

Dated: November 12, 2026



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