

**EXPLANATORY MEMORANDUM TO THE AGREEMENT ON THE INTERNATIONAL TRACING SERVICE AND THE PARTNERSHIP AGREEMENT ON RELATIONS BETWEEN THE FEDERAL ARCHIVES OF THE FEDERAL REPUBLIC OF GERMANY AND THE INTERNATIONAL TRACING SERVICE.**

**Title of the Agreements**

Agreement on the International Tracing Service.

Partnership Agreement on Relations between the Federal Archives of the Federal Republic of Germany and the International Tracing Service.

**Command Paper Number:** 8525

**Subject Matter:**

The purpose of the Agreements is to modernise the governance of the International Tracing Service's (ITS) archive, for which the UK is a member of the governing commission. The archive, kept in Bad Arolsen in Germany, consists of millions of records which detail the fate of individuals sent to wartime concentration camps and post-war displaced persons' camps in the three Allied sectors of Germany, as well as the results of enquiries into individual cases made over the past 65 years.

To date, the ITS has been managed by the International Committee of the Red Cross (ICRC) on behalf of and with oversight from an International Commission (IC) composed of eleven countries: the UK, USA, France, Germany, Israel, Italy, Belgium, the Netherlands, Luxembourg, Greece and Poland. As the tracing work of the ITS on the fate of individuals sent to the camps is decreasing, the IC has tasked the ITS with developing a new role as a key historical archive open to academics and researchers and as an educational resource. Given this change in focus away from core ICRC humanitarian concerns in conflict circumstances, the ICRC will at the end of 2012 withdraw its managerial responsibility for the ITS.

There are two new agreements establishing the new organisation. Under the first, the Agreement on the International Tracing Service ITS Agreement, the ITS will be "an organisation with international character" with capacity to act under German law, strong governance oversight by the IC and support from an "institutional partner", the German national archive, the Bundesarchiv. This means that the ITS will not be an international organisation as such but will be governed by the IC according to the terms of the international agreement, and administered as a *sui generis* organisation with certain limited capacity under, and privileges and

immunities from, German law. The ITS Agreement has been signed by all members of the IC. It is this agreement which requires the EM.

The second agreement, the Partnership Agreement on Relations between the Federal Archives of the Federal Republic of Germany and the International Tracing Service 'Partnership Agreement', which has been concluded between the Chair of the Commission on behalf of the IC and Germany, sets out the advisory role of the Bundesarchiv in areas such as human resource management; conservation and preservation; cataloguing and indexing; and budgeting and auditing.

The final texts of both agreements were signed in Berlin on 9 December 2011.

The Foreign Secretary's Envoy for Post Holocaust Issues, Sir Andrew Burns, who signed the agreements on behalf of the United Kingdom, has led the way in modernising the governance of the ITS including through the recent recruitment of its new Director.

The Government has facilitated and financially supported the agreement to bring to the UK a digitalised copy of the ITS archive which we hope will become publicly available at the Wiener Library in Russell Square later this year.

### **Ministerial Responsibility**

The Secretary of State for Foreign and Commonwealth Affairs has overall responsibility for Post-Holocaust issues. The Secretary of State for Communities and Local Government is also committed to supporting the Government's post Holocaust work. The Senior Minister of State at the Foreign and Commonwealth Office and the Minister for Faith and Communities at the Department for Communities and Local Government is likewise committed to the Government's post Holocaust work.

### **Policy Considerations**

#### **(i) General**

The Government has taken an active approach to preserving the memory of the Holocaust and is committed to ensuring the interests of the many Holocaust victims and their families in the UK affected by these issues are protected.

The Agreements, rendered necessary by the withdrawal of the ICRC from its managerial role in respect of the ITS, have been concluded in a manner which preserves our policy position on the ITS. In particular the Agreements protect the

integrity of the archive, ensure its accessibility for both humanitarian purposes and research and ensure that the IC maintains strategic oversight of the ITS.

(ii) Financial

Germany is currently the only State that bears any costs of the ITS and the ITS Agreement maintains this arrangement (Article 24). There are no resource implications for the UK.

(iii) Reservations and Declarations

None

## **Implementation**

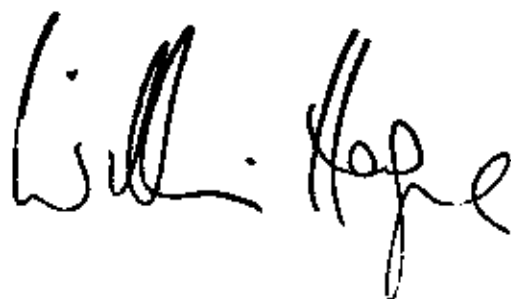
In accordance with Article 29, the Agreement on the ITS shall come into force in the later of: (1) January 1, 2013, or (2) the first day of the first month following the date which the Kingdom of Belgium, the French Republic, the Federal Republic of Germany, the Hellenic Republic, the State of Israel, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Poland, the United Kingdom of Great Britain and Northern Ireland and the United States of America have all informed the depositary that their respective national requirements for the entry into force of the present Agreement have been fulfilled.

Pursuant to Article 29 (b) of the present Agreement, when it enters into force, it supersedes the Agreement Constituting an International Commission for the International Tracing Service, concluded at Bonn on June 6, 1955, as amended by the Protocol Renewing and Amending the Agreement Constituting an International Commission for the International Tracing Service, concluded at Bonn on August 23, 1960, by the Arrangement Renewing and Amending the Agreement Constituting an International Commission for the International Tracing Service, concluded at Bonn on October 15, 1973, by the Protocol on the amendment of the Agreement constituting an International Commission for the International Tracing Service, concluded at Berlin on May 16, 2006, as well as the Agreement on the Legal Status of the International Tracing Service in Bad Arolsen, concluded at Bonn on July 15, 1993.

Pursuant to Article 29 (c), upon entry into force of the present Agreement, all decisions and directives of the International Commission taken under the previous agreements, mentioned in the paragraph above, shall remain in force until such time as the International Commission decides.

The entry into force provisions of the Partnership Agreement are the same as those in the ITS Agreement.

Pursuant to Article 28 (b), following its signature, this Agreement shall be provisionally applied in accordance with any domestic laws where applicable during any period in which the ITS Agreement, done at Berlin on December 9, 2011 is provisionally applied.

A handwritten signature in black ink that reads "William Hague". The signature is written in a cursive style with a prominent initial "W" and a long, sweeping underline.

**WILLIAM HAGUE**