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GAO

United States General Accounting Office  
Washington, DC 20548

Office of  
General Counsel

In Reply  
Refer to: B-195178

JUN 27 1979

The Honorable Barbara Allen Babcock  
Assistant Attorney General  
Civil Division  
Department of Justice

AG-C00039

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Attention: Kenneth J. Bennight, Jr.  
Commercial Litigation Branch

Dear Ms. Babcock:

Subject: *Litigation Involving*  
~~In the matter of~~ Columbia Export Packers,  
Inc., U.S.D.C. C.D. Calif., Bky. No. 78-  
04631-JD, Your file 77-12-C148 *DL-01961*

At a meeting at the Department of Justice on June 12, 1979, Alan F. Wohlstetter, the attorney representing the trustee, offered to settle on a 50-percent basis the loss and damage claims (\$545,621.89) filed by the Government in its Proof of Claim. It was the consensus of the Government representatives (General Accounting Office (GAO), Department of Justice, Department of the Army, Department of the Air Force, and the General Services Administration) that the offer should be rejected. Mr. Bennight requested to be advised whether any settlement offer should be entertained and, if so, on what basis.

Most of the Government's loss and damage claims arose with the Army and the Air Force, however, GAO does have some claims included in the Proof of Claim. The claims involve shipments of household goods which moved at released valuation rates and consequently the Government should have no problem in establishing the measure of damages. Likewise, the Government should be able to establish a prima facie case of carrier liability in most of the claims. However, our experience here at GAO in handling loss and damage claims indicates some problem in adducing evidence with which to refute the carrier's contentions where a defense is raised (such as no exceptions being noted, when and where damage was discovered, goods packed by owner, water damage, or shipment moved in a particular mode, etc.).

We recommend that the 50-percent offer be rejected. However, in view of the costs of further development and handling of the claims, the possible

*claims settlement  
Proposed settlement  
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absence of evidence to support the Government's claims and considering generally the risks of litigation, we suggest that a counteroffer be made to settle the claims on a 75-percent basis.

Sincerely yours,

L. Mitchell Dick

L. Mitchell Dick  
Assistant General Counsel