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12/20/54

FE - Mr. Parsons

April 22, 1960

FE - Ruth Bacon

NA - David Bane

Trust Territory War Claims Against the Japanese (for your meeting with Minister Nishiyama at 3:30 this afternoon)

Problem

The question of the war claims of the people of the U.S. Trust Territory has become the subject of considerable interest in the UN Trusteeship Council. Visiting Missions of the Council, both in 1956 and 1959, have mentioned the problem and the Council itself last year expressed the hope that the U.S. and Japanese Governments would make every effort to reach a speedy decision on the matter. You raised the question with Minister Nishiyama on April 11 and suggested that because the problem had become a matter of considerable interest in the UN and since the Japanese had indicated that they might have a moral obligation in connection with the claims, they might wish to consider making an ex gratia token payment of some sort. Inter-island ships were suggested as a possible payment. We indicated that we were raising the matter as separate and apart from the negotiations under Article 4(a) (Tab A) of the Peace Treaty. Minister Nishiyama questioned us closely on the latter point and also asked whether such a token payment by Japan would be considered as settling the war claims of the Trust Territory. Though saying he would report the matter to his Government, Minister Nishiyama gave little encouragement to the idea that the Japanese would agree to our proposal (original briefing memo and memo of conversation attached Tab B). Subsequently, we instructed Embassy Tokyo to make a similar approach to the Japanese Foreign Office (Tab C).

Anticipated Japanese Position

It is expected that Minister Nishiyama will set forth the Japanese position along the lines of the Foreign Office reply to Embassy Tokyo's approach on these claims (Tab C). As set forth in Tokyo, the Japanese position is essentially that Article 4(a) should apply; that Japan was not prepared to pay war time claims of former "subjects", though they would be willing to pay pension claims, postal savings balances, etc. under an arrangement with the U.S. (as they had suggested in their 1955 counter proposal); and that any expenditure which would be made would require Diet approval which, in turn, would raise questions of Peace Treaty interpretation.

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*Trust Territory War Claims (Japanese)*

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The Japanese recalled that in 1954 the U.S. had proposed talks to settle questions of property and payment in accord with Article 4 of the Peace Treaty. They believed these proposals to have been one-sided insofar as they suggested a waiver of all Japanese rights and a Japanese responsibility to pay all obligations incurred before and during the Second World War. The Japanese had accordingly, in 1955, made a counter proposal on which they were still awaiting reply. The Japanese take the position that such claims should be the subject of special arrangements and they are ready to discuss such arrangements at any time.

Present Position      FYI ONLY

The Department is presently examining the legal situation on the war damage claims with a view to seeing if it is possible to suggest to the Japanese that if they could see their way clear to making an ex gratia and token payment, we would regard it as a settlement of all war claims in the Trust Territory. The High Commissioner of the Territory, and the Departments of Interior and Navy are willing to take this position. There remain, however, various legal and other questions which have yet to be resolved and it is not yet clear whether this will be a practical solution. They are being looked into on an urgent basis. END FYI

Recommended Position

In view of the situation noted immediately above and because we hope to come up with a stronger negotiating position vis-a-vis the Japanese, it is suggested that at this meeting we simply listen to Minister Nishiyama's position and state that we will give it careful study. You should endeavor, however, to keep the question open so that we can make a counter proposal if this proves feasible.

Within the limits set out above you might wish to reiterate the goodwill which we believe would accrue to the Japanese by such a gesture. You might wish to reiterate that we believe that three small cargo ships (360 tons) would be very useful to the inhabitants.

Moreover, if Minister Nishiyama also makes the point that the peoples of the Trust Territory were subjects of Japan, you might indicate that we do not accept this position; that we believe the population bore a special relationship to Japan but were not subjects. We further believe that the UN will not accept the premise that the inhabitants of the Trust Territory were Japanese subjects during the period of the mandate.

Similarly, if the Japanese mention the question of postal claims or bonds, you may wish to point out that these claims have been paid by the Trust Territory Government to the inhabitants, but we still regard them as an obligation of the Japanese.

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You might also tell Minister Nishiyama that if question is raised in the Trusteeship Council on this matter, we intend to reply that we are discussing the question with the Japanese Government.

Attachments: Tab A - Article 4(a)  
Tab B - April 11th briefing memo and memo of conversation  
Tab C - Deptel 2391 to Tokyo, April 14  
Tab D - Tokyo's 3393, April 20

Concurrences: ODA - Mr. Dormann  
L/E - Mr. Bilder  
NA - Mr. Snider  
Navy  
Interior

FE:LMcNutt:mwt - 4/22/60

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