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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-200654

DATE: September 9, 1981

MATTER OF: Ogden Marine, Inc.

DIGEST:

GAO may not render decision on claim under "advance decision" authority described in 31 U.S.C. § 74 (1976) where request for decision is made by private corporation; moreover, GAO may not decide claim under general claims settlement authority found in 31 U.S.C. § 71 (1976) since Commodity Credit Corporation, against whom claim is made, has the final authority under section 4 of Commodity Credit Corporation Charter Act, 15 U.S.C. § 714b(k) (1976), to decide claims against it.

Ogden Marine, Inc. (Ogden), requests a decision by the Comptroller General authorizing the Department of Agriculture to permit the Commodity Credit Corporation (CCC), a wholly owned Government corporation under the supervision and control of the Secretary of Agriculture, to pay Ogden \$17,333.29 in transportation charges. Ogden states that the charges represent the "United States Government financed ocean freight differential portion of the unpaid freight" claimed to be due on a 1974 "Title I rice [shipment] to the Government of Vietnam." And Ogden notes that the Department has denied payment of the claim because "[Title I financing regulations] do not provide for direct payment of the differential to the supplier of ocean freight unless prior arrangements have been made." Ogden, however, did not have a "prior arrangement" with CCC concerning direct payment.

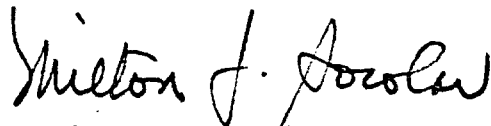
Ogden requests our Office's decision under "31 U.S.C. Sect. 74 and 4 C.F.R. Sect. 30.1 et seq." Our Office is authorized, under 31 U.S.C. § 74 (1976), to render a decision upon any question involving a payment to be made by a disbursing officer, or the head of any executive department or other establishment, where one of these officials requests our decision.

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In its report to our Office concerning the claim, the Department of Agriculture has not requested our decision, unlike the circumstances in 53 Comp. Gen. 364 (1973), cited by Ogden, where the Department requested our decision concerning the legality of a proposed amendment to certain CCC regulations. Rather, the Department questions, in effect, our authority to issue a decision binding on the CCC. Therefore, we may not render a decision under 31 U.S.C. § 74.

The General Accounting Office regulations cited by Ogden in title 4 of the Code of Federal Regulations are based on our general authority to settle and adjust claims against the United States, 31 U.S.C. § 71 (1976). Section 4 of the Charter Act, as amended, 15 U.S.C. § 714b(k) (1976), however, vests the CCC with the "authority to make final and conclusive settlement and adjustment of any claims by or against the CCC." Since CCC has the final authority to decide claims against it, we may not consider Ogden's claims under our general authority to settle and adjust claims. See B-200103, March 5, 1981.



Acting Comptroller General
of the United States