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 DEPARTMENT OF STATE
 THE LEGAL ADVISER

June 15, 1959

MEMORANDUM

TO : ODA - Mr. Feld

FROM : L/E - Mr. Metzger

SUBJECT : War Damage Claims in the Trust Territory of the Pacific Islands

The legal questions in relation to the war damage claims in the Trust Territory of the Pacific Islands, together with the position of the United States with respect to negotiations regarding this subject, have been discussed in some detail in two messages to Embassy TOKYO which were sent in 1954. These messages are: A-303 of October 19, 1954 and A-903 of June 4, 1954. Attached to A-903 of June 4 was a copy of a legal memorandum dated May 21, 1954 from this office to EA which analyzed the relevant articles of the Japanese Peace Treaty in relation to the war damage claims. The upshot of the legal memorandum was that: the U.S. is under no obligation to compensate Japan for the value of its property and that of its nationals located in the Trust Territory, since Japan agreed in the Treaty that the U.S. could seize, retain, or otherwise dispose of such property, Japan may offset the value of such property in the "special arrangement" called for in Article 4(a) of the Treaty; theoretically, therefore, if the value of Japanese property which was seized exceeds the value of the claims by Trust Territory inhabitants against Japan, there could be a zero settlement. In no circumstances could Japan secure compensation from the U.S. beyond a zero offset.

We are not aware of any legal problems which were not disposed of in the aforementioned messages. At that time it was contemplated that there would be negotiations for a special arrangement as contemplated by Article 4(a) of the Peace Treaty. Presumably, this is still the desirable course of action. Should such a special arrangement not be effectuated, or should it result in very little or no realization of money for the Trust Territory inhabitants, the U.S. would then be faced with the problem of either a) doing nothing or b) securing an *ex gratia* appropriation for the purpose of paying money to the Trust Territory inhabitants. There would be no legal obligation involved in either event, but purely a policy determination. ¶

L:L/E:SEMetzger/blm

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