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STATEMENT ON DIVISION OF HIV TEST KIT ROYALTIES

The following statement was issued by Harold Varmus, Director of the National Institutes of Health (NIH), upon the conclusion this morning of a meeting of the French and American AIDS Foundation (FAAF):

"I am pleased to announce that, as part of a meeting of the French and American AIDS Foundation, an agreement was reached to put an end to the Institut Pasteur's request for additional patent royalties from the sale of HIV test kits.

"The agreement aims to equalize the amount of royalties each country will receive from the worldwide sale of test kits over the lives of the patents, and to normalize the sometimes rocky relations between the parties.

"The reallocation of royalties is being made because the U.S. has been collecting significantly more in royalties than France. This resulted from an anomaly created by greater U.S. test kit sales, a fact not taken into consideration in the 1987 settlement agreement. The settlement agreement and subsequent action by the FAAF board should have provided approximately equal revenues to the Institut Pasteur and the U.S. as co-patent

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holders, under terms intended to recognize the critical contributions made by both sides to the development of screening tests for HIV.

"The Department of Health and Human Services and the NIH also officially acknowledged, in light of the current state of knowledge and, in particular, as a result of a well-known independent study published in 1991, that scientists at the NIH used a virus provided to them by Institut Pasteur to invent the American HIV test kit.

"The technical details of the royalty reapportionment appear in the resolution adopted, copies of which are available to you. The new formula was developed so that the U.S. and France would receive approximately equal shares of the test kit royalties over the lives of the patents.

"Under the settlement reached in 1987, each side keeps the first 20% of royalties from the sales of its test kit. This will not change. Also, as under the 1987 agreement, the remaining 80% of each side's royalties will be pooled. Under today's agreement, the annual pools, beginning in 1994, will be divided as follows: 50% to Institut Pasteur; 25% to the U.S.; and 25% to the World AIDS Foundation, which funds AIDS education and research in the developing world.

"The new formula is intended to remedy an imbalance that has given the U.S. approximately \$20 million and Institut Pasteur approximately \$14 million in royalties since the 1987 settlement

agreement. The U.S. has received a disproportionate share of the royalties because the American test kit greatly outsells the French test kit. If past experience holds, the new formula will give the French several hundred thousand dollars per year more than they would have gotten under the old formula. The old formula distributed 25% to the World AIDS Foundation and 37.5% each to France and the U.S.

"Today's agreement is fair and equitable; it is also in the best interests of science and of the American and French people. It reflects a sincere commitment by both sides to bring this matter to a close. I look forward to putting this distraction behind us and continuing our collaboration with the Institut Pasteur in an atmosphere of mutual esteem."