HEALTH

Cooperation

Agreement Between the
UNITED STATES OF AMERICA
and GHANA

Signed at Accra January 17, 2008

with

Annex

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

". . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

GHANA

Health: Cooperation

Agreement signed at Accra January 17, 2008;
Entered into force January 17, 2008.
With annex.

AGREEMENT BETWEEN THE GOVERNMENT OF GHANA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING COOPERATION IN MEDICAL RESEARCH

The Government of Ghana and the United States of America (hereinafter referred to as "the Parties")

Desiring to cooperate in medical research of relevance to the health and well-being of the people of Ghana and the United States of America;

Have agreed as follows:

ARTICLE I

IMPLEMENTATION

1. The implementing agency for the Government of Ghana is the Ministry of Health. The implementing agency for the Government of the United States of America is the Naval Medical Research Unit Number 3 (NAMRU-3).

2. The Parties shall implement this agreement in accordance with their respective laws and regulations. The implementation of this agreement shall be subject to the availability of resources and appropriated funds.

ARTICLE II

ORGANIZATION, INFORMATION, PUBLICATIONS

1. The Government of Ghana shall:

a. Provide, without charge, to the Government of the United States of America appropriate administrative and laboratory facilities in Ghana for NAMRU-3 research efforts and logistical assistance to support NAMRU-3 field operations including inter alia translation services, ground transportation and guide services

b. Provide qualified Ghana Ministry of Health personnel, to act as liaison with other Ghana ministries and agencies and collaborate in research programs.

c. Provide access to human or animal research subjects to reasonably ensure that common research objectives are met.

d. Provide medical assistance to research subjects who suffer an adverse reaction to a particular study as set forth in Article V

2. The Government of the United States of America shall:

a. Cooperate with the Ghana Ministry of Health to carry out medical research programs in Ghana

b. Provide such funds, equipment and consumable supplies as may be required for the implementation of a research program which meets common research requirements

c. Assign to NAMRU-3 qualified scientific, administrative and technical personnel to meet common research objectives, subject to the personnel policies of the United States Navy

d. Conduct research programs of relevance to the people of Ghana and the United States, and consult and collaborate on research matters with the Ministry of Health and, with its approval, other Ghana ministries and agencies

e. Provide summaries of research and technical reports regarding research which is conducted by NAMRU-3 in Ghana to the Minister of Health in order that the people of both countries may receive the maximum benefit from this research program

3. The Parties shall ensure that:

a. The joint planning of cooperative studies, approved work plans and the actual levels of material, personnel and logistical support shall be subject to agreement between NAMRU-3 and the Ministry of Health of Ghana. Modifications may be made as agreed upon.

b. All studies which involve the use of human or animal subjects for biomedical research shall be consistent with the laws, regulations and ethical standards of both Parties. In cases of doubt as to the standard to apply, the most stringent biomedical research standard shall be applied and in no event shall these standards be lower than the applicable World Health Organization standard.

c. Prior to commencing research in Ghana, NAMRU-3 investigators will prepare and forward to the Ministry of Health a written proposal, which will include a description of activities planned. This proposal shall be subject to approval by the Ministry of Health and any other concerned ministry or agency. Alternatively, NAMRU-3 shall respond to requests from Government of Ghana to work in areas of mutual interest. Under these circumstances NAMRU-3 investigators, with approval of their authorities will prepare and forward to the Ministry of Health a proposal that will reflect planned activities.

Because of the logistical and funding implications of NAMRU-3 activities in Ghana, the Ministry of Health shall endeavour to obtain all necessary approvals within 30 days following receipt of a research proposal.

d. The principal investigators will prepare periodic reports, at least annually, for both Parties in the English language of their plans and accomplishments. These reports will propose measures necessary to improve the cooperative program

e. All results of research studies conducted in Ghana pursuant to this agreement will be reviewed by, and clearances obtained from the Ministry of Health and NAMRU-3 prior to publication. Publication may be by either or both Parties or by their designees; however, credit will always be given to the persons or organizations that performed the research and their collaborators.

f. This agreement does not constitute an obligation to conduct a particular study or to make a financial commitment or expenditure. Each Party shall expend its own funds for its own or joint expenses

g. Citizens of Ghana employed by NAMRU-3 shall be employed pursuant to guidelines which the Parties shall establish. However, employment actions and conditions shall generally conform, to the maximum extent practicable, to the standards applied by the U.S Embassy as regards employment of Ghanaian citizens. The Ministry of Health shall assist NAMRU-3 in identifying appropriate local personnel for possible employment.

h. In coordination with the Ministry of Health, NAMRU-3 may organize and conduct field trips throughout Ghana to collect research material and specimens for use by its laboratories. Specifically, these trips are necessary to study the environmental factors influencing disease spread and means of control. In conducting such field trips, NAMRU-3 may, if appropriate, establish small temporary field laboratories. The Ministry of Health shall provide field trip escorts and other logistical assistance to assist NAMRU-3 to reach those areas which are visited.

i. When one Party undertakes a task pursuant to this agreement, it shall be solely responsible for its own contracting. Upon mutual agreement one Party may contract for the other Party.

ARTICLE III

PERSONNEL

All research staff from NAMRU-3 shall be employees or contractors of the Government of the United States of America. All personnel costs such as housing, travel, and per diem while such personnel are in Ghana, will be borne by NAMRU-3. The Government of Ghana shall facilitate the entry and exit of NAMRU-3 staff that come to Ghana pursuant to the agreement. The Government of Ghana shall accord to such employees, who are U.S. citizens, the status equivalent to administrative and technical staff of the United States Embassy in Ghana. Other U.S. citizen personnel who are (i) individuals under contract with or employees of public or private organizations under contract with the Government of Ghana, or any agency thereof, or (ii) individuals under contract with or financed by, or employees of public or private organizations under contract with or financed by, the Government of the United States

of America, or any agency thereof, who are present in Ghana or perform work in connection with this agreement shall be exempt form income and social security taxes levied under the laws of Ghana and from taxes on the purchase, ownership, use or disposition of personal moveable property (including automobiles) intended for their own use. Such personnel shall be exempt from customs, import and export duties on all personal effects, equipment and supplies (including food, beverages and tobacco), imported into Ghana for their own use, and from all other duties and fees.

ARTICLE IV

EQUIPMENT

Laboratory and other equipment, research materials and other supplies (including motor vehicles) brought into or acquired in Ghana by NAMRU-3 for the purpose of conducting activities under the agreement will be exempt from duty, taxes and other charges in relation to their import, presence, and use in Ghana. All such equipment, supplies and materials shall remain the property of the providing government. The Government of the United States of America may freely export any such equipment, supplies or materials which it brought to Ghana, at any time, provided, however, it will give sympathetic consideration to requests by the Government of Ghana to purchase such medical or laboratory equipment, supplies, or materials which may be excess to the Government of the United States of America needs, subject to such terms and conditions as may be agreed between the Parties.

ARTICLE V

MEDICAL ASSISTANCE, LIABILITY AND CLAIMS

1. The Government of the United States of America shall be primarily responsible, subject to the availability of personnel and supplies in Ghana, for providing emergency lifesaving care in the event of an adverse incident directly resulting from a medical study conducted by NAMRU-3 personnel. All other care will be the responsibility of the Government of Ghana.

2. The Governments of the United States of America and Ghana waive all of their claims against the other for damage or loss to the property or personnel of the other arising from activities related to this agreement.

ARTICLE VI

INTELLECTUAL PROPERTY RIGHTS

1. The treatment of intellectual property created or furnished in the course of cooperative activities under this Agreement is provided for in Annex I, which shall form an integral part of this Agreement, and shall apply to all activities conducted under the auspices of this Agreement unless agreed otherwise by the Parties or their designees in writing.

ARTICLE VII

CLASSIFIED INFORMATION

1. It is the intent of the Parties that activities conducted pursuant to this agreement shall be unclassified. No classified information shall be specifically generated under this agreement. To the extent that any classified information must be exchanged to facilitate the non research aspects of the agreement, the information shall be used, transmitted, stored, handled, and safeguarded in accordance with the Parties' national security laws and regulations

2. Classified information and material shall be transferred only through official government to government channels. Such information and material shall bear the level of classification, denote the country of origin, the conditions of release and the fact that the information relates to this agreement.

3. Each Party shall take all lawful steps available to it to ensure that information provided is protected from further disclosure unless the other party consents to such disclosure.

4. Each Party shall undertake to maintain the security classifications assigned to information and material by the originating Party and shall afford to such information and material the same degree of security protection provided by the originating Party.

5. Each Party shall investigate all cases in which it is known or where there are grounds for suspecting that classified information or material provided or generated pursuant to this agreement has been lost or disclosed to unauthorized persons. Each Party shall promptly and fully inform the other Party of the details of any such occurrences, and of the final results of the investigation and of the corrective action taken.

ARTICLE VIII

DISPUTES

Differences of interpretation of this agreement shall be resolved by negotiation between the Parties and shall not be submitted to any third parties or tribunals for resolution

ARTICLE IX

DURATION

This agreement shall enter into force upon signature and shall remain in force for five years. The agreement may be amended by written agreement of the Parties, and may be terminated by either Party upon 180 days written notice to the other Party.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this agreement.

DONE at Accra this 17th day of January, 2008, in duplicate, in the English language.

For the Government of Republic of Ghana

Hon. MAJ Courage Quashigah (ret.)
Minister of Health
Republic of Ghana

For the Government of the United States of America

Pamela Bridgewater
Ambassador of the United States of America to the Republic of Ghana

ANNEX I

INTELLECTUAL PROPERTY

Pursuant to Article VI of this Agreement:

The parties shall ensure adequate and effective protection of intellectual property created or furnished under this Agreement and relevant implementing arrangements. The parties agree to notify one another in a timely fashion of any inventions or copyrighted works arising under their Agreement and to seek protection for such intellectual property in a timely fashion. Rights to such intellectual property shall be allocated as provided in this Annex.

1. SCOPE

A. This Annex is applicable to all cooperative activities undertaken pursuant to this Agreement, except as otherwise specifically agreed by the parties or their designees

B. For purposes of this Agreement, "intellectual property" shall have the meaning found in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, Sweden, July 14, 1967

C. This Annex addresses the allocation of rights, interests and royalties between parties. Each party shall ensure that the other party can obtain the rights to intellectual property allocated in accordance with the Annex, by obtaining those rights from its own participants through contracts or other legal means, if necessary. This Annex does not otherwise alter or prejudice the allocation between a party and its nationals, which shall be determined by that party's laws and practices.

D. Disputes concerning intellectual property arising under this Agreement should be resolved through discussions between the concerned participating institutions or if necessary, the parties or their designees. Upon mutual agreement of the parties a dispute shall be submitted to an arbitral tribunal for binding arbitration in accordance with the applicable rules of international law unless the parties or their designees agree otherwise in writing, the arbitration rules of UNCITRAL shall govern.

E. Termination or expiration of this Agreement shall not affect rights or obligations under this Annex

II. ALLOCATION OR RIGHTS

A. Each party shall be entitled to a nonexclusive, irrevocable, royalty-free license in its own country to translate, reproduce, and publicly distribute scientific and technical journals, articles, reports and books directly arising from cooperation under this Agreement. All publicly distributed copies of a copyrighted work prepared under this provision shall indicate the names of the authors of the work unless an author explicitly declines to be named.

B. Rights to all forms of intellectual property, other than those rights described in Section II (A) above, shall be allocated as follows:

1. Visiting researchers, for example, scientists visiting primarily in furtherance of their education shall receive intellectual property rights under the policies of the host institution. In addition, each visiting researcher named as an inventor shall be entitled to share in a portion of any royalties earned by the host institution from the licensing of such intellectual property.

2. (a) For intellectual property created during joint research for example, when the parties, participating institutions, or participating personnel have agreed in advance on the scope of work, each party shall be entitled to obtain all rights and interests in its own territory. Rights and interests in third countries will be determined in implementing arrangements. If research is not designated as "joint research" in the relevant implementing arrangement, rights to intellectual property arising from the research will be allocated in accordance with paragraph IIB1. In addition, each person named as an inventor shall be entitled to share in a portion of any royalties earned by either institution from the licensing of the property.

(b) Notwithstanding paragraph IIB2. (a), if a type of intellectual property is available under the laws of one party but not the other party, the party whose laws provide for this type of protection shall be entitled to all rights and interests worldwide. Persons named as inventors of the property shall nonetheless be entitled to royalties as provided in paragraph IIB2 (a)

III BUSINESS-CONFIDENTIAL INFORMATION

In the event that information identified in a timely fashion as business-confidential is furnished or created under the Agreement each party and its participants shall protect such information in accordance with applicable laws, regulations and administrative practice. Information may be identified as "business-confidential" if a person having the information may derive an economic benefit from it or may obtain a competitive advantage over those who do not have it, the information is not generally known or publicly available from other sources, and the owner has not previously made the information available without imposing in a timely manner an obligation to keep it confidential.

IV. SECURITY OBLIGATIONS

Both parties agree that cooperative activities undertaken pursuant to this Agreement shall normally involve open, public domain information. Should an activity, information or equipment to be shared, or any anticipated result of a cooperative activity, undertaken pursuant to this Agreement require protection in the interests of national defence or foreign relations of a party, that party shall so notify the other prior to undertaking the activity or sharing the information or equipment. The parties shall consult to identify and agree upon appropriate measures for the protection of the information or equipment.