

US Congress sweeps up remaining bills

ASATs, agriculture and antitrust

Washington

AMONG the last-minute business that the US Congress completed before adjourning to hit the campaign trail was the resolution of three long-standing issues in science policy and arms control:

Antisatellite weapons

MOVED to act by the absence of any discernible leadership on this issue from the White House, Congress imposed its own moratorium on testing of the new US antisatellite device, a small nonexplosive rocket launched from an F-15 fighter. The Air Force has so far conducted only one test of the weapon, which on that occasion did not carry a warhead. (The warhead, which has been described as a "smart rock", technically the Miniature Homing Vehicle, manoeuvres into the target satellite and disables it simply by ramming it.) The congressional ban is on testing against a live target — seen as the critical step in proving the weapon.

Under the compromise finally worked out between the House of Representatives, which had wanted a one-year ban, and the Senate, which favoured only a requirement that the President should convey to Congress certain assurances that the testing was necessary, no tests are allowed before 1 March of next year. After that, and before tests can begin, the President will have to certify that tests are necessary to prevent harm to national security, that they are consistent with the anti-ballistic missile (ABM) treaty and will not irreversibly harm chances for negotiation of an antisatellite weapons (ASAT) limitation treaty, and that an effort is being made in good faith to negotiate such limitations with the Soviet Union.

The law also provides for a 15-day waiting period after the President's certifications, during which time Congress could presumably vote to extend the moratorium — although any such vote would be subject to the President's veto. And no more than three tests against a target will in any case be permitted during the 1985 fiscal year, which ends on 30 September 1985.

Technical or political reasons, or a combination of the two, have delayed the second planned test, which has been expected for some time. In this test, the weapon, with warhead, will be shot at an imaginary target in space. Rumour has it that this test will occur within the next few weeks.

The limitations passed by Congress are a small but nonetheless important step — it is the first time that Congress has legislated on arms control. Representative George Brown (Democrat, California), a principal sponsor of the moratorium, said the measure "provides a *de facto* arms control

agreement" that buys time "to get negotiations back on track".

No limitations have, however, been imposed on the US Air Force's budget for procuring the weapons. Congress approved \$74 million for that purpose. The research and development budget is \$133 million.

Agriculture

THE catch-all appropriations bill passed by Congress, which will keep the government operating until the end of the 1985 fiscal year, includes a generous budget for the habitually impoverished competitive grants programme for agricultural research. Created in 1977 as an alternative to the formula-funding system — long criticized for its absence of peer review and its exclusion of non-land-grant colleges — the programme has been held to a mere \$17 million by those in Congress — notably Representative Jamie Whitten (Democrat, Mississippi) — who saw it as a threat to business as usual.

This year, Congress agreed to \$46 million, close to the \$50 million requested by the administration. Efforts by Whitten to keep up the appearance of a budget increase while undermining its substance were, however, modestly successful. Within the \$46 million is \$7.5 million earmarked by Whitten for specific programmes, apparently transferred wholesale from "special grants" — congressionally-mandated research that the US Department of Agriculture has never cared for and which are finally being eliminated this year. Thus while the general area of plant sciences was voted an increase of \$1.5 million from last year's \$15 million, \$1.7 million was set aside for special projects in soybeans, acid precipitation and alcohol fuels. A new area of "pest sciences" turns out to be devoted completely to three special projects, with \$1 million apiece: studies of boll weevil, pine bark beetle and gypsy moth. And of the \$4.5 million appropriated for a new area of animal sciences, \$3 million is committed to special projects.

Real gains were, however, made in the creation of a new \$20 million biotechnology area, with no strings attached. The human nutrition area will receive \$2 million, as before.

The director of the competitive grants programme, Ed Kendrick, says that although the incorporation of the special projects into the programme will take some careful planning, all the money will be awarded on a competitive basis.

Most attention now will turn to the budget for the next fiscal year, due next February. The first substantial increase in competitive grants for several years is bound to whet the appetites of their

advocates.

Requests for proposals in the new programme area will be announced in mid-November.

Antitrust exemption

HIGH-technology companies in the United States have been pressing for an exemption from antitrust laws that would allow them to collaborate on research without fear of landing in court. The inevitable comparisons with Japan were heard over and over again at congressional hearings last spring. Legislation signed by the President on 11 October confers a degree of protection upon such joint ventures, although it stops far short of the blanket exemption that industry had hoped for.

Under the principal antitrust statutes, a company engaged in anticompetitive practices can be sued by a competitor for three times the competitor's actual monetary damages. The bill just enacted limits that to actual damages in the case of joint ventures in research and development, so long as the companies entering into such collaborations disclose their activities in advance to the federal government.

The government will print a notice in the *Federal Register* listing the parties and a general description of their activities; although more specific information will have to be supplied to the government, those details will be protected against release to the public.

The theory behind the new law is that although joint ventures in research and development have never been illegal *per se*, the threat of triple damages has made companies overly cautious. And, in turn, companies involved in such ventures are likely to toe the line if they know that the Justice Department is keeping an eye on them.

The new law provides another protection for joint research and development ventures by allowing courts to award attorneys' fees to defendants who are the victim of frivolous lawsuits.

Whether the law will be the tonic to US industry that its high-technology advocates claim is questionable. For one thing, joint research and development ventures have almost never been the target of antitrust actions anyway. In the past 25 years, only four cases have been brought; and none of these questioned the joint collaboration *per se*.

The best known case was brought by the Justice Department against the major US auto-makers, which had collaborated on pollution control research (which was not illegal) but then allegedly conspired to delay the introduction of that technology. In another famous case, a photographic company sued over a joint research venture that Kodak had entered into with virtually all other photographic companies, excluding only the plaintiff in the case.

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