

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Investment Law
Semester- II (Batch: 2020-21)

End Semester Online Examination: June 2021 (LLM)

Date: 24th June, 2021

Duration: 8 hours

Max. Marks: 50

Instructions:

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Word Limit: 10 Marks: 600-650 Words, 5 Marks: 400-450 Words.

Part I**Marks**

- Q.1 Foreign investments are considered as inevitable to expand infra-structure projects in developing country. In the process of attracting investment, Bilateral Investment Treaties (BITs) have played a very positive role by fostering confidence in the mind of investors through incorporation of various provisions of such nature within itself. However, the purpose of BIT is not just to offer certain degree of protection to investors but also to actualize developmental goals of the host country. In this context, analyse the model BIT of India highlighting the important provisions. Also mention any modifications that you would suggest in the light of the current developmental goals of India. (10)
- Q.2 "India is an open, transparent and a development oriented democracy. It has high growth prospects along with the potential and requisite capacities to help turn around the dwindling economies of the world affected by the COVID-19 pandemic. A robust and easily accessible Foreign Direct Investment (FDI) regime therefore, will evolve India in becoming a new manufacturing capital while also providing an alternative for the world's shaken up value chains to be based in." (10)
- In the light of above statement, identify and analyze the important provisions of the FDI Policy, 2020.
- Q.3 Briefly explain the role of customary international law in the development of foreign investment law. (5)

Part II

- Q.4 "Scholars generally agree that *the MFN rule grants a claimant's right to benefit from substantive guarantees contained in third treaties*'. This is because MFN clauses typically provide that investments of investors should receive treatment *that is no less favourable* than that accorded to investments of investors of third states." Do you agree? Support your analysis with help of Awards of Arbitral Tribunals. (10)

- Q.5 Whether the notion of *legitimate expectations* is rooted in principles of domestic administrative law that are common to a number of different legal systems? Critically analyse in context of the *Investor's Legitimate Expectations under the Fair and Equitable Standard*. (10)
- Q.6 Investment arbitration by definition, concerns activities of the *Host State* or its organs. This automatically raises questions of *State responsibility*. Discuss in brief. (5)
