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INFORMATION NOTE

from: General Secretariat
to: Permanent Representatives Committee/Council

Subject: Proposal for a Regulation of the European Parliament and of the Council
amending Regulation (EC) No 726/2004 as regards pharmacovigilance
- Outcome of the European Parliament's first reading
(Strasbourg, 10 to 13 September 2012)

I. INTRODUCTION

The Parliament's Committee on the Environment, Public Health and Food Safety adopted seven amendments to the Commission's proposal.

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts took place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

¹ OJ C 145, 30.6.2007, p.5

In this context, the S&D, EPP, ALDE, Greens/EFA, ECR and EUL/NGL political groups presented a single compromise amendment (amendment 8) to the proposal for a Regulation. This amendment had been agreed during the informal contacts referred to above.

II. VOTE

When it voted on 11 September 2012, the plenary adopted the compromise amendment to the proposal for a Regulation. No other amendments were adopted. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto ¹.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position. The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

Pharmacovigilance (amendment of Regulation (EC) No 726/2004) *I**

European Parliament legislative resolution of 11 September 2012 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 726/2004 as regards pharmacovigilance (COM(2012)0051 – C7-0034/2012 – 2012/0023(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0051),
 - having regard to Article 294(2) and Article 114 and Article 168(4)(c) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0034/2012),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 28 March 2012¹,
 - after consulting the Committee of the Regions,
 - having regard to the undertaking given by the Council representative by letter of 27 June 2012 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A7-0164/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 181, 21.6.2012, p. 202.

Position of the European Parliament adopted at first reading on 11 September 2012 with a view to the adoption of Regulation (EU) No .../2012 of the European Parliament and of the Council amending Regulation (EC) No 726/2004, as regards pharmacovigilance

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 and Article 168(4)(c) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure²,

Whereas:

- (1) In order to ensure transparency on the surveillance of authorised medicinal products, the list of medicinal products subject to additional monitoring established by Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency³, should systematically include medicinal products that are subject to *certain* post-authorisation safety conditions.
- (2) In addition, voluntary action by the marketing authorisation holder should not lead to a situation where concerns relating to the risks or benefits of a medicinal product authorised in the Union are not properly addressed in all Member States. Therefore, the marketing authorisation holder *should be obliged* to inform the European Medicines Agency of the reasons for *withdrawing or* interrupting the placing on the market of a medicinal product, for *requesting that* a marketing authorisation *be revoked*, or for not renewing a marketing authorisation.

¹ OJ C 181, 21.6.2012, p. 202.

² Position of the European Parliament of 11 September 2012.

³ OJ L 136, 30.4.2004, p. 1.

- (3) Since the objective of this Regulation, namely to provide for specific rules on pharmacovigilance and improve the safety of medicinal products for human use authorised pursuant to Regulation (EC) No 726/2004 cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty *on European Union*. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (4) *Regulation (EC) No 726/2004 should therefore be amended accordingly,*

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 726/2004 is hereby amended as follows:

- (1) In Article 13(4), the second subparagraph is replaced by the following:

"The *marketing authorisation* holder shall notify the Agency if the product ceases to be placed on the market of a Member State, either temporarily or permanently. Such notification shall, otherwise than in exceptional circumstances, be made no less than two months before the interruption in the placing on the market of the product. The *marketing authorisation* holder shall inform the Agency of the reasons for such action in accordance with Article 14b."

- (2) The following Article is inserted:

"Article 14b

1. The marketing authorisation holder shall notify the Agency *forthwith* of any action the holder takes to suspend the marketing of a medicinal product, to withdraw a medicinal product from the market, to request the withdrawal of a marketing authorisation or not to apply for the renewal of a marketing authorisation, together with the reasons for such action. The marketing authorisation holder shall in particular declare if such action is *based on* any of the grounds set out in Article 116 and Article 117(1) of Directive 2001/83/EC.
2. *The marketing authorisation holder shall also make the notification pursuant to paragraph 1 of this Article if the action is taken in a third country and such action is based on any of the grounds set out in Article 116 and Article 117(1) of Directive 2001/83/EC.*
3. *In the cases referred to in paragraphs 1 and 2, the Agency shall forward the information* ■ to the *competent authorities* of the Member States *without undue delay.*"

(3) In Article 20, paragraph 8 is replaced by the following:

"8. Where the procedure is initiated as a result of the evaluation of data relating to pharmacovigilance, the opinion of the Agency, in accordance with paragraph 2 of this Article, shall be adopted by the Committee for Medicinal Products for Human Use on the basis of a recommendation from the Pharmacovigilance Risk Assessment Committee and Article 107j(2) of Directive 2001/83/EC shall apply."

(4) Article 23 is replaced by the following:

"Article 23

1. The Agency shall, in collaboration with the Member States, set up, maintain and make public a list of medicinal products that are subject to additional monitoring.

That list shall include the names and active substances of:

- (a) medicinal products authorised in the Union that contain a new active substance which, on 1 January 2011, was not contained in any medicinal product authorised in the Union;
- (b) any biological medicinal product not covered by point (a) that was authorised after 1 January 2011;
- (c) medicinal products that are authorised pursuant to this Regulation, subject to the conditions referred to in point (b) of Article 9(4), **point (a) of Article 10a(1), Article 14(7) or Article 14(8)**;
- (d) medicinal products that are authorised pursuant to Directive 2001/83/EC, subject to the conditions referred to in **points (b) and (c) of Article 21a, Article 22, or point (a) of Article 22a(1)** thereof.

1a. At the request of the Commission, following consultation with the Pharmacovigilance Risk Assessment Committee, medicinal products that are authorised pursuant to this Regulation, subject to the conditions referred to in points (c), (ca) or (cc) of Article 9(4), point (b) of Article 10a(1) or Article 21(2), may also be included in the list referred to in paragraph 1 of this Article.

At the request of a national competent authority, following consultation with the Pharmacovigilance Risk Assessment Committee, medicinal products that are authorised pursuant to Directive 2001/83/EC, subject to the conditions referred to in points (a), (d), (e) or (f) of Article 21a, point (b) of Article 22a(1) or Article 104a(2) thereof, may also be included in the list referred to in paragraph 1 of this Article.

2. The list referred to in paragraph 1 shall include an electronic link to the product information and to the summary of the risk management plan.

3. In the cases referred to in points (a) and (b) of paragraph 1 of this Article, the Agency shall remove a medicinal product from the list five years after the Union reference date referred to in Article 107c(5) of Directive 2001/83/EC.

In the cases referred to in points (c) and (d) of paragraph 1 and in paragraph 1a of this Article, the Agency shall remove a medicinal product from the list once the conditions have been fulfilled.

4. For medicinal products included in the list referred to in paragraph 1, the summary of product characteristics and the package leaflet shall include the statement “This medicinal product is subject to additional monitoring”. That statement shall be preceded by a black symbol which shall be selected by the Commission by **2 July 2013**, following a recommendation of the Pharmacovigilance Risk Assessment Committee, and shall be followed by an appropriate standardised explanatory sentence.

4a. *By ...*, the Commission shall present to the European Parliament and the Council a report on the use of the list referred to in paragraph 1 based on the experience and data provided by the Member States and the Agency.*

The Commission shall, if appropriate, on the basis of that report, and after consultation with the Member States and other appropriate stakeholders, present a proposal in order to adjust the provisions relating to the list referred to in paragraph 1."

(5) *Article 57 is amended as follows:*

(a) *In the second subparagraph of paragraph 1, points (c) and (d) are replaced by the following:*

“(c) coordinating the monitoring of medicinal products which have been authorised within the Union and providing advice on the measures necessary to ensure the safe and effective use of those medicinal products, in particular by coordinating the evaluation and implementation of pharmacovigilance obligations and systems and the monitoring of such implementation;

(d) ensuring the collation and dissemination of information on suspected adverse reactions to medicinal products authorised in the Union by means of a database which is permanently accessible to all Member States;”.

(b) *In the second subparagraph of paragraph 2, point (b) is replaced by the following:*

“(b) marketing authorisation holders shall, by 2 July 2012 at the latest, electronically submit to the Agency information on all medicinal products for human use authorised in the Union, using the format referred to in point (a);”.

* OJ: please insert the date: 5 years and 6 months after the date of entry into force of this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from ...* with the exception of Article 23(4), points (c) and (d) of Article 57(1) and point (b) of Article 57(2) of Regulation (EC) No 726/2004, as amended by this Regulation, which shall apply from ...**.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...

For the European Parliament

For the Council

The President

The President

* OJ: please, insert the date: 6 months after the entry into force of this Regulation.

** OJ: please, insert the date of the entry into force of this Regulation.