gressional sponsors have argued that the peer review system is stacked against them. Unless these universities get some political help to construct modern labs, the rich universities will continue to carry off the lion's share of research funds, the argument goes.

Thus the debate over earmarking has often come down to the "haves" against the "have-nots," and the involvement of organizations such as the AAU, which represents most of the leading research universities in North America, has not helped. Rosenzweig himself says that the AAU's public opposition to congressional earmarking may have been counterproductive in debates in the House and Senate last year, when both bodies voted explicitly to fund individual university projects.

The Langenberg committee argues that the pork barrel problem will wane only if the universities' facilities problem is taken care of. And it suggests that tensions within the higher education community will diminish only if a mechanism is established that provides some preferential treatment for universities that have not traditionally been in the front ranks.

It therefore recommends that federal programs be established to which universities can apply for funds to build new facilities or refurbish old ones. These programs should be two-tiered. One subprogram should be designed to meet the needs of established research universities and a second subprogram should focus on research-oriented, developing institutions. "Separate award criteria should be developed appropriate to each group and separate competitions should be held," the committee says.

The higher education associations are urged to embark on a campaign for a federal program to finance academic facilities, but first they will have to resolve a key question: should they insist that the new funds be added to existing budgets? If so, that would be "tantamount to an assertion that *all* research projects and programs of the sort currently funded are more important than *any* research facility candidate," the committee notes. "If that is the message the universities choose to carry to Congress, then they will need to be prepared for congressional skepticism about their seriousness."

In the meantime, the committee urges higher education organizations to continue to oppose individual pork barrel funds that threaten to take money away from regularly authorized and appropriated competitive research programs. It also says the academic community should continue to insist that merit be the central factor in distributing funds for both research and facilities. ■

COLIN NORMAN

AIDS Patent Dispute Settled

The long-standing legal dispute between the Pasteur Institute in Paris and the U.S. Department of Health and Human Services (HHS) about patent rights for an antibody test for AIDS is over. Under a legal agreement dated 30 March 1987, HHS and the Pasteur will share rights to the patent, and Robert Gallo of the National Cancer Institute (NCI) and his colleagues and Luc Montagnier of the Pasteur and his colleagues will be recognized as joint inventors of the AIDS antibody test-kit assay. President Ronald Reagan and French Prime Minister Jacques Chirac announced the settlement on 31 March. The announcement coincided with Chirac's visit to Washington.

A key part of the settlement is the establishment of an AIDS foundation, initially with six trustees who will include Montagnier, Gallo, Raymond Dedonder, director of the Pasteur Institute, and James Wyngaarden, director of NIH. HHS and the Pasteur are to contribute to the foundation 80% of the antibody test royalties they receive from 1 January 1987 to 27 May 2002. The foundation money is to be used for research on AIDS and other human retroviruses.

"I'm very happy. I've been seeking something like this for a couple of years," said Gallo in an interview with *Science*. Gallo and Montagnier are credited as being co-discoverers of the virus that causes AIDS. The antibody test procedure is now used routinely to indicate whether a person is infected with the AIDS virus.

The history of the patent dispute includes a series of legal actions. On 5 December 1983, the Pasteur filed for a U.S. patent, which was never awarded, for a test-kit assay to detect blood serum antibodies to the AIDS virus. Five months later, on 23 April 1984, HHS filed a patent application for an antibody test and processes for growing the AIDS virus in permanent cell lines. The U.S. Patent and Trademark Office issued this patent on 28 May 1985, but the Pasteur Institute challenged the award.

In a separate legal action, the Pasteur Institute filed suit against the U.S. government on 12 December 1985 for breach of contract, claiming that NCI scientists had used materials, sent by the French for research purposes only, to develop an antibody test-kit assay. The U.S. Claims Court granted a government motion to dismiss this suit on 7 July 1986, but the Federal Circuit Court reversed the Claims Court decision on 9 March 1987.*

The Pasteur Institute also filed a tort claim against HHS and, in addition, Pasteur attorney James Swire filed suit against HHS and the Department of Commerce, alleging that they withheld information he had demanded under the Freedom of Information Act. Last fall, the two parties seemed close to a resolution, but the negotiations stalled. All of the legal issues have now been settled.

The French and U.S. teams shared biological materials between 1982 and 1984, making it difficult to sort out whether subsequent discoveries reported by one group would have been possible without materials supplied by the other group. As part of the settlement, Gallo and Montagnier signed a chronology that highlights important findings in AIDS research. "The chronology is fair and substantive," said Gallo. "We didn't have any real disagreements about it." Jonas Salk, of the Salk Institute in La Jolla, California, and discoverer of a polio vaccine, played a key role in constructing the chronology. "He really helped to catalyze the effort," Gallo said.

The terminology used to describe the AIDS virus was an initial source of contention and it became more complex as the research field expanded and more isolates were found. In May 1986, an international committee recommended that the AIDS virus be termed human immunodeficiency virus, or HIV. Part of the new agreement is to use the HIV terminology when the virus is described in general terms, but to use specific notation for individual viral isolates in scientific reports, as suggested by an earlier 1983 nomenclature committee.

Three other HHS patents for growing the virus in particular cell lines have also been approved and the royalties will be shared between the Pasteur and the U.S. government. The settlement pertains only to materials covered in patent applications filed before 28 May 1985. ■ DEBORAH M. BARNES

*For details of the background to these issues, see *Science*, 16 December 1983, p. 1178; 1 November 1985, p. 518; 8 November 1985, p. 640; 3 January 1986, p. 11; 9 May 1986, pp. 697 and 699; 25 July 1986, p. 414.