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Finnish Medicines Agency

European Commission
DG Health and Consumers
Medicinal Products – authorisations, EMA

Public consultation on Regulation 1394/2007 of the European Parliament and of the Council on Advanced Therapy Medicinal Products

Finnish Medicines Agency wishes to thank the European Commission for the possibility to provide comments concerning the Regulation on Advanced Therapy Medicinal Products (ATMP). Overall, in our view, the legislation has provided regulatory certainty to this nascent field and enhanced development of new innovative treatments. Our detailed comments on questions raised are provided below.

2.1. Marketing authorisation application requirements for advanced therapy medicinal products.

Finnish Medicines Agency considers the regulatory requirements established for ATMPs to be of appropriate level in order to ensure proper quality, safety and efficacy for these novel and complex products. The possibility to allow part of efficacy studies to be provided post-marketing, as defined in article 14 of Regulation 1394/2007/EC, is an important regulatory tool providing flexibility to the authorization of novel ATMPs. This is particularly important in cases, where very long healing processes and thus long efficacy follow-up is foreseen, e.g. for many tissue engineering products. Further flexibility is built into the legislation via the risk-based approach, as defined in Annex I, Part IV of Directive 2001/83/EC (implementing directive Directive 2009/120/EC). This takes into consideration the particular specificities of ATMPs, for which some traditional requirements of medicinal products may not be applicable.

2.2. Requirements for combined advanced therapy medicinal products.

The requirements for combined ATMPs are considered well established, as well. However, there seems to be divergent views between authorities and Notified Bodies concerning classification and CE –certification of certain medical devices. For example, some devices intended for separation of cells (centrifuges) are currently CE –marked for clinical indications (e.g. critical limb ischemia), although the product generated with the device might fulfill the current definitions of a medicinal product and of an ATMP. This creates currently confusion especially at the hospital sector, where such devices could be placed into operating theatres without understanding that the cells separated with such devices, when going for non-homologous use, are in fact medicinal products. Therefore, better clarity on classification and CE-certification of such medical devices would be desirable.

2.3. Hospital exemption.

The possibility to allow small scale production of ATMPs for individual patients under a national manufacturing authorization, as defined in article 28 of Regulation 1394/2007/EC, is considered an important possibility to enhance early development of innovative products. However, we would like to ask the Commission to clarify, whether it is foreseen that there could be products approved under hospital exemption, when a product with identical composition is already licensed. Furthermore, we would very much appreciate further clarification on what is considered ´non-routine´ manufacturing (number of batches produced?) as described in article 28.

2.4. Incentives for the development of advanced therapy medicinal products.

It has become clear during the past years, that majority of the very early development of ATMPs is currently within academia, hospitals and small spin-off companies. If the data generated at that level (mainly quality, non-clinical) is to be used later as part of a marketing authorization application, the developers should have already some understanding of the regulatory requirements. Therefore, it might be useful to extend some of the incentives (e.g. certification) to those stakeholders. In our view, national competent authorities should also provide assistance and scientific advice to those in very early stages of ATMP development, whereas the scientific advice for later development should be within the remit of the European Medicines Agency.

2.5. Scope and adaptation to technical progress.

The scope of the legislation concentrating on gene therapy and cell therapy medicinal products and on tissue engineered products is in our view correct. There is, however, one discrepancy in the definitions of somatic cell therapy products and tissue engineered products, namely concerning cases where the product contains only non-viable cells. For tissue engineered products, article 2. of Regulation 1394/2007/EC foresees that a product could be composed also of non-viable cells, if the intended mode of action is based on pharmacological, immunological or metabolic action. For somatic cell therapy products there is no claim in section 2.2. of Annex I, Part IV of Directive 2001/83/EC (implementing directive 2009/120/EC), whether the cells could be viable or non-viable, nor is there any conditions provided for cases where a product is composed solely of non-viable cells. Recent proposals for revision of legislation for medical devices are foreseeing inclusion of non-viable cells with physical mode of action as medical devices. Thus, it might be useful to increase clarity between these entities and revise the definition of somatic cell therapy medicinal products to clarify the conditions for use of products based solely on non-viable cells.

Helsinki, March 27th, 2013

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