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June 4, 1959

Trusteeship Council - 24th Session

Special Item I: Saipanese Claims for War Damages against Japan

THE PROBLEM

As a result of petitions directed to the 1959 Visiting Mission to the Pacific (T/1447, par. 144 and T/Pet.10/L.3), the United States Delegation must inform the Trusteeship Council as to what steps, if any, the United States intends to take on behalf of the Saipanese in the Trust Territory of the Pacific Islands to reimburse them for war damage claims against Japan for loss of property or loss of life.

RECOMMENDATIONS

1. In view of the fact that the United States has already paid some of the claims of the Trust Territory inhabitants by utilizing certain assets generated during the war (particularly scrap) to make payments for yen and contractual type claims, the United States should seriously consider whether further efforts should be made to resume negotiations with Japan. To assist in this determination, the United States Embassy in Japan should be immediately requested to submit its views as to whether the Japanese would now seriously consider negotiating concerning war damage claims. For the following reasons it may well be that the Japanese would consider discussing such claims:

- a. Japan recently concluded reparation agreements with countries as suggested in the Peace Treaty;
- b. Japan's foreign exchange position is better now than at the signing of the Peace Treaty;
- c. Japan does not want anything brought up in the United Nations which might lead to criticism;
- d. Japan has already questioned the United States as to the amount of war damage claims and as to what position the United States will take during the forthcoming Trusteeship Council session on this subject.

2. In any case, in determining whether such negotiations should be resumed, the views of the Department of the Navy should be borne in mind. Navy Department officials have indicated that the settlement

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of these claims might best be handled in some other way than resuming negotiations with Japan. This would avoid the possibility that Japan would bring forth counter claims of a more substantial nature than the Saipanese claims against Japan.

3. Before making a final decision concerning this problem, the considered views of the High Commissioner of the Trust Territory of the Pacific Islands should be ascertained and studied.

4. No matter what position is agreed upon, it will be necessary for the United States Delegation to address itself to this problem during the forthcoming debate in the Trusteeship Council on conditions in the Trust Territory of the Pacific Islands, and the U.S. Representative should address himself to this problem during his opening statement on conditions in the Territory, scheduled for June 25.

Discussion

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Discussion

Visiting Mission and Trusteeship Council Concern with Problem

The 1959 United Nations Visiting Mission to the Trust Territory of the Pacific Islands reported (T/1447, p.69) that numerous requests were made to its members by the people of the Trust Territory of the Pacific Islands for the early settlement of World War II damages which had been inflicted on them by the Japanese Government. The Mission recalled that the 1956 Visiting Mission had already noted how deeply concerned the inhabitants were concerning this matter and that they were reluctant to accept further delays of the settlement of their claims or to renounce them outright, particularly in view of the fact that during the past ten years no clear indication had been given them that their claims would not be met.

The Visiting Mission felt that these claims, which had been pending for so long warranted urgent consideration "by the competent authorities". It recalled moreover that before the Territory had been placed under the Trusteeship System, the people of Micronesia had been administered under Japanese Mandate and had been guaranteed protection of their welfare by the international community. The claims arose out of conditions over which they had no control and as a result of which they suffered considerable hardship, and the status of their Territory under the Trusteeship System did not enable them to negotiate on their own behalf any claims arising out of the war. Therefore the 1956 Mission had felt strongly that every effort should be made by the Administering Authority to reach a settlement of this problem "at the earliest possible moment".

The recent Visiting Mission noted that this question remained unresolved, and was informed by High Commissioner Mucker that the matter was "outside his competence to resolve". Finally, the Mission "strongly" urged the Administering Authority "to take a prompt and definite decision on its policy in this matter and inform the people of the Territory accordingly".

In addition to the Visiting Mission Report, the inhabitants of the Saipan District have addressed a petition to the United Nations Trusteeship Council concerning their claims (T/Pet.10/L.3). The petition is now circulating as a limited document and unless it is reclassified as a general petition on the recommendation of the Petitions Committee, it will not be considered by the Petitions Committee. It will, however, probably be discussed by the full Trusteeship Council during the discussion of the Annual Report on the Trust Territory of the Pacific Islands.

Japanese

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Japanese Request for Information

It is also necessary for the United States to reply to questions raised by the Japanese Representative to the United Nations which are contained in USUN Telegram 1063 of May 27. The Japanese have requested answers to the following questions: (1) the total amount of War Damage Claims; (2) formula of solution contemplated by the United States; (3) the United States plan for dealing with the subject at the forthcoming Trusteeship Council session; and (4) the possibility of reference to the subject in the opening statement on the Trust Territory of the Pacific Islands item on the Trusteeship Council agenda.

The Japanese Representative was told preliminarily that answers were not yet available to questions 2 and 3 but that the United States would obtain data concerning numbers 1 and 4 from the Department and that he would be kept informed.

Since that time, it has been ascertained from the Navy Department that the total War Damage Claims amount to _____?

Previous consideration of Question

It will be recalled that in March, 1959, Mr. Mucker asked the Department of the Interior to supply him with information to be given to the members of the Visiting Mission concerning steps which the United States had taken to obtain war damage payments from Japan for the Micronesians. At that time, the following statement was sent to Mr. Mucker after clearance with the Department of State:

"In 1953 and 1954 statements were made in the Trusteeship Council that the United States was studying the nature of the claims that should be included in any special arrangement that might be negotiated with Japan under Article 4a of the Japanese Peace Treaty. Negotiations as to these special arrangements have as yet had no affirmative results. In order, however, that Trust Territory inhabitants might receive some reimbursement, the United States has to date utilized certain assets generated during the war, namely, scrap, to make payments for yen and so-called contractual type claims. Whether negotiations leading to an overall settlement with Japan, including these as well as war damage claims, will be continued or whether, if continued, they will be successfully concluded cannot now be forecast."

At the time of the clearance of this statement, clearing officers in the Department recalled that the question as to whether (in

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accordance with Article 4a of the Japanese Peace Treaty) Japan was still responsible for settling such claims, had been left in a kind of "limbo" during previous negotiations. There appears to be nothing in the Japanese Peace Treaty which specifically obligates Japan to reimburse the Micronesians for war damages although in the original negotiations, the United States had asked Japan to consider settling war damages. However, later on in the negotiations, the United States indicated that it would not press this point if Japan abandoned its request that private property in the Trust Territory be returned to Japan.

During the last few years there have been no overtures by the United States to proceed with these negotiations and certain Department officials tended to believe that the United States should "let sleeping dogs lie". This belief was based on the fact that the United States could not yield on the question of returning Japanese property and that the United States therefore should not press its claims on behalf of the Micronesians.

In fact, Trust Territory authorities have paid some of the claims of Trust Territory inhabitants by utilizing certain assets generated during the war, particularly scrap, to make payments for yen and contractual type claims. The tendency in the Department as of March 1959 appeared to be that the United States should not take further action at that time to resume negotiations with Japan on this question. It is necessary at this time, however, to decide whether this position still remains valid or what further course of action should be taken.

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