EUROPEAN COMMISSION
ENTERPRISE DIRECTORATE-GENERAL

Single market : management & legislation for consumer goods
Pharmaceuticals : regulatory framework and market authorisations

PHARM 466

PHARMACEUTICAL COMMITTEE

Subject : Summary record of the 55th meeting of the Pharmaceutical Committee on 15th May 2003

Action to be taken:

For adoption

PHARMACEUTICAL COMMITTEE
SUMMARY RECORD OF THE 55th MEETING
15th May 2003

OPENING

Mr Paul Weissenberg, Director of Directorate F of DG Enterprise, opened the meeting and chaired the discussions on points 1, 2, 3, 4 and 5a).

AGENDA

The draft agenda of the 55th meeting (PHARM 454) was adopted.

SUMMARY RECORD

The summary record of the 54th meeting on 11th November 2002 (PHARM 453) was adopted without amendment.

1. LEGISLATIVE ISSUES

a) Paediatric medicines

The Commission representative informed the Committee of the main lines of the preliminary draft regulation on medicinal products for paediatric use covered by a patent or by a supplementary protection certificate. The proposal is currently the subject of an extended impact assessment, which for its most part is being outsourced. The full assessment report will be ready by the end of the year. In the meantime, it is proposed to engage in discussions to refine the preliminary draft text.

The Member States' representatives expressed their views on the preliminary draft regulation. The main points raised were the following:

- the advisability of setting up an early dialogue mechanism between the competent authorities and the applicants regarding paediatric product development;

- the most adequate timing for the paediatric evaluation. Certain Member States suggested that it may be more appropriate in certain circumstances for the paediatric evaluation plan to be presented at a later stage in the marketing authorisation procedure, rather than with the application;

- the relations between the Paediatric Board proposed in the regulation and the CPMP;

- the importance of ensuring that data already available are forwarded by the industry to the EU authorities;

- the need to clarify certain concepts employed in the proposed regulation (e.g. "significant therapeutic value");

- the need to evaluate the work load resulting from the proposed regulation and its financial and budgetary implications.

The Commission representative addressed some of the above points. It was agreed to set up an ad hoc working group within the Committee to pursue the discussion on these topics. The first meeting is expected to take place on 22 July.

b) Clinical trials

The Commission representative recalled that Directive 2001/20/EC, relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use, obliges Member States to adopt and publish before 1 May 2003 the provisions necessary to comply with the Directive, which they shall apply at the latest with effect from 1 May 2004. The Member States were invited to engage in discussions with the Commission regarding any difficulties or concerns in the implementation of this Directive.

2. TELEMATICS

The Committee was updated on the telematics implementation plan. Following the Commission decision concerning the budget for 2004, the Management Board, in its meeting of February 2003, has proposed to adapt the implementation plan. The final decision will be taken by the Telematics Steering Committee in its meeting next July 9 in Verona. The overall strategy will remain unchanged. The Committee will also deal with other horizontal questions and with the adoption of a set of documents on quality management for each project.

3. G10

The Committee was updated on the Commission's response to the Final Report of the G10 regarding further action at Commission and Member States level to improve the competitiveness of the European pharmaceutical industry and meet public health challenges. In this regard, the Commission is finalising a Communication to the Council and the European Parliament addressing the 14 recommendations of the G10 Final Report. The Member States were invited to inform the Commission of any difficulties with the benchmarking indicators proposed.

On its part, the Italian Presidency is planning to hold a high-level conference in Rome with the G10 ministers on July 10 and 11, the results of which will be discussed at the informal Council meeting in Milan on September 5 and 6.

4. INTERNATIONAL ASPECTS AND ENLARGEMENT

a) ICH

The Commission representative updated the Committee on recent developments within ICH. The next meeting will be held between 15th and 19th July. The ICH6 Conference "New Horizons and Future Challenges" will be held in Osaka (Japan) from 12th to 15th November 2003. Member States' ideas for the conference will be taken on board via the CPMP.

b) MRA

The Committee was informed of the status of MRAs.

The MRAs will extend to the new Member States from the first day of their accession, without the need to amend the texts of the MRA framework agreements. Member States to which the MRAs apply are referred to in the list of Designating/Regulatory Authorities contained in the Sectoral Annexes.

The GMP sector presents certain difficulties, since it relies on mutual recognition of systems on the basis of reciprocal evaluations carried out to build up confidence in each other's inspection systems. In this respect, the situation will differ in those MRAs that have been directly implemented (Australia, New Zealand, Switzerland) and those that foresee a period of confidence building (Canada, Japan, USA). As regards the former, the Commission has not received any comments from Australia and New Zealand until now, and intends to engage in discussions with Switzerland during the next Joint Committee meeting in June 2003. If there are no objections, the amendment of the respective Sectoral Annexes will suffice in this case. On the contrary, Canada will not accept new Member States automatically but insists on inspections being carried out. Further modalities have to be discussed with Canada. The Commission would prefer if new Member States could apply for inspection by Canada. To avoid difficulties, the Commission is offering EU "pre-inspections" and encouraging the candidate countries to make use of this possibility. In the meantime and in order to be able to export to Canada, the new Member States will ask for validation by Member States' agencies already listed in the system.

Finally, it is yet unclear whether the transitional period of the MRA with Japan will be over at the time of accession.

c) Enlargement

- **Update on PECAs**

The Committee was updated on recent developments regarding the signature and entry into force of PECAs. The Commission representative stressed the need to make use of all instruments available (e.g. PERF, GMP inspectors' meetings) for confidence building prior to accession.

- **Preventive dialogue**

The Commission representative informed the Committee of the on-going discussions on preventive dialogue held, amongst other fora, in the framework of the Pan European Regulatory Forum (PERF). In particular, the Committee was briefed on the willingness of the Member States and candidates countries to go to the exercise, the need to stress that preventive dialogue plays its role in the stage prior to the implementation of national legislation, and the need to develop very precise terms of reference.

The Commission services are currently identifying possible subjects and terms of reference, which could include the Transparency Directive (in the case of the candidate countries) and the Clinical Trials Directive. The most appropriate forum will have to be chosen once the topics have been established.

5. INTERPRETATION/IMPLEMENTATION OF LEGISLATION

a) Information on recent case law and pending cases

- **Update on the "Anorectic" cases**

The Committee was updated on the outcome of the "anorectic" cases. By judgement of 26 November 2002, the Court of First Instance annulled several Commission decisions of 9 March 2000 on the withdrawal of marketing authorisations for medicinal products containing certain anorectic substances. The Court concluded that the Commission lacked competence to adopt the attacked decisions and furthermore held that the conditions for withdrawal of a marketing authorisation were not met by the decision.

The Commission has lodged an appeal against the judgement before the Court of Justice. Following the Commission's request, the appeal will be treated under the expedited procedure. The Commission also requested the Court of Justice to suspend the operation of the judgement under appeal, in order to avoid that the concerned companies put the Member States under pressure to allow the marketing of the products before the Court delivers its final judgement. However, the Court has dismissed the application for suspension on the grounds that the condition relating to urgency is not fulfilled.

The Member States informed the Committee of the situation of national marketing authorisations regarding anorectic medicinal products. The question of Member States' competence to adopt national measures in this regard was raised. The Commission representative informed the Committee that the judgment under appeal has expressly ruled that Member States were entitled to adopt decisions accepting or refusing reinstatement of the products at issue.

- **T-123/00 "Karl Thomae"**

The Commission representative briefed the Committee on the Court of First Instance's ruling in the "Karl Thomae" case. The Court annulled a decision by the EMEA that had refused to vary the name and package layout of a centrally authorised medicine. The reason for the annulment was that the decision was not sufficiently motivated. However, on the substance, the Court confirmed that as a general rule a medicinal product authorised by the centralised procedure should bear one single trade name only. That name can be varied by adding another name only where the marketing authorisation holder demonstrates that this is rendered necessary by exceptional circumstances which may adversely affect public health and where the Commission has ascertained that the variation applied for satisfies the criteria of the quality, safety and efficacy of the medicinal product.

The Commission has not appealed against the judgment, which is fully in line with the Commission's understanding of a single trade name of centrally approved medicinal products as set out in Section C of the Commission communication of 1998 (98/C 229/03).

- **Update on C-15/01 "Paranova"**

The Committee was informed of the ECJ's judgment of 8 May 2003 in the "Paranova" case, delivered in the framework of a preliminary ruling regarding parallel trade in pharmaceuticals. The Court ruled that Article 28 and 30 EC preclude national legislation under which the withdrawal, at the request of its holder, of the marketing authorisation of reference entails the withdrawal of the parallel import licence granted for the medicinal product in question.

Several Member States commented on the implications of the judgment and the problems it may pose from a public health perspective.

b) Requirements regarding referral procedures

- **Update on T-354/02 "Capoten" and certain ongoing referral procedures**

The Commission representative updated the Committee on case T-354/02 "Capoten". Following a referral procedure under Article 30 of Directive 2001/83/EC, the Commission adopted on 9 September 2002 a Decision concerning the placing on the market of the medicinal products for human use containing the active substance "Captopril". The companies concerned attacked the Decision before the Court of First Instance. The Commission came to the conclusion, after detailed analysis, that the procedure leading to the opinion of the CPMP, on which the said Decision was based, was flawed inasmuch as it lacked sufficient justification of the scientific opinion.

For this reason, the Decision of 9 September 2002 will be revoked. The EMEA will contact Italy, which initiated the original referral procedure, in order to verify whether it intends to initiate a new procedure. Other on-going procedures of the same type will continue. It will be necessary to take the necessary measures to avoid that all due procedural requirements are met in procedures that have not been initiated yet.

c) Interpretation of Article 51(1) of Directive 2001/83/EC

At the request of Denmark, a new point was introduced in the agenda to discuss the interpretation of Article 51(1) of Directive 2001/83/EC on the Community code relating to medicinal products for human use concerning batch control. Denmark suggested amending the said provision, in the framework of the current review, in order to introduce the obligation that batches exempted from additional control in the terms of that provision are accompanied by control certificates. The Commission representative noted that this is already the case under Article 51(1) as it stands.

6. MARKETING AUTHORISATION PROCEDURES

a) Mutual recognition procedure

The Greek Chairperson of the MRFG updated the Committee on recent developments in the mutual recognition procedure. In the year 2002, 420 procedures resulting from new applications have been finalised and 106 more were initiated and are still in process. A considerable increase in new procedures as well as in procedures for types I and II variations has been registered in the period 1995-2002.

The Greek Chairperson also briefed the Committee on the following issues: new and updated documents published in the MRFG website, as well as pending papers; implementation of the Commission's Decision after a referral procedure; the activities of the Joint CPMP/MRFG working group on the harmonisation of SPCs; the joint meeting with EMACOLEX and the Drafting group for the report to HoA; and the status regarding CTD applications, applicable as of 1 July 2003.

The MRFG has prepared a proposal of Rules of Procedure for the future Co-ordination Group, submitted to the consideration of the HoA.

Finally, candidate countries have been invited to joint the MRFG in May. Enlargement will remain as a permanent item of the MRFG's agenda.

b) Centralised procedure

The EMEA representative gave an update on the centralised procedure. Amongst other issues, the Committee was informed of the establishment of a new group within the CPMP to deal with patients' organisations on issues such as transparency, the dissemination of information or packaging and leaflets.

7. A.O.B.

a) EU Action Plan on Drugs 2000 – 2004

The Commission representative summarised the responses received so far on the questionnaire circulated in advance of the meeting. Remaining responses will be sent to the Commission services by e-mail and will be the subject of further discussion.

b) Proposal for a regulation on sales promotion

The Committee was updated on the amendments to the Commission proposal for a Regulation concerning sales promotion in the Internal Market (COM(2001) 546 final), introduced to avoid certain implications in the field of medicinal products. Article 3 of the proposal initially stated that "Member States … shall not impose a general prohibition on the use or commercial communication of a sales promotion unless required by Community Law". If this provision had covered the fixed price system at the retail pharmacy level existing in many Member States, the proposed regulation would have given rise to problems in those Member States where the fixed price system is synonymous with a prohibition against discounts to the consumer.

The Commission's modified proposal following the first reading in the European Parliament has introduced a new recital 16. It states that the "regulation does not apply to restrictions by Member States in relation to the use and commercial communication of sales promotions for the marketing of pharmaceuticals, whether or not subject to a prescription". This recital thus exempts national restriction of sales promotions for medicinal products, whether required by the EC pharmaceutical legislation or simply permitted by it, from the new regulation.

c) EC Guide to Good Manufacturing Practice. Revision to Annex 1

The Ad Hoc GMP Inspector group has elaborated the "EC Guide to Good Manufacturing Practice. Revision to Annex I". After the adoption of a first draft in October 2002, the text was released for public consultation. The final draft contains various amendments to sections 3 and 20.

Member States will have to take account of these amendments. The text is expected to enter into force in October 2003.

d) Report of the Irish Medicines Board on waste containing medroxyprogesterone acetate, trimegestone and 17 beta oestradiol produced in the course of the manufacture of oral solid unit dose medicinal products

As follow-up to the previous meeting of the Committee, the Irish Medicines Board prepared a report on waste containing medroxyprogesterone acetate, trimegestone and 17 beta oestradiol produced in the course of the manufacture of oral solid unit dose medicinal products.