
Congress's Fancy Turns to Industrial Policy

"Industrial policy," the theme of several new bills in Congress, seems to have captured the legislators' fancy this fall. These proposals would reform the antitrust laws, granting partial exemptions to companies that want to engage in joint research and development projects.

President Reagan joined the reformers on 12 September by announcing his own "National Productivity and Innovation Act of 1983." It is designed to spur the development of new technology by reducing legal barriers to cooperative research among competitors. It was promptly introduced in Congress and sent to the judiciary committees. Hearings will be held on 28 September in the House and on 3 October in the Senate.

In describing the proposal last week, assistant attorney general for antitrust matters William Baxter said it was similar to one already introduced (H.R. 3641) by Representative Hamilton Fish (R-N.Y.).

Like that bill, Reagan's plan would diminish the incentive for suing under antitrust statutes by taking away some of the rewards for doing so. First, it lifts the ban on joint ventures as a *per se* violation of the law. It then requires that companies seeking protection for joint research projects must file a statement with the Justice Department, giving the names of those involved, the area of research, and the duration of the agreement. Next, it would lower the penalty for being found guilty of an antitrust violation. An R & D venture found guilty would pay the plaintiff damages equal to the actual amount of injury, not treble damages, as is the case now. The hope is that this will make corporate antitrust attorneys less conservative, so that they will allow their companies to take investment risks they now avoid. The proposal also asks courts to weigh the "procompetitive" benefits of joint ventures when considering their legality.

In addition, Reagan's proposal includes three sections dealing with patents and copyrights, which are not covered in Fish's bill. (The reason Fish left them out, an aide explains, is that they involve another subcommit-

tee's jurisdiction, making quick enactment difficult.)

Reagan's proposal would protect "intellectual property" by eliminating the treble damages penalty for anti-competitive licensing of patented or copyrighted material. And it would require the courts to weigh the economic and competitive advantages of restricted licensing deals before ruling against them. Finally, this bill would strengthen the enforcement of process patents (those covering production techniques) by making it illegal to import products made by foreign firms that refuse to honor existing patents.

The Administration proposal will join the four major bills of this kind already introduced in the Senate, including those of presidential candidates John Glenn and Gary Hart.

Despite the popularity of this new legislative cause, one of the Administration's expert witnesses testified before a House subcommittee in mid-September that there is not a great deal of evidence that existing laws discourage joint R & D. James Miller III, chairman of the Federal Trade Commission, said, "In my view, the antitrust laws would not appear to have been a *major* impediment to research joint ventures, as challenges to them have been virtually unknown in recent years." Further, he warned Congress against getting carried away with enthusiasm for reform: "If an impression is left that Congress will amend these laws fairly freely, there will be great pressures toward special interest legislation . . . enough to bring nearly every lobbyist in town to your doors."—ELIOT MARSHALL

Move to Bar Political Checks on Science Appointees

Senator Dale L. Bumpers (D-Ark.), denouncing "political Lysenkoism," has introduced a bill to halt the practice of checking out the political credentials of nominees to federal scientific advisory panels.

The move follows revelations last year that the Department of Agriculture was clearing candidates for peer review panels for security and political compatibility. More recently, Bumpers came into possession of an internal document from the Interior

Department with names of nominees for the outer continental shelf advisory board. "It was clear they had been sent to the Republican National Committee," says an aide. Each name had a "yes" or "no" beside it. The "yeses" were all appointed. Further investigation showed this was a pervasive pattern at Interior and presumably elsewhere.

The bill, S. 1641, states that no appointment to a scientific advisory committee or task force may be based "in whole or in part" on political affiliation. That includes any panel whose name contains the term "science," "scientific," "technical," "research," or "economic." The bill specifies that if the law is violated, then the appointing authority has to declare the whole committee void.

Naturally, the Administration could go right ahead checking people out so long as it did not keep a record. But the bill, if enacted, would make the process less blatant. Persons who believe the law has been violated will be entitled to sue under provisions of the proposed law.

—CONSTANCE HOLDEN

France Gives Research a Top Funding Priority

Paris. Despite its current economic difficulties, the French government has decided that research is one of four areas of public expenditure—the other three being industry, employment, and education and training—to be spared the severe restrictions being placed on next year's budget.

According to figures agreed to by the Council of Ministers in Paris last week, research and development funds will increase by 15.5 percent in 1984; allowing for the anticipated rate of inflation, this will mean a real increase of 8.1 percent. The main growth will be in support for industrial research. Funding for fundamental research will grow slightly slower, by 12.2 percent, but if maintained at this level, still represents a real increase in activity of 4.8 percent. Overall, the French budget is intended to grow by 7 percent, slightly lower than expected inflation.

Earlier in the year, it had been anticipated in government circles that fund-