FOREIGN AND INTERNATIONAL

EASING OF U.S. ANTITRUST ENFORCEMENT ACTIVITY LIKELY UNDER REPUBLICANS

Early indications point to some relaxation of antitrust enforcement activity by the Republican administration in the United States, although private enforcement is unlikely to be affected.

President Reagan has announced that he plans to nominate William Baxter as Assistant Attorney General in charge of antitrust. According to the Wall Street Journal of February 23, 1981, Mr. Baxter is regarded as taking "a generally narrow view of antitrust law" and he is expected to concentrate "on traditional enforcement against price fixing and to avoid attempts to expand antitrust law to cover new theories".

The Office of Management and Budget proposed on February 12 that the budget of the Federal Trade Commission be cut from the present $73 millions to $41 millions in 1985, virtually eliminating its antitrust activities by degrees. The proposal has been strongly opposed by the F.T.C.

URANIUM LITIGATION MAY WIND DOWN

An out-of-court settlement was announced on January 29, 1980 of the uranium litigation between Westinghouse Electric Corp. on the one side and Gulf Oil Corp. and its Canadian subsidiary Gulf Minerals Canada Ltd. on the other side. The trial was to have commenced in Chicago in September, 1981. A few weeks earlier Westinghouse reached settlements with two other uranium producers, Homestake Mining and Getty Oil.

At the time of writing, Westinghouse claims against twenty-three other uranium producers, including Dennison Mines, Noranda and Rio Algom of Canada, are still scheduled for trial next September in Chicago. Also scheduled for trial at the same time is a suit by Tennessee Valley Authority against Gulf and some other uranium producers. However, according to press comments, settlement of some or all the remaining claims might be reached before the trial.

According to the Economist of February 7-13 "Gulf appears to have got off distinctly lightly in the settlement, which suggests that of the two Westinghouse was the more anxious to come to terms." However, a Gulf official is reported to have pointed to the uncertainty of a jury trial. Also, Gulf was under threat of legal sanctions for failure to comply with an order of the Chicago court to produce documents located in Canada. In March, 1980, the Supreme

Court of Canada rejected an application by Gulf which would have authorized it to produce the documents.

Most of the litigation between Westinghouse and the utilities with whom it had broken contracts to sell uranium at low prices have also been settled out of court. The same applies to most of the suits by utilities against Gulf oil. Litigation between Gulf and United Nuclear Corporation in New Mexico is still before the courts.

In Canada, the inquiry into the marketing of Canadian uranium under the Combines Investigation Act, which was initiated by the Minister of Consumer and Corporate Affairs in 1977, is still in progress.

NATIONAL HOCKEY LEAGUE CLEARED OF ALLEGED ANTITRUST LAW VIOLATION

The United States District Court for the Eastern District of New York has dismissed a private action claiming $30 millions treble damages against the National Hockey League, member clubs constituting the League and individuals associated with the clubs, for an alleged attempt to monopolize or monopolization in violation of S. 2 of the Sherman Act or conspiracy to injure the plaintiff (Shayne v. National Hockey League, 71 C 1537, Dec. 22, 1980).

The case involved the grant by the N.H.L. of a hockey club franchise for Long Island in 1971. At the time the plaintiff had an option to acquire a World Hockey Association franchise for the New York City Metropolitan Area, which he later sold. He charged that the N.H.L. had monopolized the business of professional hockey and, in particular, conspired to prevent him from forming his own W.H.A. club.

Judge Neaher of the District Court found that negotiations for the N.H.L. franchise had been commenced several years before the formation of the W.H.A. and on the initiative of Nassau County officials, that both sides had acted in good faith and that the plaintiff had not demonstrated the requisite experience or financial capability to warrant serious consideration as a lessee for a professional hockey program in the County's Coliseum.

Despite the good intentions of the N.H.L. in granting the franchise, there remained the questions of law (1) whether the N.H.L. possessed monopoly power in the relevant market and (2) whether its grant of a franchise for Long Island, despite good intentions, had the effect of unreasonably restraining or preventing the anticipated competition of the plaintiff.