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WAR DAMAGE CLAIMS IN THE TRUST TERRITORY OF THE PACIFIC ISLANDS

A meeting was held at the Department of State on January 17 among representatives of the Departments of State, Interior and Defense to discuss the subject of war damage claims in the Trust Territory of the Pacific Islands. It was agreed in this meeting that the problem presented three separate, but interrelated, aspects:

- A) The satisfaction of the Micronesian residents of the Trust Territory for the claims which they have sought in compensation of damage to life and property suffered by them as a result of World War II.
- B) A satisfactory agreement with Japan under Article 4(a) of the Treaty of Peace with Japan, which requires that Japan and the Administering Authority of the Trust Territory (United States) conclude "special arrangements" for the disposition of property, claims, and debts of Japan on the one hand, and the Trust Territory residents on the other hand.
- C) Satisfaction of requirements of the United Nations, as specifically exemplified in the interest of the Visiting Mission to the Trust Territory, concerning the disposal of these war damage claims.

In tracing the history of the negotiations between the United States and Japan it was agreed by those present that an effort to counter the claims which the Japanese had submitted in respect of the value of property of Japan in the Trust Territory would require an accurate accounting of all the islanders' claims against Japan. Mr. Nucker, the High Commissioner of the Trust Territory, who represented Interior in this meeting, indicated that an effort to obtain such an accounting throughout the entire area of the Trust Territory would probably give rise to unwarranted expectations on the part of the islanders and would cause more unrest than could eventually be satisfied by any settlement that was foreseeable. Captain Findley, USN, representing the Defense Department, reported that the claims in the area of the Trust Territory administered by the Navy, computed at a yen-dollar exchange rate of 20 to 1, amounted to approximately \$~~3~~3,000 for slightly over 1,000 claims in a population of about 8,000 people. There followed some discussion of the extrapolated magnitude of the claims throughout the Trust Territory, using the Navy's figure as a sample percentage. It was generally agreed that the size of the claims resulting from a survey throughout the Territory would, as Mr. Nucker had suggested,

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than any assets which might become available to satisfy them. It was therefore the consensus of the group that a solution should be sought through the acquisition of a specific total of assets which could then be used either to defray an agreed partial amount of the claims or could be used to provide some communal property or service which would be acceptable to the islanders in lieu of individual claims.

Proceeding from this concept there was a discussion of the prospects for a settlement with Japan under Article 4(a) of the Peace Treaty. It was agreed that it would be best to seek such a settlement in terms of a mutual quitclaim or "wash out". Several illustrations were adduced to indicate why it was preferable to avoid the use of a specific book value in arriving at such a settlement. It was appreciated in reaching this consensus that the settlement would envisage no actual transfer of funds from Japan to the United States or to the islanders as a result of such an agreement. / 7

It was subsequently necessary to look elsewhere for the resources which might be converted into the assets to be used as a settlement of claims satisfactory to the islanders. There was considerable discussion about the potential value of the sunken and beached Japanese ships in the Trust Territory to which the Japanese, under the contemplated settlement, would abandon title, and which might therefore be used to defray claims. Both Mr. Nucker and Captain Findley cited experiences in attempting to derive scrap salvage from these vessels and stated as their opinion that, with the current low price of scrap and the great difficulties and costs inherent in salvage of these vessels, the net proceeds to be realized from this operation would be minimal.

There was then considerable discussion about the value of land scrap which had been gathered up and sold in the immediate post-war years and which had netted a considerable return to the Trust Territory Administration. It was pointed out that this scrap was of unidentifiably mixed U.S. and Japanese origin and that it would be impossible to determine what percentage of the proceeds from the scrap sales could possibly be attributed to Japanese scrap. It was further pointed out that the Japanese scrap resulted in large measure from the demolition of installations which Japan had placed in the islands in violation of the League of Nations mandate and which did not appear, from the language of their submission, to have been included in the Japanese assets which they pressed against us in their 1955 counterclaim. Nevertheless, it was agreed from this discussion that there probably was a considerable sum of money

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money realized to the Administration of the Trust Territory from the utilization of land scrap from Japanese origin.

The meeting then reviewed the action which had been taken by the Administration in converting the proceeds of those scrap sales to the expenses of administering the Trust Territory. Captain Findley described the legal authority and the accounting procedure which permitted such conversion of those proceeds. It was agreed that, although the islanders themselves were the ultimate beneficiaries of these proceeds, the United States, as Administering Authority, did indirectly benefit because these proceeds permitted the expenditure of funds which would otherwise have had to be supplied from appropriated United States monies. It was therefore the consensus of the group that the proceeds of the land scrap sales did provide a logical resource for assets which could be applied against the islanders' claims.

There followed discussion of the legislative authority which the Interior and Navy Departments would have to seek if it were decided to arrange in Congressional appropriations for earmarking funds specifically to cover the counterpart derived by the Trust Territory Administration from a share of these proceeds, and to convert such funds into assets to be used for satisfaction of the islanders' claims. Both Mr. Nucker and Captain Findley indicated that they believed the necessary Congressional authority could be obtained.

It then became necessary to determine in rough measure the magnitude of the assets which would be applied to the islanders' claims and the form in which these assets would ultimately be provided to the islanders. There was some discussion of the possibility of acquiring inter-island vessels to assist in trade and communications within the Trust Territory. Mr. Nucker described the complications which might be inherent in such a proposal because of the local pride and jealousies of the residents who would attempt to see to it that such vessels provided equal benefits to all areas of the Territory. Attempts to satisfy such demands might result in a necessity to provide an inordinate amount of vessels at extraordinary expense.

Mr. Nucker then suggested that one form into which the assets might be converted to serve the interests of all the islanders equally would be local "capitol" buildings which could be used as meeting places for local councils and legislatures. He felt that

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the total costs of such buildings might fall within manageable proportions and would be accepted by the islanders as a satisfactory solution of their claims. He undertook to study this prospect further and to provide the group at a later time with more accurate estimates of what such a proposal would entail.

It was agreed by the group that the course of action reached in the meeting, with specific reference to the provision of "capitol" buildings from funds appropriated to cover the value of a specified amount of the proceeds derived from land scrap sales should constitute the position to be pursued on this general problem by the Departments concerned. The Bureau of Far Eastern Affairs representatives indicated that they felt they could, under this concept, reach a satisfactory settlement with Japan in pursuit of Article 4(a) of the Peace Treaty. The Office of Dependent Areas representatives felt that they could satisfy the interests and concern of the United Nations in the settlement of the claims. The representatives of Interior and Navy felt that they could obtain the agreement of the islanders to a solution in these terms and that they could derive authority from the Congress to proceed along these lines toward a settlement.

There then followed some discussion of the use to which the United States, as Administering Authority, would put the assets to be derived from any proceeds resulting from an ultimate sale of the ship salvage scrap to which the Japanese would be expected to abandon title. Reference was again made to the fact that the net proceeds from such operations would probably be minimal. It was, however, recognized that future scrap prices might rise to such an extent that there would be an enhanced value to this potential scrap. It was suggested therefore that consideration should be given to the idea of establishing an open-end scholarship fund for the islanders which might be beneficiary of any proceeds from such scrap and that this, in turn, would also be considered a part of the claims settlement.

The meeting then broke up with the understanding that an account of the decisions reached should be reduced to writing and circulated to the participants for their concurrence and that this account should contain an indication of the actions to be pursued by each of the interested groups represented in the meeting. The actions thus indicated are set forth below:

1) Interior and Navy Departments

The Interior and Navy Departments should concern themselves primarily

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primarily with the development of a settlement which they feel would satisfy the islanders' claims. They should describe in detail the nature of the settlement and produce the best possible estimate of its total cost. If, for example, it is determined that the best form that the claim settlement should take would be in the provision of "capitol" buildings, it should be specified how many buildings should be built, where they should be located and what would be the individual cost of each. Consideration should also be given to the establishment of an open-end scholarship fund from the proceeds of the scrap which might be salvaged from sunken and beached Japanese ships.

There should be, in addition to this description of the settlement, an indication of the means through which the Departments intend to assure the U.S. Government that this settlement will, indeed, be satisfactory to the islanders and that they will agree, in consequence of this settlement, to cease to pursue their claims further. If there are any specific obstacles foreseen toward such a satisfaction on the part of the islanders they should, if possible, be cited in some detail.

Finally, the Interior and Navy Departments should indicate in outline the manner in which they would expect the funds to be appropriated and the course which they foresee to assure Congressional support for such an appropriation. If there is any specific information required from other Departments to support the envisaged approach to the Congress, an indication of that should be given.

2) Bureau of Far Eastern Affairs

The Bureau of Far Eastern Affairs should develop a formula for pursuing negotiations with the Japanese for a settlement under Article 4(a) of the Japanese Peace Treaty. In developing this formula, specific reference should be given to the instructions previously agreed upon by all Departments concerned in 1954. If any deviation is required from those instructions, consultation with the other Departments will be required. The Bureau should work with the Legal Adviser's office to determine what authorizations may be necessary to initiate discussions with the Japanese at an appropriate time. In consultation with the Legal Adviser's office it should be determined whether the U.S. wishes to "waive" the islanders' claims or rather to agree "not to pursue" such claims. Decisions on this determination should be taken in the light of the authority and responsibility which the U.S. has toward

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the islanders under the terms of our Trusteeship Agreement with the United Nations.

3) Office of Dependent Areas

The Office of Dependent Areas (ODA) should develop a position which will be used for presentation of the current U.S. position to the Visiting Mission to the Trust Territory which will be in Washington in the near future. Beyond that, the office should determine the manner and form in which the U.S. will wish to present the ultimate settlement of the claims envisaged in this paper to the United Nations. ODA should provide the other interested Departments and Bureaus with an indication of the time schedule pertinent to the plans contemplated by the agreed formula for settling this claims question. Specific reference should be made to a terminal date upon which the entire matter should be completed and presented to the United Nations. Intermediate dates worked backward from this last date should be provided as target dates for specific actions required in advancing the proposal toward consummation.

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