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May 1, 1964

MEMORANDUM Re: Status of Institute for International and Foreign Trade Law

TO: Professor Heinrich Kronstein

FROM: A. Kenneth Pye

I.

Immediate Problems

1. Professor Kronstein will leave the U.S. for Germany on or about 9 May 1964 and return on or about 10 September 1964.
2. Mr. Volhard will remain in the Institute as Research Assistant to the Director until on or about 1 October 1964. A new assistant must be chosen after that date. Associate Dean Pye will contact Mr. DeGurse and offer him the position of Research Assistant with the understanding that he will be sent to Frankfurt for the following year if he accepts. Mr. Pye will attempt to find a suitable alternative for Mr. DeGurse if he declines the appointment.
3. Mr. Brian Carney will be designated to go to Frankfurt contingent upon the approval of the Committee on Graduate Studies. Mr. Carney will go to Europe on *Sept 1*. Between July 1 *Nov. 1* and that date he will serve as an assistant in the Institute and be *Aug?* paid \$ per month. Arrangements for transportation and a stipend will be made between Professor Kronstein and Mr. Carney.
4. No recommendation is made for the award of the Geneva Fellowship. Mr. Owens is not recommended because of no prior affiliation with Georgetown. In the absence of an outstanding candidate from Georgetown the fellowship will not be awarded. "The funds will be used for two fellowships next year or for the costs of transporting Georgetown professors to Europe in the discretion of Professor Kronstein. "The Committee on Graduate Studies retains the right to award the fellowship in the event that a qualified candidate chooses to apply." The fellowship will involve a stipend of \$250.00 per month, and travel costs.
5. Mr. Cella's fellowship ends on 1 June 1964. Mr. Cella will go to Frankfurt for 4 to 6 months to study specific problems involving American business interests in the six common market countries. Mr. Cella will begin research in the U.S. prior to his departure on the subject of proposed legislation to permit Anti-trust immunity

for American firms who desire to enter into agreements with foreign companies to do business abroad. This research will embrace the recent White House Conference and the subject matter of the proposed 1964-1965 hearings. Mr. Cella will receive a stipend of \$250.00 per month from the Frankfurt Institute and travel costs (computed at off season rates). He will be present in Frankfurt on or about 1 November. If he desires to come abroad earlier (to attend Goethe Institute) he will pay differential between off-season and in-season travel costs.

6. Mr. Pohle will leave the Institute on _____ ;
Mr. Hahnloser on _____ ; Mr. Gottschalk on _____
; Mr. Trechel on _____ ; Mr. Auer on _____ ;
Mr. Goetz on _____. The amount budgeted for each of these gentlemen will be paid before the date of their departure.

7. Mrs. Weyersburg's salary will remain the same. She will receive an appropriate title descriptive of her services, said title to be determined by the Director. *Administrative Assistant*

8. Mrs. Weyersburg and Mrs. Tucci will consult in order to insure that no budgetary problems exist which would preclude the accomplishments of the plans previously set forth.

II.

Long Range Status of Institute for Inter-
national and Foreign Trade Law

It is necessary that some consideration be given to the continuation and improvement of the Institute. At the present problems relate primarily to (A) personnel; (B) financing; (C) further integration of the Institute into the life of the Law Center; (D) the Frankfurt letter and Proposed Association of Fellows of Institute; (E) planning for the future.

(A) Personnel

The basic structure of the Institute revolves around the Director, Professor Kronstein and his assistant Mrs. Weyersburg. Professor Kronstein continues to serve past the normal retirement age of 65 pursuant to Agreement with the President of the University. This Agreement will expire in another year. It is necessary to think in terms of the renewal of the Agreement if Professor Kronstein is to continue to render his distinguished services. The Constitution of the Law Center requires mandatory retirement at age 70 for all professors. Nothing in the Constitution precludes the appointment of Professor Kronstein as Director of the Institute with the faculty rank of Professor Emeritus even after he reaches age 70.

It is necessary, however, to think of a possible successor or successors. To some extent the identity of a successor may be affected by the sources and amount of financial support.

The budget for the Institute for fiscal 1963 and 1964 is as follows:

Income:	Georgetown	\$ 5,310.
	Schulte zur Hausen	\$19,250.
	Ford Foundation	<u>\$15,000.</u>
		\$39,560.

8,250
11,400

19,650

To this should be added the sum of \$8,000, one-half of the salary of Professor Kronstein (who taught one-half year) and \$1,400., the amount of additional stipend paid to Adjunct Professor Miller in excess of usual salary of adjunct professor in recognition of his service in the Institute; approximately \$200 in postage, \$130 for telephones, and \$1,200. approximate rental value of rooms (other than Professor Kronstein and secretary). No overhead costs, or fringe benefits have ever been assessed against the Institute.

The actual contribution of Georgetown during the present fiscal year is therefore approximately \$16,240 of which approximately \$15,000 is direct out-of-pocket costs.

The expenditures budgeted for the Institute during the fiscal year are as follows:

Secretarial	\$7,310.
American Research Assistants	\$5,810.
German and Swiss Fellows	15,750.*
German Visiting Professor	3,750.
Books and Materials	3,000.
Printing, stationery, Office Supplies, dupli- cating etc.	2,400.
Communications	1,000.
Travel	<u>500.*</u>
	\$39,520.

To this should be added the costs of the Georgetown fellowships to Frankfurt and Geneva which were paid out of Frankfurt funds not included in the Georgetown budgets. These fellowships with travel amount to approximately \$5,600.

*An additional \$3,000 from the surplus of the prior year was also utilized for one German fellow and \$1,200 for travel.

The total expenditures involved in the program are therefore approximately \$56,000 of which Georgetown contributes approximately \$16,000 (exclusively of overhead) or 28%.

In other years the Georgetown contribution is less, as next year in which Professor Kronstein will teach the entire year. In other years additional benefits accrue to Georgetown as when a grant of approximately \$800 permitted Professor Whelan to study in England in 1963 and prior grants of \$500 (in addition to Fullbright travel grants) permitted professors to research or teach at Frankfurt.

The support provided by the Law Center has been for the purpose of furthering the activities of a respected colleague - not because of any particular identification of the University with international trade. The retirement of Professor Kronstein must give rise to the question of whether the law center is better advised to continue and expand its support for activities in which no member of its faculty has a deep personal interest - or whether it should expend these funds for providing increased secretarial and research assistance for other members of its faculty who desire to work in different

fields or whether a compromise solution can be reached.

Most of the present funds come from German sources. As noted previously, we must examine whether these sources would continue after Professor Kronstein retires if (1) a Georgetown Professor will be appointed or (2) if a Frankfurt Professor was appointed. The problem is complicated by the present scope of the Institute - International and Foreign Trade - which basically deals with the regulation of American and foreign business, corporation law, the common market, trademarks and patents and related areas of regulatory law engaged in international trade. We have no single member of the Georgetown faculty with expertise in all these areas. Professor Metzger is an expert in International Trade from the point of view of American law. Professor Burrus is an expert in domestic regulation of business. Neither has expertise in European regulation of American business or special competence in the field of the other.

The appointment of a German professor would require approval of our faculty for faculty status. A German professor not trained in American law would not be able to replace Professor Kronstein in his present courses taught in the undergraduate school.

The appointment of co-directors from Frankfurt and Georgetown, each spending part of his usual vacation in the other Institute might be the answer if qualified interested persons could be found and financial support was forthcoming. It is questionable whether a Georgetown professor could meet adequately the requirements of the position without some knowledge of German if the Institute continued to operate as it has done in the past.

To continue the Institute with one Director on a permanent basis could provide substantial administrative problems within the Law Center if the Director is to teach both at Georgetown and at Frankfurt. Next year Professor Kronstein will teach the entire year in Georgetown. During the two past years he has taught one semester each year. The difference in the periods of instruction at Georgetown and Frankfurt requires that he either leave Frankfurt early or arrive at Georgetown late and that he either leave Georgetown early or arrive at Frankfurt late. Professor Kronstein has done an outstanding job of attempting to serve both Universities. It is doubtful if a lesser individual could either effect the compromises required or be able physically to meet such a heavy burden.

Mrs. Weyersburg is nearing the compulsory retirement age for female employees. Her retirement allowance is inadequate to support her. She is still vigorous and may be able to continue to serve if not prohibited from doing so by University policy. Her status should be made clear. It may be difficult to find a person who is multi-

lingual and who is capable of meeting the responsibilities of the position. The operation of the Institute requires that a person be available to replace her in the event that her retirement is forthcoming in the near future.

(B) Finances

During recent years less than one-half of the expenses of the Institute has come from Georgetown sources. The Frankfurt letter of February 12, 1964 raises questions of whether this support will be renewed. To continue the present program without funds from German sources would cost the University \$30,000 to \$40,000 a year (exclusive of overhead) in addition to its present contribution.

There is some reason to believe that financial support may be forthcoming either (1) from the Ford Foundation and/or (2) corporate contributions resulting from the solicitation by former members of the Institute and/or (3) continuation of Schulte zur Hausen grants. We must attempt to ascertain the likelihood, amount and duration of such support. Some firm and reliable estimates are needed to determine both the scope and structure of the Institute during the immediate future. The long range problems are discussed in (D) and (E) infra.

(C) Integration of the Institution into the
Life of the University

The Institute has provided substantial benefits to the Law Center over the last decade. Institute funds have permitted Professor Jaeger, Father Snee, Professor Pye, Professor Jacoby, Professor Bradley, and Professor Whelan to teach or study abroad for periods up to 3 months. It has provided periodic lectures by distinguished guest professors. Over twenty Georgetown students have received fellowships to Frankfurt or Geneva. Perhaps its chief contribution to the law center is in projecting a favorable image of us in legal education and abroad. To large extent this is the result of the personality of Professor Kronstein. To what extent the Institute could have accomplished these results without Professor Kronstein or to what extent the results could have been achieved by Professor Kronstein without the Institute is problematical. We cannot ignore the advantages to other divisions of the University which have resulted from the friendships developed through the Institute. During the last three years the Institute has sponsored excellent conferences dealing with the Extraterritorial effect of anti-trust regulation and the new Patent and Trade-

marks Convention. The operation of the Institute has facilitated the publication of Professor Kronstein's books in Modern American Anti-Trust Law and Federal Trade Regulation as well as several outstanding articles in legal periodicals.

Despite its accomplishments, much needs to be done in order to integrate the Institute to a greater extent into the academic life of the Law Center. Few students have contact with it and few attend its lectures. Several of the Georgetown students who have studied at Frankfurt and Geneva have accomplished little. Foreign students at Georgetown have done better but few have attended classes on a regular basis. Despite the efforts of Professor Kronstein, no Georgetown Professor has been at Frankfurt since 1960. The stipends for Georgetown Professors at Frankfurt have been considerably less than those for Frankfurt Professors at Georgetown. The cost of living is of course less, and the Georgetown Professor still received his Georgetown salary. Georgetown fellowship students also receive smaller fellowships than their German and Swiss counterparts although the amount received is equal to the beginning salary of a German assistant professor.

The result of our failure to integrate the Institute to a greater extent reflects itself in occasional criticisms expressed within the Faculty -- the basic idea sometimes voiced is that the Institute exists for the purpose of bringing Germans and Swiss to Washington and that the Law Center's only return is two fellowships each year for Georgetown students to vacation abroad. These criticisms are not valid, but they cannot be ignored if the Institute is to flourish.

We must consider more formal supervision over the activities of fellowship students here and abroad. An American student should have a planned project, should submit outlines of proposed work, and should submit a paper at the end of the year. In appropriate cases credit towards a graduate degree should be granted. These steps have been followed with reference to the present student at Frankfurt. The fellowship should be advertised widely within the undergraduate school to encourage applications. Fellowships should normally not be awarded to individuals who are not bi-lingual. Some period of service in the Institute before or after the stay abroad should be required.

German and Swiss students should be enrolled in a limited number of courses and a paper should be required in addition to the project undertaken.

Efforts should be made to invite at least one Georgetown Professor each year to Frankfurt at a stipend sufficient to cover the expenses of him and his wife.

The Law Center must take steps to welcome foreign professors and insure their acceptance as guests of the faculty during their stay.

(D) Frankfurt Letter and Proposed Association
of Fellows of Institute

The Frankfurt letter of February 12, 1964 looks towards the establishment of a Georgetown Institute on a permanent basis with a long term agreement for cooperation between the two institutes. Presumably this Institute would differ from the present Institute for International and Foreign Trade Law, but the exact nature of the difference is not clear. The structure of this Institute would include a Director, secretaries, and a "permanent institute staff" of research assistants. It is suggested that the Director would be a member of the Faculty selected "with the consent of a board of advisers."

The Frankfurt letter does not discuss the financing of such an Institute. Presumably the cost of the permanent institute would be borne by the University.

The proposed Articles of Association of the Fellows of the Institute for International and Foreign Trade Law envisages an Association of the former students and associates of Professor Kronstein who will meet regularly to discuss the operation of the Institute. Three Proctors will directly work with and advise the Institute and approve the budget.

Their concurrence is necessary for the appointment of a Director. No provision is made for financing.

Both of these documents pose special problems. The Frankfurt letter raises the question of wherein the structure, personnel and scope of the new Institute would differ from the existing Institute, how it would be financed, and how assurances could be made that a professor chosen by the faculty would meet with the approval of the board of advisers and how we could be assured that an individual interested in directing the institute would be granted tenure by the Faculty. The Frankfurt letter seems to assume that a person desiring to be Director is a member of the faculty or could be appointed to it. It recognizes that the Institute's budget itself is inadequate to attract a person of sufficient academic caliber. The letter assumes that the scope of the Institute will remain the same. It furthermore assumes that the law center's interest in the continuation of the Institute after Professor Kronstein's retirement

is the same as its interest during his tenure.

As has been stated previously, the Law Center's financial support for the Institute has been primarily motivated by a desire to provide support for a distinguished faculty member. As long as Professor Kronstein remains as Director of the Institute, the Law Center should continue to support his work. If after Professor Kronstein retires another member of the Faculty desires to engage in the same type of activity the Law Center would presumably assist him in a similar way. Other factors must be considered, however, if Professor Kronstein retires and no member of the faculty desires to work in the field embraced by the Institute. In such an event the Law Center would have to weigh the value to it from continuance of an Institute in which none of its faculty have a primary interest and the use of the same funds to provide secretarial assistance, research assistance, travel reimbursement, merit research stipends to professors or similar activities. Next year the Faculty has the use of only two research assistants, three secretaries and \$10,000 in student aid for 22 professors. The only professors with secretaries are those operating under grants which provide funds for a secretary. The three deans share one secretary and one stenographer. Salary levels are still lower than all major law schools. An additional full-time professor will be necessary to replace Professor Kronstein. Next year 22 hours (or the teaching load of 1 1/2 professors) of required courses in the undergraduate division will be taught by part-time professors. The Association is placing pressure upon the school to increase the percentage of full-time professors in the Graduate School from 25% to 50%.

It is difficult to see how the financial support necessary to support a permanent Institute could be justified in the absence of a personal interest by one or more senior members of the Faculty.

The Institute contemplated by the Frankfurt letter would substantially increase the direct costs of the Institute as the present "secretarial help" is restricted to Mrs. Weyersburg and a part-time secretary and the "permanent institute staff" consists of one research assistant. To support this activity on a permanent basis would substantially restrict the Law Center's ability to expand its activities in other areas where improvement is urgently needed. The Frankfurt letter does not suggest how the benefits accruing to Georgetown would be materially enhanced - unless one or more Georgetown Professors with expertise and inclination can be found to direct the Institute.

Different considerations exist if financing will be accomplished by other than Law Center sources. The Law Center has cooperated with the Judicial Conference of the District of Columbia Circuit in the Mental Competency Study (Okun), the Bail Project (McCarthy) and with the Twentieth Century Fund (Father Harbrecht) in providing space and the appointment of Directors as adjunct professors. None of the projects involves the use of Law Center funds. Two of the three provide reimbursement for space. The Internship Program involves an annual cost of approximately \$11,000 a year in addition to space. Law Center contributions to an Institute of this nature -- where most of the costs are borne by outside sources -- are of course possible.

Consideration might be given to a University Institute supported by all divisions of the University. Programs of cooperation with other disciplines would become possible and the financial costs could be shared.

The operation of the proposed Association needs clarification. I can see no objection to assistance in preparing the budget or participation in the selection of the Director if the Association is to assume the financial support of the Institute. Assumption of financial responsibility should be made clear, however. If the University is to supply the funds, it should have the power to choose the Director and fix the budget.

(E) Planning for the Future

Everyone will agree that the Institute is a valuable part of the Law Center. It therefore becomes incumbent upon all of us to explore possible avenues of solving the problems discussed previously and laying the foundation for a permanent Institute.

Intermediate Planning

To some extent the scope of the Institute during the next few years will be dictated by the plans already made by Professor Kronstein and the programs outlined in the Ford Foundation prospectus. The cornerstone of the Institute is and must continue to be Professor Kronstein as long as his health permits. During the next three years efforts must be made to associate at least one professor with the Institute in order to gradually assume the leadership which Professor Kronstein will relinquish. The Law Center should continue its support for a three year period without regard to whether funds are forthcoming from German sources

or from Ford. Specifically Professor Kronstein should receive another extension of three years. The salary of one secretary should be continued as well as the present quarters. In addition the Law Center should provide \$5,800 per year to compensate a research assistant.

If no funds are forthcoming from other sources, the Law Center should commit \$2,000 for books, stationery and duplicating. No overhead should be assessed against the program.

In the event that the Ford Foundation makes a grant in the amount of \$35,000 to the joint institutes, an appropriate amount should be transferred to Georgetown for the operation of the Institute. If the terms of the grant permit, this amount should be enough to provide the services of a part-time secretary (\$3,000), one research assistant (\$5,500), fellowships in the amount of \$250 per month for 9 months and travel to two Georgetown students to study in Europe (\$5,600), stipend and travel allowance to permit a Georgetown Professor to conduct research in Europe for two months (\$1,500), and miscellaneous costs for books and supplies (\$2,000). If Dr. Schulte zur Hausen does not continue his grant, the costs of German fellows and Professors at Georgetown would be met by Frankfurt out of its share of the Ford Grant.

If both the Ford and Schulte zur Hausen grants continue, the Schulte zur Hausen funds would be used for bringing German and Swiss professors and students to Georgetown and for such other purposes as the Director shall designate.

If the Schulte zur Hausen grant continues, but Ford either does not, or requires that its funds be used for conferences or other designated purposes, the Schulte zur Hausen funds should be used for an equal number of fellowships to bring German and Swiss students here and to send Georgetown students abroad. Two German or Swiss fellows would receive \$3,750 and travel (a total of \$8,600); the Georgetown students would receive \$2,250 and travel (a total of \$5,600). A Georgetown Professor would receive a grant of \$1,000 and travel (\$1,500) to study in Germany and a German Professor would receive \$3,000 and travel to study at Georgetown (\$3,500).

It is obvious that various combinations of these programs are possible depending upon the amount and source of funds. Georgetown in any case would be committed to the following approximate costs:

Secretary	\$5,310.
Research Ass't	\$5,800
Telephone & Stamps	\$ 330.
Rent	\$1,200.
Stipend to Prof. Miller	<u>\$1,400.</u>
	\$14,040.

To this would be added the sum of \$8,000 during those years where the Director teaches only one semester at Georgetown and \$2,000 for supplies and books if the funds are not forthcoming from other sources. If it assumed that the Director teaches at Georgetown one full year and teaches one semester during two years the costs would average \$22,000 a year, assuming that no support was forthcoming from foreign sources. If the Director taught full time at Georgetown during the period, the cost would be \$16,000 per year. Assuming no contribution to books or supplies it would be \$14,000.

In the event that funds become available from other sources priority must be given to (1) sharing the costs of operating the Georgetown Institute by contribution to general administrative costs (supplies etc.), providing additional secretarial services, and another Research Assistant, (2) providing stipends for Georgetown professor to study abroad; (3) continuation of fellowships for Georgetown students to study abroad.

Long Range Planning

In the long run the scope and leadership in the Institute must change. New professors must be associated with the Institute and given an opportunity to engage in research in their area of expertise. At the same time, care must be taken to prevent the Institute degenerating into a secretarial pool. There must be a common bond uniting the efforts of different professors engaged in diverse areas of research. There must be a unified administrative supervision in order to obtain the maximum utilization of the resources available and the coordination of research where this is desirable.

The common scope of the Institute may be the field of International Public Law with emphasis upon the international and comparative aspects of the concept of public regulation of business activity. A field this broad could encompass the areas of expertise of Bradley (Corporations); Burrus (Anti-Trust, Regulated Industries); Whelan (Government Contracts); Antieau (Comparative, Constitutional Law); Metzger (International Trade); and Jacoby (Comparative Procedure). Each would utilize the resources of the Institute to conduct research in his special field. The internal management of the Institute would be under the direction of the Associate Dean.

① [The Institute would be staffed with two research assistants and two secretaries. Each of the Professors associated with the Institute would obtain the services of one research assistant for at least one six-month period in each 18 months and secretarial assistance.] Space would be provided to accommodate visiting professors from Frankfurt or other foreign universities and a limited number of graduate students from abroad. The policy of the Institute would be determined by its co-directors under the chairmanship of the Associate Dean, subject to the policies of the Faculty and the Corporation. A stipend would permit at least one director to spend the summer months at Frankfurt or at another foreign university. Every effort would be made to agree upon joint projects with the Frankfurt Institute and to make joint applications for Foundation support to permit the two Institutes to broaden their research objectives and to broaden their exchange programs. The research of the Institute and selected papers of graduate students in the field of International Public Law could be published periodically in Georgetown Legal Studies.

A budget for the Institute should include the following:

2 Secretaries (1 at \$4,300, 1 at \$5,200)	\$ 9,500
2 Research Assistants (1 at \$5,200 (night law student) 1 at \$5,800 (1st year Graduate))	\$11,000
Space	\$ 1,800
Telephone & Postage	\$ 500
Stationery, supplies, printing ec.	\$ 1,500
Summer stipend	\$ 1,500
Publication of Georgetown) Legal Studies)	\$ 4,000
Travel and Miscellaneous	\$ 500
	<hr/>
	\$30,300

The costs of visiting professors and foreign graduate students would be borne by sponsoring institutions. The Association of the Fellows of the Institute might provide Kronstein fellowships for Georgetown students to study abroad in the field of International Trade or to bring German students or professors to Georgetown. The Fellows could select candidates and assign subjects for Research. Approval of the Law Center would be necessary if the student's research was to be credited towards a degree.

The cost of such an Institute is high -- perhaps higher than we can afford. Such an Institute would however, (1) greatly increase the amount and quality of research in the field of international public law; (2) develop the full potential of a number of outstanding faculty members (3) provide the nucleus for agreements with Frankfurt or other Universities who desire to send scholars to Washington; (4) provide a unified research program to attract foundation support (5) provide an identifiable project of merit for University fund raising (6) continue the splendid tradition of the present Institute and its founder.

Conclusion

These comments are not intended to be statements of policy of the school. They are personal reflections raising problems which I think we must be able to answer if a permanent institute is to be established. I would prefer the problems to be resolved while you are here to help in their resolution. You know that I appreciate your great efforts to found a lasting Institute and that I will do everything possible to help to continue it. However, I think we must deal with some of the matters contained in this memorandum if we are to accomplish this objective.

Sincerely,

