



**GMU-CI Arb (India)
International Maritime
Arbitration Competition
(GIMAC) 2021**

Moot Problem

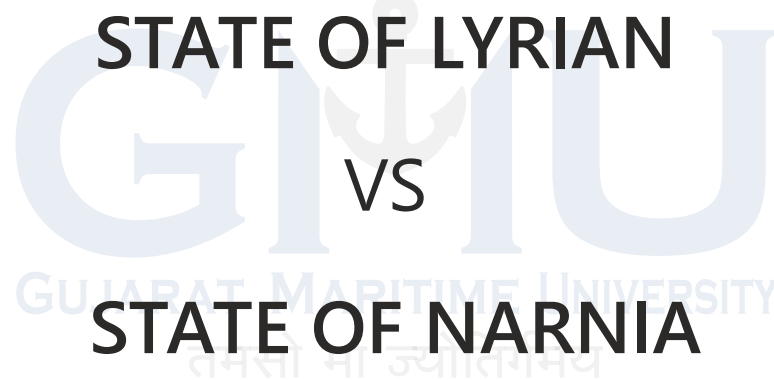
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**INTERNATIONAL ARBITRAL
TRIBUNAL UNDER ANNEX VII OF UNCLOS**

**ARBITRATION CASE CONCERNING
APPROVED FISHING LIMITS OF
PUFFSKEIN ALLYBON**

**STATE OF LYRIAN
VS
STATE OF NARNIA**



**THE SEAT OF THE ARBITRAL TRIBUNAL
SHALL BE THE HAGUE**

STATE OF LYRIAN VS STATE OF NARNIA

ARBITRATION CASE CONCERNING APPROVED FISHING LIMITS OF PUFFSKEIN ALLYBON

1. The continent of Asgard is world renowned for its oceans, waterways and marine species and attracts thousands of tourists every year from all over the world which contributes massively to GDP along with economic growth of the countries located in and around the continent. Lyrian and Narnia are two significantly largest neighboring States geographically located 2583 miles apart from each other and diagonally opposite in southern region of Asgard. (Annexure 1)
2. The State of Lyrian and the state of Narnia obtained their independence in the year 1939 and 1940 respectively from the colonial regime, joined the United Nations therein on 1947. Both the States filed declaration accepting the International Court of Justice's compulsory jurisdiction under Article 36(2) of the Statute. (Annexure 2)
3. Puffskein Allybon (*Appare Vestigium*) is a marine species that is found in numerous number along the coasts and Islands of Lyrian as well as Narnia. It is locally considered by the fishing community of Lyrian and Narnia as herculean fish since it weighs more than 300 Kgs with the length of 5 meters. An astonishing feature of Puffskein Allybon is that it's a migratory species which migrates all around the year especially during the breeding season from the Island of Ilon towards Narnia and back to Lyrian with the juvenile Puffskein Allybons. It is also listed in Highly Migratory Species of Annex 1 of the United Nations Law of the Sea Convention (UNCLOS) to which the States have ratified.
4. The fishing of Puffskein Allybon along the coasts of Lyrian and Narnia has been surpassing in the last decade as the products & eggs of Puffskein Allybon it is believed to have medicinal properties to boost immunity in children as well in the elderly. More particularly the skin of Puffskein Allybon has been on a higher demand by pharma industries around the world as it used for A cellular Skin Graft Treatments by high tech hospitals and medical institutions. The States indulged in the trade of Puffskein Allybon and its by-products internationally.
5. The Government of Lyrian and Narnia were satisfied with the economic growth due to the international trade of Puffskein Allybon, However in 2005, polarization began between the States due to difference in political dogma as it increased tension and competition in export of Puffskein Allybon to powerful nations in the world as the same lead to the over-fishing of Puffskein Allybon by both the States.
6. On 12th August 2007, William Marrigot, a marine life expert associated with leading marine and maritime institutions expressed his concerns by means of public notice and published research articles over declined Puffskein Allybon population due to over-fishing by the States and also mentioned in one of his articles that it would become an endangered marine species within the next five years if the overfishing of the species continues.

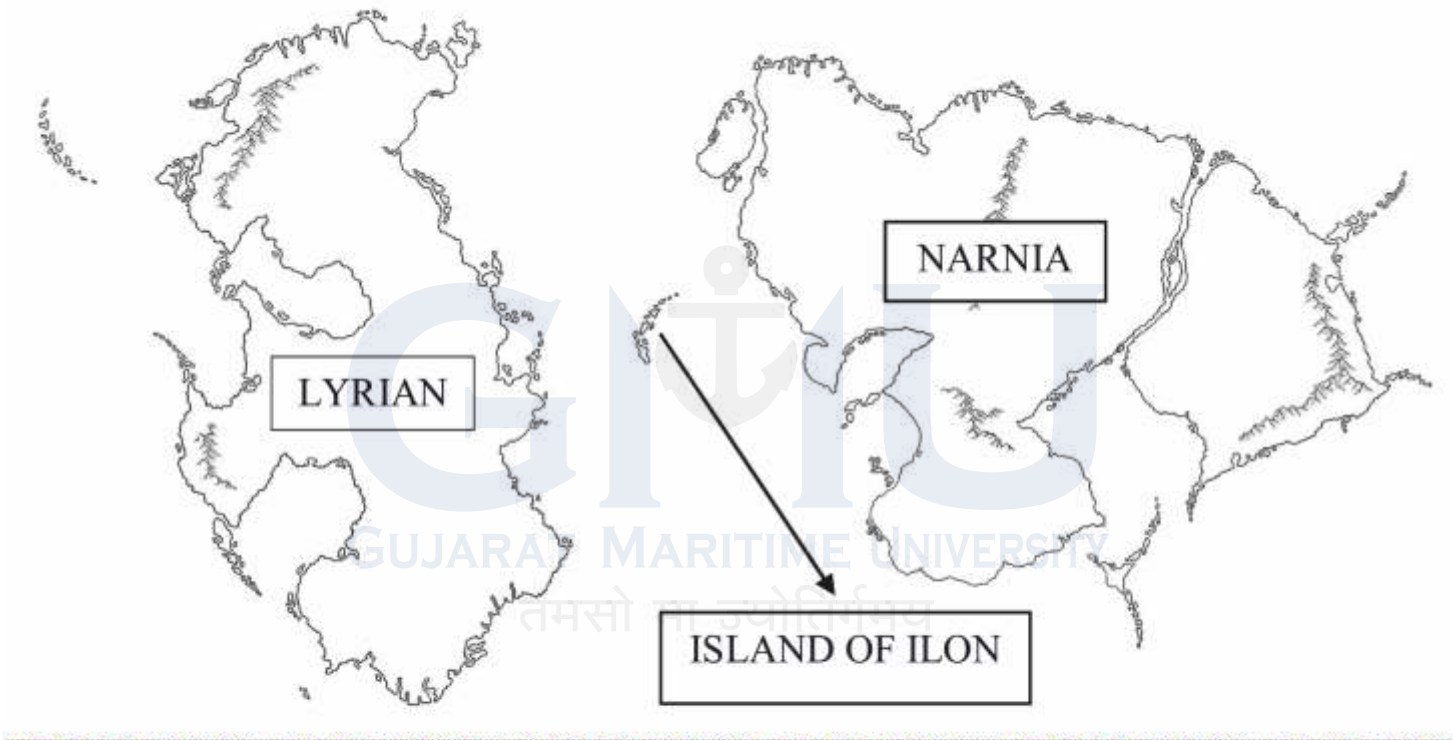
The articles of William Marrigot became an overnight sensation calling the States to take necessary and immediate action to preserve and protect the Puffskein Allybon by the international community along with various institutionalized bodies of marine species.

7. In light of call for action, the government of Lyrian and Narnia decided to formulate a treaty with regard to Puffskein Allybon apart from the internal measures taken by them previously. On 30th November 2005, the Representatives of both the State met at the city capital of Lyrian, Burj Khalifa and concluded negotiations and signed the ***Treaty of Preservation and Protection Puffskein Allybon*** (Treaty of Puffskein Allybon) which came into force on 1st January 2006 (Relevant provisions of the treaty are included in Annexure 3).
8. The Treaty of Puffskein Allybon also established scientific groups known as Puffskein Allybon Fishing Committee for the determination of Approved Fishing Limits (AFL) across the maritime zones of the States. The committee conducted extensive research on the population and other fundamental aspects of Puffskein Allybon and concluded the prescribed limits for each State respectively. The State of Narnia opposed the prescribed limits by the committee initially by stating it to be less than the anticipated limits, as it would drastically tamper the international trade but later accepted the same along with State of Lyrian. Since 2006, both the States have delimited themselves to the prescribed limits. However this also saw a downfall in international trade and commerce.
9. On 5th July 2010 the representatives of the States met at Burj Khalifa along Puffskein Allybon Fishing Committee to request for revision of the limits. Since the modus operandi of the limits are based on scientific research of Puffskein Allybon the committee refused to increase the limits for Preservation and Protection of Puffskein Allybon. Showing slight disinterest in the decision of the committee, the States still agreed to the limits.
10. During the year of 2011, the State of Narnia brought forth a lot of internal policy changes as the newly elected President Miles Finer vouched for a new awakening in the system development and societal changes. One of such policy changes was the introduction of "Enhanced Fishing Mechanism" policy for effective fishing. As per the policy the fishermen were allowed fish within the territorial limits of the State using enhanced equipment funded by the government. While the same was effective it failed to align with the prescribed limits and the equipment used does not halt until the encoded time is reached.
11. On June 26, 2011, the president of Lyrian Cara Bloom made a public Statement against the "Enhanced Fishing Mechanism" policy of Narnia, which are as follows;
"I strongly stand against the new policy of Narnia as the policy doesn't respect the AFL and results in over fishing of the Puffskein Allybon, which may possibly lead to endangerment of the species. I also deeply urge President Miles Finer to recall the preamble of the treaty of Puffskein Allybon and take down the policy immediately to stay within the AFL"

12. On August 15, 2011, President Miles Finer, responded to the Statement, which are as follows
"I would highly request Madam President Cara Bloom, to take care of her own country and not to question the internal policies of the State of Narnia. My government knows what we are up to and we shall carry out the needed in due time"
13. While the heated tensions between the States were brewing, during March 2012 International Care for Maritime Species (ICMS), a Non-Profit and Non-Partisan Think Tank which has various experts in its advisory board, published a detailed report on critical endangerment of the Puffskein Allybon due to the policy and breach of AFL by the State of Narnia.
14. On February 02, 2013, the State of Lyrian expressed its distress and alleged violation of the treaty Puffskein Allybon in accord with AFL by State of Narnia and invited the State for amicable settlement by way of negotiation.
15. The Negotiation took place at national Capital of Narnia, Taj on the November 25, of 2013 with the legal representatives of the States. The negotiation ended in failure as the States couldn't reach a common ground on the dispute and simultaneously the breach of AFL was reaching the saturation point.
16. In view of protection of the Puffskein Allybon from endangerment, on December 15, 2019 the State of Lyrian submitted an Application instituting compulsory arbitration proceedings against State of Narnia invoking Art. 281 of the UNCLOS for peaceful settlement of the dispute for violation of Art. 64, 116-119 and 300 of UNCLOS as well as breach of the treaty of Puffskein Allybon. The copy of the said application was also sent to the State of Narnia.
17. On January 5, 2020, the tribunal was then constituted on the request of State of Lyrian as per Annex VII, UNCLOS to adjudicate the dispute. (Annexure 4)
18. After the constitution of the tribunal, the State of Narnia responded by contesting the jurisdiction of the Arbitral Tribunal stating "The tribunal lacked jurisdiction under the UNCLOS with regard to Puffskein Allybon and the ICJ retains jurisdiction as per the treaty, if in case of any dispute between the same"
19. Meanwhile, the State of Lyrian challenged the impartiality and independence of Madam Arbitrator Ms. Elizabeth Harmon as she represented as a legal counsel in a proceeding where similar issues were raised concerning endangerment of marine species due to "Enhanced Fishing Mechanism" policy.
20. The State of Lyrian is represented by their legal representatives as the claimants and the State of Narnia is represented by their legal representatives as the respondents before the Hon'ble Arbitral Tribunal as Per Annex VII of the UNCLOS. The parties agreed on the substantive law to be the relevant international laws and the conventions therein. In addition to the treaties and other international agreements referred elsewhere in this Statement, at all relevant times both Lyrian and Narnia have been parties to the four Geneva Conventions of 1949, the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and Cultural Rights, All the Maritime & Marine Conventions, Environmental International Conventions, and the Vienna Convention on the Law of Treaties.

21. The State of Lyrian, Claimants respectfully requests, that the Tribunal:
- a) Adjudge & Declare that Ms. Elizabeth Harmon lacks impartiality and independence as per IBA Rules of Ethics for International Arbitrator.
 - b) Declare that it has jurisdiction over Lyrian's claims as per Art. 281 of the UNCLOS
 - c) Adjudge that the State of Narnia has grossly violated the treaty of Puffskein Allybon due to its national policy "Enhanced Fishing Mechanism" as it has failed to observe the Approved Permissible Limits (AFL) and the United Nations Law of the Sea Convention.
 - d) Adjudge & Declare to pay compensation for the reversible damages done to the population of Puffskein Allybon and cost of arbitration. The compensation shall be in monetary and the same shall be payable to the Puffskein Allybon Fishing Committee to establish sub-scientific groups for the improvement and protection of Puffskein Allybon population.
22. The State of Narnia, Respondents respectfully requests, that the Tribunal:
- a) Adjudge & Declare that Ms. Elizabeth Harmon is in consonance with IBA Rules of Ethics for International Arbitrator.
 - b) Declare that the Tribunal lacks jurisdiction over Lyrian's claims as per Art.281 of the UNCLOS as the dispute falls outside the Tribunal's jurisdiction or is inadmissible
 - c) Adjudge that State of Narnia has neither grossly violated the treaty of Puffskein Allybon by way of introduction of the Enhanced Fishing Mechanism" nor has failed to observe the Approved Permissible Limits (AFL) and the United Nations Law of the Sea Convention.
 - d) Adjudge & Declare that the State of Narnia is not responsible to pay compensation as no damage has been done by the State in due regard.

ANNEXURE 1



The Lyrian Declaration of December 20, 1975 recognized

“As compulsory ipso facto and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice. The Government of Lyrian further declares that this declaration does not apply to any dispute in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement”

The Narnia Declaration of September 9, 1979 recognized:

as compulsory ipso facto and without special agreement, in relation to any other State accepting the same obligation and on condition of reciprocity, the jurisdiction of the International Court of Justice, over all disputes . . . with regard to situations or facts . . . which are not settled by other means of peaceful settlement. This declaration does not apply to disputes which the parties thereto have agreed or shall agree to refer for final and binding decision to arbitration or judicial settlement.



**TREATY OF PRESERVATION AND PROTECTION PUFFSKEIN ALLYBON
ENTERED INTO FORCE ON DAY 1 OF JANUARY 2006**

The Parties to this Treaty:

Considering their mutual interest in Puffskein Allybon;

Recalling that Lyrian and Narnia have already taken certain measures for the preservation and protection of Puffskein Allybon;

Paying due regard to the rights and obligations of the Parties under relevant principles of international law;

Noting the adoption of the United Nations Convention on the Law of the Sea in 1982;

Noting that States have established exclusive economic or fishery zones within which they exercise, in accordance with international law, solve reign rights or jurisdiction for the purposes of exploring and exploiting, conserving and managing the living resources;

Recognising that Puffskein Allybon is a highly migratory species which migrates through such zones;

Noting that the coastal States through whose exclusive economic or fishery zones Puffskein Allybon migrates exercise sovereign rights within such zones for the purpose of exploring and exploiting, conserving and managing the living resources including Puffskein Allybon;

Acknowledging the importance of scientific research for the preservation and protection of Puffskein Allybon and the importance of collecting scientific information relating to Puffskein Allybon and ecologically related species;

Recognising that it is essential that they cooperate to ensure the Preservation and optimum utilisation of Puffskein Allybon;

Have agreed as follows:

Article 1

This Treaty shall apply to Puffskein Allybon

{.....}

Article 13

1. A Scientific Committee is hereby established as an advisory body.
2. The Scientific Committee shall: (a) assess and analyse the status and trends of the population of Puffskein Allybon; (b) coordinate research and studies of Puffskein Allybon; (c) report to the Commission its findings or conclusions, including consensus, majority and minority views, on the status of the Puffskein Allybon stock and, where appropriate, of ecologically related species; (d) make recommendations, as appropriate, to the Commission by consensus on matters concerning the conservation, management and optimum utilisation of Puffskein Allybon; (e) consider any matter referred to it by the Commission.

3. The Scientific Committee shall adopt and amend as necessary its rules of procedure. The rules and any amendments thereto shall be approved by the Commission.
4. The Commission may invite any State or entity not party to this Convention, whose nationals, residents or fishing vessels harvest Puffskein Allybon, and any coastal State through whose exclusive economic or fishery zone Puffskein Allybon migrates, to send observers to meetings of the Commission and of the Scientific Committee.
5. The Commission may invite inter-governmental or, on request, non-governmental organisations having special competence concerning Puffskein Allybon to send observers to meetings of the Commission.

{.....}

Article 24

1. If any dispute arises between two or more of the Parties concerning the interpretation or implementation of this Treaty, those Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.
2. Any dispute of this character not so resolved shall, with the consent in each case of all parties to the dispute, be referred for settlement to the International Court of Justice or to arbitration; but failure to reach agreement on reference to the International Court of Justice or to arbitration shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 above.
3. In cases where the dispute is referred to arbitration, the arbitral tribunal shall be constituted as provided in the Annex to this treaty. The Annex AA forms an integral part of this Treaty.

{.....}

1. The arbitral tribunal referred to in paragraph 3 of Article 24 shall be composed of three arbitrators who shall be appointed as follows:
 - (a) The party commencing proceedings shall communicate the name of an arbitrator to the other party which, in turn, within a period of forty days following such notification, shall communicate the name of the second arbitrator. The parties shall, within a period of sixty days following the appointment of the second arbitrator, appoint the third arbitrator, who shall not be a national of either party and shall not be of the same nationality as either of the first two arbitrators. The third arbitrator shall preside over the tribunal.
 - (b) If the second arbitrator has not been appointed within the prescribed period, or if the parties have not reached agreement within the prescribed period on the appointment of the third arbitrator, that arbitrator shall be appointed, at the request of either party, by the Secretary-General of the Permanent Court of Arbitration, from among persons of international standing not having the nationality of a State which is a Party to this Treaty.
2. The arbitral tribunal shall decide where its headquarters will be located and shall adopt its own rules of procedure.
3. The award of the arbitral tribunal shall be made by a majority of its members, who may not abstain from voting.
4. Any Party which is not a Party to the dispute may intervene in the proceedings with the consent of the arbitral tribunal.
5. The award of the arbitral tribunal shall be final and binding on all parties to the dispute and on any party which intervenes in the proceedings and shall be complied with without delay. The arbitral tribunal shall interpret the award at the request of one of the parties to the dispute or of any intervening party.
6. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares.

In faith whereof the Plenipotentiaries have signed the present Treaty

DONE at Burj Khalifa, Lyrian this thirtieth day of November, two thousand five, in one copy, which will be deposited in the archives of the United Nations.

THE COMPOSITION OF THE TRIBUNAL

1. The Arbitrator appointed on behalf of the State Lyrian from the list as per Article 2
Mr. Thomas Shelby (National of Lyrian)
2. The Arbitrator appointed on behalf of State of Narnia from the list as per Art.2
Ms. Elizabeth Harmon (National of Narnia)
3. By of agreement between both the parties the following three members from the list as per Art.2 are appointed as arbitrators. All are nationals of third States.
Mr. Robert Downey, Jr.
Mr. Rafeal Solano
Ms. Jane Villanueva
4. Mr. Robert Downey, Jr. shall be the president of the tribunal.



CORRECTIONS

In para 6, 12th August 2007 is amended to 12th August 2006

6. On 12th August 2006, William Marrigot, a marine life expert associated with leading marine and maritime institutions expressed his concerns by means of public notice and published research articles over declined PuffskeinAllybon population due to over-fishing by the States and also mentioned in one of his articles that it would become an endangered marine species within the next five years if the overfishing of the species continues. The articles of William Marrigot became an overnight sensation calling the States to take necessary and immediate action to preserve and protect the PuffskeinAllybon by the international community along with various institutionalized bodies of marine species.

In para 7, 30th November 2005 is amended to 30th November 2006 and 1st January 2006 is amended to 1st January 2007.

7. In light of call for action, the government of Lyrian and Narnia decided to formulate a treaty with regard to PuffskeinAllybon apart from the internal measures taken by them previously. On 30th November 2006, the Representatives of both the State met at the city capital of Lyrian, BurjKhalifa and concluded negotiations and signed the **Treaty of Preservation and Protection PuffskeinAllybon** (Treaty of PuffskeinAllybon) which came into force on 1st January 2007 (Relevant provisions of the treaty are included in Annexure 3).

In the annexure, of the treaty is amended as follows in consonance to the amended timeline.

In faith whereof the Plenipotentiaries have signed the present Treaty

DONE atBurjKhalifa, Lyrian this thirtieth day of November, two thousand and six , in one copy, which will be deposited in the archives of the United Nations

1. What category does PuffskeinAllybon fall under according to IUCN?

Clarifications not required, Please refer para 3 of the Fact sheet.

2. What is the sovereignty of the Island of Ilon?

It is an independent Island.

3. What were the internal policies of Narnia and Lyrian for the protection of PuffskeinAllybon before the Treaty of PuffskeinAllybon came to force?

Clarification not required. Please rely on the fact sheet

4. What is the function and composition of the Commission mentioned in Article 13 of the treaty?

The function of the commission is to approve the limits prescribed by the committee based on the scientific data and also check its veracity before being presented to the states. The commission consist of 5 members with equal representation from both the states who shall be experts in the field of maritime and marine life. A chairperson shall be elected each year from both the states on rotational basis.

5. Till what zone of the states (maritime zone or EEZ) does the Treaty of PuffskeinAllybon apply to?

Clarification not required. Participants are encouraged to rely on the fact sheet.

6. What are the limits prescribed for fishing as per the treaty or there are limits on allowable catch? length of EEZ and AFL if any?

Clarification not required. Participants are encouraged to rely on the fact sheet.

7. As per paragraph 8, 10 and preamble of the Treaty of PuffskienAllybon, it can be inferred that all the fishing activities of the State of Lyrian and Narnia, AFL (set by the Scientific Committee) was within the EEZ of the respective states and the breach of AFL by the State of Narnia, occurred in its EEZ. But, as per paragraph 16 of the moot proposition, the article invoked i.e., Article 116-119 of UNCLOS is related to high seas. So, where did the disputed act of breach of AFL by the state of Narnia occurred? Whether it was in its EEZ or in the High Seas?

Clarification not required. Participants are encouraged to rely on the fact sheet.

8. Enhanced fishing limit was precisely effective in what sense?(Para 10)

Clarification not required. Participants are encouraged to rely on the fact sheet.

9. Are there any credible data and evidence that the population of the fish was further affected by the introduction of enhanced fishing limit?

Clarification not required. Participants are encouraged to rely on the fact sheet.

10. Approved Fishing limits (AFL) as prescribed by the PuffskeinAllybon Fishing Committee for each state as specified in paragraph 8.

Clarification not required. Participants are encouraged to rely on the fact sheet.

- 11. Has Ms. Elizabeth Harmon already disclosed the fact that she was a legal counsel in a similar case (as mentioned in paragraph 19) before accepting the role of Arbitrator?**

Clarification not required. Participants are encouraged to rely on the fact sheet.

- 12. What is the date of appointment of Ms. Elizabeth Harmon?**

No response is necessary

- 13. The relevant information from the detailed report on critical endangerment of the PuffskainAllybon published by the International Care For Maritime Species (ICMS), as stated in Paragraph 13.**






No response is necessary





Transitory Campus

GURU BHAVAN, C/o, GNLU, Knowledge Corridor, PDPU Road,
Koba, Gandhinagar – 382426, Gujarat, India

 GMUGANDHINAGAR  GMU_GANDHINAGAR  GMU_GANDHINAGAR  GMUGANDHINAGAR  +91 81413 14444

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