

**To be published in Part-I of Section I of the Gazette of India, Extraordinary**

**F. No. 7/01/2023-DGTR  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
(Directorate General of Trade Remedies)  
4th Floor, Jeevan Tara Building, 5 Parliament Street, New Delhi – 110001**

Dated: 07<sup>th</sup> June 2023

**NOTIFICATION**

**FINAL FINDINGS**

**Case No. AD (AC) – 01/2023**

**Subject: Anti-Circumvention investigation concerning alleged circumvention via Malaysia of the anti-dumping duty imposed on imports of “Fishing Net” originating in or exported from China PR.**

1. **F. No. 7/01/2023 – DGTR** – Having regard to the Customs Tariff Act, 1975, as amended from time to time (hereinafter also referred to as the ‘Act’) and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules 1995 thereof, as amended from time to time (hereinafter also referred to as ‘the Rules’ or ‘AD Rules’) thereof –
2. Whereas, Indian Fishnet Manufacturers Association (IFMA) (hereinafter referred to as the “applicant” or “applicant association”) has filed an application before the Designated Authority (hereinafter also referred to as the “Authority”), on behalf of the domestic industry, in accordance with the Customs Tariff Act, 1975 as amended from time to time (hereinafter also referred to as the “Act”) and the Customs Tariff (Identification, Assessment, and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter also referred to as the “Rules”), alleging that these anti-dumping duties imposed on imports of “fishing net” (hereinafter also referred to as “the product under consideration” or “PUC” or “subject goods”), originating in or exported from China PR (hereinafter also referred to as the “subject country”) are being circumvented by way of imports of “fishing net” exported from Malaysia (hereinafter also referred to as “the product under investigation” or “PUI”).
3. Whereas, in view of the duly substantiated application filed by the applicant under Rule 26 (1), the Authority initiated the investigation vide Notification No. 7/01/2023 – DGTR dated 21<sup>st</sup> February 2023 to determine the existence and effect of the alleged circumvention of the anti-dumping duty levied and to consider the recommendation of extension of

existing anti-dumping duty on imports of “fishing net” from Malaysia, in accordance with relevant AD Rules.

#### **A. BACKGROUND OF THE CASE**

4. The Designated Authority vide Notification No. 14/44/2016-DGAD, dated 31<sup>st</sup> March 2017 (“original investigation”), issued final findings recommending imposition of definitive anti-dumping duties on “fishing net” (hereinafter referred to as the ‘subject goods’ or the ‘the product under consideration’ or the ‘PUC’) originating in or exported from China PR and Bangladesh. Accordingly, definitive anti-dumping duties were imposed vide Customs Notification No. 20/2018-Customs (ADD), dated 10<sup>th</sup> April 2018. The said duties were levied for a period of 5 years.
5. The Designated Authority initiated a sunset review for extension of the anti-dumping duty imposed on imports of fishing net originating in or exported from China PR vide Notification No. 7/22/2022-DGTR dated 30<sup>th</sup> September 2022 pursuant to the application filed by Indian Fishnet Manufacturers Association (IFMA). Pending the conclusion of this sunset review investigation, the existing anti-dumping duties, which were due to expire on 09<sup>th</sup> April 2023, was given an initial extension of 3 months for China PR vide Customs Notification No. 01/2023-Customs (ADD), dated 06<sup>th</sup> January 2023. Further, an additional extension of 2 months was granted vide Customs Notification No. 03/2023-Customs (ADD), dated 06<sup>th</sup> April 2023, for China PR, and the duties are due to expire on 09<sup>th</sup> September 2023.

#### **Present Anti-circumvention investigation**

6. Whereas, Indian Fishnet Manufacturers Association (IFMA) (hereinafter referred to as the ‘applicant’ or ‘applicant association’) filed an application before the Authority on behalf of the domestic industry, in accordance with the Customs Tariff Act, 1975 as amended from time to time and Customs Tariff Rules, 1995, as amended from time to time, alleging that the anti-dumping duties imposed on imports of “fishing net” (hereinafter referred to as “the product under consideration” or “PUC” or “subject goods”), originating in or exported from China PR (hereinafter also referred to as the “subject country”) are being circumvented by way of imports of “fishing net” exported from Malaysia (hereinafter also referred to as “the product under investigation” or “PUI”).
7. 10 members of the applicant association (hereinafter referred to as the “applicant companies”) have filed the relevant information with regard to the present circumvention investigation.
8. The applicant filed an application requesting an extension of the anti-dumping duties imposed on the imports of “fishing net” from China PR to the imports of “fishing net” exported from Malaysia, in accordance with Section 9A(1A) of the Customs Tariff Act, 1975 read with Rule 25 and 26 of the Customs Tariff Rules, 1995. The applicant contended

that there is a circumvention of existing duties wherein the product under consideration produced in China PR is exported to Malaysia. These goods are thereafter declared as originating in Malaysia and exported to India to circumvent the measures imposed on China. Therefore, it has been claimed that this constitutes circumvention of anti-dumping duty, the effect of which is evident from the change in the pattern of trade, and it has undermined the remedial effects of the anti-dumping duties being felt by the domestic industry.

## **B. PROCEDURE**

9. The procedure described herein below has been followed with regard to the subject investigation:
  - a) The Authority issued a public notice in the Gazette of India Extraordinary vide Notification No. 7/01/2023–DGTR, dated 21<sup>st</sup> February 2023, initiating an anti-circumvention investigation<sup>1</sup> concerning imports of the product under investigation from Malaysia (hereinafter also referred to as the circumventing country).
  - b) Prior intimation was given to the Embassy of Malaysia in India under Article 5.5 of the WTO Agreement regarding the initiation of an Anti-Circumvention investigation.
  - c) The Authority forwarded a copy of the initiation notification to the Embassy of Malaysia in India, known exporters/producers of PUI, known importers/users in India, and the domestic industry as per information available in the application.
  - d) The Authority wrote to the known exporters/producers of the PUI and requested them to file their responses in the prescribed questionnaire and make their views known in writing within the time limit prescribed. A copy of the letter and questionnaires sent to the exporters were also sent to the Embassy of Malaysia, in India along with a list of known exporters/producers, with a request to advise the exporters/producers to respond to the Authority within the prescribed time.
  - e) The Authority also provided a copy of the non-confidential version of the application to the known producers/exporters in Malaysia and the Government of Malaysia. A copy of the non-confidential version of the application was also made available to the interested parties, on request, through a public file.
  - f) The Authority sent Exporter's Questionnaire to the following known producers/exporters in Malaysia to elicit relevant information in accordance with Rule 6(4) of the Rules:
    - i. Jay Nets SDN BHN,
    - ii. Senco Fishing Net Industries Co. Ltd.,
    - iii. Jaya S&M SDN BHD,
    - iv. JC Machinery SDN BHD,
    - v. Jaya BMI Trawl Systems SDN BHD,
    - vi. DP Wholesale SDN BHD,
    - vii. Water Dragon Fishing Net Industry SDN,

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<sup>1</sup> The investigation team consisted of Mr. Satish Kumar, ADG, Mr. Singh Veer Pratap, Advisor (Cost), Mr. Naresh Arya, JD (Cost), Mr. Devender Singh, DD (FT)

- viii. Rescue Angel Business Consultancy,
- ix. Kesan Kenangan SDN BHD,
- x. Tiong Hoe & Co. SDN BHD,
- xi. Pioneer Ult Enterprise,
- xii. Xuch Industry M SDN BHD.

- g) None of the producers/exporters from the circumventing country have responded or filed the exporter questionnaire response issued by the Authority.
- h) The Authority sent Importer's Questionnaires to the following known importers, users, and associations of the subject goods in India, calling for necessary information in accordance with Rule 6(4) of the Rules:

1	Calcutta Fishnet Co.	2	Anchor Equipment and Spares Private Limited
3	Garware Wall Ropes Ltd.	4	Silverson Overseas Private Limited
5	D.K. Enterprises	6	M. M. Traders
7	Nautilus Aqua Systems	8	Tejasvi Exports
9	Tata Bluescope Steel Limited	10	Bothra Trading Private Limited
11	Nilkamal Limited	12	Samsung C&T India Private Limited
13	Anchor Offshore Services Ltd	14	Fountainhead Retail Private Limited
15	Dcs Hair Products (India) Private Limited	16	A-1 Fence Products Co.Private Limited
17	Ge India Industrial Private Ltd.	18	Anmol Nonwoven
19	Home Collective India Pvt. Ltd.	20	Sagar Nets
21	Garware Wall Ropes Ltd.	22	Keshav Universal
23	Planet Impex	24	V K Synthetics
25	Kamar Trading Co.(P) Ltd.	26	Saif Trading Co.
27	Ek Nisht	28	Naakwa Enterprises
29	Phoenix Trade Ventures Pvt. Ltd.	30	Garware Wall Ropes Limited
31	Packaging Associates	32	Kanyakumari District Fishing Net Manufacturers Association
33	Tamilnadu Small and Tiny Industries Association		

- i) None of the importers/users of the subject goods responded, nor did they file any response to the questionnaire issued by the Authority.
- j) A list of the interested parties was published on the DGTR website. The interested parties were advised to exchange the non-confidential version of their submissions with each other through email.
- k) Submissions made by all the interested parties to the extent considered relevant at this stage have been taken into account in this final findings.

- l) The information provided by the interested parties on a confidential basis was examined with regard to the sufficiency of such confidentiality claims. On being satisfied, the Authority has accepted the confidentiality claims wherever warranted, and such information has been considered as confidential for the purpose of this investigation. Wherever possible, parties providing information on a confidential basis were directed to provide a sufficient non-confidential version of the information filed on a confidential basis.
- m) Information was sought from the domestic industry and other interested parties to the extent deemed necessary. The information/data submitted by the domestic industry has been verified to the extent deemed necessary and relied upon for the purpose of this final findings. Only such verified information with necessary rectification, wherever applicable, has been relied upon.
- n) The investigation was carried out for the period of investigation (POI) starting from 01 October 2021 to 30 September 2022 (12 months). The injury examination period has been considered as the period from 2019-20, 2020-21, 2021-22 and the period of the investigation. The trend in imports has been examined for a longer period to examine the change in the pattern of trade.
- o) The Authority has relied upon the DG Systems data for the purpose of the present investigation. Since the DG Systems data does not contain information with regard to names of exporters and details of duty paid, reference was made to other alternative databases with regard to such information, including the DG Systems data.
- p) The Authority held an oral hearing on 03<sup>rd</sup> May 2023 to provide an opportunity to all the interested parties to present their views orally in accordance with Rule 6(6) of the AD Rules. Only the domestic industry presented its views in the oral hearing, and no other interested party participated in the hearing. Hence, the domestic industry was requested to submit their written submission by 8<sup>th</sup> May 2023.
- q) The Authority has considered all the arguments raised and information provided by the domestic industry in this final findings to the extent that the same are supported with evidence and considered relevant to the present investigation. No other interested parties have participated in the present investigation.
- r) A disclosure statement containing the essential facts in this investigation, which forms the basis of the final findings was issued to the interested parties on 30<sup>th</sup> May 2023 and the interested parties were allowed time up to 1<sup>st</sup> June 2023 to furnish comments, if any on the same. The comments on the disclosure statement were received from the domestic industry and have been considered, to the extent found relevant in this final findings.
- s) Whenever an interested party has refused access or has otherwise not provided necessary information during the course of the present investigation, or has significantly impeded the investigation, the Authority has considered such parties as non-cooperative and recorded the present final findings on the basis of the facts available.
- t) The exchange rate adopted by the Authority for the present investigation is as 1 US\$ = **Rs.77.47**.

- u) ‘\*\*\*’ in this final findings represents information furnished by an interested party on a confidential basis and so considered by the Authority under the Rules.

## **C. PRODUCT UNDER CONSIDERATION (PUC), PRODUCT UNDER INVESTIGATION (PUI), AND LIKE ARTICLE (LA)**

### **C.1 Views of the other interested parties**

10. None of the interested parties has filed any comment or submissions with regard to the scope of the product under consideration and the product under investigation.

### **C.2 Views of the domestic industry**

11. The domestic industry has made the following submission with regard to the scope of the product under consideration and the product under investigation:
- a) The product involved in the previous investigation and the present review investigation is ‘fishing net’.
  - b) Fishing net falls within Chapter 56 of the Customs Tariff Act, 1975 and is imported under the subheading 5608 1110. The classification is, however, indicative only and is in no way binding on the scope of the present investigation.
  - c) There is no known difference between the product manufactured by the domestic industry and the subject goods imported into India. They are comparable in terms of technical specifications, quality, functions, or end-uses. The two are technically and commercially substitutable. Hence, the product manufactured by the domestic industry should be treated as like article to the product imported from the circumventing country.
  - d) The product under investigation in the case of Malaysia is “fishing net” originating in or exported from Malaysia (product under investigation or PUI). It is classified under Chapter 56 of the Customs Tariff Act, 1975, under the subheading 5608 1110, and is the object of circumvention in the present investigation.

### **C.3 Examination by the Authority**

12. The present investigation is an anti-circumvention investigation of duties imposed on imports of “fishing net” originating in or exported from China PR. Therefore, the scope of the product under consideration in the present investigation, remains the same as defined in the original investigation, i.e., final findings dated 31<sup>st</sup> March 2017, which is reproduced herein below –

*“8. Fishing Nets are devices made from fibers woven in a grid-like structure. Fishing nets are usually meshes formed by knotting a relatively thin thread. Due to the technical characteristics of Nylon, Nylon fishnet constitutes more than 65-70% of the total fishnet consumption world over. Present petition includes Nylon*

*Fishing nets only whether 100% or blended. In case of blended, scope includes fishing nets containing 50% or more Nylon by weight.*

*9. The product does not have dedicated customs classification. The product is being imported under HS code, 560811 10 as per the data made available to us by DGC&IS. However, customs classification is indicative only and in no way, it is binding upon the product scope.*

*10. The PUC can be further classified into mono filament yarn net and multifilament yarn net. Monofilament net is produced using monofilament yarn, in case of multifilament net, multifilament yarn is used, and the yarn is first twisted. Thereafter, even though the production process is the same and involves netting with weft & warp knotting, heat stretching, dyeing, aging, normalizing, inspection, and packing; the use of monofilament net and multifilament net is in totally different areas in fishing. Monofilament nets are largely used for inland/river/lake fishing and the catches are better due to its transparency as compared to multifilament net. The life of net is however maximum of 6 months and the net cannot be repaired once damaged. Multifilament nets, on the contrary, are used for coastal/deep sea fishing to catch large fish. Life of multifilament nets is in the region of 2 to 2.5 years and the nets can be repaired when damaged.*

*11. As regards HDPE Fishing Nets and Agriculture nets, it is noted that the present investigation is against dumping of Nylon Fishing nets, whether 100% or blended nets containing 50% or more Nylon by weight. All other kinds of Fishing nets or other nets are outside the scope of the present investigation.”*

13. “Fishing net” exported from Malaysia has been considered as the product under investigation in the present anti-circumvention investigation, hereinafter referred to as “the product under investigation” or “PUI”.
14. The Authority notes from the information on record that the subject goods produced by the domestic industry are “like article” to the goods imported from Malaysia. The subject goods produced by the Indian industry and imported from Malaysia are comparable in terms of chemical characteristics, product specifications, technical specifications, manufacturing process and technology, functions and uses, pricing, distribution and marketing, and tariff classification of the goods. The two are technically and commercially substitutable, and the customers are using the two interchangeably.
15. In the present anti-circumvention investigation, the Authority has considered the product under investigation (PUI) as “Fishing net” originating in or exported from Malaysia, classified under Chapter 56 of the Customs Tariff Act, under subheading 5608 1110. However, customs classification is indicative only and is in no way binding on the scope of the subject investigation.

#### **D. SCOPE OF THE DOMESTIC INDUSTRY & STANDING**

### **D.1 Submissions made by other interested parties**

16. None of the interested parties has filed any comment or submission with regard to the scope of the domestic industry or its standing.

### **D.2 Submissions made by the domestic industry**

17. The domestic industry has made the following submissions with regard to the scope of the domestic industry and standing:
  - a) The Indian Fishnet Manufacturers Association (IFMA) has filed the application on behalf of the members of the association. The Indian industry falls under the MSME sector and is highly fragmented and hence, the applicant association filed the application adhering to the Trade Notice 09/2021, dated 29<sup>th</sup> July 2021. All requisite information in the prescribed formats has been provided.
  - b) The application is supported by all members of the applicant association, and they have expressed their concern on the circumvention of the ADD. The members have requested for an extension of the current ADD on imports of the PUC from China to imports of PUI from Malaysia. 10 applicant companies who are members of the applicant association have provided the relevant information for the purpose of this investigation. The production of the members of the applicant association constitutes a major proportion in Indian production.
  - c) Reliance is placed on the Authority's practice and understanding of the scope of the domestic industry and standing in previously conducted anti-circumvention investigations. In the final findings of anti-circumvention investigation concerning anti-dumping duty imposed on imports of Jute sacking bags from Bangladesh dated 19<sup>th</sup> March 2019, the Authority held that test of 25% and 50% are not *per se* applicable under Rule 26.
  - d) In the final findings of the anti-circumvention investigation concerning cold rolled steel from China PR, Korea, European Union, South Africa, Taiwan, Thailand, and the USA dated 18<sup>th</sup> August 2017, it was held that test of 25% and 50% are not *per se* applicable in circumvention investigations. Notwithstanding, the applicant satisfies the standing requirement and constitutes the domestic industry within the meaning of the AD Rules.

### **D.3 Examination by the Authority**

18. The application has been filed by M/s Indian Fishnet Manufacturers Association on behalf of all its members. The following 10 companies who are members of the association have provided the requisite information for the purpose of the present investigation:
  - i. Jasnets
  - ii. Sreema Filaments Pvt. Ltd.,
  - iii. Swastik Filaments Pvt. Ltd,
  - iv. Baliga Fishnets

- v. Vasantham Industrial Centre
- vi. Global Fishnets
- vii. Vee Fishnets
- viii. Indonets
- ix. Kassim Nets
- x. B & B Nets

19. The Authority notes that the Indian industry falls under the MSME sector and is highly fragmented, and the application filed by the applicant association is with the support of all members of the association.
20. On the basis of information on record, the Authority notes that the production of the applicant companies constitutes a major proportion in Indian production. The Authority concludes that the applicant constitutes eligible domestic industry within the meaning of Rule 2(b). It is, however, noted that the test of 25% and 50% are not *per se* applicable for an investigation initiated under Rule 26.

## **E. EVIDENCE OF CIRCUMVENTION**

### **E.2 Submissions made by the other interested parties**

21. None of the exporters, importers, consumers, and any other interested parties has filed any comment or submission with regard to evidence of circumvention.

### **E.1 Submissions made by the domestic industry**

22. Views of the domestic industry with regard to evidence of circumvention are as follows.
- a) Significant imports consigned from Malaysia are entering the Indian market at dumped volumes, and these volumes have increased after the imposition of duties on China PR from the base year to the POI. Concurrently the direct import volumes from China PR decreased significantly.
  - b) China's circumvention of existing anti-dumping duties has resulted in (a) loss of the Indian industry's market share in demand; (b) significant price undercutting; (c) significant dumping margin; and (d) loss of revenue to the Indian economy.
  - c) There is only one known producer of the product under investigation in Malaysia, i.e., Jaya Nets Sdn and all others are merely exporters/traders.
  - d) The only known producer in Malaysia, i.e., Jaya Nets Sdn does not have sufficient capacity to produce and export such huge volumes of the product under investigation being exported to India. The Authority may examine whether the said producer is 'producing' the product under investigation or is merely transshipping the Chinese-origin products into India. The other companies identified are merely traders/exporters of fishing net and no evidence is available to show there are any other producers of the PUI in Malaysia.

- e) The normal value should be determined based on the normal value previously established i.e., based on the cost of production of the subject goods in India, duly adjusted for the change in the cost of raw materials.
- f) None of the exporters/producers from the circumventing country participated in the present investigation, which very well establishes the submissions made by the domestic industry.

### **E.3 Examination by the Authority**

23. With regard to circumvention of the existing anti-dumping duties, Section 9A(1A) of the Act provides as under:

*"Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that circumvention of anti-dumping duty imposed under sub-section (1) has taken place, either by altering the description or name or composition of the article subject to such anti-dumping duty or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the anti-dumping duty so imposed is rendered ineffective, it may extend the anti-dumping duty to such article or an article originating in or exported from such country, as the case may be."*

24. Rule 25 of the Anti-dumping Rules states as follows:

**"25. Circumvention of anti-dumping duty.**— (1) Circumvention shall be considered as a change in the pattern of trade between any country and India or between individual companies in any country subject to measures and India, as a result of a practice, process or work for which there is insufficient cause or economic justification other than the imposition of the duty; and where there is evidence of injury or that the remedial effects of the duty are being undermined in terms of the prices or quantities or both of the like product; and where there is evidence of dumping in relation to the normal values previously established for the like product, if necessary with appropriate changes or adjustments or in accordance with the provisions of rule 10.

(2) The practice, process or work referred to in the sub-rule (1) includes, inter alia,-

(a) where an article subject to anti-dumping duty is imported into India from any country including the country of origin or country of export notified for the purposes of levy of anti-dumping duty, in an unassembled, unfinished or incomplete form and is assembled, finished or completed in India or in any other country, such assembly, finishing or completion shall be considered to circumvent the anti-dumping duty in force if, -

(i) the operation started or increased after, or just prior to, the anti-dumping investigations and the parts and components are imported from the country of origin or country of export notified for purposes of levy of anti-dumping duty; and

- (ii) *the value added to the inputs brought in, during the assembly or completion operation, is less than 35% of the manufacturing cost:*

*Provided that for calculation of value addition, expenses on account of procurement of technology, such as patents, copyright, trademark, royalty, technical know-how, consultancy charges, etc., shall not be included in the value of the parts brought in.*

*Explanation I. – ‘Value’ means the cost of assembled, complete or finished article less value of imported parts or components.*

*Explanation II. - For the purposes of calculating the ‘value’, expenses on account of payments relating to intellectual property rights, royalty, technical know- how fees and consultancy charges, shall not be taken into account.*

- (b) *where an article subject to anti-dumping duty is imported into India from country of origin or country of export notified for the levy of anti-dumping duty after being subjected to any process involving alteration of the description, name or composition of an article, such alteration shall be considered to circumvent the anti-dumping duty in force if the alteration of the description or name or composition of the article subject to anti-dumping duty results in the article being altered in form or appearance even in minor forms regardless of the variation of tariff classification, if any;*
- (c) *where an article subject to anti-dumping duty is imported into India through any exporter or producer or country not subject to anti-dumping duty, such exports shall be considered to circumvent the anti-dumping duty in force if the exporters or producers notified for the levy of anti-dumping duty change their trade practice, pattern of trade or channels of sales of the article in order to have their products exported to India through any exporter or producer or country not subject to anti-dumping duty;*
- (d) *any other manner whereby the anti-dumping duty so imposed is rendered ineffective.”*

25. In the present case, the applicant has alleged circumvention of the existing anti-dumping duties under the provisions of Rule 25(2)(c) of the Rules, that is, through imports of the subject goods through a country not subject to antidumping duty. The Authority has examined the alleged circumvention of existing anti-dumping duties on China via exports through Malaysia. In order to examine the same, the Authority has considered transaction-wise data procured from DG Systems.
26. The Authority notes that the anti-dumping measure is producer/exporter specific. The producers/ exporters subjected to an anti-dumping investigation need to provide relevant data/information so that the Authority can make a determination. Further, the Authority

sent questionnaires to the known producers/exporters from the circumventing country, advising them to provide information in the form and manner prescribed by the Authority. However, the Authority notes that none of the exporters from Malaysia has responded in the present investigation.

27. In view of the above, the Authority has examined the information available on record before the Authority as filed by the domestic industry.

#### **E.4 Genuine production in Malaysia not established**

28. The applicant has stated that it has been able to find only one known producer of fishing net in Malaysia, i.e., Jaya Nets Sdn. Bhd, whose website shows production of fishing net. It was, however, claimed that the said producer is not known to have such huge capacities.
29. Apart from this single producer mentioned by the applicant, there is no information available to show that there are any other producers involved in the production of PUI in Malaysia. The Authority also notes that none of the interested parties from Malaysia responded to the initiation of this circumvention investigation, including the Embassy of Malaysia and the said producer, Jaya Nets Sdn. Bhd. In view of lack of responses, the Authority could not ascertain whether the PUI exports to India made during the POI constitute goods produced in Malaysia. Thus, the fact of production of PUI in Malaysia could not be established.
30. In view of the absence of responses from other interested parties representing the exporters/producers and importers in this investigation, the Authority has considered the submissions available on record.

#### **E.5 Change in Pattern of Trade**

31. The Authority has examined the stipulated criteria for a shift in the trade pattern of the PUC to the PUI, and whether a change in trade pattern stemmed from an economic justification or is on account of the levy of anti-dumping duty, in accordance with Rule 25(1).
32. The change in the pattern of trade has been analyzed from 2018-19 to the POI, analyzing the volume of imports of the PUC and the PUI.

<b>Country</b>	<b>2018- 19</b>	<b>2019- 20</b>	<b>2020- 21</b>	<b>2021 -22</b>	<b>POI</b>
UOM	MT	MT	MT	MT	MT
Imports of PUI from Malaysia	599	988	1,885	2,533	1,906
Import of PUC from China	164	6	23	9	6
Import from other countries	347	459	617	405	312
Grand Total	1,110	1,452	2,526	2,947	2,224

33. The Authority noted that imports from Malaysia were in small quantities during 2018 – 19, which increased significantly thereafter following the imposition of anti-dumping duties on China and has since remained significant. However, imports from China have declined and are negligible in the POI.
34. It has been claimed by the domestic industry that there were no imports from Malaysia in the original investigation, and the imports started entering the market from Malaysia after the initiation of the original investigation.
35. The Authority noted that the demand has declined since the original investigation. However, imports from Malaysia are now even more than the imports that were reported by China in the original investigation in absolute terms despite the decline in demand.

Particulars	2012-13	2013-14	2014-15	2015-16 POI (OI)*	2016-17 POI (OI)*	2018-19	2019-20	2020-21	2021 - 22	Oct 21- Sept 22 POI
UOM	MT	MT	MT	MT	MT	MT	MT	MT	MT	MT
Imports of PUI from Malaysia	-	-	-	1.57	6.88	599	988	1,885	2,533	1,906
Imports of PUC from China	540	648	779	1,066	1,093	164	6	23	9	6
Demand	***	***	***	***	***	***	***	***	***	***

\*POI in the original case was 18 months period from April 2015 to September 2016

36. Based on the foregoing analysis, the Authority concludes that there is a change in the pattern of trade from China to Malaysia after the imposition of anti-dumping duties on China. While imports from Malaysia increased, the imports from China declined and is negligible during the entire injury period.

## **E.6 Assessment of the effect of circumvention on existing anti-dumping measures and the domestic industry**

### **E.6.1 Remedial effects being undermined**

37. An essential aspect of an anti-circumvention investigation is to ascertain whether the remedial effects of the anti-dumping duty imposed earlier are being undermined. The Authority therefore examined the manner in which and to the extent the circumvented products are undermining the duty imposed and thereby rendering such duty as redundant. The Authority has examined whether the remedial effects of anti-dumping duties are undermined in terms of market share and price undercutting due to the imports of the product under investigation from Malaysia.

### **E.6.2 Volume effect of circumvention of duties**

38. The Authority has examined the market share of demand of the subject goods in India and the same is provided as under:

<b>Market Share in Demand</b>	<b>UOM</b>	<b>2019- 20</b>	<b>2020- 21</b>	<b>2021 -22</b>	<b>POI</b>
Sales of Domestic Industry	MT	***	***	***	***
	<i>Index</i>	<i>100</i>	<i>99</i>	<i>110</i>	<i>123</i>
Sales of Domestic Industry	%	***	***	***	***
	<i>Index</i>	<i>100</i>	<i>94</i>	<i>103</i>	<i>110</i>
Sales of other Indian producers	MT	***	***	***	***
	<i>Index</i>	<i>100</i>	<i>97</i>	<i>93</i>	<i>105</i>
Sales of other Indian producers	%	***	***	***	***
	<i>Index</i>	<i>100</i>	<i>94</i>	<i>89</i>	<i>94</i>
Indian Industry	MT	***	***	***	***
	<i>Index</i>	<i>100</i>	<i>97</i>	<i>96</i>	<i>109</i>
Indian Industry	%	***	***	***	***
	<i>Index</i>	<i>100</i>	<i>94</i>	<i>92</i>	<i>97</i>
Circumventing country – Malaysia	MT	***	***	***	***
	<i>Index</i>	<i>100</i>	<i>191</i>	<i>256</i>	<i>193</i>
Circumventing country – Malaysia	%	***	***	***	***
	<i>Index</i>	<i>100</i>	<i>184</i>	<i>244</i>	<i>173</i>
Country attracting ADD – China	MT	***	***	***	***
	<i>Index</i>	<i>100</i>	<i>383</i>	<i>150</i>	<i>101</i>
Country attracting ADD – China	%	***	***	***	***
	<i>Index</i>	<i>100</i>	<i>368</i>	<i>142</i>	<i>90</i>
Other Countries	MT	***	***	***	***
	<i>Index</i>	<i>100</i>	<i>135</i>	<i>88</i>	<i>68</i>
Other Countries	%	***	***	***	***
	<i>Index</i>	<i>100</i>	<i>129</i>	<i>84</i>	<i>61</i>
Total Demand	MT	***	***	***	***
	<i>Index</i>	<i>100</i>	<i>104</i>	<i>105</i>	<i>112</i>
Total Demand	%	100%	100%	100%	100%

39. The Authority noted that Malaysia held a market share of a mere \*\*\*% in 2019-20, which increased up to \*\*\*% in 2021-22 and declined to 10% in the POI, whereas the market share of the Indian industry declined from \*\*\*% to \*\*\*% in the POI. At the same time, it is also noted that the market share of imports from China PR remained negligible throughout the entire injury period. The domestic industry submitted that imports from

Malaysia were NIL in the original investigation, and imports of PUI from Malaysia started only after the initiation of the original investigation, which intensified after the imposition of duties on China. Thus, the Authority concludes that despite the imposition of duties, the Indian industry has not been able to recover its market share, and rather, the Indian industry as a whole suffered a further loss in market share.

### **E.6.3 Price effect of the circumvention of duties**

40. With regard to the effect of imports of PUI on the prices, it is required to be analyzed whether there has been a significant price undercutting by the circumvented imports as compared to the price of the like products in India. The Authority has considered the same as under:

<b>Particulars</b>	<b>Unit</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>POI</b>
Import Volume	MT	599	988	1,885	2,533	1,906
Landed price of imports	Rs./MT	3,59,039	3,87,220	3,95,322	4,00,897	4,17,217
Net Sales Realization	Rs./MT	***	***	***	***	***
Price Undercutting	Rs./MT	***	***	***	***	***
Price Undercutting	%	***	***	***	***	***
Price Undercutting	% Range	10-30	10 – 30	10 – 30	10 – 30	10 – 30

41. It is seen that the landed price of imports of the PUI is significantly below the selling price of the domestic industry throughout the injury period.

## **F. ASSESSMENT OF DUMPING MARGIN**

### **F.1 Determination of Normal Value**

42. None of the exporters have filed any comment or submission with regard to normal value. According to Rule 25 of the Rules, the Authority is required to consider the normal value previously established for the like product (with due adjustments). The normal value was previously determined for China, considering Chinese producers as operating in a non-market economy. Therefore, the Authority is required to adopt the normal value previously determined with appropriate changes. Since the said normal value was determined in accordance with Para 7 of Annexure I to the Rules, the Authority considers that the normal value is required to be determined considering the same legal provisions.
43. It is noted that there is no information available on the price or constructed value in a market economy third country. The applicant has proposed imports into India from Thailand as the basis for the determination of normal value. It is seen that the same basis has been proposed by the applicant in the parallel ongoing sunset review investigation relating to the same product from China. There is no information available on the price or constructed value in a market economy third country. Since information is available on the second option, i.e., the price from such a third country to other country, including

India, in the form of the import price of the subject goods from Thailand to India, the Authority considers it appropriate to adopt the import price from Thailand to India for the purpose of determination of normal value. It is noted that Thailand has no anti-dumping investigation or any trade remedial measure in the product, and the volume of imports in the POI is significant.

44. In view of the above and considering the lack of participation from any other interested party, the Authority has determined normal value on the basis of the import prices of the subject goods from Thailand to India. Since the said price is at CIF level, the Authority has determined ex-factory export price by appropriately adjusting the same for expenses from CIF to ex-factory level. Accordingly, the normal value determined is \*\*\*.

### **F.2 Export price of the product under investigation**

45. The Authority sent questionnaires to the known producers/exporters from the circumventing country, advising them to provide information in the form and manner prescribed by the Authority. However, none of the producers/exporters responded nor filed any responses to the questionnaires. The Authority has hence determined the export price on the basis of the data procured from DG systems data.
46. The Authority notes that the DG systems data shows imports of 1,906 MT of the product under investigation during the POI. The CIF export price determined from DG Systems data has been adjusted for ocean freight, marine insurance, commission, bank charges, port expenses, and inland freight charges on the basis of facts available to determine the export price at the ex-factory level. The net export price so determined is **US\$ 4.98/Kg**.

### **F.3 Dumping margin of the product under investigation**

47. On the basis of the above-stated normal value and export price so determined at the ex-factory level, the dumping margin has thus been worked, which is as follows:

Particulars	Unit	Malaysia
Constructed Normal Value	US\$/Kg	***
Net Export Price	US\$/Kg	4.98
Dumping Margin	US\$/Kg	***
Dumping Margin	%	***
Dumping Margin	% Range	50-70

### **G. EROSION OF EFFICACY OF EXISTING ANTI-DUMPING DUTY ON PUC DURING POI**

48. The Authority has determined the quantum of anti-dumping duty that would have been payable on the imports of the product under investigation from Malaysia. The table below quantifies the amount of erosion of anti-dumping measures on the PUI:

Period	Imports- Quantity from Malaysia	ADD	ADD	ADD amount	Erosion of Duty	Exchange
	MT	USD/kg	Rs. Kg	Rs. Lacs	Rs. Lacs	
2019-20	988	2.19	156.92	1,550	1,550	71.65
2020-21	1,885	2.19	164.74	3,105	3,105	75.22
2021-22	2,533	2.19	165.06	4,181	4,181	75.37
Oct'21-Sep'22	1,906	2.19	169.66	3,234	3,234	77.47
Injury period	7,312	2.19	-	12,070	12,070	

49. It is noted that the amount of **Rs. 12,070 lakhs** would have been payable on these imports of the product under investigation from Malaysia from 2019 – 20 till the end of the period of investigation, had these imports been declared as Chinese-origin goods. However, the exporters declared the PUI as originating in Malaysia and have been eroding the existing duties.

## H. POST-DISCLOSURE COMMENTS

### H.1 Submissions made by the other interested parties

50. None of the exporters, importers, consumers, and any other interested parties has filed any comment or submissions, post-issuance of the disclosure statement.

### H.2 Submissions made by the domestic industry

51. The domestic industry has filed the following comments, post issuance of the disclosure statement:

- a) There is a significant change in the pattern of trade without any due cause or justification other than the anti-dumping duty in force.
- b) The dumping margin for PUI exported from Malaysia is positive and significant.
- c) The exports of the PUI from Malaysia are of Chinese origin and they are being exported to India falsely claiming as goods originating in Malaysia.
- d) The imports of the subject goods from Malaysia are at dumped prices and are undercutting the prices of the domestic industry and consequently adversely impacting the domestic industry by undermining the remedial effects of the existing anti-dumping measure.
- e) There exists erosion of duties in the case of the PUI.

### H.3 Examination by the Authority

52. The Authority has examined the post-disclosure submissions made by the domestic industry and notes that most of the submissions are reiterations which have already been examined suitably and addressed adequately in relevant paras of this final findings.

## **I. CONCLUSION**

53. Having initiated the present investigation and after examining the contentions of the domestic industry and the other interested parties and on the basis of the analysis as above, the Authority concludes as under:

- a) There has been a change in the pattern of trade post imposition of anti-dumping duties in the case of the PUI for which there is no due cause or economic justification other than the existing anti-dumping duties. The imports from Malaysia which were in negligible quantities during the POI of the original investigation increased significantly over the injury period while imports from China PR declined after imposition of anti-dumping duties and is negligible in the POI. In fact, the imports of subject goods from Malaysia increased from 1.57 MT (2015-16) to 1,906 MT in the POI of the present investigation while imports from China PR declined from 1066 MT to 6 MT during the same period.
- b) Despite a significant decline in imports from China PR, the Indian industry which are unorganized, fragmented and which falls in the MSME category lost its market share to the imports of PUI from Malaysia compared to the original investigation. Malaysia had an insignificant market share during the POI of the original investigation which increased to 6% in 2019-20 and to 13% in 2021-22. The imports of PUI from Malaysia are very significant in the POI of the present investigation, and is more than the imports from China in the original investigation, resulting in the decline of the market share of Indian industry during the injury period. The Indian industry was not able to recover its market share with the existing duties on China PR, as it suffered loss in market share due to imports of PUI from Malaysia.
- c) The imports of PUI from Malaysia are entering the Indian market at significantly dumped prices and are undercutting the prices of the domestic industry.
- d) The import of PUI has undermined the remedial effect of the existing anti-dumping measure on the PUC imposed vide Customs Notification No. 20/2018-Customs (ADD) dated 10<sup>th</sup> April 2018.
- e) Since the dumping margin is above *de minimis*, the commercial gain due to the erosion of anti-dumping duty on the PUC has benefitted producers/exporters by exporting the PUI.

## **A. RECOMMENDATION**

54. The Authority keeping in view the aforesaid, recommends an extension of existing anti-dumping duty on subject goods originating in or exported from China PR, imposed vide Customs Notification No. 20/2018-Customs (ADD), dated 10<sup>th</sup> April 2018, on PUI tabulated as below, subject to the following:

The validity of the anti-dumping duty on PUI would be co-terminus with the duty on PUC, i.e., "Fishing Net" originating in or exported from China PR, through Customs Notification No. 20/2018-Customs (ADD), dated 10<sup>th</sup> April 2018.

### Duty Table

SN	Sub heading ***	Description of Goods	Specification	Country of Origin	Country of Export	Producer	Exporter	Amount	Unit of measurement	Currency
1	2	3	4	5	6	7	8	9	10	11
1	5608 1110	Fishing Net	Any	Malaysia	Malaysia	Any	Any	<b>2.19</b>	Kg	US Dollar
2	5608 1110	Fishing Net	Any	Malaysia	Any	Any	Any	<b>2.19</b>	Kg	US Dollar
3	5608 1110	Fishing Net	Any	Any other than Malaysia and China PR	Malaysia	Any	Any	<b>2.19</b>	Kg	US Dollar

\*\*\*Note - Customs classification is only indicative, and the determination of anti-dumping duty shall be made as per the description of the PUC.

55. The landed value of imports for the purpose of this notification shall be the assessable value as determined by the Customs under the Customs Act, 1962 (52 of 1962) and includes all duties of customs except duties under Sections 3, 3A, 8B, 9A of the said Act.

### **B. FURTHER PROCEDURE**

56. An appeal against the order of the Central Government arising out of this final finding shall lie before the Customs, Excise, and Service Tax Appellate Tribunal in accordance with the Customs Tariff Act.

  
 (Anant Swarup)  
 Designated Authority