



INSTITUTE FOR INTERNATIONAL AND FOREIGN TRADE LAW

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DIRECTOR'S ANNUAL REPORT - 1972

Introduction

I think it can be said that we have made real progress during this past year, both along the lines projected in last year's report and some others as well.

Even as we continue to exploit the advantages of Washington and a University committed to international programs and exchanges, so we should continue to promote the international interest and awareness of the law center and its faculty and students.

This has been a year of new projects, enhanced old projects, a considerably strengthened staff, new ties with some faculty and students, exploration of joint programs with the University's School of Foreign Service, some exploration of cooperation under the Washington area consortium of Universities, the continuation of ties with other universities throughout the United States and abroad, and with law firms, and some steps on funding. A good deal remains to be done.

I should take this occasion to note that Professor Kronstein is celebrating his 75th birthday this month. I think he knows that our Institute and its sister institute in Frankfurt are monuments to his work.

Current Programs

- (i) The English version of the study on the legal environment for foreign direct investment in the United States is in page proofs and the printed book should shortly be distributed to the board. Roger Rosendahl, Cab Howard and Cliff Rathkopf, the last three American Schulte zur Hausen

fellows, as well a good number of other American students, have worked on this study (a number of assistants in the Frankfurt Institute have worked on the German version). Michael Silverman, the current American Schulte zur Hausen, will take care of the final printing details.

It is interesting to note that we have sold over 300 copies of the proceedings of the October 1970 Brookings Institute Conference on the same subject.

As most of you know, we are holding a Conference in Dusseldorf in January 1973, on the subject of the "International Control of Investment." We expect an audience of about 100 leading international officials, politicians, bankers, businessmen and lawyers. A conference invitation describing the event in greater detail is attached. Please let us know if you would like to be invited. We expect guests from Europe, the United States and Japan, Latin America and other countries.

The conference papers and proceedings will be published as a book, by Praeger Publishers, probably in several languages. Helga Ruof has been responsible for the conference preparations. We hope to have colloquia after this conference to pursue some of the themes opened up by it. The director has also begun work on a book on the general subject of the conference.

Christoph Stalder of Switzerland was with us this last year as a Schulte zur Hausen fellow and we expect another Schulte zur Hausen fellow from Europe this fall. Of the American Schulte zur Hausen fellows, Clifford Rathkopf is now in Germany and Mike Silverman is here.

Detlev Vogel of Frankfurt, Manfred Beschel of Erlangen, and Hildegard Becker of Frankfurt have been with us during parts of the year. John Wolff, as I reported last year, assists the American Schulte zur Hausens in reading in comparative law preparatory to their going to Europe. He is also available to assist foreign students coming here with some of their comparative work.

I believe that this program, which has been the core of the Institute for years, requires continued attention.

- (ii) Stuart Matthews, the Institute fellow, has participated as an assistant instructor and rapporteur, in Nairobi and Bangkok, in UNITAR seminars on international procurement for officials from the developing countries; he has also worked at AID and especially at the IBRD on procurement problems. The Institute has prepared a set of teaching materials for the seminars, which have been published by UNITAR as International Procurement Problems. We will do further work in this area.
- (iii) We had eight Indonesians officials, including a member of the Indonesian Parliament, with us this year under our program with Berkeley. We again arranged many interviews (one participant, a lady judge, spent a good deal of time with Justice Douglas and his wife). We hope to make certain improvements in this program on which Mrs. Ruof and Mr. Matthews have worked.
- (iv) I think this year's Orientation Program in American Law held from August 4 through 25 was quite successful. This year we had 41 foreign law students and two foreign practitioners (one a lawyer with CIBA-Geigy), from Argentina, Brazil, Germany, Italy, Japan, Korea, Switzerland going to Berkeley, Virginia, Georgetown, Harvard, Texas and Yale. We have received support for this program from the U.S. Dept. of State, the Asia Foundation, the Korea Foundation, DAAD in Germany, AID and others. The President of the University, Father Henle welcomed the students. Several members of the Institute staff worked on the program but Bill Barringer deserves special credit. John Wolff and Christoph Stalder gave one session in which they oriented the orientors about the civil law system. The Association of American Law Schools which sponsored the former OPAL program kindly gave us the OPAL library.

We hope to have about 80 students next year. To this end we are preparing a brochure, describing the program, for distribution in Europe and elsewhere. We will also be approaching a number of foundations for various kinds of

financial support for this program. Some faculty members participated in the program as did judges, government officials, et.al. Professor Rothstein acted as professor in residence. The law firm of Baker and McKenzie in Washington generously entertained the students and demonstrated to them the operation of a multinational law firm.

- (v) The Institute has started work on the previously reported investment negotiation center with the aim of holding the first three-month session in the summer of 1974. The director and professor Robert Hellowell of Columbia Law School are co-directors of the project. The center will seek to assist middle-level officials from developing countries to more systematically conduct their negotiations with foreign direct investors. It will focus on problems of the investor's corporate structure and strategy, the realities of local investment laws and conditions, problems of investment agreements and decrees themselves, the availability of finance, as well as such specific problems as local corporate control, protection against expropriation, tax problems, local personnel and component requirements and the like. The curriculum will include classroom instruction and simulated negotiations and other situations. The IFC will help us in developing the course; we expect the participants to be funded by fellowships from the UN, AID, the Ford Foundation with whom we have corresponded. The OECD has also expressed a willingness to assist us. We are discussing further financial assistance with several sources.

- (vi) We are designing a joint program with the masters degree program of the University's School of Foreign Service, and the director has to this end, met with the SFS's Board of Overseers at the request of Dean Krogh of the SFS. We are currently thinking of a four-year program, with a basic legal core and subsequent options in international relations, international business, and developing countries. Law school admissions standards will be maintained. The program would include language training and possibly overseas internships and internships in inter-

national agencies. The Institute has assisted in the establishment of a course on Latin American Legal Problems to be offered in the School of Foreign Service and the University's Graduate School, by Professor Cameron. I should also mention the German-American forum which was successfully held in May under the auspices of the SFS.

- (vii) Mr. Matthews, in consultation with a member of the staff of Law and Policy in International Business, is working with the library and the faculty library committee on the international and foreign law library of the law school. Mr. Roman remains the Institute's librarian.

We continued our luncheon series. Our speakers last year were Samuel Stern of our board, speaking about the problems of Anaconda in Chile; Gunther Jaenicke, of our board, speaking on problems of the GATT; Joseph Gold, General Counsel of the IMF, speaking on problems of the international monetary system; and John Evans, U.S. representative to GATT, speaking about the implications of the proposed Hartke-Burke legislation. Our luncheon guests include the faculty teaching in the international and comparative area, students associated with the Institute, friends and alumni of the Institute and student editors and advisory board members of Law & Policy in International Business.

The Institute supports the work of the Director as Foreign Student Advisor of the law school. This has enabled the Institute to evaluate applications more carefully and help in their processing; we receive many inquiries from foreign students. We have now added a one-hour credit course for our foreign students to be given by Professor Cameron to be assisted by Institute fellows. It is expected that the foreign students from other Washington area law schools will attend the course under the Consortium.

The Institute receives many visitors, including deans and professors of law schools, judges, officials of bar associations and attorneys and students (25 Belgians graduate students and professors from Louvain visited us for several days last fall) and inquiries as well as requests for materials.

The Institute assists American law students in problems of career guidance. This experience lead the director to urge the ABA to set up an international career opportunities committee and program, and this has now been done.

The Institute offers a diversified program of research for students under the supervision of Profs. Wallace, Cameron and Wolff and George Roman, the Institute's librarian.

The Institute continues to send foreign students to American law firms and has also arranged with some Washington law firms to receive their foreign associates in the Institute.

The Director has become co-chairman of an ad hoc committee of the ABA on Hartke-Burke (and related trade and investment legislation) and one of the Institute students will assist with this work, with ABA compensation.

Other Possible Programs

It appears that the Institute may assist George Washington Law School in a program of legal training for Afghanis to be financed by AID. Eight Afgnanis are expected to participate in the orientation program next year, and there will be other cooperation.

The Institute is contemplating some changes in the Indonesian program, and a possible expansion.

Prof. Wolff and a colleague at GW have had discussions with a professor at Cologne about a possible program with that University.

The Institute may explore the possibility of some kind of program for Latin Americans. We have also received inquiries about other co-operative programs.

In the long term we would like to develop a regular program of exchange for foreign professors who might come to the Institute and write a book under its auspices and possibly give one seminar in exchange.

Administration, Staff, Students

The strength of the staff is of course crucial to the effectiveness of the Institute. I feel that we have made substantial strides in

this connection this year.

Helga Ruof, who is my assistant, is invaluable. In addition to being in charge of budget and personnel problems, she is administering the Dusseldorf conference, and has also run the Indonesian program and assisted with the orientation program. It is my intention that she should run the administrative side of the investment negotiation center. She will also assist with the book based on the conference, and subsequent colloquia.

Adjunct Prof. Duncan Cameron, who is associated with the Institute is giving a good deal of time to it. He is giving a one credit course for foreign students. He has participated in the orientation program, and assisted with the Indonesians and will assist with funding matters. He is also offering the Latin American course at the SFS and graduate school.

Adjunct Prof. John Wolff participated extensively in the orientation program, assists the American Schulte zur Hausen Fellow in his comparative reading and supervised the research of one of our foreign students last year.

George Roman continues as the Institute's librarian.

Stuart Matthews, the Institute Fellow, has been very active in his second year as a Fellow. He will continue for a third year. In addition to what has already been mentioned about him, he will participate in a third UNITAR seminar in Santiago de Chile, and will continue to do procurement research for IBRD. Stuart has also worked with the Indonesian program and the orientation program, which he had developed last year. He will now be working with Mike Silverman on the investment negotiation center in designing its curriculum and simulations. As part of his fellowship he will assist Prof. Cameron in the foreign student course. I might note at this point that we have made arrangements with the General Counsel of the IBRD that the Institute Fellow will regularly serve an internship at the IBRD. Like all graduate students he of course takes courses and writes papers.

The most recent American Schulte zur Hausen is Mike Silverman. It is hoped that Mike will spend some of his time with the EEC in Brussels on the way to Frankfurt. All Schulte zur Hausens now take reading in comparative law with Prof. Wolff.

June Brosius is a third year J.D. student. She has largely designed the joint program with the SFS, works on various brochures, helps with funding, will help the director with research for his proposed book, has assisted with the orientation program, and is working on an article on the Pentagon papers with the director.

Bill Barringer is a third-year J.D. student who almost single-handedly ran the orientation program this year with great success; he will assist the director in work on Hartke-Burke, and did research for the director on a law review article.

Christoph Stalder, a Schulte zur Hausen fellow from Switzerland, has been working on his doctorate dissertation. He assisted with the orientation program; he is now working at Arnold & Porter.

Other students who were involved in the institute's work or are now involved include Nancy Jacklin, a third year student who worked on the procurement project, Luis Heredia-Bonetti, associate of a Washington law firm from the Dominican Republic, who worked on the procurement project, Copper Yaw and Adam Stolpen, second year students who have worked at the Institute, Manfred Beschel, from Erlangen, who has done research here, Hildegard Becker, from Frankfurt, who was doing work on her doctorate last year, Dirk Herbert, from Frankfurt, who attended the Orientation program. This year Charles Poncet of Geneva will do research at the Institute; we also expect to have an Iranian who is an associate of a Washington firm spending time in the Institute; Detlev Vogel of Frankfurt has helped with the foreign investment study and will help Law and Policy in International Business with a symposium on the securities industry. We expect a new European Schulte zur Hausen this year, and other foreign students who may be involved in the Institute. Unfortunately, we do not have space for all of them. A number of other J.D. students will be doing research on other work at the Institute this year.

Vicki Otten has been an excellent secretary and office manager under Helga Ruof's general direction. Judy Lerner has replaced Vicki as our secretary. Lonnie Rogers has worked part-time to help Vicki and will help Judy.

Charlott Weyersberg continues to assist with foreign student programs and we thank her for it.

Samuel Stern has joined the Board of Directors.

Publications, Brochures, etc.

As noted, the Institute has sold over 300 copies of the proceedings of the October 1970 Brookings Conference on Foreign Direct Investment in the U.S. and is still selling copies. The study on that subject being prepared under the auspices of various students will be printed shortly.

It has already been mentioned that UNITAR has published a set of teaching materials called International Procurement Problems under the name of the Institute. It has also been mentioned that Praeger Publishers will publish the proceedings and papers of the conference on International Control of Investment to be held in Dusseldorf in January 1973, as a book.

The Institute is in the process of preparing three brochures, describing its own activities, the foreign student programs of the Law school and the orientation program. These brochures should be published this year. The first newsletter of the Institute was sent to Fellows and friends of the Institute in January 1972 and the second has recently been mailed.

The doctoral dissertation of Cornelius Canenbley who was with us last year has been reviewed by Prof. Michael Waelbroeck in Law & Policy in International Business.

The director has published in the May issue of the Cornell Law Review an article on "The War Making Powers: A Constitutional Flaw?"; a book review article on Fulda and Schwartz, Regulation of International Trade and Investment of the 1971 winter edition of Law & Policy & International Business and a book review of Weston, International Claims: Post War French Practice, in the fall 1971 issue of the Catholic University Law Review. As mentioned, the director and Mrs. Brosius are preparing an article on the Pentagon papers. Also as mentioned, the director has commenced work on a book on international economic organization with special emphasis on foreign investment and related problems.

It might be noted that the director remains active as vice chairman of the International Law section of the ABA, as well as chairman of its ad hoc committee on relations with developing countries, as a member of the planning committee and co-chairman of the ad hoc committee on Hartke-Burke and other trade legislation. He has also been involved in the ABA's considerations of the problems of the multinational law firm, and in its setting up a committee on career opportunities in international law. In May of this year he chaired a panel at the Waldorf Astoria in N.Y. on doing business in the Far East. He is a member of several AID evaluation panels, and has advised

it on problems of law and development. He has given lectures to the Washington Foreign Law Society and elsewhere, and is active in various other organizations and committees.

Prof. Cameron has received funds to conduct a study of condominium law in a number of Latin American countries.

The Institute has links with Law & Policy in International Business of which the director is faculty advisor; it has assisted in the publication of the foreign investment study; Detlev Vogel will assist in a symposium on the international securities market; a number of our fellows including Mike Silverman are alumni of the Journal, and we provide some shelf space to it.

Funding

We are spending an increasing amount of time on the funding problems of the Institute. This becomes more feasible as we have expanded.

As has been previously reported, project funds have been received for the UNITAR seminar from the Swedish International Development agency and UNITAR; from the Berkeley-Indonesian program; from the State Dept, DAAD, the Asia Foundation and others for the orientation program; we will also receive funds from the OAS for the Dusseldorf Conference. At the present time we are seeking funds from AID and possibly from a foundation for the investment negotiation center. Through the assistance of Father Henle and Dean Fisher, a proposal has been submitted to IBM for a fellowship and it is possible that we will submit a similar proposal to Xerox. We have had very preliminary discussions with the German Marshall Plan Fund which will not become active for a year and we will be talking to the Japan Foundation and to other foundations.

It is our intention to continue to expand the orientation program to generate funds to cover overhead.

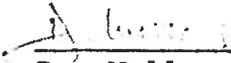
Hopefully these efforts will progressively reduce the present contribution from Georgetown. Eventually, too, the contribution of the Association might be reduced.

At this point I should express my thanks to the University and especially to the Association which for many years has loyally supported the Institute.

The Future

In the next year or two we hope to:

- (i) Develop an expertise and reputation in the investment area;
- (ii) Develop the orientation program for its own sake and to further cover our overhead;
- (iii) Proceed to strengthen our ties with our faculty, our students, other components of the University, other institutions in Washington, and other Universities here and abroad, and deepen the awareness of the law school about international programs;
- (iv) Continue to consolidate the staff; and
- (v) Continue with funding efforts.



Don Wallace, Jr.,
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