GERMANY AND THE LOCARNO TREATY.

MEMORANDUM BY THE SECRETARY OF STATE FOR FOREIGN AFFAIRS.

I.—The German Memorandum of March 7.

THE German memorandum of the 7th March raises three issues:

(a) The legal justification attempted by the German Government for the denunciation of the Treaty of Locarno.

(b) The reoccupation of the demilitarised zone.

(c) The settlement which the German Government offers in place of the Locarno Treaty and the demilitarisation of the Rhineland.

(a) Attempted legal justification for German action.

2. The German argument justifying their denunciation of the Locarno Treaty is that the Franco-Soviet Pact is incompatible with that treaty. In the correspondence which took place last summer, His Majesty’s Government, as well as the Italian and Belgian Governments, expressed agreement with the view of the French Government that no such incompatibility existed. But, whatever the value of the German arguments, they cannot justify their unilateral denunciation of Locarno. The difference of opinion on this point between France and Germany was clearly a question which Germany was bound to settle in accordance with Article 3 of Locarno and the Franco-German Arbitration Convention—a course which M. Flandin had already intimated his willingness to adopt. The Germans have purported to decide themselves a question which they were bound to arbitrate, thereby violating their Locarno obligations, and have based their denunciation of Locarno on this unilateral decision.

(b) Reoccupation of Demilitarised Zone.

3. As regards the reoccupation of the Rhineland, it is relevant to recall here that the possibility of negotiations between the Locarno Powers, which might have culminated in authorising its reoccupation by Germany, was already under consideration in London. A memorandum which I circulated on the 14th February, 1936 (G. (36) 3), states that “taking one thing with another, it seems undesirable to adopt an attitude where we would either have to fight for the zone or abandon it in the face of a German reoccupation. It will be preferable for Great Britain and France to enter betimes into negotiations with the German Government for the surrender, on conditions, of our rights in the zone.” And a Foreign Office memorandum on the Air Pact, prepared in consultation with the Air Ministry and War Office (G. (36) 4 of the 2nd March, 1936), expressly envisages the possibility that if we pressed the German Government to discuss the Air Pact they “would reply that they will raise the question of the continuance of the demilitarised zone; but in many respects such a reply might be to the good.” Indeed, in the communication which I made to the German Ambassador on the 6th March (Foreign Office despatch No. 299 of the 6th March) I had this possibility very definitely in mind, though, of course, no indication of the kind was given to Herr von Hoesen.
4. The German Government, by the reoccupation of the zone effected on the morning of the 7th March, have thus not by that action produced a result, so far as the demilitarised zone itself is concerned, which we were not prepared ultimately to contemplate. It is the manner of their action, as I informed the German Ambassador yesterday, which we deplore. Herr Hitler might have demanded arbitration as to the compatibility of the Franco-Soviet Treaty with Locarno and awaited the result. This would have been the right course and, indeed, M. Flandin had already offered to follow it. He might have declared himself no longer bound by Locarno, and asked for negotiations to replace it by another treaty without the demilitarised zone provision. This would have been plausible, although contrary to the terms of the treaty. He has chosen, however, to eliminate all negotiations by reoccupying the zone at once. It is this which is so highly provocative and puts Herr Hitler entirely in the wrong. He has evidently taken this extreme course (vide Berlin telegrams Nos. 51 and 54) against military advice and under the pressure of General Göring and the Nazi extremists. Among his motives was probably the fact that he wished to act before British rearmament brought renewed confidence to the French and increased vigour to the League. He may also have wished to act while Italy was still at issue with the League and with her Locarno partners.

5. Herr Hitler's action is alarming because of the fresh confirmation which it affords of the scant respect paid by German Governments to the sanctity of treaties. Moreover, he has complicated the negotiations. For by reoccupying the Rhineland he has deprived us of the possibility of making to him a concession which might otherwise have been a useful bargaining counter in our hands in the general negotiations with Germany which we had it in contemplation to initiate. Such negotiations are now inevitable, but we shall enter them at a disadvantage, for we have lost the bargaining counter to which I have just referred. Further, we shall have the utmost difficulty in persuading other European Powers to enter into fresh treaties which must obviously depend for their value on the reliance which can be placed on Germany's promises. This difficulty will become particularly apparent in regard to the readmission of Germany to the League of Nations (see paragraph 13).

(c) German Suggestions for Future.

6. The "system of peaceful security for Europe" which the German Government propose in the place of the Locarno Treaty and the demilitarised zone may now be considered.

7. The first suggestion is that the German Government should negotiate with France and Belgium for the "creation of a zone demilitarised on both sides ... on conditions of complete equality." This, of course, is impracticable so far at least as any immediate future is concerned; and may be dismissed at once as made for propaganda purposes only. France has spent at least £40 million on the fortification of her north-eastern frontier and Belgium has also spent large sums. These fortifications allow of no space for a zone on the French and Belgian side of the frontier. It is impossible to suggest that France and Belgium could consider the scrapping of their fortifications in exchange for a German promise, in which no confidence could be placed, that the German demilitarised zone would be observed.

8. Points 2, 3, 4 and 5 of the German suggestions may perhaps be considered together. This proposal is for a non-aggression pact between Germany, France and Belgium (duration twenty-five years), guaranteed by Britain and Italy, and to which the Netherlands should also be a party if that country and the other contracting Powers so desired. This system is to be strengthened by an air pact "calculated to prevent the danger of sudden air attacks in an automatic and effective manner."

9. This proposal may be said to coincide generally with our desires, though the participation of the Netherlands of course raises issues on which we ourselves are still undecided. The latest pronouncement on the subject is the report of the Chiefs of Staffs, dated the 20th November last—D.P.R. 48 (C.O.S. 113).
10. One would hope that the reference to an air pact, which would "prevent the danger of sudden air attacks in an automatic and effective manner," would make it possible to include the bilateral arrangements to which the French Government attach so much importance.

11. In point 6 the German Government "repeat the offer to conclude with the States bordering Germany in the East non-aggression pacts similarly as with Poland"; and Lithuania is now included "on condition that the guaranteed autonomy of the Statute of Memel is effectively developed." It is not clear whether this means the maintenance of the present statute or the grant of some further measure of autonomy.

12. The German "offer" of non-aggression pacts dates from the winter of 1933 to 1934, and was finally defined in Herr Hitler's speech of the 21st May, 1935, in which he said that "the German Government are ready on principle to conclude pacts of non-aggression with their various neighbouring States." At that time Lithuania was specifically excluded because of the situation in Memel. As a matter of fact, the only States bordering on Germany, even if "in the East" is interpreted in the widest possible way, are Lithuania, Poland (which already has a non-aggression treaty for ten years), Czechoslovakia and Austria. But it is not at all clear whether this offer applies to Czechoslovakia and Austria. All that can be said is that at one time Germany was willing to give Czechoslovakia a non-aggression treaty and offered it to her. As regards Austria, it may be recalled that in his speech of the 21st May, 1935, Herr Hitler stated that "Germany neither intends nor wishes to interfere in the domestic affairs of Austria, to annex Austria, or to attach that country to her."

13. Point 7 declares Germany's readiness to re-enter the League of Nations. It would be rash to underestimate the difficulties connected with her readmittance. Re-election to the League requires a two-thirds majority of the Assembly, while a permanent seat on the Council, which Germany would certainly demand, requires unanimity on the Council as well as a simple majority of the Assembly. Moreover, a candidate for election must give "effective guarantees of its sincere intention to observe its international obligations."

14. If points 6 and 7 in the German proposals are taken together, it may be hoped that they correspond to the demand which it was proposed to make of Germany as regards the situation in Central and Eastern Europe in Memorandum G. (36) 6 submitted to the Cabinet Committee on Germany on the 27th February. It is there stated that "Germany would have to subscribe to the principle that in extending her influence in Central Europe she would not act in these regions in a manner which would be in conflict with the principles which we profess under the Covenant, an act which would therefore compel us either to oppose Germany or to disavow our obligations."

15. Account must now be taken of omissions from the German proposals. There is no reference to land or air armaments limitation. The opinion has already been expressed that further attempts at the limitation of land armaments were useless for the present (see Foreign Office memorandum of the 2nd March, G. (36) 9). As regards air limitation, the Air Ministry memorandum of the 2nd March, 1936 (G. 36) 5), showed the great difficulties of the question. The Foreign Office view was that none the less an attempt ought to be made to secure it, though in view of its difficulty it should not be made an indispensable condition for the conclusion of an air pact.

16. The colonial question is mentioned in Point 7 of the German offer as a matter in which German "equality of rights" is still incomplete and as one which will have to be settled "in the course of a reasonable period" after Germany's return to the League. None the less, as the German Government warn us of their "expectation" in the matter, this is a problem which we shall have to face at once, if we decide to favour Germany's return to the League.

17. It is interesting to note that other matters which have for some time been regarded as covered by the doctrine of equality of rights are not mentioned. Thus, there is no mention either of the German treaty obligation of the maintenance of free passage through the Kiel Canal or of the German obligation to admit an international regime for certain of their rivers, though at one time
Baron von Neurath definitely mentioned these matters as examples of lack of equality of rights. There is also no mention of the question of the demilitarisation of Heligoland. This is not covered by Part V of the Treaty, and it has not so far been raised by the German Government, though there is reason to believe that the island is in fact being refortified. Danzig is not mentioned.

II.—Positions of France, Belgium and Italy.

France.

18. M. Flandin informed His Majesty's Ambassador at Paris on the 7th March (Paris telegram No. 108) that:—

(1) The French Government did not wish to take up an isolated position, but to concert with the other Locarno Powers in order to bring the matter before the Council of the League.

(2) They wanted a meeting of the Locarno Powers in Paris, and of the Council in Geneva.

(3) Though no definite decision was yet taken, the French Government were thinking of asking the Council to condemn the action of Germany in terms analogous to those used in condemning Germany's rearmament on the 17th May, 1935.

(4) The French Government had asked the Belgian Government to join with them in communicating formally to the Council the fact of Germany's violation.

(5) The French Government were not definitely opposed to negotiations with Germany, but they had little confidence in Germany's word, and they could not negotiate under threat of the denunciation of Locarno and under the menace of a remilitarised zone and the loss of French security.

Belgium.

19. The Belgian Chargé d'Affaires informed me on the 7th March that the Belgian Government would prefer that Germany's violation should be brought to the Council's notice by all the Locarno signatories rather than by France and Belgium alone, and that the Belgian Government would like a preliminary meeting of the Locarno Powers before the Council with the least possible delay. He has been told in reply to the first question that His Majesty's Government do not think it necessary to join with the French and Belgian Governments in the communication to the Council.

Italy.

20. Italy has given no indication of her attitude.

III.—Future Policy of His Majesty's Government.

21. The myth is now exploded that Herr Hitler only repudiates treaties imposed on Germany by force. We must be prepared for him to repudiate any treaty even if freely negotiated (a) when it becomes inconvenient; and (b) when Germany is sufficiently strong and the circumstances are otherwise favourable for doing so.

22. On the other hand, owing to Germany's material strength and power of mischief in Europe, it is in our interest to conclude with her as far-reaching and enduring a settlement as possible whilst Herr Hitler is still in the mood to do so. But on entering upon this policy we must bear in mind that, whatever time-limits may be laid down in such a settlement, Herr Hitler's signature can only be considered as valid under the conditions specified above.

23. It becomes necessary, therefore, to distinguish carefully between agreements which, within these limitations, are (a) advantageous and safe; (b) unimportant but expedient; and (c) dangerous. In using the word "dangerous" it is not intended to imply that such agreements are for this reason to be excluded ab initio, the point which it is desired to make is that they involve a definite risk which must be taken into account.
24. Generally speaking, safe and advantageous agreements would be those giving an immediate and more or less lasting relief from the present international tension, and the durability of which might be assumed by reason of the fact that Herr Hitler would not be making any concrete concessions or submitting to any inconvenient restrictions—in fact, agreements in which the spirit rather than the letter was the essential element. Perhaps the Air Pact and the non-aggression pacts and the return of Germany to the League might be placed in this category.

25. Expedient but unimportant agreements would be those which might be useful for the time being for the improvement of the international atmosphere or in order to anticipate unilateral action by Germany, but which would not contain stipulations of vital importance to us. In this category would fall all agreements for cancelling minor restrictions imposed on Germany, such as the international rivers régime, the fortification of Heligoland, &c., in which Germany would be the sole beneficiary.

26. "Dangerous" agreements would clearly be those in which we agreed with Germany to mutual restrictions or to mutual concessions of a serious character. In such cases it would have to be assumed that Germany might, in given circumstances, repudiate the restrictions, and, if it were within her power to do so, withdraw her concessions; whereas we would continue to consider ourselves bound for the duration of the treaty in all respects. In this category we must expect the French and other Powers to place certain kinds of armaments limitation, agreements for the cession of colonies in return for corresponding concessions on Germany's part, and undertakings by Germany not to interfere with Austria. But, as stated above, the danger of repudiation by Germany need not in every case mean that an agreement with Germany on these subjects is not worth seeking. It is clear, however, that other countries, and particularly France, more suspicious than we are of German good faith, will be inclined to magnify the dangers of agreement in these cases.

27. Bearing the above considerations in mind, the immediate problem before His Majesty's Government and its solution may be visualised as follows:—

28. We must prevent any military action by France against Germany. A possible course which might have its advocates would be for the Locarno signatories to call upon Germany to evacuate the Rhineland. It is difficult now to suppose that Herr Hitler could agree to such a demand, and it certainly should not be made unless the Powers, who made it, were prepared to enforce it by military action. Fortunately, M. Flandin has said that France will not act alone (i.e., under paragraph 3 of article 4 of Locarno), but will take the matter to the Council (i.e., under paragraph 2 of article 4 of Locarno). This he must be encouraged to do. But we must beware lest the French public, if further irritated or frightened, get restless at such a slow and indecisive action and demand retaliatory action of a military character such, for instance, as the reoccupation of the Saar. Such a development must be avoided at all costs.

29. While we obviously cannot object to the Council adopting, under article 4 (2) of Locarno, a "finding" that Germany has violated the demilitarised zone provisions, this ought to be on the distinct understanding that it is not to be followed by a French attack on Germany and a request for our armed assistance under that article. An understanding, therefore, as to procedure at the Council between the Locarno Powers is essential before the Council meets, and arrangements are being made to this end.

30. We must be ready at the Council to offer the French some satisfaction in return for their acquiescence in this tearing up of articles 42 and 43 of Versailles and of the whole of Locarno. Herr Hitler's offers to negotiate a new "Locarno" and to return to the League will not be enough. In the face of this fresh and gross insult to the sanctity of treaties, it will be difficult to persuade the French to sign any fresh agreement with Germany in present circumstances. Indeed, how...
could it be otherwise, seeing that they have already been refusing to sign a naval 
agreement with Germany because of the latter's repudiation of Part V of the 
Treaty of Versailles last year. Some measure of satisfaction will therefore have 
to be found before Herr Hitler’s “ offers ” can be taken into consideration. This 
is clear from the French views summarised in paragraph 18 (5) above.

31. The following measures of satisfaction are conceivable: (a) M. Flandin 
has suggested a formal condemnation by the Council of Germany’s action on 
the lines of the condemnation administered last year in respect of the repudiation 
of Part V of the Treaty of Versailles. In this connexion it might possibly be 
proposed to ask The Hague Court to pronounce against the German arguments 
regarding the incompatibility of the Franco-Russian Pact with Locarno. It is 
not thought that this would be a wise course. (b) The French may want to follow 
this up by applying the Council Resolution of May 1935 that the unilateral 
repudiation of a treaty by a State, whether a member of the League of not, 
should, in the event of such repudiation endangering peace, call into play all 
appropriate measures on the part of members of the League, including in 
particular measures of an economic and financial character, the nature of which 
was, however, not determined by the Council. We might—indeed, will probably 
have to agree to satisfaction (a). but we ought to resist satisfaction (b) 
both on the ground that it would be impracticable, and also because it would be 
inconsistent with any idea of negotiation with Germany for a new settlement.

32. In return for satisfaction (a) we ought to try and get the Council— 
France and Belgium agreeing—to recommend that the complainant Powers 
should now proceed to put Germany’s good faith to the test—by entering into 
negotiations with her with the object of (a) establishing a new “Locarno” on the 
lines suggested by Herr Hitler; (b) concluding an air pact on the lines suggested 
by us; (c) bringing about some sort of settlement in Eastern and Central Europe (it 
won’t amount to much) on the basis of the bilateral non-aggression pacts offered 
by Herr Hitler; (d) arranging for Germany’s unconditional return to the League.
The Council would, in fact, give Great Britain, France, Belgium and Italy a 
mandate and carry on these negotiations with Germany with instructions to 
report periodically to the Council as to their progress.

33. The essential thing will be to induce or cajole France to accept 
this mandate. The trouble is that we are in a bad position to browbeat her with 
what we think reasonableness, because, if she wishes to do so, she can always hold 
us to our Locarno obligation and call upon us to join with her in turning the 
German forces out of the Rhineland. The strength of our position lies in the 
fact that France is not in the mood for a military adventure of this sort. 
Unfortunately, between military action on the one hand and friendly negotiation 
on the other, there lies the policy of sulking and passive obstruction, and it is 
this policy to which the French Government, in their weakness, will be inclined to 
have recourse, and out of which we shall have to persuade them.

34. It will be essential, under present conditions, to do something to steady 
the situation, and I propose accordingly, and as an immediate step, that a state­ 
ment should be made in the House to-morrow to the following effect:

“His Majesty’s Government regard themselves, pending the con­ 
consideration, which will obviously be necessary, of the situation created by 
the German denunciation of the treaty, as still in honour bound to come to 
the assistance of France or Belgium in the event of an actual attack on them 
by Germany, which would constitute a violation of article 2 of Locarno, and 
to the assistance of Germany in the event of such an attack upon her by 
France or Belgium.”

A. E.

Foreign Office, March 8, 1936.