Name: Enrolment No:	

UPES

End Semester Examination, May 2024

Course: International Trade and Investment Law **Semester: IV**

Program: LL.B. (Hons.) **Time : 03 hrs.**

Course Code: CLCP2003H **Max. Marks: 100**

Instructions:

SECTION A
(5Qx2M=10Marks)

S. No.		Marks	CO
Q 1	Define and differentiate between contract and treaty claims.	**2**	**CO1**
Q 2	Define ratione materiae.	**2**	**CO1**
Q 3	Define treaty shopping.	**2**	**CO1**
Q 4	There are certain considerations which are to be taken for enforcing dumping and countervailing duty, and one of these is *de minims*. Explain the term.	**2**	**CO1**
Q 5	Is there a difference between Dispute Settlement Understanding and Dispute Settlement Body? Explain briefly.	**2**	**CO1**

SECTION B
(4Qx5M= 20 Marks)

Q 6	Enumerate and explain different criteria used to define a foreign investor in the light of decided international investment disputes.	**5**	**CO2**
Q 7	Provide a brief overview of the organizational set up of the WTO with respect to different bodies and their functions.	**5**	**CO2**
Q 8	Write a short note on practice of zeroing during anti-dumping investigations.	**5**	**CO2**
Q 9	Explain red, amber and green subsidies in the Agreement on Agriculture of WTO.	**5**	**CO2**

SECTION-C
(2Qx10M=20 Marks)

Q 10	The reading *Contract Claims vs. Treaty Claims: Mapping Conflicts Between ICSID Decisions on Multi-Sourced Investment Claims* by *Yuval Shany* attempts to provide solution to the problem of intermingling of contract and treaty claims i.e. **judicial comity** and **abus de droit.** Analyse them in the light of integrationist and non-integrationist approach mentioned in the reading.	**10**	**CO3**
Q 11	Explain the Appellate Body Crises at the WTO in light of the issues raised by the US to justify non-appointment of judges.	**10**	**CO3**
SECTION-D **(2Qx25M=50 Marks)**			
Q 12	Zuba Incorporation (herein Zuba), a highway construction company, whose home state is Republic of Hogwards. Zuba invested in Republic of Narnia contracting with state owned enterprise Marsen & Kubro to build their seven offices all across Narnia. Soon a dispute arose due to non-payment of dues by Marsen and Kubro. The Supreme Court of Narnia passed judgment in favour of Zuba and awarded it 15 million dollars in compensation. The local authorities failed to enforce this ruling of the court for a period of eight years. Zuba commenced UNCITRAL arbitration proceedings against Narnia under the Narnia-Hogwards Billateral Investment Treaty claiming treaty's most-favoured-nation (MFN) clause. It relied on obligation to provide effective means of asserting claims and enforcing rights contained in the Republic of Narnia-Republic of Gotham (a third state/party) bilateral investment treaty. Decide this dispute by analysing and applying the available jurisprudence on importation of favorable treatment from a third-party BIT.	**25**	**CO4**
Q 13	India initiated an investigation of dumping on imported steel originating from three exporting entities named Nachos Ltd. incorporated Mexico, Croissant international incorporated in France and Hamburger Incorporation incorporated in USA. India chose a twelve-month period prior to commencement of investigation for the purpose of investigation i.e. steel exported by these three entities to India during those twelve months. Process and result of investigation of each entity is as followed- **Nachos Ltd.-** During preliminary investigation i.e. within a week of commencement of investigation, India had ascertained that there was dumping of steel by Nachos Ltd. Investigating authorities had consultations with the Directors of Nachos Ltd. and consequently Nachos Ltd. agreed to raise the price of the product to avoid possibility of anti-dumping duty. **Croissant International-** At the end of the investigation it was ascertained that Croissant International was indeed dumping products in	**25**	**CO4**

India and the margin of dumping was ascertained as 1.7% of the total export price.

Hamburger Incorporation- While investigation India compared three periods of sales made by Hamburger Incorporation in USA (i.e. the home market) with export sales made in India in the same periods. A comparison of such sales is made to determine the dumping margin.

Sale Home market (USA)	Export market (India)	Differe
Rs 2000	Rs 1800	Rs 200
Rs 2000	Rs 2300	Rs 300
Rs 2000	Rs 2000	Rs 0

(Rate mentioned here is per quintal)

India also compared the price of the steel in the USA market with the price of the steel in the Indian market, but disregards, by setting at zero, all transactions in which the price of the steel in the USA market is smaller than the price in the Indian market (the difference of Rs 300 mentioned in the second period is considered as 0)

India has imposed 20% dumping duty on imports from Nachos limited, imposed 1.7% dumping duty on imports from Croissant International and 11.1% dumping duty on imports from Hamburger Incorporation equivalent to their respective dumping margin. Finding this measure of India as unfair, Mexico, France and USA have approached the DSB for a relief.

Analyze and apply provisions of WTO Agreements to resolve this dispute as a judge at DSB Panel.