SYLLABUS

COURSE DESCRIPTION

To practice law in the future lawyers will have to have a basic understanding of the fundamental legal concepts surrounding the global economy and increased world trade. Structurally and resolving international transactions has many aspects that differ from traditional domestic law. A basic understanding of the way international commercial arbitration works and functions is a necessary tool in comprehending international transactions.

This course will introduce students to the mechanics and basic concepts of international commercial arbitration. The arbitration process, discovery, mediation and negotiation which are integral parts of the way disputes involving international transactions are resolved. We will focus upon legislation, court decisions, arbitral awards and commentary from all parts of the world. Students will receive practical knowledge that can be used to draft and understand arbitration clauses in international contracts as well as a beginning understanding of how to litigate an international arbitration dispute.

OBJECTIVES

Objectives include: A comprehensive understanding of (a) the way global transactions are structured to resolve disputes; (b) significance of negotiation and mediation in resolving international business disputes; (c) the various methods and ways to draft an international arbitration agreement; (d) procedures involved in international arbitration; (e) evidentiary and strategy issues in international arbitration; (f) conflict of law issues in an international arbitration setting; and (g) ways to enforce an international arbitration award.

ADMINISTRATIVE ITEMS

Classes: Classes will be held in Room ____ on Mondays from 3:30 p.m. – 5:20 p.m.
Class Performance: Specific case and/or text reporting assignments will be made in advance. Regular, punctual class attendance and participation are course requirements along with the final examination. I reserve the right to raise or lower grades by half a letter based on classroom performance.

I will comply with the law school's policy on attendance. Accordingly, if you miss more than 9 classes for any reason, you will have to explain all your absences to Dean Marsh and may receive no credit or a failing grade for the course.

Recording Devices: The use of recording devices is prohibited without my prior permission.

Accommodations: Students with disabilities or special needs are encouraged to contact Jenelle Marsh, Senior Assisted Dean for Students/Academic Services at 205-348-5750 (email: jmarsh@law.ua.edu) so that any individual needs for support services can be evaluated and accommodated in a timely manner. Please let me know if I can be of assistance as well.

TEXT AND OTHER MATERIALS

We will be using Tibor Varady, John J. Barcelo, III and Arthur T. on Mehren’s *International Commercial Arbitration, A Transnational Perspective* (West, 4th ed. 2009). I may also assign readings and materials to supplement the required text.

You should get more out of the course – and a better understanding of international business law in general – by regularly reading the *Financial Times*, *Wall Street Journal*, the Sunday edition of *The New York Times*, and/or *Economist*.

FINAL EXAMINATION

The final exam will be open-book and will consist of one or more essay questions.

COURSE OUTLINE AND READING ASSIGNMENTS

**Class 1 - January 9, 2012**  
Introductions. Assignment: Text pages 1 – 75;  
**Begin:** Chapter I, I.1. Approaches to dispute resolution I.1.a. NOTE  
**Through:** I.3. The sources of relevant norms and possible conflicts between various Sources I.3. a. Note – The Sources.

**Class 2 - January 23, 2012.** Assignment: Text pages 75 – 143.  
**Begin:** I.3.b. Conflicts between various sources  
**Through:** II.1.c.ii. Negative effect of Kompetenz-Kompetenz in French law

**Class 3 – January 30, 2012.** Assignment: Text Pages 144 – 218  
**Begin:** II.1.c.ii. Separability revisited and the void ab initio doctrine
Through: II.1.g. The position of the parties who are not signatories of the arbitration agreement.

Class 4 – February 6, 2012. Assignment: Text Pages 218 – 289
Begin: II.1.h. Split arbitration clauses
Through: III.1.c. Oaths as safeguards in impartiality.

Class 5 – February 13, 2012. Assignment: Text Pages 290 – 375
Through: III.1.h. Rights and responsibilities of the arbitral institution.

Class 6 – February 20, 2012. Assignment: Text Pages 375 - 443
Begin: III.1.i. Can the arbitrators abandon their function? III.1.i.i Truncated tribunals
Through: III.2.e. Multi-party arbitration and selection of arbitrators.

Class 7 – February 27, 2012. Assignment: Text pages 444 – 516
Begin: III.3 Challenges, III.3.a. Introduction
Through: IV.1.f. Terms of reference, ICC rules of arbitration

Class 8 – March 5, 2012. Assignment: Text Pages 517-595
Begin: IV.1.g. Records and minutes of the hearing, ICC comparative arbitration practice and public policy in Arbitration.
Through: IV.1.j. Privacy and confidentiality, IV.1.j.i. Confidentiality of the arbitration proceedings and of the award.

Class 9 – March 12, 2012. Assignment: Text Pages 595-672
Begin: IV.1.j.ii. Confidentiality of the court decision dealing with a claim for set aside (?)
Through: IV.3.c. Interpreting choice of law clauses and the role of the lex arbitri

Begin: IV.3.d. The role of Lex Mercatoria
Through: V.2. Judicial Control over the award: Setting aside, V.2.a. Note – Judicial control in the country where the award is considered to be domestic.

Class 11 – March 26, 2012. Assignment: Text Pages 747 – 823
Begin: V.2.b. Domestic and foreign awards
Through: V.2.d.ii. Can the parties provide for heightened judicial scrutiny of arbitral awards?

Class 12 – April 2, 2012. Assignment: Text Pages 823 – 897
Begin: V.2.e. Due process in setting aside as an issue of human rights.
Through: V.c.iv. Improper composition of arbitral authority or improper arbitral procedure.
Class 13 – April 9, 2012. Assignment: Text Pages 897 – 965

Begin: V.3.c.v. An award set aside in “the country in which, or under the law of which, that award was made”.

Through: V.3.e. Estoppel

Class 14 – April 16, 2012. Last day of Class! Outside speaker or open forum and review.

May ___, 2012 @ __:00 __.m. – FINAL EXAM.