

October 26, 1964

MEMORANDUM

TO: Dr. Heinrich Rommen, Georgetown University

FROM: Dr. Heinrich Kronstein

RE: Organization of the Institute for International and Foreign Trade Law.

An academic research institute is by its nature an extremely sensitive institution because it combines in its aims three interdependent and inseparable functions: research, publications and an exchange program. These functions can only be performed if there is a great deal of independence from outside direction. The Director decides the research topics and basic policies of the Institute; he has complete discretion as to the materials published, when and where it will be published, and he must be able to select the exchange program participants, since these people are selected on the basis of their ability to contribute to the particular research topic.

In connection with these factors the Director by necessity must have the freedom to dispose of the Institute funds. These are the most basic requisites for the well-being of any serious research institute, and only with these requisites can such an institute survive.

It has become of particular importance that these problems are immediately overcome. The Frankfurt Institute, of which I

am a co-director, has just been commissioned by the Committee on Competition of the OECD, pending agreement as to financial particulars and a work plan, to undertake a comprehensive cartel study in cooperation with the Brookings Institution and Prof. Houssiaux of France. The Washington Institute will of course cooperate with the Frankfurt Institute in this study, but can only do so, if an adequate settlement as to its independence and status can be reached.

In recent years, a number of administrative structural changes within the Law Center have developed which absolutely preclude the existence of an institute as outlined above within the organizational and administrative framework of the Law Center, despite the good-will evidenced toward the Institute by the Law Center's Deans.

Particularly two changes have presented insurmountable difficulties:

- (1) Members of the faculty of the Law Center participate in the deliberation and submission of the Law Center's budget and view the Institute's budget as a part hereof.
- (2) The Committee of Graduate Studies of the Law Center has attempted to make the selection of the Institute's exchange program participants.

As to (1): This particular change has been the cause of the greatest difficulties. The reason which necessitates a great deal of freedom as to the disposal of the Institute's funds is that in no other way can the independence of the Institute's research be assured. This is brought out by a quote from a Memorandum by Associate Dean Pye, submitted to me on May 2, 1964, in which he questions the advisability of continuing the University's support "for activities in which no member of its faculty has a deep personal interest." The merits of this statement will not be explored here with the exception of a reference to a report of the Institute's activities during the past ten years which is presently being completed. It suffices to say, however, that no institute can exist in a faculty which controls its budget and which has no interest in its activities.

If the Institute's budget is discussed as part of the Law Center's budget by members of the faculty, a feeling may arise that not all are accorded 'equal' treatment. A quote from a Memorandum by Associate Dean Pye, dated 4/28/60, explains these difficulties:

"One of the faculty was told yesterday that the University contributes in the nature of \$20,000 per year to the Institute. Presumably, part of this figure represents your salary. The suggestion was made that each faculty member's salary could be raised \$1,000 if there were no contributions to the Institute."

Regardless of the accuracy as to the amount contributed and apart from any other considerations, it is quite clear that under those circumstances the Institute cannot survive as part of the Law Center. The future of the Institute therefore lies outside of the Law School.

In connection with the freedom to publish, an example of these difficulties is the fact that it took six months before approval could be obtained to order payment of a bill out of Institute funds for an Institute publication.

As to (2): This change has also resulted in the greatest difficulties. The Committee on Graduate Studies has no way of knowing the required qualifications necessary for the useful furtherance of the Institute's objectives. The selection of exchange program participants is by necessity only possible by the Director of the Institute since only he is in a position to judge on the applicant's qualifications and usefulness in connection with the program.

An example of these difficulties is the fact that a well-qualified candidate for our exchange program was not recommended and therefore could not participate solely because he had "no prior affiliation with Georgetown." Instead, the Committee on Graduate Studies against my express wishes awarded the fellowship - solely because it felt "that it should award the fellowship to someone."

As for the future, in order to permit a successful operation of the Institute, an agreement containing the following points must be worked out:

- (1) The budget of the Institute shall be worked out by the Director of the Institute in consultation with the President of the University and the Board of Advisors of the Institute.
- (2) Participants of the Institute exchange program shall be selected by the Director of the Institute in consultation with the President of the University. In case no qualified applicants from Georgetown compete, no prior affiliation to Georgetown shall be required. European participants of the exchange program shall be accorded the same status as any other graduate student of Georgetown University; they shall be able to participate in the curriculum of any faculty of their choice; and they shall be permitted, in case their time and qualification allows them, to compete for a degree of their choice, free of charge. Qualifications for degrees shall be determined in consultation with the President of the University.
- (3) Employees of the Institute shall be selected by the Director of the Institute in consultation with the President of the University and shall have the same status as any other employee of the University.

- (4) An adequate and satisfactory settlement must be made concerning the rooms, furnishings, telephone, equipment, postage and parking spaces of the Institute and the security thereof.
- (5) Any and all administrative and organizational matters shall be worked out in consideration and agreement with the Director of the Institute, the President of the University and the Board of Advisors of the Institute, including administrative changes, such as the selection of a co-director.
- (6) The Director of the Institute shall be selected by the President of the University in cooperation and agreement with the Board of Advisors of the Institute.
- (7) After a director has been agreed upon, he will become - if this is not already the case - a professor of Georgetown University. The President of the University shall decide which faculty he shall belong to, if at all, so long as it is a graduate school faculty.
- (8) Methods of cooperation with Frankfurt shall be worked out by the Director of the Institute and the President of the University.

The Tenth Anniversary of the Institute would be a most opportune time to establish a University institute according to the eight points set out above.

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I am grateful to all those who have attempted to work out a solution within the structure of the Law Center. However, the only solution possible is an institute directly responsible to the President of the University.