

certain national provisions, in particular between provisions relating to medicinal products (excluding substances or combinations of substances which are foods, animal feeding-stuffs or toilet preparations), and such disparities directly affect the functioning of the internal market.

(5) Such hindrances must accordingly be removed; whereas this entails approximation of the relevant provisions.

(6) In order to reduce the disparities which remain rules should be laid down on the control of medicinal products and the duties incumbent upon the Member States' competent authorities should be specified with a view to ensuring compliance with legal requirements.

(7) The concepts of harmfulness and therapeutic efficacy can only be examined in relation to each other and have only a relative significance depending on the progress of scientific knowledge and the use for which the medicinal product is intended. The particulars and documents which must accompany an application for marketing authorization for a medicinal product demonstrate that potential risks are outweighed by the therapeutic efficacy of the product.

(8) Standards and protocols for the performance of tests and trials on medicinal products are an effective means of control of these products and hence of protecting public health and can facilitate the movement of these products by laying down uniform rules applicable to tests and trials, the compilation of dossiers and the examination of applications.

(9) Experience has shown that it is advisable to stipulate more precisely the cases in which the results of toxicological and pharmacological tests or clinical trials do not have to be provided with a view to obtaining authorization for a medicinal product which is essentially similar to an authorized product, while ensuring that innovative firms are not placed at a disadvantage.

(10) However, there are reasons of public policy for not conducting repetitive tests on humans or animals without over-riding cause.

(11) The adoption of the same standards and protocols by all the Member States will enable the competent authorities to arrive at their decisions on the basis of uniform tests and by reference to uniform criteria and will therefore help to avoid differences in evaluation.

(12) With the exception of those medicinal products which are subject to the centralized Community authorization procedure established by Council Regulation (EEC) No 2309/93 of 22 July 1993 laying down Community procedures for the authorization and supervision of medicinal products for human and veterinary use and establishing a European Agency for the Evaluation of Medicinal Products¹⁴ a marketing authorization for a medicinal product granted by a competent authority in one Member State ought to be recognized by the competent authorities of the other Member States unless there are serious grounds for supposing that the authorization of the medicinal product concerned may present a risk to public health. In the event of a disagreement between Member States about the quality, the safety or the efficacy of a medicinal product, a scientific evaluation of the matter should be undertaken according to a Community standard, leading to a single decision on the area of disagreement binding on the Member States concerned. Whereas this decision should be adopted by a rapid procedure ensuring close cooperation between the Commission and the Member States.

(13) For this purpose, a Committee for Proprietary Medicinal Products should be set up attached to the European Agency for the Evaluation of Medicinal Products established in the abovementioned Regulation (EEC) No 2309/93.

¹⁴ OJ L 214, 24.8.1993, p. 1. Regulation as amended by Commission Regulation (EC) No 649/98 (OJ L 88, 24.3.1998, p. 7).

(14) This Directive represents an important step towards achievement of the objective of the free movement of medicinal products. Further measures may abolish any remaining barriers to the free movement of proprietary medicinal products will be necessary in the light of experience gained, particularly in the abovementioned Committee for Proprietary Medicinal Products.

(15) In order better to protect public health and avoid any unnecessary duplication of effort during the examination of application for a marketing authorization for medicinal products, Member States should systematically prepare assessment reports in respect of each medicinal product which is authorized by them, and exchange the reports upon request. Furthermore, a Member State should be able to suspend the examination of an application for authorization to place a medicinal product on the market which is currently under active consideration in another Member State with a view to recognizing the decision reached by the latter Member State.

(16) Following the establishment of the internal market, specific controls to guarantee the quality of medicinal products imported from third countries can be waived only if appropriate arrangements have been made by the Community to ensure that the necessary controls are carried out in the exporting country.

(17) It is necessary to adopt specific provisions for immunological medicinal products, homeopathic medicinal products, radiopharmaceuticals, and medicinal products based on human blood or human plasma.

(18) Any rules governing radiopharmaceuticals must take into account the provisions of Council Directive 84/466/Euratom of 3 September 1984 laying down basic measures for the radiation protection of persons undergoing medical examination or treatment¹⁵. Account should also

¹⁵ OJ L 265, 5.10.1984, p. 1. Directive repealed with effect from 13 May 2000 by Directive 97/43/Euratom (OJ L 180, 9.7.1997, p. 22).

be taken of Council Directive 80/836/Euratom of 15 July 1980 amending the Directives laying down the basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation¹⁶, the objective of which is to prevent the exposure of workers or patients to excessive or unnecessarily high levels of ionizing radiation, and in particular of Article 5c thereof, which requires prior authorization for the addition of radioactive substances to medicinal products as well as for the importation of such medicinal products.

(19) The Community entirely supports the efforts of the Council of Europe to promote voluntary unpaid blood and plasma donation to attain self-sufficiency throughout the Community in the supply of blood products, and to ensure respect for ethical principles in trade in therapeutic substances of human origin.

(20) The rules designed to guarantee the quality, safety and efficacy of medicinal products derived from human blood or human plasma must be applied in the same manner to both public and private establishments, and to blood and plasma imported from third countries.

(21) Having regard to the particular characteristics of these homeopathic medicinal products, such as the very low level of active principles they contain and the difficulty of applying to them the conventional statistical methods relating to clinical trials, it is desirable to provide a special, simplified registration procedure for those homeopathic medicinal products which are placed on the market without therapeutic indications in a pharmaceutical form and dosage which do not present a risk for the patient.

(22) The anthroposophic medicinal products described in an official pharmacopoeia and prepared by a homeopathic method are to be

¹⁶ OJ L 246, 17.9.1980, p. 1. Directive as amended by Directive 84/467/Euratom (OJ L 265, 5.10.1984, p. 4), repealed with effect from 13 May 2000 by Directive 96/29/Euratom (OJ L 314, 4.12.1996, p. 20).

treated, as regards registration and marketing authorization, in the same way as homeopathic medicinal products.

(23) It is desirable in the first instance to provide users of these homeopathic medicinal products with a very clear indication of their homeopathic character and with sufficient guarantees of their quality and safety.

(24) The rules relating to the manufacture, control and inspection of homeopathic medicinal products must be harmonized to permit the circulation throughout the Community of medicinal products which are safe and of good quality.

(25) The usual rules governing the authorization to market medicinal products should be applied to homeopathic medicinal products placed on the market with therapeutic indications or in a form which may present risks which must be balanced against the desired therapeutic effect. In particular, those Member States which have a homeopathic tradition should be able to apply particular rules for the evaluation of the results of tests and trials intended to establish the safety and efficacy of these medicinal products provided that they notify them to the Commission.

(26) In order to facilitate the movement of medicinal products and to prevent the controls carried out in one Member State from being repeated in another, minimum requirements should be laid down for manufacture and imports coming from third countries and for the grant of the authorization relating thereto.

(27) It should be ensured that, in the Member States, the supervision and control of the manufacture of medicinal products is carried out by a person who fulfils minimum conditions of qualification.

(28) Before an authorization to market an immunological medicinal product or derived from human blood or human plasma can be granted, the manufacturer must demonstrate his ability to attain batch-to-batch consistency. Before an authorization to market a medicinal product derived from human blood or human

plasma can be granted, the manufacturer must also demonstrate the absence of specific viral contamination, to the extent that the state of technology permits.

(29) The conditions governing the supply of medicinal products to the public should be harmonized.

(30) In this connection persons moving around within the Community have the right to carry a reasonable quantity of medicinal products lawfully obtained for their personal use. It must also be possible for a person established in one Member State to receive from another Member State a reasonable quantity of medicinal products intended for his personal use.

(31) In addition, by virtue of Regulation (EC) No 2309/93, certain medicinal products are the subject of a Community marketing authorization. In this context, the classification for the supply of medicinal products covered by a Community marketing authorization needs to be established. It is therefore important to set the criteria on the basis of which Community decisions will be taken.

(32) It is therefore appropriate, as an initial step, to harmonize the basic principles applicable to the classification for the supply of medicinal products in the Community or in the Member State concerned, while taking as a starting point the principles already established on this subject by the Council of Europe as well as the work of harmonization completed within the framework of the United Nations, concerning narcotic and psychotropic substances.

(33) The provisions dealing with the classification of medicinal products for the purpose of supply do not infringe the national social security arrangements for reimbursement or payment for medicinal products on prescription.

(34) Many operations involving the wholesale distribution of medicinal products for human use may cover several Member States simultaneously.

(35) It is necessary to exercise control over the entire chain of distribution of medicinal products, from their manufacture or import into the Community through to supply to the public, so as to guarantee that such products are stored, transported and handled in suitable conditions. The requirements which must be adopted for this purpose will considerably facilitate the withdrawal of defective products from the market and allow more effective efforts against counterfeit products.

(36) Any person involved in the wholesale distribution of medicinal products should be in possession of a special authorization. Pharmacists and persons authorized to supply medicinal products to the public, and who confine themselves to this activity, should be exempt from obtaining this authorization. It is however necessary, in order to control the complete chain of distribution of medicinal products, that pharmacists and persons authorized to supply medicinal products to the public keep records showing transactions in products received.

(37) Authorization must be subject to certain essential conditions and it is the responsibility of the Member State concerned to ensure that such conditions are met; whereas each Member State must recognize authorizations granted by other Member States.

(38) Certain Member States impose on wholesalers who supply medicinal products to pharmacists and on persons authorized to supply medicinal products to the public certain public service obligations. Those Member States must be able to continue to impose those obligations on wholesalers established within their territory. They must also be able to impose them on wholesalers in other Member States on condition that they do not impose any obligation more stringent than those which they impose on their own wholesalers and provided that such obligations may be regarded as warranted on grounds of public health protection and are proportionate in relation to the objective of such protection.

(39) Rules should be laid down as to how the labelling and package leaflets are to be presented.

(40) The provisions governing the information supplied to users should provide a high degree of consumer protection, in order that medicinal products may be used correctly on the basis of full and comprehensible information.

(41) The marketing of medicinal products whose labelling and package leaflets comply with this Directive should not be prohibited or impeded on grounds connected with the labelling or package leaflet.

(42) This Directive is without prejudice to the application of measures adopted pursuant to Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising¹⁷.

(43) All Member States have adopted further specific measures concerning the advertising of medicinal products. There are disparities between these measures. These disparities are likely to have an impact on the functioning of the internal market, since advertising disseminated in one Member State is likely to have effects in other Member States.

(44) Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities¹⁸ prohibits the television advertising of medicinal products which are available only on medical prescription in the Member State within whose jurisdiction the television broadcaster is located. This principle should be made of general application by extending it to other media.

¹⁷ OJ L 250, 19.9.1984, p. 17. Directive as amended by Directive 97/55/EC (OJ L 290, 23.10.1997, p. 18).

¹⁸ OJ L 298, 17.10.1989, p. 23. Directive as amended by Directive 97/36/EC (OJ L 202, 30.7.1997, p. 60).

(45) Advertising to the general public, even of non-prescription medicinal products, could affect public health, were it to be excessive and ill-considered. Advertising of medicinal products to the general public, where it is permitted, ought therefore to satisfy certain essential criteria which ought to be defined.

(46) Furthermore, distribution of samples free of charge to the general public for promotional ends must be prohibited.

(47) The advertising of medicinal products to persons qualified to prescribe or supply them contributes to the information available to such persons. Nevertheless, this advertising should be subject to strict conditions and effective monitoring, referring in particular to the work carried out within the framework of the Council of Europe.

(48) Advertising of medicinal products should be subject to effective, adequate monitoring. Reference in this regard should be made to the monitoring mechanisms set up by Directive 84/450/EEC.

(49) Medical sales representatives have an important role in the promotion of medicinal products. Therefore, certain obligations should be imposed upon them, in particular the obligation to supply the person visited with a summary of product characteristics.

(50) Persons qualified to prescribe medicinal products must be able to carry out these functions objectively without being influenced by direct or indirect financial inducements.

(51) It should be possible within certain restrictive conditions to provide samples of medicinal products free of charge to persons qualified to prescribe or supply them so that they can familiarize themselves with new products and acquire experience in dealing with them.

(52) Persons qualified to prescribe or supply medicinal products must have access to a neutral, objective source of information about products available on the market. Whereas it is nevertheless for the Member States to take all

measures necessary to this end, in the light of their own particular situation.

(53) Each undertaking which manufactures or imports medicinal products should set up a mechanism to ensure that all information supplied about a medicinal product conforms with the approved conditions of use.

(54) In order to ensure the continued safety of medicinal products in use, it is necessary to ensure that pharmacovigilance systems in the Community are continually adapted to take account of scientific and technical progress.

(55) It is necessary to take account of changes arising as a result of international harmonisation of definitions, terminology and technological developments in the field of pharmacovigilance.

(56) The increasing use of electronic networks for communication of information on adverse reactions to medicinal products marketed in the Community is intended to allow competent authorities to share the information at the same time.

(57) It is the interest of the Community to ensure that the pharmacovigilance systems for centrally authorised medicinal products and those authorised by other procedures are consistent.

(58) Holders of marketing authorisations should be proactively responsible for on-going pharmacovigilance of the medicinal products they place on the market.

(59) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹⁹.

(60) The Commission should be empowered to adopt any necessary changes to Annex I in order to take into account scientific and technical progress.

¹⁹ OJ L 184, 17.7.1999, p. 23.

(61) This Directive should be without prejudice to the obligations of the Member States concerning the time-limits for transposition of the Directives set out in Annex II, Part B.

Whereas of Directive 2002/98/EC:

(3) *The quality, safety, and efficacy requirements of proprietary industrially-prepared medicinal products derived from human blood or plasma were ensured through Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use. The specific exclusion of whole blood, plasma and blood cells of human origin from that Directive, however, has led to a situation whereby their quality and safety, in so far as they are intended for transfusion and not processed as such, are not subject to any binding Community legislation. It is essential, therefore, that whatever the intended purpose, Community provisions should ensure that blood and its components are of comparable quality and safety throughout the blood transfusion chain in all Member States, bearing in mind the freedom of movement of citizens within Community territory. The establishment of high standards of quality and safety, therefore, will help to reassure the public that human blood and blood components which are derived from donations in another Member State nonetheless meet the same requirements as those in their own country.*

(4) *In respect of blood or blood components as a starting material for the manufacture of proprietary medicinal products, Directive 2001/83/EC refers to measures to be taken by Member States to prevent the transmission of infectious diseases, comprising the application of the monographs of the European Pharmacopoeia and the recommendations of the Council of Europe and the World Health Organisation (WHO) as regards in particular the selection and testing of blood and plasma donors. Furthermore, Member States should take measures to promote Community self-sufficiency in human blood or blood components and to encourage voluntary unpaid donations of blood and blood components.*

(5) *In order to ensure that there is an equivalent level of safety and quality of blood components, whatever their intended purpose, technical requirements for the collection and testing of all blood and blood components including starting materials for medicinal products should be established by this Directive. Directive 2001/83/EC should be amended accordingly.*

Whereas of Directive 2004/24/EC:

(1) *Directive 2001/83/EC requires that applications for authorisation to place a medicinal product on the market have to be accompanied by a dossier containing particulars and documents relating in particular to the results of physico-chemical, biological or microbiological tests as well as pharmacological and toxicological tests and clinical trials carried out on the product and thus proving its quality, safety and efficacy.*

(2) *Where the applicant can demonstrate by detailed references to published scientific literature that the constituent or the constituents of the medicinal product has or have a well-established medicinal use with recognised efficacy and an acceptable level of safety within the meaning of Directive 2001/83/EC, he/she should not be required to provide the results of pre-clinical tests or the results of clinical trials.*

(3) *A significant number of medicinal products, despite their long tradition, do not fulfil the requirements of a well-established medicinal use with recognised efficacy and an acceptable level of safety and are not eligible for a marketing authorisation. To maintain these products on the market, the Member States have enacted differing procedures and provisions. The differences that currently exist between the provisions laid down in the Member States may hinder trade in traditional medicinal products within the Community and lead to discrimination and distortion of competition between manufacturers of these products. They may also have an impact on the protection of public health since the necessary guarantees of quality, safety and efficacy are not always provided at present.*

(4) Having regard to the particular characteristics of these medicinal products, especially their long tradition, it is desirable to provide a special, simplified registration procedure for certain traditional medicinal products. However, this simplified procedure should be used only where no marketing authorisation can be obtained pursuant to Directive 2001/83/EC, in particular because of a lack of sufficient scientific literature demonstrating a well-established medicinal use with recognised efficacy and an acceptable level of safety. It should likewise not apply to homeopathic medicinal products eligible for marketing authorisation or for registration under Directive 2001/83/EC.

(5) The long tradition of the medicinal product makes it possible to reduce the need for clinical trials, in so far as the efficacy of the medicinal product is plausible on the basis of long-standing use and experience. Pre-clinical tests do not seem necessary, where the medicinal product on the basis of the information on its traditional use proves not to be harmful in specified conditions of use. However, even a long tradition does not exclude the possibility that there may be concerns with regard to the product's safety, and therefore the competent authorities should be entitled to ask for all data necessary for assessing the safety. The quality aspect of the medicinal product is independent of its traditional use so that no derogation should be made with regard to the necessary physico-chemical, biological and microbiological tests. Products should comply with quality standards in relevant European Pharmacopoeia monographs or those in the pharmacopoeia of a Member State.

(6) The vast majority of medicinal products with a sufficiently long and coherent tradition are based on herbal substances. It therefore seems appropriate to limit the scope of the simplified registration in a first step to traditional herbal medicinal products.

(7) The simplified registration should be acceptable only where the herbal medicinal product may rely on a sufficiently long medicinal use in the Community. Medicinal use outside the

Community should be taken into account only if the medicinal product has been used within the Community for a certain time. Where there is limited evidence of use within the Community, it is necessary to assess carefully the validity and relevance of use outside the Community.

(8) With the objective of further facilitating the registration of certain traditional herbal medicinal products and of further enhancing harmonisation, there should be the possibility of establishing a Community list of herbal substances that fulfil certain criteria, such as having been in medicinal use for a sufficiently long time, and hence are considered not to be harmful under normal conditions of use.

(9) Having regard to the particularities of herbal medicinal products, a Committee for Herbal Medicinal Products should be established within the European Agency for the Evaluation of Medicinal Products (hereinafter 'the Agency') set up by Council Regulation (EEC) No 2309/93²⁰. The Committee should carry out tasks concerning the simplified registration and authorisation of medicinal products as provided for in this Directive. Its tasks should relate in particular to establishing Community herbal monographs relevant for the registration as well as the authorisation of herbal medicinal products. It should be composed of experts in the field of herbal medicinal products.

(10) It is important to ensure full consistency between the new Committee and the Committee for Human Medicinal Products already existing within the Agency.

(11) In order to promote harmonisation, Member States should recognise registrations of traditional herbal medicinal products granted by another Member State based on Community herbal monographs or consisting of substances, preparations or combinations thereof contained in a list to be established. For other products, Member States should take due account of such registrations.

²⁰ OJ L 214, 24.8.1993, p. 1; Regulation as last amended by Regulation (EC) No 1647/2003, p. 19.

(12) This Directive allows non-medicinal herbal products, fulfilling the criteria of food legislation, to be regulated under food legislation in the Community.

(13) The Commission should present a report on the application of the chapter on traditional herbal medicinal products to the European Parliament and to the Council including an assessment on the possible extension of traditional-use registration to other categories of medicinal products.

(14) It is therefore appropriate to amend Directive 2001/83/EC accordingly.

Whereas of Directive 2004/27/EC:

(1) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, codified and consolidated in a single text the texts of Community legislation on medicinal products for human use, in the interests of clarity and rationalisation.

(2) The Community legislation so far adopted has made a major contribution to the achievement of the objective of the free and safe movement of medicinal products for human use and the elimination of obstacles to trade in such products. However, in the light of the experience acquired, it has become clear that new measures are necessary to eliminate the remaining obstacles to free movement.

(3) It is therefore necessary to align the national laws, regulations and administrative provisions which contain differences with regard to the basic principles in order to promote the operation of the internal market while realising a high level of human health protection.

(4) The main purpose of any regulation on the manufacture and distribution of medicinal products for human use should be to safeguard public health. However, this objective should be achieved by means which do not hinder the

development of the pharmaceutical industry or trade in medicinal products in the Community.

(5) Article 71 of Council Regulation (EEC) No 2309/93 of 22 July 1993 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Agency for the Evaluation of Medicinal Products²¹ provided that, within six years of its entry into force, the Commission was required to publish a general report on the experience acquired as a result of the operation of the marketing authorisation procedures laid down in that Regulation and in other Community legal provisions.

(6) In the light of the Commission's report on the experience acquired, it has proved necessary to improve the operation of the marketing authorisation procedures for medicinal products in the Community.

(7) Particularly as a result of scientific and technical progress, the definitions and scope of Directive 2001/83/EC should be clarified in order to achieve high standards for the quality, safety and efficacy of medicinal products for human use. In order to take account both of the emergence of new therapies and of the growing number of so-called 'borderline' products between the medicinal product sector and other sectors, the definition of 'medicinal product' should be modified so as to avoid any doubt as to the applicable legislation when a product, whilst fully falling within the definition of a medicinal product, may also fall within the definition of other regulated products. This definition should specify the type of action that the medicinal product may exert on physiological functions. This enumeration of actions will also make it possible to cover medicinal products such as gene therapy, radiopharmaceutical products as well as certain medicinal products for topical use. Also, in view of the characteristics of pharmaceutical legislation, provision should be made for such

²¹ OJ L 214, 21.8.1993, p. 1. Regulation repealed by Regulation (EC) No 726/2004 (see p. 1 of this Official Journal).

legislation to apply. With the same objective of clarifying situations, where a given product comes under the definition of a medicinal product but could also fall within the definition of other regulated products, it is necessary, in case of doubt and in order to ensure legal certainty, to state explicitly which provisions have to be complied with. Where a product comes clearly under the definition of other product categories, in particular food, food supplements, medical devices, biocides or cosmetics, this Directive should not apply. It is also appropriate to improve the consistency of the terminology of pharmaceutical legislation.

(8) Wherever it is proposed to change the scope of the centralised procedure, it should no longer be possible to opt for the mutual-recognition procedure or the decentralised procedure in respect of orphan medicinal products and medicinal products which contain new active substances and for which the therapeutic indication is the treatment of acquired immune deficiency syndrome, cancer, neurodegenerative disorder or diabetes. Four years after the date of entry into force of Regulation (EC) No 726/2004, it should no longer be possible to opt for the mutual-recognition procedure or the decentralised procedure in respect of medicinal products which contain new active substances and for which the therapeutic indication is the treatment of auto-immune diseases and other immune dysfunctions and viral diseases.

(9) On the other hand, in the case of generic medicinal products of which the reference medicinal product has been granted a marketing authorisation under the centralised procedure, applicants seeking marketing authorisation should be able to choose either of the two procedures, on certain conditions. Similarly, the mutual-recognition or decentralised procedure should be available as an option for medicinal products which represent a therapeutic innovation or which are of benefit to society or to patients.

(10) In order to increase availability of medicinal products, in particular on smaller markets, it should, in cases where an applicant does not apply for an authorisation for a

medicinal product in the context of the mutual-recognition procedure in a given Member State, be possible for that Member State, for justified public health reasons, to authorise the placing on the market of the medicinal product.

(11) Evaluation of the operation of marketing authorisation procedures has revealed the need to revise, in particular, the mutual-recognition procedure in order to improve the opportunities for cooperation between Member States. This cooperation process should be formalised by setting up a coordination group for this procedure and by defining its operation so as to settle disagreements within the framework of a revised decentralised procedure.

(12) With regard to referrals, the experience acquired reveals the need for an appropriate procedure, particularly in the case of referrals relating to an entire therapeutic class or to all medicinal products containing the same active substance.

(13) There is a need to provide for the ethical requirements of Directive 2001/20/EC of the European Parliament and the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use²² to apply to all medicinal products authorised within the Community. In particular, with respect to clinical trials conducted outside the Community on medicinal products destined to be authorised within the Community, it should be verified, at the time of the evaluation of the application for authorisation, that these trials were conducted in accordance with the principles of good clinical practice and the ethical requirements equivalent to the provisions of that Directive.

(14) Since generic medicines account for a major part of the market in medicinal products, their access to the Community market should be facilitated in the light of the experience acquired. Furthermore, the period for protection

²² OJ L 121, 1.5.2001, p. 34.

of data relating to pre-clinical tests and clinical trials should be harmonised.

(15) Biological medicinal products similar to a reference medicinal product do not usually meet all the conditions to be considered as a generic medicinal product mainly due to manufacturing process characteristics, raw materials used, molecular characteristics and therapeutic modes of action. When a biological medicinal product does not meet all the conditions to be considered as a generic medicinal product, the results of appropriate tests should be provided in order to fulfil the requirements related to safety (pre-clinical tests) or to efficacy (clinical tests) or to both.

(16) The criteria of quality, safety and efficacy should enable the risk-benefit balance of all medicinal products to be assessed both when they are placed on the market and at any other time the competent authority deems this appropriate. In this connection, it is necessary to harmonise and adapt the criteria for refusal, suspension and revocation of marketing authorisations.

(17) A marketing authorisation should be renewed once five years after the granting of the marketing authorisation. Thereafter, the marketing authorisation should normally be of unlimited validity. Furthermore, any authorisation not used for three consecutive years, that is to say one which has not led to the placing on the market of a medicinal product in the Member States concerned during that period, should be considered invalid, in order, in particular, to avoid the administrative burden of maintaining such authorisations. However, exemptions from this rule should be granted when these are justified on public health grounds.

(18) The environmental impact should be assessed and, on a case-by-case basis, specific arrangements to limit it should be envisaged. In any event this impact should not constitute a criterion for refusal of a marketing authorisation.

(19) The quality of medicinal products for human use manufactured or available in the Community should be guaranteed by requiring that the active substances used in their composition comply with the principles of good manufacturing practice in relation to those medicinal products. It has proved necessary to reinforce the Community provisions on inspections and to compile a Community register of the results of those inspections.

(20) Pharmacovigilance and, more generally, market surveillance and sanctions in the event of failure to comply with the provisions should be stepped up. In the field of pharmacovigilance, account should be taken of the facilities offered by new information technologies to improve exchanges between Member States.

(21) As part of the proper use of medicinal products, the rules on packaging should be adapted to take account of the experience acquired.

(22) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission²³.

(23) Directive 2001/83/EC should be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

TITLE I

DEFINITIONS

Article 1

For the purposes of this Directive, the following terms shall bear the following meanings:

1. (point deleted)

²³ OJ L 184, 17.7.1999, p. 23.

2. *Medicinal product:*

(a) Any substance or combination of substances presented as having properties for treating or preventing disease in human beings; or

(b) Any substance or combination of substances which may be used in or administered to human beings either with a view to restoring, correcting or modifying physiological functions by exerting a pharmacological, immunological or metabolic action, or to making a medical diagnosis.

3. *Substance:*

Any matter irrespective of origin which may be:

- human, e.g. human blood and human blood products;
- animal, e.g. micro-organisms, whole animals, parts of organs, animal secretions, toxins, extracts, blood products;
- vegetable, e.g. micro-organisms, plants, parts of plants, vegetable secretions, extracts;
- chemical, e.g. elements, naturally occurring chemical materials and chemical products obtained by chemical change or synthesis.

4. *Immunological medicinal product:*

Any medicinal product consisting of vaccines, toxins, serums or allergen products:

(a) vaccines, toxins and serums shall cover in particular:

- (i) agents used to produce active immunity, such as cholera vaccine, BCG, polio vaccines, smallpox vaccine;
- (ii) agents used to diagnose the state of immunity, including in particular

tuberculin and tuberculin PPD, toxins for the Schick and Dick Tests, brucellin;

(iii) agents used to produce passive immunity, such as diphtheria antitoxin, anti-smallpox globulin, antilymphocytic globulin;

(b) 'allergen product' shall mean any medicinal product which is intended to identify or induce a specific acquired alteration in the immunological response to an allergizing agent.

5. *Homeopathic medicinal product:*

Any medicinal product prepared from substances called homeopathic stocks in accordance with a homeopathic manufacturing procedure described by the European Pharmacopoeia or, in the absence thereof, by the pharmacopoeias currently used officially in the Member States. A homeopathic medicinal product may contain a number of principles.

6. *Radiopharmaceutical:*

Any medicinal product which, when ready for use, contains one or more radionuclides (radioactive isotopes) included for a medicinal purpose.

7. *Radionuclide generator:*

Any system incorporating a fixed parent radionuclide from which is produced a daughter radionuclide which is to be obtained by elution or by any other method and used in a radiopharmaceutical.

8. *Kit*

Any preparation to be reconstituted or combined with radionuclides in the final radiopharmaceutical, usually prior to its administration.

9. *Radionuclide precursor:*

Any other radionuclide produced for the radiolabelling of another substance prior to administration.

10. *Medicinal products derived from human blood or human plasma:*

Medicinal products based on blood constituents which are prepared industrially by public or private establishments, such medicinal products including, in particular, albumin, coagulating factors and immunoglobulins of human origin.

11. *Adverse reaction:*

A response to a medicinal product which is noxious and unintended and which occurs at doses normally used in man for the prophylaxis, diagnosis or therapy of disease or for the restoration, correction or modification of physiological function.

12. *Serious adverse reaction:*

An adverse reaction which results in death, is life-threatening, requires inpatient hospitalisation or prolongation of existing hospitalisation, results in persistent or significant disability or incapacity, or is a congenital anomaly/birth defect.

13. *Unexpected adverse reaction:*

An adverse reaction, the nature, severity or outcome of which is not consistent with the summary of product characteristics.

14. *Periodic safety update reports:*

The periodical reports containing the records referred to in Article 104.

15. *Post-authorisation safety study:*

A pharmacoepidemiological study or a clinical trial carried out in accordance with the terms of the marketing authorisation, conducted with the aim of identifying or quantifying a safety hazard relating to an authorised medicinal product.

16. *Abuse of medicinal products:*

Persistent or sporadic, intentional excessive use of medicinal products which is accompanied by harmful physical or psychological effects.

17. *Wholesale distribution of medicinal products:*

All activities consisting of procuring, holding, supplying or exporting medicinal products, apart from supplying medicinal products to the public. Such activities are carried out with manufacturers or their depositories, importers, other wholesale distributors or with pharmacists and persons authorized or entitled to supply medicinal products to the public in the Member State concerned.

18. *Public service obligation:*

The obligation placed on wholesalers to guarantee permanently an adequate range of medicinal products to meet the requirements of a specific geographical area and to deliver the supplies requested within a very short time over the whole of the area in question.

18a. *Representative of the marketing authorisation holder:*

The person, commonly known as local representative, designated by the marketing authorisation holder to represent him in the Member State concerned.

19. *Medicinal Prescription:*

Any medicinal prescription issued by a professional person qualified to do so.

20. *Name of the medicinal product:*

The name, which may be either an invented name not liable to confusion with the common name, or a common or scientific name accompanied by a trade mark or the name of the marketing authorisation holder.

21. *Common name:*

The international non-proprietary name recommended by the World Health Organization, or, if one does not exist, the usual common name.

22. *Strength of the medicinal product:*

The content of the active substances expressed quantitatively per dosage unit, per unit of volume or weight according to the dosage form.

23. *Immediate packaging:*

The container or other form of packaging immediately in contact with the medicinal product.

24. *Outer packaging:*

The packaging into which is placed the immediate packaging.

25. *Labelling:*

Information on the immediate or outer packaging.

26. *Package leaflet:*

A leaflet containing information for the user which accompanies the medicinal product.

27. *Agency:*

The European Medicines Agency established by Regulation (EC) No 726/2004²⁴.

28. *Risks related to use of the medicinal product:*

- any risk relating to the quality, safety or efficacy of the medicinal product as regards patients' health or public health;
- any risk of undesirable effects on the environment.

28a. *Risk-benefit balance:*

An evaluation of the positive therapeutic effects of the medicinal product in relation to the risks as defined in point 28, first indent.

29. *Traditional herbal medicinal product:*

A herbal medicinal product that fulfils the conditions laid down in Article 16a(1).

30. *Herbal medicinal product:*

Any medicinal product, exclusively containing as active ingredients one or more herbal substances or one or more herbal preparations, or one or more such herbal substances in combination with one or more such herbal preparations.

31. *Herbal substances:*

All mainly whole, fragmented or cut plants, plant parts, algae, fungi, lichen in an unprocessed, usually dried, form, but sometimes fresh. Certain exudates that have not been subjected to a specific treatment are also considered to be herbal substances. Herbal substances are precisely defined by the plant part used and the botanical name according to the binomial system (genus, species, variety and author).

32. *Herbal preparations:*

Preparations obtained by subjecting herbal substances to treatments such as extraction, distillation, expression, fractionation, purification, concentration or fermentation. These include comminuted or powdered herbal substances, tinctures, extracts, essential oils, expressed juices and processed exudates.

TITLE II

SCOPE

Article 2

1. This Directive shall apply to medicinal products for human use intended to be placed on

²⁴ OJ L 136, 30.4.2004, p. 1.

the market in Member States and either prepared industrially or manufactured by a method involving an industrial process.

2. In cases of doubt, where, taking into account all its characteristics, a product may fall within the definition of a “medicinal product” and within the definition of a product covered by other Community legislation the provisions of this Directive shall apply.

3. Notwithstanding paragraph 1 and Article 3(4), Title IV of this Directive shall apply to medicinal products intended only for export and to intermediate products.

Article 3

This Directive shall not apply to:

1. Any medicinal product prepared in a pharmacy in accordance with a medical prescription for an individual patient (commonly known as the magistral formula).

2. Any medicinal product which is prepared in a pharmacy in accordance with the prescriptions of a pharmacopoeia and is intended to be supplied directly to the patients served by the pharmacy in question (commonly known as the official formula).

3. Medicinal products intended for research and development trials, but without prejudice to the provisions of Directive 2001/20/EC of the European Parliament and of the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use²⁵.

4. Intermediate products intended for further processing by an authorized manufacturer.

5. Any radionuclides in the form of sealed sources.

6. Whole blood, plasma or blood cells of human origin, except for plasma which is prepared by a method involving an industrial process.

Article 4

1. Nothing in this Directive shall in any way derogate from the Community rules for the radiation protection of persons undergoing medical examination or treatment, or from the Community rules laying down the basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation.

2. This Directive shall be without prejudice to Council Decision 86/346/EEC of 25 June 1986 accepting on behalf of the Community the European Agreement on the Exchange of Therapeutic Substances of Human Origin²⁶.

3. The provisions of this Directive shall not affect the powers of the Member States' authorities either as regards the setting of prices for medicinal products or their inclusion in the scope of national health insurance schemes, on the basis of health, economic and social conditions.

4. This Directive shall not affect the application of national legislation prohibiting or restricting the sale, supply or use of medicinal products as contraceptives or abortifacients. The Member States shall communicate the national legislation concerned to the Commission.

Article 5

1. A Member State may, in accordance with legislation in force and to fulfil special needs, exclude from the provisions of this Directive medicinal products supplied in response to a bona fide unsolicited order, formulated in accordance with the specifications of an authorised health-care professional and for use by an individual patient under his direct personal responsibility.

²⁵ OJ L 121, 1.5.2001, p. 34.

²⁶ OJ L 207, 30.7.1986, p. 1.

2. Member States may temporarily authorise the distribution of an unauthorised medicinal product in response to the suspected or confirmed spread of pathogenic agents, toxins, chemical agents or nuclear radiation any of which could cause harm.

3. Without prejudice to paragraph 1, Member States shall lay down provisions in order to ensure that marketing authorisation holders, manufacturers and health professionals are not subject to civil or administrative liability for any consequences resulting from the use of a medicinal product otherwise than for the authorised indications or from the use of an unauthorised medicinal product, when such use is recommended or required by a competent authority in response to the suspected or confirmed spread of pathogenic agents, toxins, chemical agents or nuclear radiation any of which could cause harm. Such provisions shall apply whether or not national or Community authorisation has been granted.

4. Liability for defective products, as provided for by Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States, concerning liability for defective products²⁷, shall not be affected by paragraph 3.

TITLE III

PLACING ON THE MARKET

CHAPTER I

Marketing authorisation

Article 6

1. No medicinal product may be placed on the market of a Member State unless a marketing authorization has been issued by the competent authorities of that Member State in accordance

²⁷ OJ L 210, 7.8.1985, p. 29. Directive as last amended by Directive 1999/34/EC of the European Parliament and of the Council (OJ L 141, 4.6.1999, p. 20).

with this Directive or an authorization has been granted in accordance with Regulation (EEC) No 2309/93.

When a medicinal product has been granted an initial marketing authorisation in accordance with the first subparagraph, any additional strengths, pharmaceutical forms, administration routes, presentations, as well as any variations and extensions shall also be granted an authorisation in accordance with the first subparagraph or be included in the initial marketing authorisation. All these marketing authorisations shall be considered as belonging to the same global marketing authorisation, in particular for the purpose of the application of Article 10(1).

1a. The marketing authorisation holder shall be responsible for marketing the medicinal product. The designation of a representative shall not relieve the marketing authorisation holder of his legal responsibility.

2. The authorisation referred to in paragraph 1 shall also be required for radionuclide generators, kits, radionuclide precursor radiopharmaceuticals and industrially prepared radiopharmaceuticals.

Article 7

A marketing authorization shall not be required for a radiopharmaceutical prepared at the time of use by a person or by an establishment authorized, according to national legislation, to use such medicinal products in an approved health care establishment exclusively from authorized radionuclide generators, kits or radionuclide precursors in accordance with the manufacturer's instructions.

Article 8

1. In order to obtain an authorization to place a medicinal product on the market regardless of the procedure established by Regulation (EEC) No 2309/93, an application shall be made to the competent authority of the Member State concerned.

2. A marketing authorization may only be granted to an applicant established in the Community.

3. The application shall be accompanied by the following particulars and documents, submitted in accordance with Annex I:

(a) Name or corporate name and permanent address of the applicant and, where applicable, of the manufacturer.

(b) Name of the medicinal product.

(c) Qualitative and quantitative particulars of all the constituents of the medicinal product, including the reference to its international non-proprietary name (INN) recommended by the WHO, where an INN for the medicinal product exists, or a reference to the relevant chemical name.

(ca) Evaluation of the potential environmental risks posed by the medicinal product. This impact shall be assessed and, on a case-by-case basis, specific arrangements to limit it shall be envisaged.

(d) Description of the manufacturing method.

(e) Therapeutic indications, contra-indications and adverse reactions.

(f) Posology, pharmaceutical form, method and route of administration and expected shelf life.

(g) Reasons for any precautionary and safety measures to be taken for the storage of the medicinal product, its administration to patients and for the disposal of waste products, together with an indication of potential risks presented by the medicinal product for the environment.

(h) Description of the control methods employed by the manufacturer.

(i) Results of:

- pharmaceutical (physico-chemical, biological or microbiological) tests,

- pre-clinical (toxicological and pharmacological) tests,

- clinical trials.

(ia) A detailed description of the pharmacovigilance and, where appropriate, of the risk-management system which the applicant will introduce.

(ib) A statement to the effect that clinical trials carried out outside the European Union meets the ethical requirements of Directive 2001/20/EC.

(j) A summary, in accordance with Article 11, of the product characteristics, a mock-up of the outer packaging, containing the details provided for in Article 54, and of the immediate packaging of the medicinal product, containing the details provided for in Article 55, together with a package leaflet in accordance with Article 59.

(k) A document showing that the manufacturer is authorised in his own country to produce medicinal products.

(l) Copies of any authorisation obtained in another Member State or in a third country to place the medicinal product on the market, together with a list of those Member States in which an application for authorisation submitted in accordance with this Directive is under examination. Copies of the summary of the product characteristics proposed by the applicant in accordance with Article 11 or approved by the competent authorities of the Member State in accordance with Article 21. Copies of the package leaflet proposed in accordance with Article 59 or

approved by the competent authorities of the Member State in accordance with Article 61. Details of any decision to refuse authorization, whether in the Community or in a third country, and the reasons for such a decision.

This information shall be updated on a regular basis.

(m) A copy of any designation of the medicinal product as an orphan medicinal product under Regulation (EC) No 141/2000 of the European Parliament and of the Council of 16 December 1999 on orphan medicinal products²⁸, accompanied by a copy of the relevant Agency opinion.

(n) Proof that the applicant has the services of a qualified person responsible for pharmacovigilance and has the necessary means for the notification of any adverse reaction suspected of occurring either in the Community or in a third country.

The documents and information concerning the results of the pharmaceutical and pre-clinical tests and the clinical trials referred to in point (i) of the first subparagraph shall be accompanied by detailed summaries in accordance with Article 12.

Article 9

In addition to the requirements set out in Articles 8 and 10(1), an application for authorization to market a radionuclide generator shall also contain the following information and particulars:

- a general description of the system together with a detailed description of the components of the system which may affect the composition or quality of the daughter nucleid preparation,
- qualitative and quantitative particulars of the eluate or the sublimate.

²⁸ OJ L 18, 22.1.2000, p. 1.

Article 10

1. By way of derogation from Article 8(3)(i), and without prejudice to the law relating to the protection of industrial and commercial property, the applicant shall not be required to provide the results of pre-clinical tests and of clinical trials if he can demonstrate that the medicinal product is a generic of a reference medicinal product which is or has been authorised under Article 6 for not less than eight years in a Member State or in the Community.

A generic medicinal product authorised pursuant to this provision shall not be placed on the market until ten years have elapsed from the initial authorisation of the reference product.

The first subparagraph shall also apply if the reference medicinal product was not authorised in the Member State in which the application for the generic medicinal product is submitted. In this case, the applicant shall indicate in the application form the name of the Member State in which the reference medicinal product is or has been authorised. At the request of the competent authority of the Member State in which the application is submitted, the competent authority of the other Member State shall transmit within a period of one month, a confirmation that the reference medicinal product is or has been authorised together with the full composition of the reference product and if necessary other relevant documentation.

The ten-year period referred to in the second subparagraph shall be extended to a maximum of eleven years if, during the first eight years of those ten years, the marketing authorisation holder obtains an authorisation for one or more new therapeutic indications which, during the scientific evaluation prior to their authorisation, are held to bring a significant clinical benefit in comparison with existing therapies.

2. For the purposes of this Article:

(a) "reference medicinal product" shall mean a medicinal product authorised under Article 6, in accordance with the provisions of Article 8;

(b) "generic medicinal product" shall mean a medicinal product which has the same qualitative and quantitative composition in active substances and the same pharmaceutical form as the reference medicinal product, and whose bioequivalence with the reference medicinal product has been demonstrated by appropriate bioavailability studies. The different salts, esters, ethers, isomers, mixtures of isomers, complexes or derivatives of an active substance shall be considered to be the same active substance, unless they differ significantly in properties with regard to safety and/or efficacy. In such cases, additional information providing proof of the safety and/or efficacy of the various salts, esters, or derivatives of an authorised active substance must be supplied by the applicant. The various immediate-release oral pharmaceutical forms shall be considered to be one and the same pharmaceutical form. Bioavailability studies need not be required of the applicant if he can demonstrate that the generic medicinal product meets the relevant criteria as defined in the appropriate detailed guidelines.

3. In cases where the medicinal product does not fall within the definition of a generic medicinal product as provided in paragraph 2(b) or where the bioequivalence cannot be demonstrated through bioavailability studies or in case of changes in the active substance(s), therapeutic indications, strength, pharmaceutical form or route of administration, vis-à-vis the reference medicinal product, the results of the appropriate pre-clinical tests or clinical trials shall be provided.

4. Where a biological medicinal product which is similar to a reference biological product does not meet the conditions in the definition of generic medicinal products, owing to, in particular, differences relating to raw materials or differences in manufacturing processes of the biological medicinal product and the reference biological medicinal product, the results of appropriate pre-clinical tests or clinical trials relating to these conditions must be provided. The type and quantity of supplementary data to be provided must comply with the relevant criteria stated in the Annex and the related

detailed guidelines. The results of other tests and trials from the reference medicinal product's dossier shall not be provided.

5. In addition to the provisions laid down in paragraph 1, where an application is made for a new indication for a well-established substance, a non-cumulative period of one year of data exclusivity shall be granted, provided that significant pre-clinical or clinical studies were carried out in relation to the new indication.

6. Conducting the necessary studies and trials with a view to the application of paragraphs 1, 2, 3 and 4 and the consequential practical requirements shall not be regarded as contrary to patent rights or to supplementary protection certificates for medicinal products.

Article 10a

By way of derogation from Article 8(3)(i), and without prejudice to the law relating to the protection of industrial and commercial property, the applicant shall not be required to provide the results of pre-clinical tests or clinical trials if he can demonstrate that the active substances of the medicinal product have been in well-established medicinal use within the Community for at least ten years, with recognised efficacy and an acceptable level of safety in terms of the conditions set out in the Annex. In that event, the test and trial results shall be replaced by appropriate scientific literature.

Article 10b

In the case of medicinal products containing active substances used in the composition of authorised medicinal products but not hitherto used in combination for therapeutic purposes, the results of new pre-clinical tests or new clinical trials relating to that combination shall be provided in accordance with Article 8(3)(i), but it shall not be necessary to provide scientific references relating to each individual active substance.

Article 10c

Following the granting of a marketing authorisation, the authorisation holder may allow use to be made of the pharmaceutical, pre-clinical and clinical documentation contained in the file on the medicinal product, with a view to examining subsequent applications relating to other medicinal products possessing the same qualitative and quantitative composition in terms of active substances and the same pharmaceutical form.

Article 11

The summary of the product characteristics shall contain, in the order indicated below, the following information:

1. name of the medicinal product followed by the strength and the pharmaceutical form.
2. qualitative and quantitative composition in terms of the active substances and constituents of the excipient, knowledge of which is essential for proper administration of the medicinal product. The usual common name or chemical description shall be used.
3. pharmaceutical form.
4. clinical particulars:
 - 4.1. therapeutic indications,
 - 4.2. posology and method of administration for adults and, where necessary for children,
 - 4.3. contra-indications,
 - 4.4. special warnings and precautions for use and, in the case of immunological medicinal products, any special precautions to be taken by persons handling such products and administering them to patients, together with any precautions to be taken by the patient,

4.5. interaction with other medicinal products and other forms of interactions,

4.6. use during pregnancy and lactation,

4.7. effects on ability to drive and to use machines,

4.8. undesirable effects,

4.9. overdose (symptoms, emergency procedures, antidotes).

5. pharmacological properties:

5.1. pharmacodynamic properties,

5.2. pharmacokinetic properties,

5.3. preclinical safety data.

6. pharmaceutical particulars:

6.1. list of excipients,

6.2. major incompatibilities,

6.3. shelf life, when necessary after reconstitution of the medicinal product or when the immediate packaging is opened for the first time,

6.4. special precautions for storage,

6.5. nature and contents of container,

6.6. special precautions for disposal of a used medicinal product or waste materials derived from such medicinal product, if appropriate.

7. marketing authorisation holder.

8. marketing authorisation number(s).

9. date of the first authorisation or renewal of the authorisation.

10. date of revision of the text.

11. for radiopharmaceuticals, full details of internal radiation dosimetry.

12. for radiopharmaceuticals, additional detailed instructions for extemporaneous preparation and quality control of such preparation and, where appropriate, maximum storage time during which any intermediate preparation such as an eluate or the ready-to-use pharmaceutical will conform with its specifications.

For authorisations under Article 10, those parts of the summary of product characteristics of the reference medicinal product referring to indications or dosage forms which were still covered by patent law at the time when a generic medicine was marketed need not be included.

Article 12

1. The applicant shall ensure that, before the detailed summaries referred to in the last subparagraph of Article 8(3) are submitted to the competent authorities, they have been drawn up and signed by experts with the necessary technical or professional qualifications, which shall be set out in a brief curriculum vitae.

2. Persons having the technical and professional qualifications referred to in paragraph 1 shall justify any use made of scientific literature under Article 10a in accordance with the conditions set out in Annex I.

3. The detailed summaries shall form part of the file which the applicant submits to the competent authorities.

CHAPTER 2

Specific provisions applicable to homeopathic medicinal products

Article 13

1. Member States shall ensure that homeopathic medicinal products manufactured and placed on the market within the Community are registered or authorised in accordance with Articles 14, 15 and 16, except where such medicinal products

are covered by a registration or authorisation granted in accordance with national legislation on or before 31 December 1993. In case of registrations, Article 28 and Article 29(1) to (3) shall apply.

2. Member States shall establish a special simplified registration procedure for the homeopathic medicinal products referred to in Article 14.

Article 14

1. Only homeopathic medicinal products which satisfy all of the following conditions may be subject to a special, simplified registration procedure:

- they are administered orally or externally,

- no specific therapeutic indication appears on the labelling of the medicinal product or in any information relating thereto,

- there is a sufficient degree of dilution to guarantee the safety of the medicinal product; in particular, the medicinal product may not contain either more than one part per 10 000 of the mother tincture or more than 1/100th of the smallest dose used in allopathy with regard to active substances whose presence in an allopathic medicinal product results in the obligation to submit a doctor's prescription.

If new scientific evidence so warrants, the Commission may amend the third indent of the first subparagraph by the procedure referred to in Article 121(2).

At the time of registration, Member States shall determine the classification for the dispensing of the medicinal product.

2. The criteria and rules of procedure provided for in Article 4(4), Article 17(1) and Articles 22 to 26, 112, 116 and 125 shall apply by analogy to the special, simplified registration procedure for homeopathic medicinal products, with the exception of the proof of therapeutic efficacy.