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711.942/393: Telegram

The Secretary of State to the Ambassador in Japan (Grew)

Washington, December 20, 1939-7 p.m.

405. Your 686, December 18, 6 p.m., 687, December 18, 10 p.m.,
691, December 19, 7 p.m., 692, December 20, 11 a.m., 5 and
related telegrams.

The Department has given careful study to the telegrams
under reference. The Department concurs in your view that it
would not be advisable in response to the initiative taken
by the Japanese Minister for Foreign Affairs to return a
categorical negative which would serve to close the door to
further discussions and to discourage the efforts of the
Japanese Government. At the same time we are not in position
to commit ourselves now to entering upon a negotiation. We are
inclined to feel that the negotiation of a new treaty with
the thought of holding ratification of such treaty in abeyance
until the Japanese Government should have carried out certain
assurances would be likely to produce more potentialities of
misunderstanding and of disadvantages than would a treatyless
condition. We are receiving numerous inquiries with regard

to the effect which termination of the treaty will have upon relations between the United States and Japan. To these inquiries we are replying that the absence of a commercial treaty does not of itself cause an interruption in commercial relations; that in such circumstances those relations are governed in each country by its municipal law or practice, subject, of course, to any applicable principles of international law; that in the opinion of the Department the expiration of the treaty of 1911 with Japan will not produce of itself any change in the general customs duties or treatment applicable to imports of Japanese goods into the United States; and that, similarly, there does not appear reason to expect that the termination of the treaty will produce of itself any marked changes in the general customs duties or treatment applicable in Japan to imports from the United States.

With regard to the proposal made by the Minister for Foreign Affairs that a modus vivendi be entered into, we prefer to leave our attitude toward that proposal open for the time being. We shall give the matter consideration but wish to know that our tentative thought is that any modus vivendi which might upon further study commend itself to us under existing circumstances would have to be of a very limited scope to relate principally to rights of establishment and not of trade, and to be of a character which would leave this

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Government free to impose restrictions upon trade in case developments should make such course appear necessary toward better safeguarding American interests.

The Department is hoping to be able to send you tomorrow in continuation of the above a suggested text of a statement which we feel you might helpfully make orally to the Minister for Foreign Affairs.

Hull