


Name:			
Enrolment No:			
UPES End Semester Examination, May 2025			
Course: International Trade and Investment Law Program:- B.A.LL.B/BBA.LL.B/B.COM.LL.B Course Code: CLCP4008		Semester: VIII Time : 03 hrs. Max. Marks: 100	
Instructions: Attempt all questions.			
SECTION A (5Qx2M=10Marks)			
Q 1.	Write any two core annexure agreements administered by the World Trade Organization (WTO)	2	CO
Q 2.	Define the term 'safeguard measures' in the context of international trade.	2	CO1
Q 3.	Which principle prohibits discrimination between imported and domestic goods?	2	CO1
Q 4.	State any two doctrines that protect investors against arbitrary and discriminatory treatment.	2	CO1
Q 5.	Who is <i>Amicus Curiae</i> in Dispute Settlement Proceeding? Or Mention two international standard-setting bodies recognized under the SPS Agreement.	2	CO1
SECTION B (4Qx5M= 20 Marks)			
Q 6.	What is the concept of zeroing in anti-dumping investigations. Support your answer with reference to relevant WTO case law.	5	CO2
Q 7.	How could a foreign investor claim a violation of the Full Protection and Security (FPS) standard under an investment treaty? Explain with example Or Differentiate between SPS and TBT measures with any two landmark judgments.	5	CO2
Q 8.	How a Free Trade Agreement differs from a Customs Union in terms of trade barriers and external tariffs and what is the legal positioning of both under GATT.	5	CO3

Q 9.	<p>What are the general legal obligations under the General Agreement on Trade in Services (GATS) for all services sectors?</p> <p style="text-align: center;"><u>Or</u></p> <p>What is the requirement of ‘unforeseen developments’ under Article XIX of GATT 1994 in the application of safeguard measures. How was this requirement interpreted in the US – Hatter’s Fur Felt case?</p>	5	CO3
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SECTION-C
(2Qx10M=20 Marks)

Q 10	Critically assess the role of Regional Trade Agreements in promoting economic development for developing nations, discuss whether they are building blocks or stumbling blocks. (Take reference to legal positioning of same under GATT)	10	CO3
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Q 11	<p>Compare and contrast countervailing duties with anti-dumping duties under WTO law. Why is it important to distinguish between the two remedies, and what are the risks of overlap or confusion?</p> <p style="text-align: center;"><u>Or</u></p> <p>India has initiated an anti-dumping investigation against a U.S.-based exporter of industrial adhesives. The Directorate General of Trade Remedies (DGTR) has compiled the following data for three quarters exported from the USA to India during the year 2024.</p> <p>Calculate the dumping margin percentage using the weighted average method.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Quarter</th> <th>Normal Value (₹/unit in USA)</th> <th>Export Price (₹/unit in India)</th> <th>Units sold in India</th> <th>Units sold in USA</th> </tr> </thead> <tbody> <tr> <td>Q1</td> <td>100</td> <td>80</td> <td>500</td> <td>2000</td> </tr> <tr> <td>Q2</td> <td>120</td> <td>100</td> <td>1000</td> <td>2500</td> </tr> <tr> <td>Q3</td> <td>110</td> <td>90</td> <td>1500</td> <td>3000</td> </tr> </tbody> </table>	Quarter	Normal Value (₹/unit in USA)	Export Price (₹/unit in India)	Units sold in India	Units sold in USA	Q1	100	80	500	2000	Q2	120	100	1000	2500	Q3	110	90	1500	3000	10	CO4
Quarter	Normal Value (₹/unit in USA)	Export Price (₹/unit in India)	Units sold in India	Units sold in USA																			
Q1	100	80	500	2000																			
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Q3	110	90	1500	3000																			

SECTION-D
(2Qx25M=50 Marks)

Q 12	ABC Mining Ltd., a company incorporated in State A, is owned entirely by nationals of State C. ABC has no substantial business operations in State A. In 2015, ABC acquired a mining license in State B to extract rare earth minerals. State A and State B have a Bilateral Investment Treaty (BIT), which provides for investor–state arbitration and includes	25	CO4
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	<p>a Fair and Equitable Treatment (FET) clause and protection against expropriation. However, there is no BIT between State B and State C. In 2022, the government of State B abruptly cancels ABC’s mining license citing environmental concerns and public protests, causing substantial financial losses to ABC. ABC Mining Ltd. initiates arbitration proceedings against State B under the BIT between State A and State B, alleging breach of the FET standard and unlawful expropriation. State B challenges the admissibility of the claim, arguing that ABC is a ‘treaty shopper’ with no genuine link to State A and that its claim constitutes an abuse of rights.</p> <ol style="list-style-type: none"> 1) Discuss the legal issues involved and evaluate whether ABC Mining Ltd. can successfully bring a claim under the BIT. 2) Critically assess whether ABC Mining Ltd. can bring a valid claim under the BIT between State A and State B, considering its incorporation, ownership, and business operations. <p style="text-align: center;"><u>Or</u></p> <p>The Republic of Norland, concerned about the protection of endangered marine species, passes a law banning the import of shrimp harvested using methods that pose a threat to sea turtles. The law mandates that all shrimp imports must come from countries that require the use of Turtle Excluder Devices (TEDs) similar to Norland’s domestic regulations. This effectively prohibits imports from several developing countries, including the Republic of Tazania, which lacks the technological and financial capacity to implement TEDs but uses alternative conservation methods.</p> <p>Tazania initiates a dispute at the WTO, alleging that Norland’s measure is a violation of:</p> <ul style="list-style-type: none"> • Article XI:1¹ of GATT, • Article I:1², and 		
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¹ No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.

² With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III,* any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.

	<ul style="list-style-type: none"> • Article III:4³ <p>Norland defends its actions under Article XX(b) and XX(g) of GATT, claiming the measure is necessary to protect animal life and natural resources.</p> <ol style="list-style-type: none"> 1. Analyze whether Norland’s measure violates core GATT obligations under Articles I, III, and XI. 2. Critically evaluate Norland’s justification under Article XX exceptions assessing the balance between environmental protection and trade obligations in light of the Shrimp-Turtle ruling by the Appellate Body. 		
Q 13	<p>EcoMiner Ltd., a foreign investor from State A, holds a 25-year mining concession in State B under a valid license. After five years of operation, State B enacts strict environmental regulations prohibiting mining activities in ecologically sensitive zones, including the area where EcoMiner’s operations are located. The government does not revoke the concession but prohibits any further activity on the site, citing international commitments on climate change and biodiversity. No compensation is offered.</p> <p>EcoMiner files a claim under the BIT between State A and State B, alleging indirect expropriation.</p> <ol style="list-style-type: none"> 1) Does the regulatory measure enacted by State B amount to an indirect expropriation under international investment law? 2) To what extent can State B rely on its sovereign right to regulate in the public interest—particularly environmental protection—to defend against EcoMiner’s expropriation claim? <p style="text-align: center;"><u>Or</u></p> <p>In 2022, the Republic of Novastan imposed restrictions on the transit of goods originating in or destined for the Republic of Elbaria, citing “essential security interests” due to escalating political tensions and border hostilities between the two nations. The restrictions targeted Elbarian goods transiting through Novastan’s territory to third countries</p>	25	CO4

³ The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provisions of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

	<p>and involved customs checks, delays, and outright denials of passage in some cases.</p> <p>Elbaria challenged these measures at the WTO, alleging that Novastan’s actions violated: Article V⁴ of GATT ,Article XI of GATT, and Article I.</p> <p>Novastan invoked Article XXI(b)(iii) of GATT, claiming the measures were justified as they were taken “in time of war or other emergency in international relations.”</p> <ol style="list-style-type: none"> 1. Critically examine whether Novastan’s measures violate its obligations under Articles I, V, and XI of the GATT. 2. Analyze the scope and interpretation of Article XXI(b)(iii) of GATT in light of the WTO panel’s findings in the Russia–Transit case. 3. Can the invocation of national security be reviewed by a WTO panel? Discuss with reference to the objective vs. self-judging debate. 		
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⁴ There shall be freedom of transit through the territory of each contracting party, via the routes most convenient for international transit, for traffic in transit to or from the territory of other contracting parties. No distinction shall be made which is based on the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods, of vessels or of other means of transport.