

Agreement

between

the Government of the United States of America

and

the Government of the French Republic

on

Compensation for Certain Victims

of Holocaust-Related Deportation from France

Who Are not Covered by French Programs

The Government of the United States of America,

And

The Government of the French Republic,

Hereinafter referred to jointly as “the Parties,”

Wishing to further develop the relations between their two countries in a spirit of friendship and cooperation and to resolve certain difficulties from the past,

Recognizing and condemning the horrors of the Holocaust, including the tragic deportation of Jewish individuals from France during the Second World War,

Noting that since 1946 the Government of the French Republic has implemented extensive measures to restore the property of and to provide compensation for victims of anti-Semitic persecution carried out during the Second World War by the German Occupation authorities or the Vichy Government, including a pension program designed to address the wrongs suffered by Holocaust victims deported from France and a specific program for orphans,

Noting that the Government of the French Republic remains committed to providing compensation for the wrongs suffered by Holocaust victims deported from France through such measures to individuals who are eligible under French programs,

Recalling that on July 16, 1995 the President of the French Republic solemnly recognized the State’s responsibility in the process of deportation of those victims and an imprescriptible debt towards them,

Recognizing that some Holocaust victims deported from France, their surviving spouses and their assigns, were not able to gain access to the pension program established by the Government of the French Republic for French nationals, or by international agreements concluded by the Government of the French Republic in this area,

Having held discussions in a spirit of friendship and cooperation with the shared aim of resolving through dialogue issues relating to the non-coverage of such persons,

Resolved by common consent and by way of an amicable, extra-judicial and non-contentious manner to address the issue of compensation for such persons,

Believing that it is in the interest of both Parties to guarantee the foreign sovereign immunity of France for Holocaust deportation claims and to provide through this Agreement a mechanism for providing compensation for any and all claims brought by such persons,

Recognizing that France, having agreed to provide fair and equitable compensation to such persons under this Agreement, should not be asked or expected to satisfy further claims in connection with deportations from France during the Second World War before any court or other body of the United States of America or elsewhere,

Noting that this Agreement constitutes the exclusive and final means for addressing those claims between the United States of America and France,

Noting the Parties' intent that this Agreement should, to the greatest extent possible, secure for France an enduring legal peace regarding any claims or initiatives related to the deportation of Holocaust victims from France,

Having both consulted with various stakeholders, including representatives of Jewish communities, claimants, and members of legislative bodies regarding Holocaust deportation,

Believing that this Agreement will provide as expeditious as possible the mechanism for making fair and speedy payments to now elderly victims,

Have agreed as follows:

### **Article 1**

For purposes of this Agreement, and except as otherwise indicated by use of a specific term:

1. Reference to "France" means the French Republic, the Government of the French Republic, any current or past agency or instrumentality of the French Government (whether owned in whole or in majority by the French Republic), their successor entities under any status, and any official, employee, or agent of the French Republic acting within the scope of his or her office, employment, or agency.

2. Reference to “French nationals” means natural persons who, at the time this Agreement enters into force, are nationals of the French Republic.
3. Reference to “Holocaust deportation” means the transportation of an individual from France towards a location outside of France during the Second World War as part of the anti-Semitic persecution carried out by the German Occupation authorities or the Vichy Government.
4. Reference to “Holocaust deportation claim” means a claim for compensatory or other relief in connection with Holocaust deportation.

## **Article 2**

The objectives of this Agreement are to:

1. Provide an exclusive mechanism for compensating persons who survived deportation from France, their surviving spouses, or their assigns, who were not able to gain access to the pension program established by the Government of the French Republic for French nationals, or by international agreements concluded by the Government of the French Republic to address Holocaust deportation claims;
2. Create a binding international obligation on the part of the United States of America to recognize and affirmatively protect the sovereign immunity of France within the United States legal system with regard to Holocaust deportation claims and, consistent with its constitutional structure, to undertake all actions necessary to ensure an enduring legal peace at the federal, state, and local levels of the Government of the United States of America.

## **Article 3**

1. This Agreement shall not apply to Holocaust deportation claims of French nationals.
2. This Agreement shall not apply to Holocaust deportation claims of nationals of other countries who have received, or are eligible to receive, compensation under an international agreement concluded by the Government of the French Republic addressing Holocaust deportation.

3. This Agreement shall not apply to persons who have received, or are eligible to receive, compensation under the Government of the French Republic's compensation program instituting a reparation measure for orphans whose parents died in deportation (Decree no. 2000-657 of 13 July 2000).
4. This Agreement shall not apply to Holocaust deportation claims of persons who have received compensation under another State's program providing compensation specifically for Holocaust deportation or who have received compensation under any program of any institution providing compensation specifically for Holocaust deportation.

#### **Article 4**

1. Within thirty (30) days of the date this Agreement enters into force, the Government of the French Republic shall transfer to the Government of the United States of America a payment of U.S. \$60 million, to be used by the Government of the United States of America for making payments under this Agreement, as provided for in Article 6.
2. The Parties agree that this payment constitutes the final, comprehensive, and exclusive manner for addressing, between the United States of America and France, all Holocaust deportation claims not covered by existing compensation programs, which have been or may be asserted against France in the United States of America or in France.
3. The Parties further agree that any payment to an individual under this Agreement shall constitute the final, comprehensive, and exclusive manner for addressing all Holocaust deportation claims by that individual not covered by existing compensation programs, which have been or may be asserted against France in any forum.
4. In accordance with the applicable domestic procedures of the United States, the Government of the United States of America will deposit amounts received from the Government of the French Republic in an interest-bearing account in the United States Treasury until distribution, pursuant to a determination by the Secretary of State of the United States of America or his designee.

## Article 5

Upon payment of the sum referred to in Article 4 of this Agreement, the Government of the United States of America:

1. By this Agreement, confirms its recognition in connection with any Holocaust deportation claims of:

- (i) the sovereign immunity of France and the property of France;  
and

- (ii) the diplomatic, consular, or official immunity of French officials, employees, and agents and the property of each,

as such sovereign, diplomatic, consular, and official immunities are normally recognized within the United States legal system for other foreign states, their agencies, instrumentalities, officials, employees, and agents, and the property of each.

2. Shall secure, with the assistance of the Government of the French Republic if need be, at the earliest possible date, the termination of any pending suits or future suits that may be filed in any court at any level of the United States legal system against France concerning any Holocaust deportation claim.
3. Shall, in a timely manner, and consistent with its constitutional structure, undertake all actions necessary to achieve the objectives of this Agreement, which include an enduring legal peace, at the federal, state, and local levels of government in the United States of America and shall avoid any action that:
  - a. Contradicts the terms of the Agreement, and in particular challenges the sovereign immunity of France concerning any Holocaust deportation claim; or
  - b. Stands as an obstacle to the accomplishment and execution of the Agreement.
4. Shall require, before making any distribution payment to an eligible recipient under this Agreement, that the recipient execute a writing following the form of the Annex attached to this Agreement, including (i) a waiver of all of the recipient's rights to assert claims for compensatory

or other relief in any forum against France concerning Holocaust deportation or pension programs related thereto; (ii) a declaration that the recipient has not received, and will not claim, any payment under French programs or an international agreement concluded by the Government of the French Republic relating to Holocaust deportation; and (iii) a declaration that the recipient has not received any payment under any other State's compensation program or under the compensation program of any foreign institution relating specifically to Holocaust deportation.

## **Article 6**

1. The Government of the United States of America shall distribute the sum referred to in Article 4(1) of this Agreement according to criteria which it shall determine unilaterally, in its sole discretion, and for which it shall be solely responsible.
2. Notwithstanding the preceding paragraph:
  - a. In developing criteria for distributing the sum referred to in Article 4(1), the United States shall consider the objectives of this Agreement set out in Article 2.
  - b. Any Holocaust deportation claim of a person within the scope of Articles 3(1), 3(2), 3(3), or 3(4) of this Agreement is not eligible for compensation under this Agreement, and the United States of America, upon determining that a claim comes within the scope of Articles 3(1), 3(2), 3(3), or 3(4), shall declare inadmissible and reject any such claim.
  - c. In determining whether a claim comes within the scope of Article 3(1), for administration of the distribution, the United States of America shall rely on the sworn statement of nationality appearing in the opening paragraph of the writing appearing as the Annex to this Agreement. In determining whether a claim comes within the scope of Article 3(2), 3(3), or 3(4), for administration of the distribution, the United States shall rely on the sworn representations numbered 5 and 6 in the writing appearing as the Annex to this Agreement, as well as on any relevant information obtained under Article 6(6) of this Agreement.

3. The Government of the United States of America or an entity designated by the Government of the United States of America shall have exclusive competence for distribution of the sum referred to in Article 4(1) of this Agreement, and the Government of the French Republic shall have no rights related to such distribution.
4. The Government of the United States of America shall take reasonable steps to provide sufficient notice about the distribution of funds under this Agreement to persons who may qualify under the criteria determined by the Government of the United States of America pursuant to Article 6(1) of this Agreement.
5. In accordance with applicable domestic procedures of the United States of America, the Government of the United States of America shall provide an appropriate period of time for persons to submit a claim for compensation under this Agreement.
6. Subject to their respective applicable laws, the Parties shall exchange information helpful to implementation of this Agreement, including information required to ensure that no claimant receives an inadmissible payment pursuant to Article 6(2)(b) of this Agreement.
7. At the request of the Government of the French Republic, the Government of the United States of America shall each year provide a report on the implementation of this Agreement which shall include, at a minimum, statistical data related to payments and categories of beneficiaries. This obligation shall expire one year following the date on which the United States completes the distribution of the sum referred to in Article 4(1) of this Agreement as provided for in Article 6(1) of this Agreement.

### **Article 7**

The Annex attached hereto forms an integral part of this Agreement.

### **Article 8**

Any dispute arising out of the interpretation or performance of this Agreement shall be settled exclusively by way of consultation between the Parties.



## **Article 9**

Each Party shall notify the other of completion of the national procedures required in order for this Agreement to enter into force, which shall occur on the first day of the second month following the day on which the later notification is received. The Parties recognize that, upon entry into force, this Agreement imposes binding international obligations.

Done at Washington, D.C., this 8th day of December, 2014, in duplicate, in the English and French languages, both texts being equally authentic.

FOR THE GOVERNMENT OF  
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF  
THE FRENCH REPUBLIC:

## ANNEX

to the Agreement between the Government of the United States of America  
and the Government of the French Republic  
on Compensation for Certain Victims of Holocaust-Related Deportation  
from France Who Are not Covered by French Programs

### **Form of Written Undertaking That Any Recipient of Compensation Must Execute Before Receiving Payment under this Agreement**

#### FORM

I, \_\_\_\_\_, a national of  
\_\_\_\_\_ [country] \_\_\_\_\_ (a copy of government  
documentation establishing nationality must be attached to the present written  
undertaking), hereby agree to receive an amount equal to \_\_\_\_\_ in full  
satisfaction and final settlement of any claim coming within the terms of the  
Agreement between the Government of the French Republic and the  
Government of the United States of America on Compensation for Certain  
Victims of Holocaust-Related Deportation from France Who Are not Covered  
by French Programs (“the Agreement”), signed in [city] \_\_\_\_\_ on  
\_\_\_\_\_ [date/month/year] \_\_\_\_\_. *Terms used in this written undertaking  
shall have the meaning prescribed in the Agreement.*

Upon receipt of the amount noted:

(1) I release and forever discharge France and any French national  
(including natural and juridical persons) from any liability of any kind for all  
claims relating to Holocaust deportation.

(2) I forever relinquish all claims, demands, rights of action, suits, and  
judgments, that I have ever had or will have, or which my heirs, executors,  
administrators, or assigns ever had or ever may have, relating to Holocaust  
deportation.

(3) I release and forever discharge the Government of the United States of  
America; its agencies or instrumentalities; and officials, employees, and agents  
of the Government of the United States of America or the United States’  
agencies and instrumentalities from any liability of any kind relating to  
Holocaust deportation, United States actions and policies affecting those claims,  
any associated litigation, and the United States’ administration of those claims.

(4) I forever relinquish all claims, demands, rights of action, suits, and judgments, that I have ever had or will have, or which my heirs, executors, administrators, or assigns ever had or ever may have, relating to United States actions and policies affecting claims relating to Holocaust deportation, any associated litigation, and the United States' administration of those claims.

(5) I declare under penalty of perjury that I have not received, and will not at any time claim, any compensation under French programs relating to Holocaust deportation or under any international agreements concluded by the Government of the French Republic relating to Holocaust deportation.

(6) I declare under penalty of perjury that I have not received any compensation under any other State's compensation program relating specifically to Holocaust deportation or under the compensation programs of any foreign institution relating specifically to Holocaust deportation.

\_\_\_\_\_  
(signature)

Subscribed and sworn to before me the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public  
(seal or stamp must be affixed)