EUROPEAN COMMISSION
ENTERPRISE AND INDUSTRY DIRECTORATE-GENERAL

Consumer goods
Pharmaceuticals

PHARM 529

PHARMACEUTICAL COMMITTEE
SUMMARY RECORD
60th meeting, 2nd May 2006

OPENING

Mr Martin Terberger, Head of the Pharmaceuticals Unit of DG Enterprise and Industry, opened and the meeting and chaired points 2.b), 2.c), 3.a), 3.b) and 5.a) of the agenda. Mr Nils Behrndt, Deputy Head of the Pharmaceuticals Unit, chaired the rest of the meeting.

AGENDA

The draft agenda of the 60th meeting (PHARM 517) was adopted.

1. LEGISLATIVE ISSUES

a) Advanced therapies regulation

The Commission representative presented the state of play in the on-going codecision procedure. He reported on the progress made in the Council Working Party, where there seemed to be consensus on a large part of the text. The main issues under discussion concerned the borderline between medicinal products and medical devices and the scope of the proposed regulation, in particular as regards products produced in hospitals. The Committee was also informed of the organisation of a public hearing on this file in the European Parliament on 11 May.

One Member State raised a question about the consequences of the regulation with respect to national competent authorities. The Commission representative suggested to discuss any issues of substance relating to this proposal in the framework of the Council Working Party.

b) Variation Regulations

The Committee was informed on the on-going revision by the Commission services of Commission Regulations (EC) No 1084/2003 and 1085/2003 (the "Variations" Regulations). This review resulted from comments received from stakeholders on the operation of these regulations, on the one hand, and from the need to implement ICH guidelines Q8, Q9 and (draft) Q10. The review process is in its early stages and will most likely lead to the launching of a public consultation at the end of 2006.

2. INTERPRETATION/IMPLEMENTATION OF REVIEW 2001

a) Commission implementing legislation

- **Regulation on financial penalties: for discussion after revision of the draft**

The Committee was informed of progress on this initiative. The latest draft of the regulation had been sent to the Committee on 12 April, with a four week period for comments. The Commission representative informed the Committee of the main changes introduced in the draft and invited comments within the given dead-line. She recalled the main steps in the consultation process and the various changes introduced to address concerns raised by Member States and stakeholders, and encouraged Member States to concentrate in their observations on any possibly still open key point of substance. The Committee was informed that the Standing Committee meeting would be organised after the summer break.

Several members of the Committee welcomed the changes and clarifications introduced in the latest version of the text. One Member State expressed the view that the scope of the regulation was still too wide and should be narrowed further.

b) Guidelines: for discussion following public consultation:

- **Guideline on Article 3(2) of Regulation (EC) No 726/2004 – Optional scope of the centralised procedure**

The Commission representative presented the outcome of the public consultation. Following the consultation, the key outstanding issue related to the notion of therapeutic innovation and the link with the notion of new therapeutic indication as defined in the guideline on the extended (+1) year of protection (see next subsection below). The fact that in the draft guideline the only example of therapeutic innovation provided was a new indication, as defined in the guideline on the extended year of protection, could be interpreted as restricting excessively the optional scope of the centralised procedure.

The Commission representatives informed the Committee that they intended to redraft the guideline in order to: maintain the new indication as example of therapeutic innovation, linked to the notion of new indication as defined in the guideline on the extended year of protection (see next subsection below); and add other possible examples.

The Committee was informed that Member States would be sent a further draft for comments before adoption.

- **Guideline on the elements required to support the significant clinical benefit in comparison to existing therapies of a new therapeutic indication in order to benefit from an extended (11-years) marketing protection- Article 14(11) of Regulation (EC) No 726/2004 and Article 10(1) of Directive 2001/83/EC**

The Committee was informed of the outcome of the public consultation. In addition to many comments on points of detail, it had come out strongly from the consultation that one key point demanded further discussion: the notion of new therapeutic indication, which had been considered as too restrictive by a majority of stakeholders.

The Commission representatives informed the Committee that it was intended to redraft the guideline to refocus on significant clinical benefit rather than on including a restrictive definition of new therapeutic indication. Such a refocusing was considered to be more in line with the legal provisions of Article 14(11) of Regulation (EC) No 726/2004 and Article 10(1) of Directive 2001/83/EC than the current draft of the guideline. It was proposed that the discussion of new therapeutic indication would not be restrictive and would not, for example, limit new therapeutic indications according to ICD-10. This would not, however, mean that any new indication would benefit from the +1 year of extended protection, since in accordance with the relevant provisions the significant clinical benefit by comparison to existing therapies would have to be demonstrated, and this would become the main focus of the guideline. This approach received endorsement from the Committee.

In addition, some specific scientific comments, which the Commission services agreed to incorporate, were made on other aspects of the guideline.

The Commission representative concluded that the guideline would be amended in the sense discussed, and that Member States would be sent a further draft for comments before adoption.

- **Guideline on new therapeutic indication for a well-established substance - Article 10(5) of Directive 2001/83/EC**

The Committee was informed of the outcome of the public consultation. As with the previous guideline, the main point demanding discussion after the public consultation related to the notion of new therapeutic indication.

The Commission representatives informed the Committee that it was intended to redraft the guideline to refocus on a common understanding of significant pre-clinical or clinical studies rather than on including a restrictive definition of new therapeutic indication. Such a refocusing was considered to be more in line with the legal provisions of Article 10(5) of Directive 2001/83/EC than the current draft of the guideline. It was proposed that the discussion of new therapeutic indication would not be restrictive and would not, for example, limit new therapeutic indications according to ICD-10. Again, this would not mean that any new indication would benefit from the year of protection, since in accordance with the relevant provision the significance of tests and trials would have to be demonstrated.

The Committee was informed that the guideline would be amended in the sense discussed, and that Member States would be sent a further draft for comments before adoption.

c) Transposition of Directives 2004/24/EC and 2004/27/EC by the Member States

The Commission representative informed the Committee of the transposition rates for Directives 2004/24/EC and 2004/27/EC and of the steps taken in the framework of infringement procedures in those cases where the national transposition measures had not been communicated to the Commission yet. The Member States were encouraged to make progress in order to complete transposition of the directives as soon as possible, and to inform the Commission of the adoption of their national measures without delay.

3. INTERPRETATION/IMPLEMENTATION OF OTHER LEGISLATION

a) Orphan medicinal products: Guideline on the reduction of the period of market exclusivity of designated orphan medicinal products (Article 8(2) of Regulation (EC) No 141/2000)

The Committee was invited to comment on the draft guideline implementing Article 8(2) of Regulation (EC) No 141/2000, allowing the reduction of the period of market exclusivity foreseen in that regulation. It was announced that the section of the guideline concerning data requirements and calculation methods would be discussed in the following meeting of the Committee on Orphan Medicinal Products (16 May).

The Committee members were invited to provide comments on the draft within 3 weeks following the meeting. After consultation of the Committee, the guideline would be released for public consultation. The Commission representatives informed the Committee that they were aiming for adoption of the guideline before the end of the year.

b) Assessment of the Community System of Pharmacovigilance: update on public consultation and next steps

The Commission representative provided the Committee with an update on this project, as a follow up to the Committee meeting of December 2005, where the Commission services had presented the externally conducted study on the Community system of pharmacovigilance together with proposals on how to handle the report and next steps. In particular, the Committee was informed of: the consultation of the Heads of Medicines Agencies and its European Risk Management Strategy Facilitation Group, the Committee on Human Medicinal Products and the Pharmacovigilance Working Party; the launching on 16 March 2006 of the public consultation, which runs until 12 May 2006; and two workshops with patients and healthcare professional groups, on the one hand, and industry, on the other.

The Committee was also informed that, while in the view of the Commission services the Community System of Pharmacovigilance needs strengthening, the next steps and their timing will be decided on the basis of the outcome of the public consultation. The Committee will be further consulted as progress is made.

c) Clinical trials

- **New Volume 10: presentation and first exchange of views**

The Commission representative presented a first draft of Volume 10, including the recommendation on the documentation constituting the Trial Master File and on archiving, on the qualification of inspectors and on inspection procedures. This volume has been drawn up in response to the commitment by the Commission services to publish a guidance document consisting of all the Community provisions applied to clinical trials, with a view to providing national competent authorities and stakeholders with a comprehensive document on this area of legislation.

Several committee members expressed their support to this initiative.

d) Borderline between medicinal products and biocides

The Committee was informed of the revision of the guidance document on the borderline between Directive 98/8/EC concerning the placing on the market of biocidal products,

Directive 2001/83/EC concerning medicinal products for human use and Directive 2001/82/EC concerning veterinary medicinal products. This revision was intended to reflect the agreement between the Commission services and the competent authorities of the Member States concerning the consideration of repellents used against varroa mites as medicinal products when they are presented as having properties for preventing or treating a disease. The revised guidance document also contains the necessary adaptations to the new pharmaceutical legislation.

Some interventions followed on the tools available to deal with the borderline between medicinal products and other categories of products, and on the need to cooperate to limit borderline cases as much as possible.

One Member State announced it would send a written note to the Commission services on the classification of skin disinfectants.

It was agreed that any comments on the guidance document would be sent to the Commission services by the end of May.

e) Information on recent case law: update on T-273/03, "Merck enalapril"

The Commission representative reported on the ruling of the Court of First Instance (CFI) of 31 January 2006 annulling Commission decision of 21 May 2003 harmonising the Summary of the Product Characteristics (SPC) for the medicinal product "Renitec" and associated trade names (enalapril). The Commission had based its decision on Article 30 of Directive 2001/83/EC on the Community code relating to medicinal products for human use, following a referral to the Committee for Proprietary Medicinal Products by France.

The CFI concluded that the Commission was not competent to adopt the contested decision. According to the CFI, in the absence of express provisions granting competence to the Commission to adopt a decision, Article 30 of Directive 2001/83/EC is to be understood not to affect the Member States' exclusive competence in the area of so-called "purely national" marketing authorisations, but rather to be intended, by means of the consultative procedure which it makes it possible to implement, at Community level, to guide the exercise of the various national competences in a common direction.

The Committee was also informed that, following the amendment of Directive 2001/83/EC by Directive 2004/27/EC, Article 30 now contains an explicit reference to the decision-making power of the Commission under Article 34.

4. INTERNATIONAL ASPECTS

a) ICH: electronic standards for exchange of pharmaceutical regulatory information

The initiative to use ICH 'electronic guidelines' as the basis for international standard setting, using the Standards Development Organisations, was further discussed. The Commission representatives consulted the Committee on the position to take at the ICH meeting in June 2006 in Yokahama on a policy for international standard setting in the area of pharmaceutical regulation. Specifically, the Commission representatives proposed the following general line-to-take:

- ICH should work with accredited standards setting organisations to outsource and / or leverage the development of technical standards for ICH e-initiatives.

- Collaboration with Health Level Seven is welcome. However, for standards to be used in support of EU legislation or EU policies, these standards should comply with the requirements set by Directive 98/34, which includes openness, democracy and inclusiveness. Such standards are published by the European standards organisations CEN, CENELEC and ETSI, as laid down in the Directive 98/34. These organisations are entitled to transpose international standards, ISO/IEC into European ones if this responds to European needs.

- In this particular case, for standards to be used in Europe, ICH should take into account European needs and ICH should encourage HL7 to continue its discussions with CEN. In addition, ICH should encourage HL7 to submit its specification to ISO in view of reaching an international specification in ISO and, as such, the specific European requirements can be taken into account through the participation of the national standardisation bodies in the ISO process.

This general approach was endorsed by the Committee.

b) Counterfeit medicines: update on WHO and Council of Europe activities to combat counterfeit medicines

The Commission representative informed the Committee of the follow-up to the WHO draft concept paper for effective international collaboration to combat counterfeit drugs, including the proposal for a framework convention. In particular, the Committee was informed that, faced with concerns regarding the idea of a convention, WHO had developed the concept of an enhanced cooperation through an International Medical Products Anti-Counterfeiting Taskforce (IMPACT);a concept supported by the European Commission.

The Commission representative stressed that any EU activities in IMPACT should be based on a co-ordinated approach, and informed the Committee that the Commission offers to coordinate EU activities in IMPACT.

In another respect, the Committee was informed that the Commission has developed a concept to work on an analysis and subsequently the development of policy options in the field of counterfeiting. The concept is meant to build on past and current activities to avoid unnecessary overlaps and focus in particular on legislation, enforcement, cooperation and communication of European and international partners and raising public alertness. To work on this project, the Commission intends to build on Member States expertise via different groups, such as the Heads of Medicines Agencies, the EMEO, the Ad Hoc Working Group of GMP Inspectors and the Quality Working Party. The work will be complemented by an Impact Assessment to be performed by an external consultant.

The Committee was invited to endorse that the Commission coordinates input from the EU into IMPACT, and to agree to contribute to the Commission project to perform an analysis and elaborate policy options to combat counterfeit medicines.

This proposal was endorsed by the Committee. Several members welcomed the Commission initiative to coordinate and stream-line activities, but insisted on the need to continue work in progress in the existing fora and make use of the existing expertise, and to involve EDQM/Council of Europe in any initiative. The Commission acknowledged this proposals.

The representative from EDQM reported on progress on the feasibility study conducted by the legal directorate of the Council of Europe to determine whether a convention at Council of Europe level would be possible. He also informed the Committee of the development of a network within the OMCL to allow early intervention where laboratory involvement is necessary.

The Committee was informed that it would be consulted on the concept paper around the summer 2006.

5. A.O.B.

a) Flu pandemic

The Commission representative provided the Committee with an oral update on applications for marketing authorisation concerning human influenza and avian influenza. In particular, the Committee was informed that two "mock-up" applications for human pandemic influenza have been submitted to the EMEA and are under assessment. Some avian influenza vaccines are already authorised nationally and applications may be submitted to the EMEA as well. In addition, the conditional marketing authorisation regulation has been adopted on 29 March 2006 and may provide an additional tool to tackle influenza.

One Member State raised the issue of liability for the use of pandemic influenza vaccines. Reference was made to Article 5(3) of Directive 2001/83/EC which requires Member States to 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.

b) Update of the list of the members and observers of the Committee

The Commission representatives raised the fact that the list of participants in the Committee was frequently out of date in the web page of the Pharmaceuticals Unit, due to frequent changes in membership.

It was agreed to delete the names of the participants from the webpage and replace them with the functional mailbox of the Committee. In turn, and for the sake of transparency, a list of attendants would be annexed to the minutes of each meeting published in the web page of the Pharmaceuticals Unit.