UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

In the Matter of **CERTAIN SHRIMP AND PRODUCTS CONTAINING SAME**	**Docket No. 3945**

PROPOSED RESPONDENTS KONINKLIJKE AHOLD DELHAIZE N.V.'S AND AHOLD DELHAIZE USA'S REQUEST FOR NON-INSTITUTION

Proposed Respondents Koninklijke Ahold Delhaize N.V. ("KAD") and Ahold Delhaize USA ("ADUSA") (collectively, "Ahold Delhaize") hereby request that the ITC decline to institute an investigation regarding the October 28, 2026, Complaint filed by Complainants Versaggi Shrimp Corporation and W&W Dock LLP (collectively, "Complainants"). First and foremost, the Complaint fails to plead an unfair method of competition or unfair act under Section 337(a)(1)(A) by Ahold Delhaize. It alleges no importation by either entity, only downstream U.S. sales by their corporate subsidiaries. The only predicate law identified is Section 307 of the Tariff Act, 19 U.S.C. § 1307, which prohibits *importation* of certain goods made with forced labor—not domestic resale.[1] The ITC should therefore decline institution as to Ahold Delhaize.

And as a general matter, the Complaint's attempt to improperly enforce Section 307—a statute Congress committed to administration by Customs and Border Protection (CBP)—through Section 337 is prohibited by *Amarin Pharma, Inc. v. ITC*, 923 F.3d 959 (Fed. Cir. 2019), and the ITC should decline institution altogether. At a minimum, this threshold legal question warrants designation of this investigation for an early initial determination under 19 C.F.R. § 210.10(b)(3).

I. THE COMPLAINT IDENTIFIES NO UNFAIR ACT BY AHOLD DELHAIZE

The Complaint alleges that Nekkanti Sea Foods Ltd. produces shrimp in India using forced labor, invoking Section 307 to supply the "uniform federal standard" for its Section 337 unfair act theory. (Compl. ¶¶ 28, 30.) Section 307 in turn provides that goods produced with forced labor "shall not be entitled to entry at any of the ports of the United States," 19 U.S.C. § 1307. The statute prohibits importation and entry and does not address or independently impose liability for

[1] Were the merits to be addressed, they would reflect that KAD and ADUSA are corporate parents not involved in the procurement of frozen shrimp and that, among other things, Ahold Delhaize has implemented a Position on Human Rights and Standards of Engagement for its suppliers, and § 5.9 of the Standards of Engagement (https://media.aholddelhaize.com/media/uazm2xv2/ahold-delhaize-standards-of-engagement.pdf) prohibits its suppliers from being complicit in any form of forced labor.

a retailer's purchase or resale within the United States of merchandise imported by another entity. Notably, the Complaint does not—because it cannot—allege that Ahold Delhaize employed forced labor, directed Nekkanti's operations, imported, or even attempted to import the Nekkanti shrimp in violation of the prohibitions of Section 307. Even assuming the allegations about Nekkanti were true, those allegations would not establish a Section 307 violation by Ahold Delhaize—and if there is no violation of Section **307**, there can be no violation of Section **337**.

II. KAD IS NOT ALLEGED TO BE INVOLVED IN ANY RELEVANT CONDUCT

The Complaint is especially baseless as to KAD, the Netherlands-based ultimate corporate parent of ADUSA. KAD is a foreign holding company with less than 10 full-time employees (the majority of whom are members of the Executive Committee, and none of whom are located outside of the Netherlands[2]), while ADUSA is the holding company for the family of Ahold Delhaize brands (Food Lion, Giant Food, The GIANT Company, Hannaford and Stop & Shop).[3] The Complaint includes no allegations about KAD other than its corporate and parent company status (*see* Compl. ¶¶ 1, 24), let alone an allegation that KAD itself buys or sells Nekkanti shrimp.[4] The Complaint cannot attribute the activities of separately organized U.S. subsidiaries to a foreign parent. *Certain Rubber Resins and Processes for Manufacturing Same*, Inv. No. 337-TA-849, Comm'n Op. at 74-75 (Feb. 26, 2014). The lack of allegations against KAD or that any Ahold Delhaize entity has engaged in any importation of or relevant Nekkanti shrimp-related foreign activity is an additional reason the ITC should decline institution as to claims against KAD.

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[2] Ahold Delhaize 2025 Annual Report at p. 283 (https://media.aholddelhaize.com/media/k0pnhvk5/ad-annual-report-2025-interactive.pdf)

[3] *Id.* at p. 15

[4] Neither KAD nor ADUSA buys or sells the Nekkanti shrimp. ADUSA's subsidiary ADUSA Distribution, LLC purchases shrimp from Eastern Fish Company (who is understood to be the importer of record) pursuant to a written supply agreement, and those products are then delivered to other members of the Ahold Delhaize family of companies that operate retail grocery stores.

III. THE SECTION 307 STATUTORY AND REGULATORY REGIME SET UP BY CONGRESS COMMITS FORCED LABOR ENFORCEMENT TO CBP

As a general matter, the ITC should decline to institute an investigation based on the Complaint's broad and unprecedented attempt here to use Section 337 to enforce Section 307 without a prior ruling from CBP. Section 307 bars entry of forced labor goods and "authorize[s] and direct[s]" the Secretary of the Treasury to "prescribe such regulations as may be necessary for the enforcement of this provision." 19 U.S.C. § 1307; *see also* 19 C.F.R. §§12.42-12.45. "Any person outside CBP" may raise forced labor-related issues with any port director or the Commissioner of CBP, who then administers a complete process: investigation, a formal finding, and (if necessary) a Withhold Release Order (WRO). 19 C.F.R. § 12.42. Courts have described WROs as "the main method of forced labor enforcement." *Ninestar Corp. v. United States*, 687 F. Supp. 3d 1308, 1333-34 (Ct. Int'l Trade 2024). WROs are administered through CBP's authority to detain and exclude merchandise, with exclusive review in the Court of International Trade. *Id.* at 1318-19; *Int'l Lab. Rts. Fund v. Bush*, 357 F. Supp. 2d 204, 208-09 (D.D.C. 2004).

The Complaint seeks to improperly enforce Section 307 through Section 337 and is directly analogous to the situation *Amarin Pharma, Inc. v. ITC*, 923 F.3d 959 (Fed. Cir. 2019). In *Amarin*, the ITC declined to institute an investigation—a decision the Federal Circuit affirmed—where a complainant "present[ed] its claims as violations of the Tariff Act" but "in reality those claims constitute[d] an attempt to enforce requirements" of the Food, Drug, and Cosmetic Act (FDCA) via Section 337. *Id.* at 965-69. The court held because the Food and Drug Administration (FDA) was the agency tasked by Congress with interpreting and enforcing the FDCA, the complaint failed to state a cognizable claim under Section 337. *See id.* at 968.

Here, the unfair act identified in the Complaint is an alleged Section 307 forced labor violation, and CBP—the agency tasked with making Section 307-related determinations under the

statutory scheme set up by Congress—has made no such finding. Determining whether a violation of Section 337 has occurred here would necessarily require the ITC to adjudicate a Section 307 violation in the first instance, which *Amarin* forecloses.

Anticipating that their claims belong at CBP, not the ITC, Complainants argue that Section 337 relief "complements" CBP's authority under Section 307, which allegedly does not purport to restrict agencies other than CBP from making forced labor determinations. (Compl. ¶ 37.) That framing misstates the question, and the contention that CBP does not have exclusive authority over all forced labor issues (*id.* ¶¶ 38–39) is a red herring. Congress *did* set up a statutory scheme where CBP alone is responsible for administering Section 307, which is the sole forced labor statute relied upon by Complainants. A complainant cannot use the ITC to prosecute a statute whose administering agency has not itself found a violation. *Amarin*, 923 F.3d at 968. Here, CBP has issued no WRO under Section 307 or any finding of forced labor concerning Nekkanti shrimp. Instituting here would require the ITC to adjudicate a Section 307 violation in the first instance—exactly what *Amarin* prohibits. Indeed, the ITC recently declined to institute an investigation where the complaint was based on alleged violations of the Customs laws and regulations. *Certain Disposable Vaporizer Devices*, Inv. No. 337-TA-1381, ITC Letter at 3 (Dec. 15, 2023) (institution denied where investigation would require the ITC to make determination committed to the authority of Treasury and CBP). That same reasoning applies here, where Congress solely granted Treasury and CBP the authority to prescribe regulations to enforce Section 307.

And Complainants' reference to USTR's authority to address forced labor issues (Compl. ¶ 38) is of no moment—Congress did not allow USTR to enforce Section 307, but instead used an express, standalone delegation to authorize USTR to act on forced labor issues. *See* 19 U.S.C. § 2411(d)(3)(B)(iii)(III). Congress therefore knew how to authorize parallel enforcement powers,

and did so explicitly for USTR—but *not* the ITC. While the ITC's Section 337 authority is broad, it "cannot be used to circumvent express congressional limitations" embodied in a separate substantive statute. *TianRui Grp. Co. v. ITC*, 661 F.3d 1322, 1333-34 (Fed. Cir. 2011).[5]

Complainants' arguments about the different harms and remedies addressed by Section 307 and Section 337 (Compl. ¶¶ 40-41) are circular and do not support institution. Broader remedies are available only if a cognizable Section 337 violation exists; the scope of the relief cannot itself create an unfair act. The same bootstrapping failed in *Amarin*—the availability of Section 337 remedies did not save a claim that was, at bottom, an effort to enforce another statute. Finally, Complainants' procedural complaints about Section 307 are policy grievances about how CBP administers Section 307, not a legal basis to relocate that enforcement to the ITC. The perceived inadequacy of the designated statutory scheme does not create Section 337 authority.

IV. IN THE ALTERNATIVE, THE ITC SHOULD DESIGNATE THE INVESTIGATION FOR THE 100-DAY PROGRAM

If the Commission nevertheless institutes, it should designate for the 100-day program the threshold question whether the Complaint pleads a cognizable unfair act under Section 337. The issue turns on the pleaded conduct and statutory text, requires no adjudication of disputed conditions at Nekkanti facilities, and could terminate the investigation before costly merits and public interest discovery. The Commission should also stay unrelated discovery.

V. CONCLUSION

For these reasons, the Commission should decline to institute an investigation as to Ahold Delhaize at a minimum. Alternatively, it should decline to institute an investigation altogether or at least designate the investigation for a 100-day initial determination.

[5] Because the ITC's Section 337 determinations are exclusively appealable to the Federal Circuit, 28 U.S.C. § 1295(a)(6), allowing the ITC to make a substantive Section 307 determination here would bypass the Court of International Trade, further subverting Congress's statutory scheme.

Date: November 12, 2026

By: /s/ *Matthew J. Rizzolo*

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CERTIFICATE OF SERVICE

I, Timaka Jarrell, hereby certify that on November 12, 2026, true and correct copies of the foregoing were served on the parties listed below:

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