

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Investment Law
Semester-II (Batch: 2017-18)

LL.M. End Semester Examination: May - 2018

Date: 04th May 2018

Duration: 03 Hours

Max. Marks: 70

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.

PART - A**Marks**

- Q.1 'Given the fundamental principle of party autonomy in international arbitration, the arbitrators' inquiry is primarily guided by the determination of whether the parties themselves have chosen the law governing their dispute. It is only in the absence of such choice that the arbitrators must determine the law that will apply to the dispute.' Discuss this statement in light of the law applicable in investment treaty arbitration. (10)
- Q.2 'Investment protection treaties and customary international law now obligate host States to protect foreign investments such that any expropriation must be done according to certain rules. However, assessing the amount of compensation is a major current issue.' The most important recommendation for signatory States to BITs is to define more clearly what can be qualified as direct or indirect expropriation when certain types of legitimate laws and regulations are at issue? Answer with the help of relevant laws & cases. (10)
- Q.3 A Most Favoured Nation (MFN) clause requires the state party to one investment treaty to provide investors with treatment no less favourable than the treatment it provides to investors under other investment treaties. Examine the evolving role of the MFN clause by citing leading investment treaty awards. (10)
- Q.4 Write note on following. (*any one*): (05)
- (a) The definition of 'Investment' under the ICSID Convention
 - (b) Issues relating to defining 'protected investors'

PART - B

- Q.5 Answers any two questions (750-100 words) (2x5=10)
- (a) Explain the intermediation functions of financial intermediaries.
 - (b) Explain the classical theory of foreign investment and its limitations.
 - (c) 'There was no requirement of international investment law during colonial period'- Explain this statement.

PART - C

- Q.6 Explain in detail the efforts made under the auspices of the United Nations (UN) and the Organization of Economic Change and Development (OECD) to regulate foreign investment. (07)

Or

Explain in brief the nature and scope of the standard of treatment of foreign investment in customary international law highlighting the protection available against expropriation.

- Q.7 What do you mean by Foreign Direct Investment (FDI)? What are the salient features of consolidated FDI Policy 2017 of India? Explain the concept of 'Pollution Havens'. Do you find any measures under the current FDI Policy supporting the country in achieving sustainable development goals, especially environmental sustainability? (09)
- Q.8 Definition of investment, admission of foreign investors, fair and equitable treatment of investors, compensation in the event of expropriation, and method of settling disputes are substantive elements of a BIT. Do you find the Model BIT 2016 of India dealing with these identified substantive elements satisfactorily? (09)
