



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

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RECEIVED
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3:41 PM
OFFICE OF THE
GENERAL COUNSEL
HHS BRANCH

March 23, 1990

Note for Dr. Raub

Subject: Possible Revival of HHS-Pasteur Dispute and
Suggestion for a Meeting to Discuss Implications

This is a "heads up" to alert you that a reawakening of the controversy between Dr. Gallo and Dr. Montagnier could threaten the HHS-Pasteur settlement. I suggest a meeting with OASH and OGC to discuss various aspects of this matter.

I received a phone call yesterday from Mike Michaud, Science Counselor at our Embassy in Paris, alerting me to the recent French press and television coverage of the latest allegations concerning Dr. Gallo, and requested information that could be used to reply to French press inquiries. In response, we transmitted the attached cable based on information provided to us by Storm Whaley.

Mike also informed me that he had just sent two cables (copies attached) dealing with the reports in the French press. The first summarizes an article in the March 28 issue of Le Monde based on John Crewdson's March 18 article in the Chicago Tribune. The Le Monde article includes a brief account of an interview with Dr. Gallo just prior to the publication of the latest Crewdson article.


The second cable summarizes comments in the French press by both Luc Montagnier and Maxime Schwartz, Director of the Pasteur Institute. Dr. Montagnier's comments are relatively moderate, but he is quoted as saying that "...we do not rule out a re-examination of the terms of the Franco-American accord in light of new elements that might crop up." Comments attributed to Dr. Schwartz, however, are much more provocative. He is quoted as saying that "To explain this similarity [between Montagnier's and Gallo's viruses] there are only two hypotheses that can be considered. Either there was an accidental contamination by the virus from Pasteur in a viral culture maintained in Gallo's laboratory, and the subsequent isolation of that virus. Or, there was theft, pure and simple."

Dr. Schwartz is further quoted as saying that "One could re-open the file for reasons of international scientific recognition. But is this legally defensible, considering that this point is not part of the agreement? This being the case, if it turns out that, at the time, documents were withheld from signatories to the accord while American law [i.e., the Freedom of Information Act] required that they be transmitted, this is grounds for reconsideration. Our lawyers are working on it."

An interesting aside is that Dr. Schwartz is reported to have said that they had received \$3.5 million since 1985 under the terms of the settlement, but that all of this had gone to cover their legal costs.

Because it is evident that the charges made in the Crewdson article extend into the international arena, I would like to suggest a meeting with Dr. Mason, Mr. Astrue, Mr. Riseberg, Dr. Broder and ourselves. Among the issues to be discussed is whether we should press forward with plans to hold a meeting of the WAF Scientific Advisory Committee this June just after the San Francisco AIDS meeting, followed by a meeting of the FAAF and WAF boards of directors. Independent of this latest controversy, there are programmatic reasons which might justify a postponement of these meetings. However, any action along these lines must be taken in light of larger issues.

- Agree with suggestion for meeting with Mason, et. al.; please arrange.
- Agree with suggestion for meeting with Mason, et. al.; I will arrange.
- See me to discuss.


Philip H. Schambra, Ph.D.
Director
Fogarty International Center

Attachments

cc:
Dr. Broder
Mr. Lanman
Mr. Riseberg ✓