


Name:			
Enrolment No:			
<b>UPES</b> <b>End Semester Examination, December 2023</b>			
<b>Course: Resolution of International Trade and Investment Disputes</b> <b>Program: B.B.A. LL.B. (ITIL Hons.)</b> <b>Course Code: CLIN5006</b>		<b>Semester: IX</b> <b>Time : 03 hrs.</b> <b>Max. Marks: 100</b>	
<b>SECTION A</b> <b>(5Qx2M=10Marks)</b>			
S. No.		Marks	CO
Q 1	Explain the term ' <i>Treaty Claim</i> ' under International Investment Law.	2	CO1
Q 2	Explain rule of confidentiality in dispute resolution proceedings.	2	CO1
Q 3	Define and explain Non-Violation Complaints.	2	CO1
Q 4	Define <i>ratione temporis</i> in International Investment Disputes.	2	CO1
Q 5	Explain briefly the process of selection of panelists at Dispute Settlement Body.	2	CO1
<b>SECTION B</b> <b>(4Qx5M= 20 Marks)</b>			
Q 6	Explain the concept ' <i>Ratione Personae</i> ' in International Investment Disputes.	5	CO2
Q 7	Several attempts have been made to provide solution to the problem of intermingling of contract and treaty claims, such as, <i>judicial comity</i> and <i>abus de droit</i> . Explain them in the light of different investment disputes.	5	CO2
Q 8	Explain the role of <i>Third Parties</i> in Dispute Settlement at WTO.	5	CO2
Q 9	Explain counter claims in the light of Article 3.10 of Dispute Settlement Understanding which states “... it is also understood that complaints and counter-complaints in regard to distinct matters should not be linked.” Analyse the term ‘distinct’ with the help of examples.	5	CO2
<b>SECTION-C</b> <b>(2Qx10M=20 Marks)</b>			
Q 10	Explain and analyse the following issues in International Investment Arbitrations; a) Finality of awards	5*2	CO3

	b) Enforcement of awards						
Q 11	Give an overview of the WTO's Dispute settlement System. Analyse practices of DSU and apply your understanding to compare efficacy of the two systems i.e. Dispute Settlement Understanding (DSU) of WTO and GATT 1947 dispute resolution system.	10	CO3				
<b>SECTION-D</b> <b>(2Qx25M=50 Marks)</b>							
Q 12	<p>The complainant company Pritchetts which had invested in the Republic of India in December 2002, was incorporated in US. However, it was wholly controlled by a Chinese company named Zingo International. Dispute arose between Pritchetts and the Republic of India in December 2008. As per the definition of US-India BIT, the investor for the purpose of the said BIT is “<i>Legal persons incorporated according to the law of this contracting Party.</i>” Analyze and apply your learnings to answer the following</p> <p>a) Whether this should be considered as an investment?  b) Do you agree with the precedents established by the tribunals of the past?  c) What will you suggest to exclude ‘mailbox’ companies from being considered as an investor?</p>	7+10+8	CO4				
Q 13	<p>The Kingdom of Dras-Leona is a developing country and is also a Member of WTO. To boost domestic production of cars and other automobiles in its territory, the Kingdom of Dras-Leona introduced its ‘National Automobile Production Policy of 2023’ (<b>‘Policy of 2023’</b>).</p> <p>The National Automobile Production Policy of 2023 provides for the tax and tariff treatment of cars and other automobiles in Kingdom of Dras-Leona. The Policy of 2023 states that manufacturers or assemblers of passenger cars shall be exempted from import duty if they are domestically made or have achieved certain percentage of domestic input requirement.</p> <p>The percentage requirement of domestic input and the corresponding import duty rates under the Policy of 2023 for passenger cars are provided below:</p> <p style="text-align: center;"><b>Table 1</b></p> <p style="text-align: center;"><i>Import duty vis-à-vis domestic input requirement for passenger cars</i></p> <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="width: 50%; text-align: center;">Domestic Input Requirement</th> <th style="width: 50%; text-align: center;">Import Duty</th> </tr> </thead> <tbody> <tr> <td style="height: 20px;"> </td> <td> </td> </tr> </tbody> </table>	Domestic Input Requirement	Import Duty			25	CO4
Domestic Input Requirement	Import Duty						

Less than 20%	100%		
20% to 30%	80%		
30% to 40%	60%		
40% to 60%	40%		
More than 60%	0%		

Further, the Policy of 2023 provides for reduced sales tax on luxury goods such as passenger cars with specific percentage of domestic inputs utilised in its manufacturing or assemblage. The policy provided that passenger cars would be subject to a luxury tax of 20 percent provided their domestic input requirement exceeds 60 percent. If the domestic input requirement is not in excess of 60 percent, the applicable luxury tax rate would be 35 percent.

**Table 2**

*Luxury Tax Rate Schedule*

<b>Type of Passenger Car</b>	<b>Luxury Tax</b>
Passenger cars 1600 cc with domestic input $\leq 60\%$	35%
Passenger cars 1600 cc with domestic input $> 60\%$	20%
National cars or Pioneer status cars	0%

The policy provides for the grant of “pioneer” or National Automobile Company status to Dras-Leonian car companies if they meet a specified criteria as to ownership of facilities, use of trademarks, and technology. The maintenance of such pioneer status is contingent on increasing the requirement of domestic inputs over the period of three years. Once such a status is achieved, such companies are exempted from luxury taxes on sales of national cars and exemption from import duties on parts and components for manufacturing of cars or other automobiles.

**Table 3**

*Schedule for the incremental requirement of domestic inputs for achieving Pioneer Status*

Time Period	Domestic Inp
end of the first year	>20
end of the second year	>40
end of the third year	>60

The National Automobile Production Policy of 2023, further provides that National cars that have achieved pioneer status and are manufactured in a foreign country, shall be treated the same as manufactured National Cars with Pioneer status in the Kingdom of Dras-Leona and will be exempt from the luxury tax.

The Kingdom of Garrow is a developed country and Member of WTO. The Kingdom of Garrow has a robust automobile manufacturing sector. Cartesia & Co. is one of the largest manufacturer and exporter of 1600 cc passenger cars in the world. Now with the introduction of the Policy of 2023, they are not able to export their passenger cars in the territory of Kingdom of Dras Leona. The Government of Kingdom of Garrow, taking cognizance of Cartesia & Co’s grievance and has decided to pursue this issue at the WTO. You as a lawyer for the Government of Kingdom of Garrow, are tasked with providing advice to the Government on this issue. Supplement your advice by applying relevant WTO jurisprudence.