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E.O. 11652:  N/A
TAGS:  SWEL, TECH, JA
SUBJECT:  MEDICAL TREATMENT FOR FOREIGN A-BOMB VICTIMS
REF:  (A) TOKYO 5366; (B) STATE 86691

1. CAMPAIGNS FOR RELIEF CONDUCTED BY JAPANESE A-BOMB
   VICTIMS LED GOJ TO PASS THE LAW FOR MEDICAL TREATMENT OF
   ATOMIC BOMB VICTIMS IN 1957 AND A SPECIAL MEASURES LAW
   IN 1968.  BOTH LAWS HAVE BEEN TREATED AS A PART OF THE
   SYSTEM OF SOCIAL SECURITY LAWS.  GOJ FEARED THAT IF IT
   APPROVED OF "COMPENSATION" TO THE A-BOMB VICTIMS IT
   WOULD HAVE TO COMPENSATE OTHERS WHO SUFFERED FROM THE WAR
   ALSO.  THE SUPREME COURT'S RULING IS IMPORTANT BECAUSE IT
   HOLDS THAT, UNLIKE OTHER SOCIAL WELFARE LAWS, THE LAW FOR
   MEDICAL TREATMENT OF ATOMIC BOMB VICTIMS WAS DESIGNED TO
   FULFILL THE STATE'S RESPONSIBILITY TO PROVIDE HUMANITARIAN
   AID TO WAR VICTIMS.

2. THE DECISION OF MARCH 30 DEALT WITH THE CASE OF
   SON JIN DU, A SOUTH KOREAN WHO WAS BORN IN OSAKA IN 1927
   AND SUBSEQUENTLY MOVED TO HIROSHIMA WHERE HE WAS EXPOSED
   TO NUCLEAR RADIATION.  HE WAS DEPORTED IN 1951 FOR VIOLAT-
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   ING THE ALIEN REGISTRATION ORDINANCE, MADE TWO UNSUCCESS-
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FUL ATTEMPTS TO SNEAK INTO JAPAN, AND HAS RESIDED IN JAPAN
ILLEGALLY SINCE A SUCCESSFUL THIRD ENTRY ATTEMPT IN
DECEMBER 1970.  IN 1971 SON APPLIED TO THE GOVERNMENT OF
FUKUOKA PREFECTURE FOR AN A-BOMB VICTIM'S CERTIFICATE
BUT WAS TURNED DOWN THE FOLLOWING YEAR.  WITH SUPPORT FROM
JAPANESE AND KOREAN SYMPATHIZERS, HE WENT TO COURT IN
NOVEMBER 1971, DEMANDING THE CERTIFICATE.  THE FUKUOKA
DISTRICT COURT RULLED IN HIS FAVOR IN MARCH 1974, AND WAS
UPHELD BY THE FUKUOKA HIGH COURT IN JULY 1975. THE
PREFECTURAL GOVERNMENT APPEALED TO THE SUPREME COURT ON
THE GROUNDS THAT THE LAW WAS APPLICABLE TO FOREIGNERS
STAYING IN JAPAN ONLY IF THEY HAD LEGAL RESIDENT STATUS
AND WERE "MEMBERS OF THE SOCIETY" (WERE CONTRIBUTING
TAXES TO THE SUPPORT OF THE SYSTEM). THE SUPREME COURT
RULLED THAT ANY FOREIGNERS AFFECTED BY THE A-BOMBINGS OF
HIROSHIMA AND NAGASAKI ARE ENTITLED TO FREE MEDICAL
TREATMENT UNDER THE LAW FOR TREATMENT OF ATOMIC BOMB
VICTIMS, AS LONG AS THEY ARE IN JAPAN, EVEN IF THEY ARE
HERE ILLEGALLY. THE RULING ALSO SAID THAT THE GOVERNMENT
COULD DEPORT SON--THAT THIS WAS A DIFFERENT QUESTION FROM
THAT OF HIS ELIGIBILITY FOR TREATMENT. SON WAS ISSUED
HIS CERTIFICATE ENTITLING HIM TO TREATMENT ON APRIL 3.

3. MHW FIGURES INDICATE ABOUT 20,000 A-BOMB VICTIMS IN
KOREA AND ANOTHER 1,000 IN THE U.S. AND OTHER COUNTRIES.
THE SUPREME COURT RULING WOULD MAKE THESE ELIGIBLE FOR
FREE MEDICAL CARE IF THEY WERE IN JAPAN. IT MAKES NO
REFERENCE TO THOSE NOT IN JAPAN. MHW'S INTERPRETATION
OF THE LAW AS APPLYING ONLY TO FOREIGNERS "LEGALLY
RESIDENT" IN JAPAN IS OBSOLETE. HOWEVER CHECKS WITH MHW
REVEAL THAT NOTHING HAS YET BEEN DECIDED ON WHAT, EXACTLY,
THE NEW POLICY MIGHT BE. SINCE 1975 MHW HAS PERMITTED
ISSUANCE OF CERTIFICATES TO FOREIGNERS STAYING LEGALLY
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IN JAPAN FOR OVER ONE MONTH. AT PRESENT ABOUT 366,000
PERSONS, INCLUDING 11 FOREIGNERS, HOLD CERTIFICATES.

4. MHW CLAIMS IT WILL COME OUT WITH A NEW POLICY
IMPLEMENTING THE COURT'S DECISION IN THE NEAR FUTURE.
CERTIFICATES WILL NOT BE ISSUED TO THOSE IN FOREIGN
COUNTRIES, ONLY TO THOSE IN JAPAN. PERIOD OF REQUIRED
RESIDENCE (IF ANY) IS NOT YET DECIDED. MHW FORESEES THE
POSSIBILITY OF JAPANESE DOCTORS BEING ASKED TO TRAVEL TO
FOREIGN COUNTRIES SUCH AS ROK TO TREAT SURVIVORS. IT ALSO
FORESEES POSSIBILITY OF FOREIGN A-BOMB VICTIMS COMING TO
JAPAN TO RECEIVE FREE MEDICAL TREATMENT. IN A COMMENT
FOR THE PRESS AFTER THE DECISION, TOSHIRO MATSUURA,
DIRECTOR OF MHW'S PUBLIC HEALTH BUREAU STATED THAT "IT
IS NATURAL FOR THE STATE (CENTRAL GOVERNMENT) TO ABIDE BY
THE SUPREME COURT DECISION (THAT FOREIGN A-BOMB VICTIMS
IN JAPAN BE ISSUED CERTIFICATES)." HE ADDED THAT HE
EXPECTED VICTIMS LIVING ABROAD TO BECOME MORE VOCAL IN
DEMANDING FREE MEDICAL TREATMENT. "THIS," HE SAID
"IS AN INTERNATIONAL MATTER AND IF IT IS TAKEN UP THROUGH
DIPLOMATIC CHANNELS, THE GOVERNMENT WILL DEAL WITH IT
ACCORDINGLY."
5. COMMENT: THE RIGHT OF A-BOMB VICTIMS TO FREE MEDICAL TREATMENT IN JAPAN HAS BEEN DETERMINED BY THIS COURT DECISION. THIS RIGHT TO A VICTIM'S CERTIFICATE, HOWEVER, WILL NOT BE MEANINGFUL UNLESS ACTION IS TAKEN BY GOJ AND OTHER CONCERNED GOVERNMENTS (ESPECIALLY ROK) TO GIVE REAL ACCESS TO TREATMENT TO THE VICTIMS CONCERNED. IT MUST BE STRESSED THAT NO DECISIONS HAVE YET BEEN MADE REGARDING THE MAIN QUESTION OF HOW THE COURT DECISION WILL BE SUPPLEMENTED. MHW IS ALSO NOT THE ONLY MINISTRY CONCERNED. ISSUANCE OF VISAS FOR SPECIFIC PURPOSES (TREATMENT FOR EXAMPLE) IS A QUESTION FOR THE JUSTICE MINISTRY. THE MOST

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IMMEDIATE EFFECT WILL BE SEEN IN THE CASES OF KOREAN A-BOMB VICTIMS PRESENTLY LIVING IN JAPAN. ON APRIL 8 A CERTIFICATE WAS ISSUED TO SUCH A PERSON RESIDING IN NAGASAKI. DEPT. WILL RECALL THAT JAPANESE DOCTORS FROM RADIATION EFFECTS RESEARCH FOUNDATION VISITED U.S. IN LATE 1976 TO EXAMINE A-BOMB SURVIVORS LOCATED PRINCIPALLY IN CALIFORNIA. VISIT CAME ABOUT AT INSTIGATION OF ASSOCIATION OF SURVIVORS LOCATED THERE WHICH APPLIED CONSIDERABLE PRESSURE TO MHW TO AUTHORIZE VISIT AND EXAMS. MANSFIELD

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