

8 MAY 2023

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination April-May 2023

Semester: UG VIII (International Trade and Investment Law Hons.)

International Investment Law and Policy

Time: Three Hours

Marks: 100

Instructions:

1. This question paper contains six questions. You are required to answer any FIVE.
2. Students must start each answer by clearly identifying to which question they are responding.
3. You must follow the Examination Protocol.

Q.1). What constitutes expropriation and what are the conditions for a lawful expropriation? Discuss the attempts to develop international standards as to expropriation in the BITs regime.

(Marks 20)

Q.2). In *X v Y*, a case under A-Y BIT, the claimants were 'A' nationals who owned shares in 'A' company that had invested in 'Y'. The 'A' company was in bankruptcy and thus the shareholders brought a claim for damage to their investments in 'Y' held through the bankrupt company. The A-Y BIT did not expressly include indirect investment and did refer to indirect investments owned through an intermediary company in a third State. The claimants argued that this demonstrated that indirect investments were included in the definition of investment and that only investments through third country intermediaries were mentioned because the drafters took for granted that indirect investments through companies in the home or host State were included. Discuss the scope of investment in the light of BIT jurisprudence.

(Marks 20)

Q.3). Explain counterclaims. Give examples from international investment arbitration jurisprudence.

(Marks 20)

Q.4). Is there a link between FDI liberalization and economic growth? Explain in the backdrop of theories on foreign direct investment.

(Marks 20)

Q.5). Discuss the significance of nationality of the investor for receiving investment protection. Explain the criteria to determine the nationality of the investor in the light of international investment arbitration jurisprudence.

(Marks 20)

Q.6). What is the Minimum Standards of Treatment (MST) of investment protection? Discuss the elements of MST in the light of international investment arbitration jurisprudence.

(Marks 20)