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By *JK* NARA. Date 1/1/05

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DEPARTMENT OF STATE

Memorandum of Conversation

DATE: March 17, 1954

SUBJECT: Injury to Japanese Fishermen by Bikini Explosion

PARTICIPANTS: Mr. George Spiegel (S/AE)
Mr. Hawley (NA)
Mr. Snow (L/FE)
Mr. Al Wells of Office of General Counsel
Atomic Energy Commission

COPIES TO: NA - Mr. Hawley
L/A - Mr. Lyerly
L - Mr. English

894.245/3-1754

894.245/3-165

211.9441/3-1754

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This morning, March 17, 1954, a conference was held at 11:15 a.m. between Al Wells of the Office of General Counsel for the Atomic Energy Commission, George Spiegel (S/AE) and Mr. Hawley (NA) with Mr. Snow (L/FE). The matter discussed is contained in incoming telegrams from Tokyo Nos. 2224, 2227 of March 16, and Nos. 2228, 2231, 2234 of March 17, and Department outgoing telegram to Tokyo No. 2048 of March 16, 1954. In short, it concerned twenty-three Japanese fisherman who were aboard the FUKURYU MARU in the vicinity of Bikini Atoll at the time of an atomic explosion. At least two of the fishermen are seriously injured and the 100,000 ton boat is for the moment contaminated. The 20 thousand pounds of fish aboard was contaminated and 16,000 pounds sold in Japanese ports before arrival in Tokyo. The remainder of the fish was successfully segregated in Tokyo with the exception of 100 pounds of tuna and 80 pounds of shark.

United States liability under the U.S. Federal Tort Claims was discussed and it was noted that administrative adjustment of claims under that act is limited to \$1,000. Also that the Act does not apply to "any claim arising in foreign country". It was noted that Bikini is part of the Trust Territory.

Mr. Wells indicated that it was the thought of the Atomic Energy Commission that it might be politically desirable to settle Japanese claims independently of legal liability and asked if there were any funds available which could be used to compensate the injured crew members. He stated that this question was the essential purpose of his visit to the State Department. Mr. Snow took the question under advisement.

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In the afternoon Mr. Snow conferred with Mr. English who agreed that the question should be answered if possible and who stated that U.S. liability in international law for injury to aliens occasioned by the acts of its agents was not limited to the liability provided in the Tort Claims Act. Mr. Snow inquired of Mr. Lyerly (L/A) as to the appropriation available. Mr. Snow conferred with Mr. Lyerly and ascertained that there was a fund provided for "emergencies in the diplomatic and consular services" for which an appropriation had been made of a million dollars. He called Mr. Wailes (A), who is in charge of the appropriation of this fund and ascertained that in Mr. Wailes' opinion compensation to the crew members might be appropriately paid from this fund, but that not more than 25 or 30 thousand dollars would be available for that purpose. He also said that the expenditure would be dependent upon touching base with Senator Bridges and Representative Taber. The fund is commonly used for the repatriation of destitute Americans abroad and for injuries done by official cars abroad.

Mr. Snow called Mr. Hopkins of the White House and ascertained from him that the President had a fund called "Emergency Fund National Defense" provided in the budget for the fiscal year 1954 to enable the President to provide for emergencies affecting the "national interest, security or defense". See the Independent Office Appropriation Bill. Mr. Hopkins said that this fund was expended on the recommendation of the Director of the Bureau of the Budget. Although he would not set a limit to the amount that might be available under this fund he said that it would be many times the maximum set by Mr. Wailes for the State Department fund.

Mr. Snow conveyed the above information by telephone to Mr. Wells, at 3:45 p.m., and also to Mr. Hawley by personal conference. Mr. Spiegel was not available, but Mr. Hawley agreed to notify him of the conversation.

Later in the afternoon, Mr. Wells called to request Mr. Snow to go with him to the White House to see if we could not ascertain more definitely the amount available in the President's fund for the purpose in question. Mr. Snow replied that he thought such an approach undesirable since the White House had already informed him that the recommendations should come through the Director of the Bureau of the Budget, and suggested that the approach be made to the Director by Mr. Wells in company with an appropriate officer of the policy making branch of the State Department charged with Far Eastern Affairs. He suggested that Mr. Wells get in touch with Mr. Hawley.

On the morning of March 18, Mr. Wells called to say that it had been decided in the Atomic Energy Commission in conjunction with Mr. Hawley, that a telegram should be sent to Ambassador Allison stating in substance that after the necessary investigation as to the facts, the U.S. would see that appropriate compensation was made to the injured parties. A copy of this telegram will be secured and attached to this memorandum.

[See 28 U.S.C. Sec. 2672 and 2680, Supplement V.]

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