



MEMORANDUM

To: Donna E. Shalala, President

From: Richard L. Williamson
Chair, Faculty Senate

A handwritten signature in blue ink, appearing to read 'Richard L. Williamson'.

Date: February 24, 2011

Subject: Faculty Senate Legislation #2010-07(B) – University of Miami School of Law
International Arbitration Institute

At its February 23, 2011 meeting, the Faculty Senate approved the proposal for a University of Miami School of Law International Arbitration Institute for five years and any extensions thereafter.¹ Funding for this new institute will come directly from the Law School and it does not require additional funds from the University budget.

The proposal is enclosed for your reference.

This legislation is now forwarded to you for your action.

RW/rh

Enclosure (Proposal as presented to the Faculty Senate)

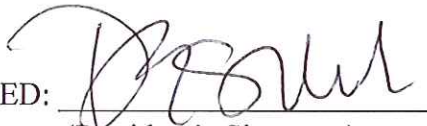
cc: Thomas LeBlanc, Executive Vice President and Provost
Patricia White, Dean, School of Law
Jan Paulsson, Professor of Law, Institute Director

¹ C18.2.2 Other NAMED or TITLED ACADEMIC UNITS established under Bylaw 6.6 may be approved by the Faculty Senate and the President. For each such approved unit, the Executive Vice-President and Provost shall consult with the dean of the host school at five year intervals to determine whether the unit remains active and shall report to the Faculty Senate the names of those that should be disestablished.

C18.2.3 Periodic five year reviews may be conducted on all programs, centers, institutes and similar academic units as deemed appropriate by the Faculty Senate or the Executive Vice-President and Provost.

CAPSULE: Faculty Senate Legislation #2010-07(B) – University of Miami School of Law
International Arbitration Institute

PRESIDENT'S RESPONSE

APPROVED:  DATE: 3/2/11
(President's Signature)

OFFICE OR INDIVIDUAL TO IMPLEMENT: DEAN TRISH WHITE

EFFECTIVE DATE OF LEGISLATION: IMMEDIATELY
(if other than June 1 next following)

NOT APPROVED AND REFERRED TO: _____

REMARKS (IF NOT APPROVED): _____

Proposal to Create the University of Miami School of Law International Arbitration Institute

This request is to create the *University of Miami School of Law International Arbitration Institute* (the Institute). The vision of this Institute is to be an outstanding internationally oriented center furthering the study and use of international arbitration as a tool to advance legal stability and economic growth worldwide.

1. MISSION

The Mission of the Institute is:

- To support scholarship focused on international arbitration and related matters;
- To support the J.D. and LL.M. programs of the School of Law by enhancing education relating to international arbitration and related matters;
- To provide professional and continuing education and training for legal practitioners, academics, judges, government officials, and arbitral institution staff regarding the practice of international arbitration;
- To conduct and support data-gathering related to international arbitration and to communicate the resulting body of information;
- To do all of the above with a special focus on Latin America and the Caribbean.

2. BACKGROUND AND HISTORY

The School of Law has a long and rich history of fostering expertise in the field of international arbitration. The appointment of Soia Mentschikoff, a renowned expert in international arbitration, as Dean of the School of Law in 1974 was an early highlight as was the visiting professorship of Gilles Wetter, a highly regarded Swedish international arbitration practitioner and proponent of international legal education.

Starting early in this decade, courses in various aspects of domestic and international arbitration have been taught by visiting and adjunct professors Jan Paulsson, John H. Rooney, Jr., Pedro J. Martinez-Fraga, C. Ryan Reetz, Mauricio Gomm Santos and Judge Gerald C. Cope, all currently arbitration practitioners. Most recently, new courses have been added taught by visiting professors Albert Jan van den Berg, Nassib Ziadé, Lucy Reed, and Andrés Jana all leading figures in

their field. The related topics of alternative dispute resolution and mediation have long been standard offerings of the School of Law.

Planning for the Institute was initiated in 2006 under the guidance of Dean Dennis Lynch and later Interim Dean Paul Verkuil, and a committee consisting of A. Michael Froomkin, Professor of Law, Mauricio Gomm F. dos Santos, Visiting Researcher and Janet Stearns, Assistant Dean, International and Foreign Graduate Programs and presently Dean of Students. In 2008, Jan Paulsson was appointed to the Michael Klein Distinguished Scholar Chair and assumed the role of the Director of the international arbitration program. In December 2008, Judith Freedberg, former General Counsel of the Permanent Court of Arbitration in The Hague, joined the program as Director of Professional Programs, charged in particular, with the organization of the international arbitration program. A Master of Laws in International Law with a Specialization in International Arbitration was first offered to students in the 2009-2010 academic year. This was accompanied by enhanced offerings of specialized courses, as well as new visiting professors and lecturers.

It is envisioned to establish the Institute solely as a School of Law Institute. However, participation by other University of Miami departments or schools (e.g., the Business School) would be welcome. If sufficient interest were to be shown, the Institute could be converted into a University Institute, subject to approval of such a proposal by the Faculty Senate.

Having secured initial funding and recruited staff, developed curriculum, attracted LL.M. students, established a network of correspondents, and successfully organized a variety of programs, as set out in more detail below, the time has come to formalize the status of the Institute so that it can complement the academic program and further develop its own activities.

3. PROGRAMS AND PROJECTS

The initial program of the Institute is to support the establishment of an LL.M. in International Arbitration and to enhance the depth and breadth of course offerings for the J.D. and LL.M. programs in the field of international arbitration and related fields. Further projects are conceived as serving the larger international arbitration community, with a particular focus on Latin America and the Caribbean. Although the programs and projects are described individually, there is overlap in their scope, all with an eye to achieving the broader goals of the Institute. The activities are set out in more detail below.

LL.M. in International Law

The Institute, while not offering courses for credit, will work closely with and support the LL.M. in International Law with a Specialization in International Arbitration that was initiated for the academic year 2009-2010. The specialization is now in its second academic year and has attracted students from Europe, the USA and, in particular, Latin America. In addition to the wide range of courses in the field of international arbitration and related matters already offered by the School of Law faculty, new courses in the field of international arbitration are being taught by distinguished visiting faculty. All courses are offered to J.D.s as well as LL.M. candidates, with one exception (see below).

Professional and Legal Education

An ongoing program of professional and legal education in a variety of formats has been initiated. Continuing Legal Education courses (CLEs) have been organized in the form of:

- an advanced level course in Oral Advocacy in International Arbitration organized in cooperation with Freshfields Bruckhaus Deringer, a prominent international law firm in the field of international arbitration, designed for senior level associates and also made available to LL.M. candidates;
- a seminar organized jointly with the Inter-American Bar Association on the most important international commercial arbitration conventions: "The New York, European and Panama Conventions: Do They Have a Future?";
- individual public lectures by guest lecturers and faculty on international arbitration topics.

These activities will be formalized into a program and expanded as an Institute program.

Data Gathering Projects

A network of correspondents has been established and is being expanded to provide objective and reliable information, on the one hand, on international arbitration as practiced worldwide, and with a particular focus on Latin America and the Caribbean and, on the other hand, the Interpretation and Application of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The aim of the network and cooperation efforts is to create an extensive and objective one-stop database of up-to-date as well as archival materials on international arbitration that will serve as a resource for governments, academics and practitioners. In particular, it may be used to foster research within the framework of the Institute.

Cooperative programs have been established with the International Council for Commercial Arbitration (ICCA) and the United Nations Commission on International Trade Law (UNCITRAL). Once the Institute is established, it will be eligible to apply for status as a non-governmental observer to UNCITRAL and will be able to send its observers to participate in the UNCITRAL Working Groups.

Latin America and Caribbean Projects

An annual Peer Forum on Investor-State Dispute Settlement has been instituted. It is designed for Latin America and Caribbean government legal advisers whose governments are increasingly involved in the arbitration of such disputes. The Forum is organized jointly by the School of Law and the United Nations Conference on Trade and Development (UNCTAD).

International LL.M. Network

A Cooperation Agreement has been concluded between the Law School and the University of Versailles-Saint-Quentin-en-Yvelines Faculty of Law and Political Science. It is envisioned to expand this cooperation into an intercontinental university network of outstanding law schools and law faculties specializing in the field of international arbitration with a representative university from all continents (North America, South America, Europe, Africa, Asia and Australia).

4. GOVERNANCE

The Institute will be led by the Institute Director who will report to the Dean of the School of Law. The Institute Director shall be a member of the Faculty of the School of Law. In addition, a non-faculty Associate Director will report to the Institute Director. The Dean will review the activities of the Institute annually. There will be an Internal Board of Advisors to advise the Institute Director on operational issues. There will also be an External Board of Advisors to advise the Institute Director on long term planning and outreach.

Institute Director

The Director of the University of Miami School of Law International Arbitration Institute will be responsible for the strategic direction, general oversight and ongoing development of the Institute. Professor Jan Paulsson, holder of the Michael Klein Distinguished Scholar Chair and prominent international arbitration practitioner and scholar, is proposed as the first Institute Director.

Associate Director

The Associate Director of the University of Miami School of Law International Arbitration Institute will be responsible for implementation of the programs of the institute. Judith Ann Freedberg, Director of Professional Programs, is proposed as the first Associate Director.

Boards

1. Internal Board of Advisors

The role of the Internal Board of Advisors is to provide advice and assistance relating to the various areas of expertise relating to the accomplishment of the mission of the University of Miami School of Law International Arbitration Institute. The Internal Board will comprise members of the administration and faculty of the School of Law as well as other related faculties throughout the University of Miami. The Director will work with the Dean to identify the appropriate membership. The Internal Board will review annual progress reports for the activities of the Institute and meet once a year.

2. External Board of Advisors

The role of the External Board of Advisors is to provide guidance and input to the University of Miami School of Law International Arbitration Institute to facilitate the accomplishment of its mission and its activities. It is expected that the Board will be comprised of individuals with experience as international arbitration practitioners, academics with teaching or administrative experience in this field and representatives from inter-governmental and non-governmental organizations and institutions active in this field. The Director will work with the Dean to identify the appropriate membership. The External Board of Advisors, which will be approved by the Faculty of Law, will meet at least one a year.

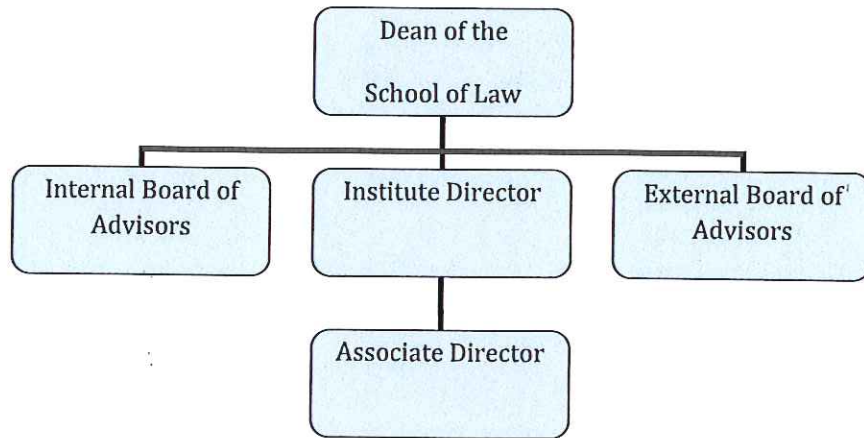
5. SPACE

The proposed Institute Director currently occupies office space at the Law School, as do the proposed Associate Director, whose activities principally relate to the activities that will be assumed by the Institute, and the Senior Administrative Assistant. As the activities develop, office space will be required for short and/or longer term use by visiting faculty, visiting and student research fellows, and the database administrator.

6. BUDGET AND FINANCE

Three sources of funding will be available to the Institute: (1) donations, (2) the revenues from the Institute's Conference and CLE programs, and (3) initial funding provided by the School of Law. The creation of the Institute constitutes a naming opportunity that could be linked to a significant donation. No University funding will be required. The marginal costs of the Institute will be modest, as it will be principally staffed by current faculty and administrative staff and initially accommodated in already occupied office space. The Institute is committed to fundraising to support its activities and will expand its activities as funds become available.

7. PROPOSED ORGANIZATIONAL STRUCTURE



8. BUDGET

Five Year Indicative Budget International Arbitration Institute					
Revenue	2010-11	2011-12	2012-13	2013-14	2014-15
FINANCIAL INFORMATION REDACTED					

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APPENDIX I. LEADERSHIP

Proposed Institute Director, Professor Jan Paulsson



Professor Jan Paulsson holds the Michael Klein Distinguished Scholar Chair at the University of Miami School of Law. He is also the Faculty Chair of the Specialization in International Arbitration.

Adding to his work at the Law School, Professor Paulsson practices with Freshfields Bruckhaus Deringer. He is also the President of the International Council for Commercial Arbitration, a Vice-President of the International Court of Arbitration of the International Chamber of Commerce, a member of the Permanent Court of Arbitration in The Hague, and a board member of the American Arbitration Association. He is a past President of the Administrative Tribunals of the World Bank and the European Bank for Reconstruction and Development. He received his A.B. from Harvard in 1971, his J.D. from Yale Law School in 1975, where he was an editor of the *Yale Law Journal*, and a *Diplôme d'études supérieures spécialisées* from the University of Paris in 1977.

Professor Paulsson has participated as counsel or arbitrator in over 500 arbitrations in Europe, Asia, the United States and Africa. He has also acted before a great variety of international tribunals, including the International Court of Justice and the International Centre for Settlement of Investment Disputes.

His many publications include the standard reference work *ICC Arbitration* (3rd edition 2000), which he co-authored with W.L. Craig and W.W. Park, *Denial of Justice in International Law*, published by the Cambridge University Press and *The Idea of Arbitration*, a forthcoming book to be published by the Oxford University Press. He is also the General Editor of the *International Handbook on Commercial Arbitration*, a publication of the International Council for Commercial Arbitration.

Proposed Associate Director, Judith Ann Freedberg



Judith Ann Freedberg, director of professional programs, earned a B.A. from Bryn Mawr College and a J.D. from Leiden University Faculty of Law in the Netherlands. She coordinates the Law School's newly-established international arbitration program, and previously served as general counsel for the Permanent Court of Arbitration at The Hague from 1997 to 2007. Freedberg also served as head of the Department of International Commercial Arbitration at T.M.C. Asser Institute for International Law at The Hague. She has taught at Utrecht University, VU Amsterdam (Vrije Universiteit), and Leiden University, among others and has served as managing editor of the ICCA publications, *Yearbook Commercial Arbitration*, *International Handbook on Commercial Arbitration* and *ICCA Congress Series*. In addition, she writes and speaks widely in Dutch and English on topics of international arbitration. She serves as an Observer to the UNCITRAL Working Group on International Arbitration on behalf of the Inter-American Bar Association International Arbitration Law Committee and is a member of the Board of Directors of the Miami International Arbitration Society.

Additional Miami Law Key Player, Visiting Professor Albert Jan van den Berg



Albert Jan van den Berg is visiting the Law School from The Netherlands and Belgium, where he is a Professor at Law and the Arbitration Chair at Erasmus University Rotterdam and the immediate past President of the Netherlands Arbitration Institute. He holds a Doctor of Laws from Erasmus University Rotterdam; a Docteur en droit from the University of Aix-en-Provence; a Master of Comparative Jurisprudence from New York University's Institute on Foreign Law; and a Master of Laws from the University of Amsterdam.

Professor van den Berg is a founding partner of Hanotiau & van den Berg in Brussels. He was previously a partner at the law firms of Freshfields Bruckhaus Deringer and Stibbe Simont Monahan Duhot, both in Amsterdam, as well as Van Doorne & Sjollem Advocaten in The Netherlands. He also worked as Secretary-General of the Netherlands Arbitration Institute and at the department of international commercial arbitration of T.M.C. Asser Institute. Additionally, Professor van den Berg is former Vice-President of the London Court of International Arbitration and is a member of the International Council for Commercial Arbitration, the Commission on International Arbitration of the International Chamber of Commerce, the LCIA Company, and the Dubai International Arbitration Centre.

Fluent in Dutch, English, and French, Professor van den Berg has authored and edited several publications on various topics of international arbitration. He is the author of the acknowledged standard text on the 1958 New York Convention, *The New York Arbitration Convention of 1958*. He currently serves as the General Editor of *Yearbook Commercial Arbitration*, a leading international commercial arbitration publication, and is a member of the editorial boards of London's *Global Counsel* and *Global Arbitration Review*, and Rotterdam's *Tijdschrift voor Arbitrage*. He has been honored widely for his work over the years, and was named the world's leading commercial arbitrator by *The International Who's Who of Business Lawyers* in 2006.

Since 2009 he has taught a workshop on the New York Convention during the fall semester.

Additional Key Players

University of Miami School of Law Professors

Professor Richard L. Williamson, Jr. is presently the Chair of the Faculty Senate. He was Associate Dean of the Law School from 1997-2000, and was on leave in 2000-2001 under a Fulbright grant to teach law in Leipzig, Germany. For two years, he was Interim Chair of the Department of International Studies in the College of Arts and Sciences. Professor Williamson teaches introductory and advanced courses in environmental law, alternative dispute resolution, and courses and seminars on international law topics, including public international law, arms control and international environmental law.

Prof. A. Michael Fromkin, the Laurie Silvers and Mitchell Rubenstein Distinguished Professor of Law, joined the University of Miami School of Law faculty after having clerked for Judge Stephen F. Williams of the U.S. Court of Appeals for the District of Columbia Circuit and for John F. Grady, chief judge of the Northern District of Illinois and working in the London office of the Washington, D.C., firm of Wilmer, Cutler & Pickering. He currently teaches Internet Law, Jurisprudence, Administrative Law and Tort. Previously he has taught Constitutional Law, Trademark, Civil Procedure I, and seminars in Law & Games and E-Commerce.

Jessica Carvalho Morris, Director of the International and Foreign Graduate Programs, joined the University of Miami School of Law faculty after having worked for the U.S. federal agency the National Labor Relations Board as a field attorney and Greenberg Traurig as an associate where she worked in a variety of civil and complex commercial litigation disputes relating to tax, contract and employment issues. Director Morris is a member of the Board of Directors of Amnesty International USA and has published and lectured on international human rights and aspects of Brazilian and American constitutional law. She teaches Introduction to U.S. Law.

Marni Lennon, Assistant Dean for Public Interest and Pro Bono and Adjunct Professor, is the founder and director of the HOPE Public Interest Resource Center, which features over 25 outreach and advocacy projects. She has worked at the University of Miami School of Law for 15 years, serving for nine years as Assistant Dean of Students and Director of Disability Services. She oversees the Public Interest Loan Reduction Program and the Public Interest Scholarship Program. Dean Lennon also teaches Alternative Dispute Resolution, ADR Design Systems, and Mediation courses, and is a Certified Family Mediator.

University of Miami School of Law Visiting Professors

Visiting Distinguished Professor Martin Hunter is a barrister at Essex Court Chambers, London, practising in the field of international arbitration; professor of International Dispute Resolution at Nottingham Trent University; and visiting professor of law at King's College London. He has served as counsel or arbitrator in cases held under the rules of most of the world's principal arbitral institutions and arbitration centers. He is chairman of the Board of Trustees of the Dubai International Arbitration Centre, and was deputy-chairman of the UK Government's committee on arbitration law reform. He is a member of the International Council on Commercial Arbitration and

has participated in the work of the AAA, the IBA, the ICC's Court of International Arbitration, the LCIA's Court and UNCITRAL. His extensive publications include *Law and Practice of International Commercial Arbitration* (with Alan Redfern). Professor Hunter teaches a course in The Taking of Evidence in International Arbitration.

Visiting Professor Andrés Jana is the partner in charge of the International Arbitration Group at Bofill Mir & Alvarez Hinzpeter, Santiago, Chile. He has an extensive practice in commercial and investment arbitration and was appointed by the Chilean government as a member of the list of ICSID arbitrators. The 2009 Legal Who's Who recognized him as one of five experts in international arbitration in Chile and he is regarded by Chambers & Partners as one of the best litigation attorneys in Chile. Andrés Jana has acted as external advisor to the Chilean government, particularly to the Ministries of Energy, Foreign Affairs, and Finance. A Professor of Civil Law at the Universidad de Chile (1997 to date) he regularly lectures and publishes on international arbitration. Professor Jana teaches a course in International Arbitration in Latin America.

Visiting Professor Lucy Reed is co-head of the Freshfields Bruckhaus Deringer global international arbitration group. A specialist in international commercial arbitration and particularly in investment treaty disputes, she advises private and public clients and serves as arbitrator in arbitrations under the AAA, ICC, ICSID, LCIA, UNCITRAL and other rules. Ms. Reed is the sole attorney nationwide to be named a "star individual" international arbitration practitioner by Chambers USA (2010), and is one of 12 Leading Lawyers in international arbitration in Legal 500 United States (2010). She served as President of the American Society of International Law from 2008 to 2010. Professor Reed teaches a course in Investment Arbitration.

Visiting Professor Nassib G. Ziadé is the deputy secretary-general of the International Centre for Settlement of Investment Disputes (ICSID), an autonomous international institution established under a multilateral treaty formulated by the World Bank. Ziadé has extensive experience in the administration of international legal proceedings and in the management and development of international tribunals. He is the editor-in-chief of the *ICSID Review—Foreign Investment Law Journal* and since 1991, he has been a member of the Editorial Advisory Committee of *International Legal Materials*. He has also been its corresponding editor for the Middle East since 1987. Professor Ziadé, who also lectures at the Sorbonne in Paris, teaches a course in Investment Arbitration.

University of Miami School of Law Adjunct Professors

Adjunct Professor John H. Rooney, Jr. is presently a sole practitioner in Miami, having been a partner at Shutts and Bowen LLP, Miami. He has spent more than twenty years advising clients on international business. Rooney has experience in transactions, litigation and arbitration and is an International Neutral Arbitrator, certified by the American Arbitration Association. As an adjunct

professor at the University of Miami School of Law, Mr. Rooney teaches International Business Transactions and a seminar in International Commercial Arbitration, a survey of the law and regulation of international commercial arbitration as seen from the perspective of the United States courts.

Adjunct Professor Pedro Martinez-Fraga is the coordinator of the Squire Sanders' international dispute resolution practice in Florida and Latin America. He focuses on and has significant experience in international litigation and transnational arbitration. His many publications include the recent books, *The American Influence on International Commercial Arbitration* and *International Commercial Arbitration: United States Doctrinal Developments and American Style Discovery*. He has served as an arbitrator in International Chamber of Commerce (ICC) and International Center for Settlement of International Dispute (ICSID) proceedings. Among his many honors, Mr. Martinez-Fraga was the recipient of the "Most Effective Lawyer" Award in International Law in 2010. As an adjunct professor at the University of Miami School of Law, Mr. Martinez-Fraga teaches transnational civil litigation and arbitration.

Adjunct Professor C. Ryan Reetz is a partner at Squire Sanders. He represents clients as trial counsel and his litigation and arbitration practice ranges from investment disputes and sovereign immunity challenges to class actions, unfair trade practice cases, fraud and Racketeer Influenced and Corrupt Organizations (RICO) Act claims, and contract disputes. He is a member of ICC Arbitration Commission Task Forces on Amiable Composition and Ex Aequo et Bono Arbitration, and on National Rules of Procedure for Recognition and Enforcement of Foreign Awards pursuant to the New York Convention of 1958. Mr. Reetz was listed in *The Best Lawyers in America 2011* and *The International Who's Who of Business Lawyers 2009*, named recommended counsel in Practical Law Company's *Which Lawyer? Yearbook 2007* and listed in *The International Who's Who of Commercial Litigation Lawyers 2008*. As an adjunct professor at the University of Miami School of Law, Mr. Reetz teaches transnational civil litigation and arbitration.

APPENDIX II. KEY COLLABORATORS

The Institute for International Arbitration will continue to establish collaborations with local and international institutions and non-governmental organizations based on future programs and research projects.

Current collaborators include:

- Miami International Arbitration Society
- International Arbitration Law Committee of the Inter-American Bar Association
- International Law Section of the Florida Bar Association
- United Nations Commission on International Trade Law (UNCITRAL)

- United Nations Conference on International Trade and Development (UNCTAD)
- University of Versailles-Saint-Quentin-en-Yvelines (Versailles – France) Faculty of Law and Political Science
- International Council for Commercial Arbitration (ICCA)
- International Centre for Settlement of Investment Disputes (ICSID)
- Permanent Court of Arbitration
- Kluwer Law International (publishers)
- Young ICCA
- Young Arbitration Professionals (YAP)

UNIVERSITY OF MIAMI
SCHOOL of LAW




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Patricia D. White
Dean and Professor of Law

To: Faculty Senate
From: Patricia D. White
Dean and Professor of Law
Date: February 8, 2011
Subject: Law School's International Arbitration Institute



I am pleased to forward our proposal for the establishment of the University of Miami School of Law International Arbitration Institute. The proposal was approved unanimously at the faculty meeting on January 28, 2011, and has my strong endorsement.

The Institute will provide Continuing Legal Education programs, hold conferences, engage in collaborative research, and support our degree programs. We are confident that funds can be raised to further the work of the Institute. However, very little financial support is needed because the largest expenses are the salaries of existing faculty or staff of the Law School. In any event, only Law School funds will be involved; we will not require any funds from central University sources.

UNIVERSITY OF MIAMI
SCHOOL of BUSINESS
ADMINISTRATION



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February 6, 2011

Letter of Support
University of Miami School of Law International Arbitration Institute

Submitted by: Rene Sacasas

As Chair of the Business Law Department I am happy to lend my support to The School of Law's proposal for the creation of the *University of Miami School of Law International Arbitration Institute*. In my opinion, the proposal presented to the Senate contains a well articulated mission and carefully drawn plan for the institute's creation, finance and governance.

This Institute will provide a more visible and robust platform for the School of Law to feature it's strengths in Alternative Dispute Resolution and its well respected international law programs. We look forward to collaboration with the law school faculty and others interested in this very important area of legal research and practice.

René Sacasas, JD
Professor and Chairman