

With respect to changes in the laws governing FAA, the Administration's proposal for ATC focuses on changing the legal requirements governing procurement and personnel. These are important areas worthy of consideration. As we go forward with our discussions on further legislation, we will certainly consider changes in these areas. But I think we need to expand our horizons.

The last 2 years experience with the Advanced Automation System contract indicate the need for FAA to make substantial improvements in its ability to manage large contracts. FAA needs to shift its focus. Because of the revolution in computer technology, FAA needs to find ways to shift its role from that of a developer of technology, to that of a customer of off-the-shelf technology developed by others. FAA also needs to show more discipline in contract management, by freezing contractual requirements, by obtaining accurate information, and taking necessary action to ensure that projects stay on budget and within schedule. We will be seeking expert guidance on how FAA can best be encouraged to make management changes. Is it exclusively a matter of internal FAA management, or are there organizational and legal changes which would help enhance FAA's performance?

Similar issues are presented in procurement. I should note that I expect procurement to be less significant in the future than it has been in the past since much of FAA's modernization program is now under contract and the problem has shifted from procurement to contract management.

In the procurement area we need to consider ways to improve FAA's ability to make good procurements under whatever system is in place. FAA's recent actions in the Global Positioning Satellite [GPS] procurement show that the existing system affords many opportunities for the agency to streamline the process. In addition, the recently enacted government-wide procurement reform legislation will furnish important additional opportunities for streamlining.

For GPS, FAA proposes to complete the major procurement of differential stations in 3 years and 5 months. This compares to the average procurement time for major projects of eight and half years.

FAA has proposed to procure GPS technology expeditiously by streamlining internal procedures and by assigning professional personnel exclusively to the GPS procurement. Again, we need to look at how these improvements can be applied to other programs. Is this primarily a matter of good management? Can legislation play a part in improving procurement management and administration?

Thinking even more broadly, it has been said that the organizational culture of FAA does not encourage employees to focus adequately on the needs of users of the agency's services. While FAA's focus should not be limited to what its customers want, customers' needs should certainly be an important element. We should explore whether there is a need for organizational or other legal changes to ensure that customers' needs are given their proper weight.

In conclusion, the legislation introduced today is an important building block in the process of FAA reform. I look forward to working with my colleagues and the aviation community to continue the process and develop a

comprehensive reform proposal for the 104th Congress.

STATEMENT OF ADMINISTRATIVE ACTION ON THE URUGUAY ROUND TRADE AGREEMENTS

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. GIBBONS. Mr. Speaker, on September 27, 1994, the President transmitted to the Congress the Uruguay Round Trade Agreements, an implementing bill introduced as H.R. 5110, and a Statement of Administrative Action. These documents were printed as House Document 103-316. I have received a letter from the U.S. Trade Representative dated October 3, transmitting corrections of a few printing and other technical errors in the Statement of Administrative Action.

Mr. Speaker, I ask that this letter be printed in the RECORD so that the statement as corrected will be reflected in the legislative history.

THE UNITED STATES TRADE REPRESENTATIVE,

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, October 3, 1994.

HON. SAM GIBBONS

Acting Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In reviewing the Statement of Administrative Action (SAA) accompanying the Uruguay Round implementing bill, H.R. 5110, we have found that a few lines of text were omitted from the end of several pages of the SAA due to printing errors. The omissions occurred on pages 20, 24, and 367 of the SAA and at the conclusion of the endnotes following the document.

In addition, on page 45, the words "soda ash" were omitted in the fifth line of the second full paragraph and in the second line of the third full paragraph. The same words erroneously appear in the third line of the sixth full paragraph on the page.

Finally, in the first full paragraph on page 77, the words "WTO member" were erroneously inserted in place of the word "country." The sentence should read: "Combatting subsidized competition in third country markets will remain a high priority for the United States for two reasons."

I am enclosing with this letter corrected copies of those pages of the SAA pages mentioned above. I hope that they will clarify the Administration's intent with regard to the matters discussed on those pages and will permit the Committee to take the corrections into account in preparing its report on the bill.

Enclosures

* * * * *

CORRECTED PAGE 20:

F. PRIVATE LAWSUITS

Section 102(c) of the implementing bill precludes any private right of action or remedy—including an action or remedy sought by a foreign government—against a federal, state, or local government, or against a private party, based on the provisions of the Uruguay Round agreements. This would include any such suit brought against a federal state, or local agency or against an officer or employee of any such agency. A private party thus could not sue (or defend suit against) the United States, a state or a private party on grounds of consistency (or in-

consistency) with those agreements. The provision also precludes a private right of action attempting to require, preclude, or modify federal or state action on grounds such as an allegation that the government is required to exercise discretionary authority or general "public interest" authority under other provisions of law in conformity with the Uruguay Round agreements.

With respect to the states, section 102(c) represents a determination by the Congress and the Administration that private lawsuits are not an appropriate means for ensuring state compliance with the Uruguay Round agreements. Suits of this nature may interfere with the President's conduct of trade and foreign relations and with suitable resolution of disagreements or disputes under those agreements. Moreover, as section 102(c)(2) makes clear, through its approval and implementation of the Uruguay Round agreements Congress will have "occupied the field" with respect to any cause of action or defense that seeks, directly or indirectly, the private enforcement of those agreements. That means that private parties may not bring suit or raise defenses: directly under those agreements; on the basis of a successful judgment against a state in a suit brought by the Attorney General under the agreements; or on any other basis, including Congress' Commerce Clause authority.

In sum, the language of section 102(c)(2) is intended to make clear that Congress seeks the complete preclusion of Uruguay Round agreement-related actions and defenses in respect of state law in any action or proceeding brought by or against private parties.

The prohibition of a private right of action based on the Uruguay Round agreements, or on Congressional approval of those agreements in section 101(a), does not preclude any agency of government from considering, or entertaining argument on, whether its action or proposed action is consistent with the Uruguay Round agreements, although any change in agency action would have to be authorized by domestic law.

CORRECTED PAGE 24:

intends to maintain the existing policy advisory committee on environmental and conservation matters. The Administration also intends to seek the views and advice of the ACTPN and environmental policy committee with respect to environmental issues associated with trade policies or trade agreements, including issues related to implementation of the WTO; and for the environmental policy committee to include in its reports on trade agreements an advisory opinion as to any significant environmental effects of the agreement.

L. WORKING PARTY ON WORKER RIGHTS

Section 131 of the bill directs the President to seek in the GATT and the WTO the establishment of a working party to examine the relationship of internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974, to GATT and WTO articles, objectives, and related instruments. Section 131 sets out four U.S. objectives for the working party: to explore the linkage between international trade and internationally recognized worker rights, taking into account differences in the level of development among countries; to examine the effects on international trade of the systematic denial of such rights; to consider ways to address such effects; and to develop methods to coordinate the work program of the working party with the International Labor Organization.

Section 131 also directs the President to report to the Congress within one year on the progress made in establishing the working

party and on U.S. objectives with respect to the working party's work program.

M. COUNTRIES PARTICIPATING IN BOYCOTT

Section 133 of the bill calls on the Trade Representative to oppose the admission into the WTO of any country that participates in a boycott of the type described in section 8(a) of the Export Administration Act of 1979.

N. AFRICA POLICY

Section 134 of the implementing bill provides that the President should develop and implement a comprehensive trade and development policy for the countries of Africa. Section 134 also requires the President to submit reports to the House Ways and Means and Foreign Affairs Committees and the Senate Finance and Foreign Relations Committees and other appropriate Congressional committees within twelve months of enactment of the bill and annually for the next four years thereafter on its trade and development policy for the countries of Africa and on progress made toward implementing it.

CORRECTED PAGE 45:

which can be implemented through Presidential proclamation, this change must be made in a statute.

Sections 113 and 114 of the bill amend the Harmonized Tariff Schedule (HTS) and other provisions of U.S. law to permit the Secretary of the Treasury to liquidate or reliquidate entries of specified products and, on request, to refund any duty paid. These provisions are necessary to correct longstanding errors in classification of certain products in the HTS that are corrected prospectively in Schedule XX, or to correct omissions in the preparation of that Schedule.

B. ADDITIONAL TARIFF PROCLAMATION AUTHORITY

During the Uruguay Round, the United States sought the reciprocal elimination of duties among major trading countries in a wide range of sectors of key interest to U.S. firms. This zero-for-zero initiative consisted of the following sectors: pharmaceuticals, electronics, furniture, distilled spirits, medical equipment, non-ferrous metals, paper and paper products, wood products, soda ash, steel, agricultural equipment, construction equipment, scientific equipment, oilseeds, and oilseed products and toys. These products represent key U.S. import and export interests.

In some sectors, namely wood products, electronics, distilled spirits, non-ferrous metals, soda ash, and oilseeds and oilseed products, agreement on complete duty elimination was not achieved. Obtaining further reductions and elimination of duties in these sectors is a priority objective for U.S. multilateral, regional and bilateral negotiations.

The Administration was particularly disappointed over the failure of Japan to agree to further reductions of tariffs on wood products. Every effort will be made to negotiate reductions toward the elimination of the tariffs facing our exports in this sector.

Moreover, U.S. exports of items such as high value oilseed products would especially benefit from tariff reductions below that achieved in the Uruguay Round. U.S. interests have identified specific products that should be subject to intensified efforts to achieve duty reductions and elimination and the Administration intends to pursue negotiations on these products.

For those sectors in which the United States achieved duty elimination, acceleration of the phase-out of duties in certain sectors, such as paper, and paper products, should grant these U.S. industries improved access to key markets. The Administration

will also pursue accelerated staging of tariff reductions as a priority objective with our trading partners, such as an accelerated reduction of the EU tariffs on paper and paper products.

A third area in which further progress is necessary is the harmonization of tariffs on chemical products. The Administration will make every effort to expand * * *

CORRECTED PAGE 77:

their agricultural exports do not impose a similar restriction on themselves and the restriction is not required by the Agreement on Agriculture. No similar statutory change is required for four U.S. export subsidy programs—the Dairy Export Incentive Program, the Sunflowerseed and Cottonseed Oil Assistance programs, and CCC dairy export sales—because there are no similar statutory restrictions on their operations.

Combating subsidized competition in third country markets will remain a priority for the United States for two reasons. First, the European Union, in general, has higher export subsidy ceilings than does the United States. Therefore, there will continue to be a need to protect U.S. export markets abroad from subsidized competition. Secondly, the Agreement on Agriculture requires further multilateral negotiations on trade-distorting agricultural subsidies and import protection in five years. The use of U.S. subsidies in the interim should help induce the European Union and others to agree on further reductions in those negotiations.

The CCC will also administer egg EEP initiatives in a manner to maximize benefits to the entire U.S. egg industry. In particular, the CCC will make efforts to enable the U.S. egg industry to maintain a strong presence in Hong Kong.

B. DAIRY EXPORT INCENTIVE PROGRAM

Section 153 of the Food Security Act of 1985 requires the CCC to operate a Dairy Export Incentive Program (DEIP). The program operates in a manner similar to the EEP, but is limited to dairy products. Section 411(b) of the implementing bill extends the DEIP through 2001.

C. CCC DAIRY EXPORT SALES

Section 1163(a) of the Food Security Act of 1985 currently requires the Secretary of Agriculture annually through fiscal year 1995 to sell for export not less than 150,000 metric tons of dairy products, including not less than 100,000 metric tons of butter and not less than 20,000 metric tons of cheese, out of CCC-owned stocks. Because export sales are usually at world prices, which normally are lower than domestic prices, the export sale of these products by CCC under section 1163(a) is likely to constitute a "sale or disposition of export by governments or their agencies on non-commercial stocks of agricultural products at a price lower than the comparable price charged for the like product to buyers in the domestic market," within the meaning of Article 9:1(b) of the Agreement. Accordingly, CCC dairy export sales made at prices meeting this standard are subject to U.S. export subsidy volume and budgetary outlay commitments under the Agreement.

CORRECTED PAGE 367:

infrequently. In certain cases, the United States has taken such action because a foreign government has blocked adoption of a GATT panel report against it.

Just as the United States may now choose to take section 301 actions that are not GATT-authorized, governments that are the subject of such actions may choose to respond in kind. That situation will not change under the Uruguay Round agree-

ments. The risk of counter-retaliation under the GATT has not prevented the United States from taking actions in connection with such matters as semiconductors, pharmaceuticals, beer, and hormone-treated beef.

Finally, nothing in the DSU will affect application of section 301 against practices by governments that either are not WTO members or by WTO members to which the United States does not apply the Uruguay Round agreements. The Trade Representative will address section 301 investigations of unfair trade practices by such countries on a bilateral basis.

C. ANTICOMPETITIVE PRACTICES

Among the foreign government practices that section 301(d)(3)(B) of the Trade Act of 1974 defines as "unreasonable" are those that deny fair and equitable market opportunities, including the toleration by a foreign government of systematic anticompetitive activities. The Administration will enforce vigorously the "toleration of . . . anticompetitive activities" provision in section 301 when appropriate to address foreign anticompetitive behavior. The practices covered by the provision include, but are not limited to, toleration of cartel-type behavior or toleration of closed purchasing behavior (including collusive coercion of distributors or customers) that precludes or limits U.S. access in a concerted and systematic way.

The Trade Representative, in consultation with the Attorney General, will look to a variety of information sources in evaluating a foreign government's toleration of anticompetitive practices. Issues to be addressed include the existence of the anticompetitive practices and whether there was an unreasonable failure to take timely action against them. In making an assessment, the Trade Representative will consider whether the pertinent foreign government, and especially its competition authorities, have been made aware of the alleged practices and, if so, how they were informed, the relevant evidence that has been provided to, or is known to be available to, the foreign authorities, and the nature of response those authorities have made.

The evidence provided to, or known to be available to, a foreign authority normally should include, among other things, the identity of the enterprises allegedly involved and the relevant markets affected, a description of the specific practices, and an indication of their duration and pervasiveness. In keeping with the Congressional intent in adopting this provision, the Trade Representative will also take into account whether the anticompetitive activities are inconsistent with the foreign country's own laws, how systematic and pernicious those activities have been, and their degree of effect on U.S. domestic or foreign commerce.

CORRECTED ENDNOTES:

who owns more than 10 percent of the capital or profits interests in the partnership, or (3) in the case of a corporation, owns more than 10 percent in value of the voting stock of the corporation or all the stock of the corporation.

56. This method is also known as the frozen initial liability method.

57. Under this funding method, the normal cost is generally determined by dividing (1) the actuarial-present value of future benefits less the sum of the actuarial value of the assets and the unfunded liability by (2) a weighted temporary annuity factor that spreads the cost of the plan over future years. If the sum of the actuarial value of assets and the unfunded liability exceed the present value of future benefits, the normal cost under the method will be negative.

58. For these purposes, plans with no unfunded vested benefits and plans not subject to title IV of ERISA are disregarded.

THE AMERICAN LEGION PRESENTS
PRIORITIES TO CONGRESS

HON. G.V. (SONNY) MONTGOMERY
OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MONTGOMERY. Mr. Speaker, on September 20, William M. Detweiler, newly elected national commander of The American Legion, appeared before a joint hearing of the House and Senate Veterans' Affairs Committees to present the legislative priorities and membership concerns of this essential and extremely active veterans service organization. In particular, its views on the future of the Department of Veterans Affairs (VA) health care system, educational benefits provided by the Montgomery GI Bill, Veterans employment programs and the VA's claims and appeals process.

I am pleased and proud to share with my colleagues Commander Detweiler's eloquent statement as follows:

PRESENTATION BY LEGISLATIVE PRIORITIES OF WILLIAM M. DETWEILER, NATIONAL COMMANDER THE AMERICAN LEGION BEFORE A JOINT HEARING OF THE HOUSE AND SENATE VETERANS AFFAIRS COMMITTEES UNITED STATES CONGRESS SEPTEMBER 20, 1994

MESSEURS. CHAIRMEN AND MEMBERS OF THE VETERANS AFFAIRS COMMITTEES: Thank you for allowing the American Legion the opportunity to present its legislative portfolio for congressional action. Coming before you today is like "signing to the choir". Your committees are genuinely "veteran-friendly". Each member of these Committees has independently demonstrated a sincere commitment to America's veterans and their families.

Under the capable leadership of both Chairmen, the voice of the veterans community can be heard in the Halls of Congress. Although we may not always agree on how to best accomplish legislative goals that affect our veterans, the veterans community is fortunate to know that these committees are at least receptive to its comments.

I would be remiss in not taking this opportunity to say a special "Thank You" to those members of these committees that will not be returning for the 104th Congress. Senators Dennis DeConcini and George Mitchell and Representatives Doug Applegate, Don Edwards, Tim Penny, Dr. Roy Rowland, George Sangmeister, Tom Ridge and Jim Slattery have truly been "champions" for veterans and their families. The American Legion family salutes you for your service to this great nation and for a job well done. You will be missed, but our hope is that you will continue to advocate the need for proper care of our veterans and their dependents.

Today, I will outline some of The American Legion's legislative goals for the 104th Congress. There are many challenges ahead for these committees and the veterans community. I specifically refer to the future of the Department of Veterans Affairs (VA) health care system, educational benefits provided by the Montgomery GI Bill, Veterans employment programs and VA's claims and appeals process. There are no "quick fixes" or easy solutions to these problems. The real answers are buried in the conscience of a grateful nation and the need for Congress and the administration to responsibly face and work for solutions to these problems.

Just how grateful are we as a nation? Throughout the decade of the 80s, while VA received meager health care appropriations, the private health care industry experienced sky rocketing financial increases. While VA patients were being placed in categories for services that denied many veterans health care, social health care entitlement programs were growing at an incredible pace. While educational costs soared, the generous educational benefits enjoyed by World War II, Korean and Vietnam veterans came to an end and new veterans educational programs began that required cash contributions for participation and rendered less financial assistance. While Social Security disability claims are addressed in a matter of months, VA disability Claims take years to resolve. While affirmative action hiring requirements were strengthened, veterans preference hiring and firing requirements were ignored.

The problems facing the veterans community are not fixed by reducing the number of health care professionals and closing hospital wings based on budgetary constraints. These problems are not fixed by telling veterans, even if they are willing and able to pay, that they make too much money to receive health care that they have earned through service to their country, in the very system that their tax dollars help to support. These problems are not fixed by creating new non-military programs for "paid" volunteerism with educational, health and child care benefits for community service. We can and must do better than that!

This nation cheered that returning Desert Storm veterans along the parade routes, gave out medals and mourned those who paid the ultimate sacrifice, yet it took the urging of the American Legion and action by these Committees to get the VA and the Department of Defense to hear the pleas of those veterans experiencing undiagnosed medical problems. Have we not learned from the mistakes of the past? Atomic veterans, mustard gas veterans and Agent Orange veterans can easily identify with the obstacles faced by the newest generation of combat veterans.

As a nation, we gasped in horror as the body of a young soldier was dragged down a dusty road in a village of Somalia. Shiny new medals, a flag draped casket and a military funeral do not meet the obligations this nation owes to that hero and his family. Abraham Lincoln's statement on the responsibility of this nation, "To care for him who has borne the battle, his widow and his orphan" is an ethical, moral and legal obligation.

Throughout military history, there are accounts of soldiers, sailors, marines and airmen risking their lives in service of their country and their comrades. It is this bond that every veteran experiences that justifies this testimony today. The American Legion just celebrated its 75th anniversary. The principles establishing on which this organization was established have not changed in 75 years. The legislative mandates that I am about to discuss with you are not only for the benefit of veterans and their families, but inure to the benefit of all Americans.

I submit to you that the Department of Veterans Affairs can meet the needs of veterans and their families with proper funding and a few changes in delivery of those benefits. The Veterans Health Administration desperately needs to change its medical delivery system to meet the demands for service. To accomplish these, several congressional mandates must occur:

(1) VA must have a guaranteed funding source to meet the costs of delivering health care to those entitled to treatment. The full continuum of health care services for service-connected veterans and indigent veterans

must not be curtailed due to discretionary funding shortfalls.

(2) All veterans should have access to VA health care, regardless of their economic status. Those not entitled to treatment should still be eligible for health care. Third party reimbursement must be retained by the VA medical center at which the veteran received treatment for reinvestment in personnel and equipment. Medicare reimbursement for treatment of eligible, nonservice-connected veterans must be authorized.

(3) The current specialized care programs, such as, rehabilitation, prosthetics, spinal cord injury, blindness, aging, mental health and long-term care must continue to be provided by VA professionals.

(4) The current medical and prosthetics resource, medical educational affiliations and role as a back-up to the Department of Defense medical system must be retained.

(5) Funding must be made available to eliminate the medical equipment backlog and completion of the nonrecurring maintenance projects that directly limit delivery of health care services.

These bold changes would empower Secretary Jesse Brown to fulfill the administration's promises made to the veterans community concerning health care reform within the VA. Veterans across America are waiting for these changes.

In order to maintain current services within the VA, the American Legion has clearly addressed in its written statement the funding recommendations for fiscal year 1996. The request for funding \$19.6 billion in medical care would allow the start of some of the health care reform initiatives I have just addressed. The others will require changes in public laws.

The American Legion has recently published An American Legion Proposal to Improve the Department of Veterans Affairs Claims and Appeals Process. This proposal contains a series of recommendations that are critical to resolving the current claims and appeals crisis. Your offices have been provided with copies of this proposal and additional copies of this proposal can be obtained through a call to our Washington Headquarters.

The American Legion commends your committees for your efforts on behalf of Persian Gulf veterans with undiagnosed medical problems. Hearings held by these committees and legislation generated by you have helped these veterans receive the medical attention they needed and deserved. Just a footnote, the Legion is now being contacted by Persian Gulf veterans from Canada and England that are experiencing similar medical problems to those experienced by our veterans.

Recently, the Environmental Protection Agency released a reassessment of dioxin report. The study reaffirms the association of dioxin and cancer. The American Legion believes that Secretary Jesse Brown and Congress should now take the necessary steps to add immune system disorders, diabetes, and disease affecting the reproductive health of female Vietnam veterans to the list of service-connected diseases. We believe that the cumulative body of scientific evidence is sufficient to establish an association.

I would also like to take this opportunity to thank those Members of the Committees who have encouraged and supported The American Legion in its efforts on behalf of the nation's World War II veterans, during the recent controversy arising out of the National Air and Space Museum's planned exhibit: "The Last Act: The Atomic Bomb and the End of World War II".

The exhibit remains, in our opinion, seriously flawed and contrary to the interest of the Nation, as well as the interest of all vet-