



**Comptroller General
of the United States**

Washington, D.C. 20548

B-215491.2

August 29, 1989

The Honorable Mervyn M. Dymally
Chairman, Subcommittee on International
Operations
Committee on Foreign Affairs
House of Representatives

Dear Mr. Chairman:

This is in response to your letter dated June 28, 1989 and confirms subsequent discussions with your staff concerning whether our Office could arrange for an appraisal to determine the value of property and former business operations belonging to an American citizen, Mr. [redacted], in the vicinity of Trujillo, Honduras. The property and businesses were affected by actions of the Government of Honduras with respect to the construction of a Regional Military Training Center.

We understand that the Government of Honduras and Mr. [redacted] have been unable to agree on compensation for the expropriation of the property and the effect on Mr. [redacted] businesses. The Supplemental Appropriations Act, 1987, Pub. L. No. 100-71, July 11, 1987, provided that certain foreign assistance funds earmarked for Honduras would be withheld from obligation until settlement of the dispute, either by the parties themselves before November 30, 1987, or thereafter through binding international arbitration in accordance with the rules of procedure of the Inter-American Commercial Arbitration Commission, 101 Stat. 406. We further understand that the parties have not gone to arbitration.

We addressed the issue of Mr. [redacted] claim for compensation and a role for our Office in settling the dispute in a 1984 letter to Senator John Tower, Chairman, Committee on Armed Services. B-215491, June 13, 1984. At that time, Congress was considering a proposed amendment to the 1985 Defense authorization bill that would have permitted the compensation of American nationals who had incurred losses because of the training center project and would have provided authority to the Comptroller General to settle such disputes. We expressed concern over the role the proposed legislation, if enacted, would have assigned to the General Accounting Office, principally because it would have required us to serve as final arbiter of the amount of

"just compensation" for taking of private property. In exercising our claims settlement authority, we generally decline to make such determinations, explaining that where the pertinent agency's estimate has a reasonable basis we accept that estimate as the proper measure of recovery. In other cases, we have declined to make any settlement of the claim, but have left the claimant to his judicial remedy.

We took a similar position in a 1988 letter to Senator Daniel K. Inouye, Chairman of the Subcommittee on Foreign Operations of the Senate Appropriations Committee. B-215491, April 29, 1988. We further noted in our letter to Senator Inouye that the conference report accompanying Public Law 100-71 indicated that it was "inappropriate for the U.S. Government or the Congress to decide the merits of the case or to establish levels of the appropriate compensation." H.R. Rep. No. 195, 100th Cong., 1st Sess. 47 (1987).

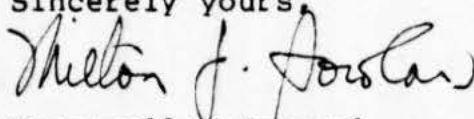
The Congress most recently addressed the issue of compensation for Mr. [redacted] in section 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Pub. L. No. 100-461, October 1, 1988. Section 574 provided, in part:

"It is the sense of the Congress that . . . the Honduran Government appears to have made a reasonable and good faith settlement offer based on a factual analysis by third parties, and the owner of the property in question [Mr. [redacted]] is strongly encouraged to accept the proposed settlement."

102 Stat. 2268-45. We note that a similar provision appears in H.R. 2939, July 19, 1989, the House version of the fiscal year 1990 foreign assistance appropriation bill.

In view of the above, we do not believe that it is appropriate for the General Accounting Office to undertake or arrange for an appraisal of Mr. [redacted] property or business operations or otherwise to be involved in this matter. We hope that our views will assist you in your consideration of this issue.

Sincerely yours,

for 
Comptroller General
of the United States