



Memorandum

Date . September 10, 1985
From Associate Director, NCI
Subject HTLV III Patents
To Chief, Laboratory of Tumor Cell Biology, DCT

CONFIDENTIAL

Based on initial departmental discussions emanating from our compilation of your data, a letter from the HHS Chief of Staff was sent to the Director of the Institut Pasteur stating that the position and the resulting claims of the Institut Pasteur were not supportable. However, the Department felt that, since other agencies and BID's were also involved in early research in AIDS, it was appropriate that any other intra-departmental concern, which would be incongruent with the position outlined by NCI, would be voiced and answered.

According to the consensus of HHS legal counsels, the document prepared by NCI was given to, copied, read, and critiqued by scientists involved in AIDS research from the CDC and NIAID. There was some consensus on a number of issues. However, several additional concerns raised which related to both the flow of HTLV III-oriented research in your laboratory, and referred to the possibility that there might have been a common origin of the presently analysable LAV and HTLV III_B virus stocks.

Would you please answer the following questions raised by the NIH/HHS legal counsel in order to arrive at a final departmental position?

1. Since you demonstrated in November-December 1982, the presence of a virus which clearly did not seem to be HTLV I or II, why was this fact never mentioned in your many ensuing publications over the next year? Ostensibly, all of the papers mention HTLV I association with AIDS, but none address the fact that you were aware of the existence of other agents which were of the HTLV III type.
2. Would it be possible to establish a flow of continuity of your thinking and experiments in your laboratory on the non-HTLV I isolates from your first idea to May 1984? Had you abandoned the experiments searching for a non-HTLV I agent between December 1982 and June 1983?

3. What was the progression of your thinking and experiments leading to the successful HTLV III ELISA tests? When did you and/or your contractors first apply the ELISA technology to human AIDS/ARC sera in conjunction with an HTLV III type isolate? Did the Biotech contract use your input and technology to develop their August 25 patent application, which appears to claim to have had a generic ELISA test for all HTLV's, including those in AIDS? Did Biotech work with any of the early HTLV III transmissible isolates in 1983?
4. According to some researchers, the first clear linkage of LAV to AIDS was accomplished by Dr. Chermann at the Park City, Utah meeting in February 1984, rather than your May 4 Science papers. Would you comment on the extent and the surety of information presented at that meeting by the French team?
5. Because of the scientific nature and the nonscientific implications and seriousness of the next concern, the allegation below is presented in almost a verbatim form. The scientist's name is not mentioned.

In December 1984, this scientist carried out an experiment characterizing the structure of the LAV viral genome utilizing molecular clones they had recently isolated. Much to his surprise, the scientist discovered that the virus stock furnished to him by Luc Montagnier in April 1984, contained two discrete classes of the AIDS virus. The procedures used to demonstrate this phenomenon was Southern blot hybridization. They observed differences in the number of Hind III sites in the two species of viral RNA (one species contained an extra site located within the polymerase gene). Hahn, Shaw, Arya, Popovic, Gallo, and Wong-Staal published a paper in Nature (vol 312, pages 166-169, 1984) that demonstrated the presence of an identical second species of viral RNA in their preparations of HTLV III. The latter finding struck the scientist as quite unusual in view of: 1) the reported heterogeneity of AIDS viral genomes; 2) the "contaminating" extra virus present in both independently-derived isolates.

Allusion is made to a paper that is in press (Science) that shows that, with the exception of HTLV III and LAV, seven North American and three Zairian AIDS virus isolates are all different from one another. The scientist offers no explanation for the similarity of HTLV III and LAV, but states that "informed virologists will certainly draw certain obvious conclusions".

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Could you discuss the possible origins of such a common "contaminant" virus? Based on known sequence differences of LAV and HTLV III_B, can one jump to conclusions of identity of this second species in the LAV and HTLV III_B stocks, based only on restriction endonuclease patterns? Have you seen more than one virus in any of your ≥ 100 isolates if you did not purposely infect with virus from more than one individual?

The Department requests a prompt reply to these questions so the previously outlined position is satisfactory to the Office of the General Counsel.



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