COUNCIL DIRECTIVE

of 3 May 1989

amending Directives 65/65/EEC, 75/318/EEC and 75/319/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products

(89/341/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the essential aim of any rules governing the production, distribution or use of medicinal products must be to safeguard public health;

Whereas the Directives on the approximation of the laws relating to proprietary medicinal products must be adapted to scientific progress and take account of the experience obtained since their adoption so as to ensure improved quality and greater safety and efficacy;

Whereas, in its conclusions of 15 May 1987 on improvement in the use of proprietary medicinal products by consumers (4), the Council considered that the system for leaflets accompanying proprietary medicinal products, for human consumption, on the market in the Community should be improved;

Whereas the guarantees of the quality of medicinal products manufactured within the Community should be maintained by requiring compliance with the principles of good manufacturing practice for medicinal products irrespective of the final destination of the products;

Whereas the Commission should be empowered to define in detail the principles of good manufacturing practice for medicinal products in close cooperation with the Committee for Adaptation to Technical Progress of the Directives on the Removal of Technical Barriers in the Proprietary Medicinal Products Sector;

Whereas, having regard to the resolution of the European Parliament of 13 June 1986 on the export of pharmaceutical products to the Third World, measures should be taken to improve the provision of information for third countries on the conditions of use of medicinal products within the Member States;

Whereas the scope of Directive 65/65/EEC (5), as last amended by Directive 87/21/EEC (6), of Directive 75/318/EEC (7), as last amended by Directive 87/19/EEC (8), and of Second Directive 75/319/EEC (9), as last amended by Directive 83/570/EEC (10), should be extended to cover other industrially produced medicinal products hitherto excluded,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 65/65/EEC is hereby amended as follows:

1. In the title, preamble and Chapters II to V, all references to 'proprietary medicinal product' are replaced by 'medicinal product'.

2. In Article 1, the following points are inserted:

'4. *Magistral formula:*

Any medicinal product prepared in a pharmacy in accordance with a prescription for an individual patient.

5. *Official formula:*

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.'

3. Article 2 is replaced by the following:

'Article 2

1. Chapters II to V shall apply to proprietary medicinal products for human use intended to be placed on the market in Member States.

(1) OJ No C 36, 8. 2. 1988, p. 22.
(2) OJ No C 290, 14. 11. 1988, p. 128; OJ No C 120, 16. 5. 1989.
(3) OJ No C 208, 8. 8. 1988, p. 64.
(4) OJ No C 178, 7. 7. 1987, p. 2.
(5) OJ No 22, 9. 2. 1965, p. 369/65.
(6) OJ No L 15, 17. 1. 1987, p. 36.
(7) OJ No L 147, 9. 6. 1975, p. 1.
(8) OJ No L 15, 17. 1. 1987, p. 31.
(9) OJ No L 147, 9. 6. 1975, p. 13.
(10) OJ No L 332, 28. 11. 1983, p. 1.

2. Where a Member State authorizes the placing on the market of industrially produced medicinal products which do not comply with the definition of a proprietary medicinal product, it shall also apply Chapters II to V to them.

3. Chapters II to V shall not apply to:

— medicinal products prepared on the basis of a magistral or official formula,

— medicinal products intended for research and development trials,

— intermediate products intended for further processing by an authorized manufacturer.

4. A Member State may, in accordance with legislation in force and to fulfil special needs, exclude from Chapters II to V medicinal products supplied in response to a *bona fide* unsolicited order, formulated in accordance with the specifications of an authorized health care professional and for use by his individual patients on his direct personal responsibility.'

4. In Article 4a, the following point is added:

'6.6. special precautions for disposal of unused products or waste materials derived from such products, if appropriate.'

5. In Article 13, the following point is added:

'9. special precautions for disposal of unused products or waste materials derived from such products, if appropriate.'

6. In Article 14, the following fifth indent is added:

'— manufacturer's batch number.'

Article 2

In Directive 75/318/EEC all references to 'proprietary medicinal product' or to 'proprietary product' are replaced by 'medicinal product'.

Article 3

Directive 75/319/EEC is hereby amended as follows:

1. In Article 4, (b) is replaced by the following:

'(b) may submit the medicinal product, its starting materials and, if need be, its intermediate products or other constituent materials for testing by a State laboratory or by a laboratory designated for that purpose in order to ensure that the control methods employed by the manufacturer and described in the particulars accompanying the application in accordance with the second subparagraph of point 7 of Article 4 of Directive 65/65/EEC are satisfactory.'

2. In Article 6, the last subparagraph is replaced by the following:

'The inclusion of a package leaflet in the packaging of medicinal products shall be obligatory unless all the information required by this Article is directly conveyed on the container itself and the outer packaging.'

3. Article 16, (1) is replaced by the following:

'1. Member States shall take all appropriate measures to ensure that the manufacture of medicinal products is subject to the holding of an authorization. This manufacturing authorization shall be required notwithstanding that the medicinal products manufactured are intended for export.'

4. In Article 19, the following point is added:

'(f) to comply with the principles and guidelines of good manufacturing practice for medicinal products as laid down by Community law.'

5. The following Article is inserted:

'Article 19a

The principles and guidelines of good manufacturing practices for medicinal products referred to in Article 19 (f) shall be adopted in the form of a directive addressed to the Member States, in accordance with the procedure laid down in Article 2c of Directive 75/318/EEC. Detailed guidelines in line with those principles will be published by the Commission and revised as necessary to take account of technical and scientific progress.'

6. In Article 26:

— the first subparagraph is replaced by the following:

'The competent authority of the Member State concerned shall ensure, by means of repeated inspections, that the legal requirements governing medicinal products are complied with.',

— the following subparagraph is inserted:

'After every inspection as referred to in the first subparagraph, the officials representing the competent authority shall report on whether the manufacturer complies with the principles and guidelines of good manufacturing practice laid down by Community law. The content of such reports shall be communicated to the manufacturer who has to undergo the inspection.'

7. The following Article is inserted:

'Article 28a

At the request of the manufacturer, the exporter or the authorities of an importing third country, Member

States shall certify that a manufacturer of medicinal products is in possession of the authorization referred to in Article 16 (1). When issuing such certificates they shall comply with the following conditions:

1. Member States shall have regard to the prevailing administrative arrangements of the World Health Organization.
2. For medicinal products intended for export which are already authorized on their territory, they shall supply the summary of the product characteristics as approved in accordance with Article 4 (b) of Directive 65/65/EEC.
3. When the manufacturer is not in possession of a marketing authorization he shall provide the authorities responsible for establishing the certificate referred to above with a declaration explaining why no marketing authorization is available.'

8. In Article 30, the following subparagraph is added:

'Upon reasoned request, Member States shall forthwith communicate the reports referred to in the third subparagraph of Article 26 to the competent authorities of another Member State. If, after considering the reports, the Member State receiving the reports considers that it cannot accept the conclusions reached by the competent authorities of the Member State in which the report was established, it shall inform the competent authorities concerned of its reasons and may request further information. The Member States concerned shall use their best endeavours to reach agreement. If necessary, in the case of serious differences of opinion, the Commission shall be informed by one of the Member States concerned.'

9. The following paragraphs are added to Article 33:

'2. The person responsible for the marketing of a medicinal product shall be obliged to notify the Member States concerned forthwith of any action taken by him to suspend the marketing of a product or to withdraw a product from the market, together with the reasons for such action if the latter concerns the efficacy of the medicinal product or the protection of public health. Member States shall ensure that this information is brought to the attention of the committee.

3. Member States shall ensure that appropriate information about action taken pursuant to paragraphs 1 and 2 which may affect the protection of public health in third countries is forthwith brought to the attention of the World Health Organization, with a copy to the committee.

4. The Commission shall publish annually a list of the medicinal products which are prohibited in the Community.'

10. The first paragraph of Article 34 is hereby amended as follows:

'This Directive shall apply to medicinal products for human use within the limits referred to in Article 2 of Directive 65/65/EEC.'

Article 4

1. Member States shall take the measures necessary to comply with this Directive before 1 January 1992. They shall forthwith inform the Commission thereof.

2. Requests for marketing authorizations lodged after the time limit referred to in paragraph 1 must comply with this Directive.

3. Articles 1, 2 and 3, where relevant, shall be progressively extended to existing medicinal products before 31 December 1992.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 3 May 1989.

For the Council

The President

P. SOLBES