

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Investment Law  
Semester- II (Batch: 2023-24)

End Semester Examination: April 2024 (LL M)

Date: 25<sup>th</sup> April, 2024

Duration: 3 hours

Max. Marks: 50

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- 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: 700-750 words, 5 Marks: 400-450 words, 2.5 Marks: 250-300 words.

	<b>Marks</b>
Q.1 The power of a court or judge to entertain an action, petition, or other proceeding is called <i>jurisdiction</i> . The <i>jurisdiction of arbitral tribunals</i> may be based on the investor-state, contained in an arbitration clause, in an investor-state, in investment codes of a host State, or in the provisions of investment treaties. In arbitration without privity, consent is one layer removed from particular investment transactions. Discuss the decision of the tribunal on objections to jurisdiction namely, in the case of <i>Emilio Agustín Maffezini V. The Kingdom Of Spain</i> .	(10)
Q.2 A stock-taking of Most Favoured Nations [MFN] clauses in investment treaties will not yield a uniform picture. The universe of MFN clauses in investment treaties is quite diverse. Some MFN clauses are narrow, others are more general. Moreover, the context of the clauses varies, as does the object and the purpose of the treaties that contain them. Clarify the term MFN clause by citing different awards & clauses of BITs.	(10)
Q.3 Expropriation in investment arbitration concerns two notions; first, each State's right to exercise sovereignty over its territory, and second, each State's obligation to respect properties belonging to foreigners. The first means that a state may, in special circumstances, expropriate a foreign investor's property. Discuss expropriation in investment arbitration.	(5)
Q.4 Bilateral Investment Treaties (BITs) are premised on the assumption of promoting investment from investor countries to investment receiving countries. Mention the substantive areas that are generally covered under the BITs and highlight the protection afforded for these areas under BITs and decide, whether the assumption stands correct in Indian context?	(10)
Q.5 Identify and explain the basis on which the protection is afforded to foreign investment under customary international law. Also, explain the fair and equitable principle of foreign investment law and establish with the help of decided cases that it is deeply rooted in customary international law.	(10)
Q.6 Write short notes on <b>any two</b> of the following: a) The Calvo Doctrine b) The Hull Formula c) National Treatment	(2.5x2 =5)

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