

This is a proposal for a system of regulation and should NOT be considered to be a REGULATION. The proposal may be subject to change following submission to the Department of Health and Children

**IRISH MEDICINES BOARD**

**HERBAL MEDICINES PROJECT**

**FINAL REPORT**

**Monday 14<sup>th</sup> January 2002**

## Executive Summary

The Herbal Medicines Project was established in the Irish Medicines Board following a request by the Minister for Health and Children that the regulation of ‘traditional and alternative medicinal products including herbal medicinal products’ be reviewed and that a proposal for an interim national licensing scheme be developed [see [Appendix 1](#)].

The process of developing such a proposal is now complete and is presented here. The development process has involved senior staff of the Irish Medicines Board, an *ad hoc* Scientific Committee on Herbal Medicinal Products established to advise and assist the Irish Medicines Board in this task and extensive consultation with interested organisations throughout Ireland, and the European Union, where appropriate.

In developing this proposal, the Irish Medicines Board and its *ad hoc* Scientific Committee on Herbal Medicinal Products were aware of existing medicines legislation, as well as emerging EU legislation specifically aimed at traditional medicinal products. It is our aim that an interim licensing scheme would be compatible with the pending EU legislation in this area in order to conform to our legal requirements as an EU Member State and to minimise disruption to all parties once EU legislation is introduced.

In addition, a database of traditional and herbal medicinal products was established. This database has provided important information on the potential size of the market that might ultimately fall within the scope of these proposed regulations. A total of 2246 products are now on that database. This number is less than originally anticipated and the total number is expected to increase once regulations are in place.

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## **PREFACE**

## Preface

The Irish Medicines Board [IMB] is the Competent Authority responsible for the licensing of the manufacture, preparation, importation, distribution and sale of all medicinal products for human and animal use in Ireland<sup>1</sup>. It is the primary duty of care of the IMB to ensure that public health is protected, as stated in the [Irish Medicines Board Act 1995](#)<sup>2</sup>.

The need for adequate and appropriate regulation of herbal medicinal products has long been a source of concern to the IMB and its predecessor, the National Drugs Advisory Board [NDAB]<sup>3,4</sup>.

The growing public demand for these products and the associated increase in their use is evidenced by the large number of shops dedicated to the sale and supply of such products as well as the resurgence of the practice of herbal medicine. It is estimated that by the year 2003 the global expenditure in this area will total 6.6 billion dollars per annum, a figure that reflects an expected annual growth of twenty percent<sup>5</sup>.

In response to a request from the Minister for Health and Children in June 2000 [see [Appendix 1](#)], the IMB initiated the Herbal Medicines Project. The IMB acknowledges that there have been difficulties in the past in licensing herbal medicinal products under standard medicines legislation, particularly in relation to proving clinical efficacy in accordance with existing EU requirements. It should be noted that the EU is also developing new legislation aimed specifically at traditional medicinal products. In light of this, the objective of the project as outlined in the above mentioned request was to develop a proposal for an interim national licensing scheme for 'traditional and alternative medicinal products including herbal medicinal products'. The remit of the project, although broader than herbal medicinal products alone, aimed to reflect the reality of the marketplace and ultimately to appropriately regulate the large number of such unauthorised medicinal products currently available in Ireland.

This document details the final proposals developed over the past eighteen months by the IMB and its *ad hoc* Scientific Committee on Herbal Medicinal Products [SCHMP] in consultation with the key stakeholders in the area [health trade industry, health food stores, consumer groups, medical practitioners, pharmacists and complementary practitioners].

## **GLOSSARY AND ABBREVIATIONS**

## Glossary

**‘adverse drug reaction’** means a reaction which is harmful and unintended and which occurs at doses normally used in man for the prophylaxis, diagnosis or treatment of disease or the modification of physiological function<sup>6</sup>;

**‘adverse event’** means an undesirable experience occurring following administration of a medicinal product. An adverse event does not necessarily have a causal relationship with the treatment<sup>6</sup>;

**‘advertising’** means:

- a.) every form of advertising whether in a publication, or by the displaying of any notice, or by means of any letter, press release or other document or by words inscribed in any article, or by the exhibition of a photograph or cinematograph, or by way of sound recording, sound broadcasting or television or in any other way,
- b.) any form of door to door information, canvassing activity or inducement designed to promote the supply, sale or consumption of the product and including in particular:
  - the advertising to the general public,
  - the advertising to health care providers or health food store personnel,
  - visits by sales representatives to health care providers or health food store personnel,
  - the supply of samples,
  - the provision of inducement to sell or supply the product,
  - the sponsorship of promotional meetings,
  - the sponsorship of scientific congresses<sup>7</sup>.

**‘a medicinal product’** is any substance or combination of substances presented for treating or preventing disease in human beings or animals. Any substance or combination of substances which may be administered to human beings or animals

with a view to making a medical diagnosis or to restoring, correcting or modifying physiological function in human beings or animals is likewise considered a medicinal substance<sup>8</sup>.

**‘active ingredient’** means the whole herbal/traditional substance<sup>9</sup>;

**‘herbal medicinal product’** is any medicinal product, containing as active ingredients one or more herbal substances or one or more herbal preparations, or one or more such herbal substances in combination with one or more such herbal preparations<sup>10</sup>;

**‘herbal preparations’** are obtained by subjecting herbal substances to treatments such as extraction, distillation, expression, fractionation, purification, concentration and fermentation. These include comminuted or powdered herbal substances, tinctures, extracts, essential oils, expressed juices and processed exudates<sup>10</sup>;

**‘herbal substances’** are all mainly whole, fragmented or cut, plants, plant parts, algae, fungi, lichen in an unprocessed, usually in dried form but sometimes fresh. Certain exudates that have not been subjected to a specific treatment are also considered to be herbal substances. Herbal substances are precisely defined by the plant part used and the botanical name according to the binomial system (genus, species, variety and author)<sup>10</sup>;

**‘homoeopathic medicinal product’** means any medicinal product prepared from preparations, substances or compounds called homoeopathic stocks in accordance with the homoeopathic manufacturing procedure described in the European Pharmacopoeia or, in the absence of a manufacturing procedure for homoeopathic medicinal products in that pharmacopoeia, in accordance with the homoeopathic manufacturing procedure in any pharmacopoeia in official use in a Member State of the European Community<sup>11</sup>;

**‘immediate packaging’** means the container or other form of packaging immediately in contact with the medicinal product<sup>12</sup>;

**‘import’** includes procure for importation, and cognate words shall be construed accordingly<sup>13</sup>;

**‘labelling’** means information on the immediate or outer packaging<sup>12</sup>;

**‘manufacture’** includes:

- total or partial manufacture,
- the various processes of dividing up, packaging or presentation,
- assembly, compounding, filling, formulation, labelling, packaging, processing, and/or
- the importation of a medicinal product from a country other than a Member State of the European Communities<sup>13</sup>;

**‘outer packaging’** means the packaging into which is placed the immediate packaging<sup>12</sup>;

**‘package leaflet’** means a leaflet containing the information for the user which accompanies the medicinal product<sup>12</sup>;

**‘pharmacist’** means a registered pharmaceutical chemist or a registered dispensing chemist and druggist<sup>13</sup>;

**‘prescription’**, except in the expression medical prescription, means a prescription issued by a registered medical practitioner or a registered dentist<sup>14</sup>;

**‘product authorisation’** means an authorisation granted or renewed pursuant to Article 7 of the [Medicinal Products \(Licensing and Sale\) Regulations, 1998](#) [S.I. No. 142 of 1998]<sup>13</sup>;

**‘product registration’** means a registration granted pursuant to **Part II** of these regulations.

**‘qualified practitioner’** will be defined as per the proposed Directive on Traditional Medicinal Products<sup>10</sup> when such a definition is available;

**‘retail sale’** means sale to a person buying otherwise than for the purpose of resale<sup>13</sup>;

**‘registered dentist’** means a person registered in the register established under the [Dentists Act, 1985](#) [No. 9 of 1985] and includes a person entitled to be so registered by virtue of section 27 (2) (c.) of the said Act<sup>13</sup>;

**‘registered medical practitioner’** means a person registered in the register established under the [Medical Practitioners Act, 1978](#) [No. 4 of 1978] and includes any person entitled to be so registered by virtue of section 27 (2) (c.) of the said Act<sup>13</sup>;

**‘registered pharmaceutical chemist’** means a person registered in the register of pharmaceutical chemists for Ireland under the Pharmacy Act (Ireland), 1875<sup>13</sup>;

**‘summary of product characteristics’** sets out the agreed position of the medicinal product as distilled during the course of the assessment process. It is the definitive statement between the competent authority and the marketing authorisation holder and it is the common basis of communication between the competent authorities of all the Member States. As such the content cannot be changed except with the approval of the originating competent authority.

The SPC is the basis of information for health professionals on how to use the medicinal product safely and effectively. The content of the package leaflet must be consistent with the SPC but in a wording that can be easily understood by non-professionals<sup>15</sup>;

**‘supply’** includes sell, distribute or offer or keep for sale or distribution notwithstanding that the person supplied may be in another Member State of the European Community and cognate words shall be construed accordingly<sup>14</sup>;

**‘supply by mail order’** means any supply made, after solicitation of custom by the supplier, without the supplier and the consumer being simultaneously present and

using a means of communication at a distance, whether written or electronic, to convey the custom solicitation and the order of supply<sup>14</sup>;

**‘supply by way of wholesale dealing’** means the supply of a medicinal product to a person who obtains the product for one or more of the following purposes –

- (a.) supply in the course of a pharmaceutical or health trade business, or
- (b.) administration in the course of professional practice, or
- (c.) for, or in connection with a service provided by a hospital<sup>16</sup>;

**‘the Act’** means the [\*Irish Medicines Board Act, 1995\*](#)<sup>2</sup>;

**‘the Board’** means the Irish Medicines Board<sup>2</sup>;

**‘the Community’** means the European Community as defined in the [\*Treaty of Rome, 1957\*](#)<sup>17</sup>, as amended by subsequent Treaties;

**‘the Minister’** means the Minister for Health and Children;

**‘these regulations’** refers to the interim National Licensing Scheme for Traditional Medicinal Products [working title]. NOTE: This document is a proposal, not a regulation.

## Abbreviations

- ACHM** – Advisory Committee on Human Medicines
- CHC** – Consumers for Health Choice
- CMEC** – Complementary Medicine Evaluation Committee
- CPMP** – Committee for Proprietary Medicinal Products
- CTD** – Common Technical Document
- CVMP** – Committee for Veterinary Medicinal Products
- EC** – European Commission
- EEA** – European Economic Area
- EEC** – European Economic Community
- EHPA** – European Herbal Practitioner’s Association
- EMA** – European Medicines Evaluation Agency
- ESCOP** – European Scientific Co-Operative on Phytotherapy
- EU** – European Union
- FSAC** – Food Safety Advisory Committee
- HMPWP** – Herbal Medicinal Products Working Party
- HMSC** – Herbal Medicines Steering Committee
- HPA** – Health Product Alliance
- IAHS** – Irish Association of Health Stores
- IAMH** – Irish Association of Medical Herbalists
- ICH** – International Conference on Harmonisation
- ICGP** – Irish College of General Practitioners
- IHPA** – Irish Herbal Practitioner’s Association
- IHTA** – Irish Health Trade Association
- IAA** – Irish and International Aromatherapy Associations
- IMB** - Irish Medicines Board
- IRCHM** – Irish Register of Chinese Herbal Medicine
- ISH** – Irish Society of Homoeopaths
- ISPA** – International Society of Professional Aromatherapists – Irish Branch
- NDAB** – National Drugs Advisory Board
- NIMH** – National Institute of Medical Herbalists
- PA** – Product Authorisation

**Ph. Eur.** – European Pharmacopoeia

**PIL** – Patient Information Leaflet

**PRCHM** – Professional Register of Chinese Herbal Medicine

**PRTCM** – Professional Register of Traditional Chinese Medicine

**PSI** – Pharmaceutical Society of Ireland

**PSUR** – Periodic Safety Update Report

**RCSI** – Royal College of Surgeons in Ireland

**RDA** – Recommended Dietary Allowance

**SCHMP** – Scientific Committee on Herbal Medicinal Products

**SOP** – Standard Operating Procedure

**SPC** – Summary of Product Characteristics

**TGA** – Therapeutic Goods Administration

**WHO** – World Health Organisation

# **INTRODUCTION**

# Chapter 1 Introduction

## 1.1 Background

The need for and the difficulties associated with an effective licensing system for herbal medicinal products has been a source of concern for the IMB [formerly the National Drugs Advisory Board – NDAB] for many years. The Medical Preparations (Licensing, Advertisement and Sale) Regulations of 1984<sup>18</sup>, which took due account of all relevant European Union [EU] Directives, provided that all medicinal products required a product authorisation in order to be placed on the market in Ireland. According to the regulations cited above, herbal and other traditional products with acknowledged medicinal properties or, which made a claim to such properties, were classified as medicines.

In August 1985 the NDAB published ‘Guidelines for Application for Product Authorisation of Herbal Products’<sup>4</sup>. This document attempted to address the difficulties associated with the regulation of herbal medicinal products under Council Directive [65/65/EEC](#)<sup>8</sup> as implemented in Ireland, most notably in relation to the requirements for proof of quality, safety and efficacy. Despite efforts to assess herbal medicinal product applications in accordance with the above legislation, a large number of products could not be authorised due particularly to insufficient data relating to efficacy and safety and consequently their legal status has been a continuing source of concern.

In 1993 the Food Safety Advisory Committee [FSAC] prepared a document entitled ‘Food Supplements and Health Foods’ for the Department of Health and the Department of Agriculture, Food and Forestry<sup>19</sup>. This document clearly states that natural materials whose composition and status have not been established should be subject to approval by the regulatory authority in order to establish quality and safety, prior to importation and/or prior to marketing. The report also recommends that herbal teas should not contain toxic plants and should not, either directly or indirectly, make any medicinal claim. This report also suggests that the materials used in herbal teas and essential oils be required to meet recognised safety standards.

In 1999, in view of the increasing use and availability of herbal medicinal products, especially those without authorisation, the IMB published the '[Guide to the Definition of a Medicinal Product](#)<sup>20</sup>', which confirmed that herbal medicinal products, according to the definition outlined in Council Directive [65/65/EEC](#)<sup>8</sup>, continue to be classed as medicinal products and must therefore be regulated as such. This guideline simply restated the position in the context of the existing legislation.

In the same year, following a review of all relevant information, the IMB communicated to the Department of Health and Children its recommendation that products containing St. John's Wort [*Hypericum perforatum*] should only be available on medical prescription. This recommendation was made on the basis that products containing this herbal substance were promoted for the treatment of depression, an indication itself requiring some control [[Medical Preparations \(Advertising\) Regulations, 1993](#)<sup>7</sup>, as amended] and generally considered to be unsuitable for self-diagnosis and self-medication. The information examined by the IMB clearly demonstrated the potential of this herbal substance as an antidepressant. In addition to the therapeutic indication claim, there were a number of safety concerns relating to the inherent toxicity of the herbal substance itself and its interactions with orthodox medicines [cyclosporin<sup>21</sup>, the oral contraceptive pill<sup>21</sup>, warfarin<sup>21</sup>, theophylline<sup>22</sup>]. Following this recommendation by the IMB, the Department of Health and Children confined St. John's Wort to prescription control [Medicinal Products (Prescription and Control of Supply) (Amendment) Regulations, 1999<sup>23</sup>] from 1<sup>st</sup> January 2000.

In December 1999, a Dáil statement by the Minister for Health and Children highlighted the need for a specific interim national system for the licensing of certain herbal and/or traditional medicinal products. In January 2000, the IMB made representation to the Department of Health and Children outlining a proposal to move forward the issue of control of herbal medicines in Ireland. Following a meeting with the Minister and in order to review the possible requirements of an effective regulatory system for herbal medicinal products, an internal IMB Herbal Medicines Steering Committee [HMSC] was established consisting of Dr. Frank Hallinan [Chief Executive], Dr. J. Michael Morris [Pharmaceutical Director], Dr. Joan Gilvarry [Acting Medical Director], Dr. Elaine Breslin [Senior Medical Officer], Ms. Christl Kloos [Senior Pharmaceutical Assessor] and Ms. Rita Purcell [Director of Finance

and Administration]. This HMSC highlighted the need for a specific project to deal with herbal medicines and the additional staff required by the IMB to run such a project. The Herbal Medicines Project was then firmly established with the appointment of a full-time Herbal Medicines Project Manager. Dr. Dairine Dempsey took up this position on 4<sup>th</sup> September 2000.

## **1.2 Preliminary Consultation**

In order to ensure that the Herbal Medicines Project was both open and transparent to all interested parties and the general public the following steps were taken:

### **1.2.1 Advertisement in the National Press/on the IMB web site**

On 29<sup>th</sup> September 2000 an advertisement was placed in three national newspapers [The Irish Times, The Irish Independent and The Irish Examiner] and on the IMB web site requesting public comment on all aspects of a possible interim national licensing scheme for traditional, alternative and/or herbal medicinal products [see [Appendix 2](#)]. The advertisement outlined the aim of the new scheme as described by the Minister in his letter dated 23<sup>rd</sup> June 2000 [see [Appendix 1](#)] and detailed briefly the issues which the IMB considered most important in the development of a new scheme. Responses were requested within one month i.e. on or before 5pm on the 31<sup>st</sup> October 2000. By the closing date, 31 responses had been submitted. Over the following weeks the final number of submissions reached 41 [see [Appendix 3](#)], all of which were accepted and reviewed.

Of these, 12 submissions dealt, in varying degrees of detail, with the three main issues i.e. the Scope, the Development Process and the New System. Of the remaining 29, six failed to address any of the issues raised in the advertisement, eight addressed just one of the three main topics and 13 submissions addressed two of three issues.

Further evaluation of the responses showed that 20 of the 41 responses were from interested members of the general public or individual members of interested organisations, seven were from pharmaceutical or other interested manufacturers, one submission was received from a school of alternative medicine and two from miscellaneous groups. The remaining 11 submissions from 12 interested

organisations [see **Table 1**] were from those organisations known to the IMB [marked in bold in **Table 1** and discussed further in **Chapter 1.2.2**] and others.

**Table 1 Interested organisations and their representatives**

Organisation	Representative
International Society of Professional Aromatherapists [ISPA]	Geraldine Lavelle
<b>Irish Health trade Association [IHTA]</b>	Martin Murray
<b>Consumers for Health Choice [CHC]</b>	Breda Dooley
<b>Irish Association of Medical Herbalists [IAMH]</b>	Dympna Kennan
Irish Herbal Practitioner's Association [IHPA]	Helen McCormack
National Institute of Medical Herbalists [NIMH] *	Alison Denham
Irish and International Aromatherapy Associations [IIAA]	Nicola Darrell
<b>Professional Register of Traditional Chinese Medicine [PRTCM] **</b>	Mary Plunkett
Professional Register of Chinese Herbal Medicine [PRCHM] **	Kerry McBride
European Herbal Practitioner's Association [EHPA] *	Michael McIntyre
<b>Irish Association of Health Stores [IAHS]</b>	Brod Kearon
Irish Society of Homoeopaths [ISH]	Sally Quinlan

\*UK or European based organisations; \*\* Joint submission

### 1.2.2 Consultation with Interested Organisations

In addition to the public notice, the IMB also formally contacted those organisations known to the IMB to have an interest in herbal medicines. A letter and a copy of the advertisement was sent out to the following organisations on the 28<sup>th</sup> September 2000:

- Consumers for Health Choice [CHC]
- Health Products Alliance [HPA]
- Irish Association of Health Stores [IAHS]
- Irish Association of Medical Herbalists [IAMH]
- Irish Health Trade Association [IHTA]
- Irish Register of Chinese Herbal Medicine [IRCHM]

In addition to the above groups, the Professional Register of Traditional Chinese Medicine [PRTCM] contacted the IMB to express their interest. This group were then formally invited to make a submission.

The HPA informed the IMB that it was an umbrella body representing the IAMH, the IAHS and the IHTA and that it was beyond its remit to comment on the regulation of herbal medicinal products as it was established to deal solely with the issue of St. John's Wort. Following initial written consultation, the IAMH and the IRCHM also

formed an umbrella organisation, the Irish Herbal Practitioner's Association [IHPA], who responded on behalf of both groups. The IAMH also submitted a separate response on their own behalf. Each of the remaining groups contacted also took the opportunity to make their position known to the IMB. The associations and the umbrella groups to which they belong are detailed in [Appendix 4](#).

### **1.3 Establishment of an *ad hoc* Scientific Committee on Herbal Medicinal Products**

Following initial consultation with the general public and interested organisations, an *ad hoc* Scientific Committee on Herbal Medicinal Products [SCHMP] was established. This committee is a panel of scientific experts having a special knowledge in herbal medicine and/or related areas and whose role is to advise and assist the IMB in matters pertaining to the development of an interim national licensing scheme [see [Appendix 5](#) – Terms of Reference].

Dr. Desmond Corrigan, Director of the School of Pharmacy, Trinity College, Dublin, was nominated by a member of the public to serve on the *ad hoc* SCHMP and also proposed by the IMB. Dr. Corrigan is an acknowledged international expert in herbal medicine/pharmacognosy and has been involved in this area at a European level for more than ten years. On this basis, the IMB invited Dr. Corrigan to be chairperson of the *ad hoc* SCHMP.

It was the intention that the *ad hoc* SCHMP be established as a group of experts and not as a group representing interested parties. In the interest of fairness and as part of the consultation processes outlined in [Chapter 1.2](#), the public and interested parties were asked to put forward nominations for membership of the *ad hoc* SCHMP. Most parties agreed that the establishment of such a committee was important for the success the project and a total of 15 names were proposed as part of the consultation process. In addition, the IMB nominated eight candidates for consideration by the chairperson for membership of the proposed committee. Dr. Corrigan, the chairperson of the *ad hoc* SCHMP suggested one additional nominee.

From the suggestions received the chairperson selected those people whom he deemed appropriate and who were available to join the committee. The members were chosen with a view to establishing a balanced committee consisting of people from a variety of backgrounds who would effectively reflect and represent the many views and opinions on herbal medicines and herbal medicines regulation. Appointed members were required to sign a confidentiality agreement and to declare any conflicts of interest [see [Appendix 6](#)]. The final membership of the *ad hoc* SCHMP is detailed in **Table 2**.

**Table 2**      **Members of the *ad hoc* Scientific Committee on Herbal Medicinal Products**

<b>Member</b>	<b>Discipline</b>	<b>Role on the Committee</b>
Mrs. Ingrid Hook	Pharmacognosy	Scientific Advisor
Dr. Helen Sheridan	Phytochemistry	Scientific Advisor
Professor Edzard Ernst	Complementary Medicine	Scientific/External Advisor
Dr. Katherine Chan Mullen	General and Chinese Medicine	Medical Advisor
Dr. Dilis Clare	General and Herbal Medicine	Medical/Herbal Advisor
Ms. Helen McCormack	Herbal Medicine	Herbal Advisor
Ms. Nicola Darrell	Herbal Medicine	Herbal Advisor
Ms. Geraldine Lavelle	Pharmacy and Aromatherapy	Pharmacy/Aromatherapy Advisor

The first meeting of the *ad hoc* SCHMP took place on 15<sup>th</sup> December 2000. The Committee met on six other occasions:

- 31<sup>st</sup> January 2001
- 23<sup>rd</sup> March 2001
- 16<sup>th</sup> May 2001
- 25<sup>th</sup> June 2001
- 31<sup>st</sup> July 2001
- 24<sup>th</sup> September 2001

As and when potential chapters of this report were agreed by the IMB and the *ad hoc* SCHMP, they were released for comment to the Department of Health and Children and interested organisations [see [Chapter 1.4](#)].

## **1.4 Transparency and Open Consultation**

The following process of consultation was adopted by the IMB, the *ad hoc* SCHMP and the Department of Health and Children:

- The IMB/SCHMP agreed individual chapters of the final report at each SCHMP meeting,
- Agreed chapters were sent to the Department of Health and Children with two weeks for comment,
- Where issues were raised these were discussed by the IMB/SCHMP,
- Where no issues were raised, the chapters were sent to interested organisations with a period of two weeks for comment,
- In as far as is possible, suggestions and comments were taken on board by the IMB/SCHMP,
- The final draft document was considered by the IMB Expert Sub-Committee of the Advisory Committee on Human Medicines, the Advisory Committee on Human Medicines [ACHM] and the Board,
- Once endorsed the draft report was placed on the IMB web site for one month for public comment.

Following the above consultation process the final report will be sent to the Department of Health and Children for consideration. This process of consultation aimed to give interested organisations an opportunity to comment on the outcome of the deliberations of the IMB and the *ad hoc* SCHMP on an on-going basis. The chairperson of each interested organisation that agreed to partake in the process was required to sign a confidentiality agreement before consultation [see [Appendix 7](#)]:

- College of Anaesthetists of the Royal College of Surgeons of Ireland [RCSI]
- Consumers for Health Choice [CHC],
- European Herbal Practitioner's Association [EHPA]
- International Society of Professional Aromatherapists – Irish Branch [ISPA],
- Irish and International Aromatherapy Associations [IIAA],
- Irish Association of Health Stores [IAHS],
- Irish Association of Medical Herbalists [IAMH],
- Irish College of General Practitioners [ICGP],
- Irish Health Trade Association [IHTA],
- Irish Herbal Practitioner's Association [IHPA],
- Irish Register of Chinese Herbal Medicine [IRCHM],
- National Institute of Medical Herbalists [NIMH],

- Pharmaceutical Society of Ireland [PSI].

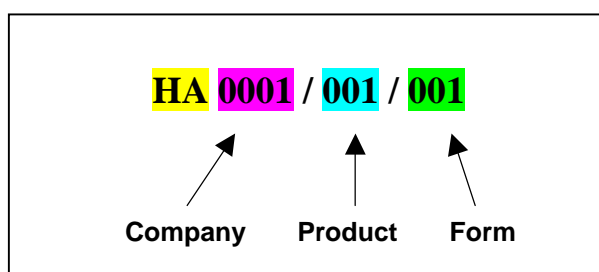
The Professional Register of Traditional Chinese Medicine [PRTCM] declined to take part in the process.

Consultation took the form of four consultation documents, which outlined the details of those chapters agreed by the IMB and the *ad hoc* SCHMP on an on-going basis. On each occasion, the CHC, the EHPA, the IAHS, the ICGP, the IHTA, the IRCHM, and the NIMH submitted comments. Comments were submitted by the IAMH and the PSI on two of the four consultation documents. Comments were reviewed by both the IMB and the *ad hoc* SCHMP. A letter of response was sent to each organisation following this review and, where deemed appropriate, suggestions were incorporated into this proposal.

## 1.5 Traditional Medicinal Products Database

A decision was taken to determine the number of products on the market in Ireland that might ultimately be regulated under the proposed interim national licensing scheme. The IHTA and the IAHS were contacted and, following a meeting with the IMB, a template for the product information required was agreed [see [Appendix 8](#)].

The details of a total of approximately 2000 products were submitted to the IMB for inclusion on the proposed database. These products have been up loaded onto the IMB Swedis product database and assigned HA numbers using the established product authorisation [PA] format:



Of the 2003 products, 1909 are considered herbal, 60 are considered traditional and the remaining 34 are combination products. These figures indicate that the information on a large number of traditional medicinal products, as defined in these

regulations [see **Chapter 3, Article 2**], or combination type products has not yet been submitted to the IMB. Once regulations are put in place it is proposed that a strict timeline for submission of traditional medicinal product registration applications be imposed on all persons responsible for marketing such products in Ireland in order to ensure that all products that fall within the scope of the proposed regulations are made known to the Competent Authority [see **Chapter 3, Article 16**].

In addition, a number of products currently on the IMB PA database could also come under the scope of the proposed regulations. Of the 243 products in question, 195 are considered herbal, 41 are traditional and seven are combination products. Only nine of these products currently hold full marketing authorisations. Of the remaining 234, two have been rejected, three have been cancelled, 34 were withdrawn by the applicant and 179 applications are currently under consideration by the IMB for authorisation under standard medicines legislation. Given the difficulties encountered in the past in licensing traditional medicinal products under standard medicines legislation, particularly in relation to proving clinical efficacy, it is likely that many of these products would be better served under the proposed new interim national licensing scheme for traditional medicinal products.

Finally it should be noted that the details of approximately 400 additional products from three individual companies have been requested but have not yet been submitted.

**PROPOSED EU DIRECTIVE ON TRADITIONAL  
MEDICINAL PRODUCTS**

## Chapter 2      Proposed EU Directive on Traditional Medicinal Products

### 2.1 Background

Following acknowledgement by the European Commission that traditional medicinal products are not adequately accommodated for by Council Directive [65/65/EEC](#)<sup>8</sup>, the [European Commission](#) [EC] [Pharmaceutical Committee](#) released the first draft of a proposal for a Directive on a registration procedure for traditional medicinal products [Provisions of a Directive on Traditional Medicinal Products<sup>24</sup>] in November 2000. Details of the internal IMB Herbal Medicines Steering Committee comments on this draft can be seen in [Appendix 9](#). Our understanding was that the proposed Directive was under development in order to legislate for a large section of the EU medicines market currently unregulated. The original proposal as per ‘Provisions of a Directive on Traditional Medicinal Products<sup>24</sup>’ outlined a brief not dissimilar to that of the IMB Herbal Medicines Project at national level.

In April 2001, the second draft [Directive on Traditional Medicinal Products – Draft No. 2<sup>25</sup>] was circulated for comment. The Irish comments represented the views of the HMSC and the IMB’s newly established *ad hoc* SCHMP [see [Appendix 10](#)].

The broad scope of the original drafts was welcomed by the IMB. However, reservations were expressed with regard to the proposal that in order for a product to be registered under this Directive, a product in question or a ‘corresponding product’ must have ‘been in use in one or more Member States throughout a period of 30 years immediately preceding the date of the application’<sup>24</sup>. It is our opinion that this provision, as an inclusion/exclusion criterion, does not reflect the nature of traditionally used medicinal products. This requirement is reduced to 15 years where evidence can be provided of 30 years continuous usage in either (i) a specified territory or territories outside the EU or (ii) partly in one or more Member States and partly in such a specified territory or territories. It is the opinion of the IMB/SCHMP that this provision may discriminate against those products that originate in non-EU

traditions e.g. Chinese Herbal Medicinal Products, Ayurvedic [Indian] Medicinal Products etc.

In June 2001 the latest draft of the proposed Directive [Directive on Traditional Herbal Medicinal Products<sup>10</sup>] was obtained by the IMB. This version is significantly different to previous drafts and maintains both the ‘30 year rule’ and the ‘15 year rule for non-EU products’. In addition this draft proposes to narrow the scope to cover ‘traditional herbal medicinal products’ only. The IMB/SCHMP acknowledge that the remit of the Herbal Medicines Project, as outlined by the Minister for Health and Children [see [Appendix 1](#)], is broader than that of the proposed Directive.

## **2.2 Future**

It is expected that this latest draft of the proposed Directive<sup>10</sup> will not be officially circulated to the Member States for comment at this stage. It is our understanding that it will now go to the Council of Ministers and then the European Parliament. Opportunity to comment further will therefore be at a political rather than a scientific level.

**PROPOSED NATIONAL REGULATORY  
FRAMEWORK**

## Chapter 3 Proposed National Regulatory Framework

### 3.1 Introduction

The *ad hoc* SCHMP and the IMB put forward the following proposal for an interim national licensing scheme for the regulation of ‘traditional and alternative medicinal products including herbal medicinal products’ as requested by the Minister for Health and Children [see [Appendix 1](#)].

It should be noted that during the course of the development process the IMB and the *ad hoc* SCHMP reviewed and considered a number of potential systems of regulation for traditional medicinal products with reference to those systems operational in other EU, as well as in non-EU countries. The Canadian approach, whereby all ‘[Natural Health Products](#)’ are regulated by an agency independent of both the medicines and the food agencies in Canada, was reviewed in some detail. The IMB/SCHMP considered that they could not recommend such a system in the Irish context, where the IMB is the Competent Authority in Ireland with responsibility for all medicines. In addition, concern was expressed with regard to the potential cost to the health trade industry, and ultimately to the consumer, of establishing an independent regulatory body for traditional medicinal products. Such a body would require facilities and staff to cover traditional medicinal product assessment [ultimately both human and veterinary], inspection of manufacture and wholesale sites, pharmacovigilance and enforcement, as well as the associated administrative costs. Finally, as a Member State of the EU, it would not be possible for Ireland to regulate traditional medicines and food supplements as ‘Natural Health Products’, as these are regulated separately in accordance with EU law.

Throughout the development process, the IMB and the *ad hoc* SCHMP were also mindful of parallel developments at EU level with the emergence of an EU Directive on Traditional Herbal Medicinal Products<sup>10</sup>, as outlined in [Chapter 2](#). In order to minimise disruption for consumers and industry it is our goal to ensure that the new national scheme will include all provisions as per the proposed EU Directive. However, the IMB accepts that the scope of the proposed interim national scheme, as

outlined by the Minister for Health and Children [see **Appendix 1**], is broader than that outlined in the latest draft of the proposed Directive<sup>10</sup>.

## **3.2 Preamble**

The IMB and the *ad hoc* SCHMP would like to take this opportunity to highlight a number of issues that emerged during the process of developing this proposal which were central to the outcome of the work.

### **3.2.1 The Remit of the Herbal Medicines Project**

The remit of the Herbal Medicines Project as outlined by the Minister in his letter to the IMB of the 23<sup>rd</sup> June 2000 [see **Appendix 1**] is as follows:

*‘to advise the Minister in relation to a scheme that might be introduced in this country in respect of the licensing of ‘traditional and alternative medicinal products, including herbal medicinal products’*

and any such recommendation should:

- (a) *adequately define the medicinal products to which it relates;*
- (b) *adequately address the standards of quality and safety, and*
- (c) *where the standard proof of efficacy has not been met, the products concerned should –*
  - (i) *be appropriately identifiable,*
  - (ii) *where medicinal claims are made, be such that any such claims in respect of the use of such a product are appropriate having regard to the fact that the standard proof of efficacy has not been met; and*
  - (iii) *be otherwise such that the interests of public health are adequately protected.*

The Department of Health and Children acknowledged at that time that such a licensing system would be provided for by means of regulations. To this end the following chapter is a proposed regulatory framework for such a scheme.

### 3.2.2 The Limitations of Existing and Pending EU Legislation

The IMB and its *ad hoc* SCHMP undertook to develop a proposal for an interim national licensing scheme that was, in as far as was possible, compatible with the existing medicines legislation i.e. Council Directive [65/65/EEC](#)<sup>8</sup> and associated legislation and the proposed EU Directive on Traditional Herbal Medicinal Product<sup>10</sup>. The former legislation was adopted by Ireland upon entering the EEC in 1973. It should be pointed out that a number of submissions received as part of the consultation process outlined in [Chapter 1.4](#) were critical of this legislation, particularly in relation to its applicability to traditional medicinal products. However, as a Member State of the European Union and the Competent Authority responsible for medicines in Ireland, the IMB and its *ad hoc* SCHMP agreed that it was most appropriate to work within existing medicines legislation. It is acknowledged that amendment of such legislation is outside the remit of the Herbal Medicines Project.

In accordance with Council Directive [65/65/EEC](#)<sup>8</sup>, it was noted that a medicinal product is defined as follows:

*‘any substance or combination of substances presented for treating or preventing disease in human beings or animals’*

*‘any substance or combination of substances which may be administered to human beings or animals with a view to making a medical diagnosis or to restoring, correcting or modifying physiological functions in human beings or in animals is likewise considered a medicinal product’*

where a substance is defined as *‘any matter irrespective of origin which may be: - human, animal, **vegetable**, or chemical’*.

In addition, the EU is preparing a Directive on Traditional Herbal Medicinal Products<sup>10</sup>. This Directive, as outlined in [Chapter 2](#), is expected to become law as early as 2002. The IMB and the *ad hoc* SCHMP were mindful of these developments at European level and have incorporated many of the provisions of the proposed Directive<sup>10</sup> into the interim national licensing scheme.

It should be pointed out however, that a number of the proposals in the draft Directive<sup>10</sup> have been incorporated into this proposal despite the reservations that exist among members of the IMB and the *ad hoc* SCHMP as to their suitability. These are discussed in more detail below:

#### 3.2.2.1 Definition of ‘Traditional Medicinal Product’

The draft Directive on Traditional Herbal Medicinal Products<sup>10</sup> makes no attempt to define the term ‘Traditional Medicinal Product’, other than to stipulate that such a product ‘*or a corresponding medicinal product has been in medicinal use in the Community throughout a period of at least 30 years preceding the date of application*’. It is the opinion of the IMB and the *ad hoc* SCHMP that this does not adequately or accurately reflect the essential nature of the concept of a traditional medicinal product. This ‘30 year rule’ fails to accommodate many traditional medicinal products that, for one reason or another, cannot provide evidence of continuous medicinal use in Ireland or in another EU Member State for 30 years.

A number of possible alternatives to the above were discussed by the IMB and its *ad hoc* SCHMP including an option to define ‘traditional medicinal product’ and specify this as an inclusion criterion, for example:

*‘A traditional medicinal product is a medicinal product containing as active ingredients, generally herbal substances, herbal preparations but also other non-herbal substances, that are supplied on the basis of their use in an established tradition of practice’.*

The IMB/SCHMP also noted the definition adopted by the Complementary Medicines Evaluation Committee [CMEC] of the Australian national regulatory authority, the [Therapeutic Goods Administration](#) [TGA], relating to traditional use:

*‘Traditional use refers to documentary evidence that a substance has been used over three or more generations of recorded use for a specific health related or medicinal purpose*

*In forming a claim based on traditional use, products and substances which form part of the traditional therapies should identify the therapy to which they belong, or the paradigm in which the therapy has been traditionally used, as well as the product description/name and the symptom/indication/condition for which the product or substance is claimed to be beneficial<sup>26</sup>,*

This definition acknowledges the theories, concepts and cultural context of the therapy when considering the proposed ‘traditional use’ claim.

The IMB/SCHMP noted that the latest draft of the [Canadian Natural Health Products Proposed Regulatory Framework](#)<sup>27</sup> defines a Natural Health Product as follows:

*Products manufactured, sold or represented for use in*

- (i) the diagnosis, treatment, mitigation or prevention of a disease, or abnormal physical state or its symptoms in humans;*
- (ii) restoring or correcting organic functions in humans, or*
- (iii) maintaining or promoting health or otherwise modifying organic functions in humans.*

This is similar to the definition of a medicinal product as per EU Council Directive [65/65/EEC](#)<sup>8</sup> and although this definition is designed to include ‘a substance or substances used as a traditional medicine’, it does not attempt to define what a ‘traditional medicine’ is.

### 3.2.2.2 Traditional Medicinal Products from Other Ethnic Traditions

In addition to the proposed ‘30 year rule’ outlined above and in accordance with the draft EU Directive on Traditional Herbal Medicinal Products<sup>10</sup>, products that have been available outside the EU for 30 years [‘in a specified territory’] must provide additional evidence of availability in an EU Member State for 15 years.

It is the opinion of the IMB and the *ad hoc* SCHMP that this provision might restrict the number of products from traditions other than the western European tradition that would otherwise be eligible for registration under the proposed Directive<sup>10</sup> and by extension under the interim national licensing scheme.

### 3.2.2.3 Overall Comment

Ideally the IMB and its *ad hoc* Scientific Committee on Herbal Medicinal Products would favour a change in the proposed Directive to allow a more open interpretation of the concept of ‘traditional use’ as indicated in our responses to the first and second drafts of the Directive [see [Appendices 9-10](#)]. At a minimum the word ‘throughout’ should be removed from the proposed definition of ‘traditional use’, as this appears to imply a requirement to prove continuous use in the EU over the requisite 30 years. The provision of Article 4.3 c) of the proposed Directive<sup>10</sup> would then read as follows:

*‘bibliographical or expert evidence to the effect that the medicinal product in question, or a corresponding medicinal product has been in medicinal use in the Community ~~throughout~~ **for a** period of at least 30 years preceding the date of application. The requirement to show medicinal use ~~throughout~~ **during** this period is satisfied even where the marketing of the product has not been based on a specific authorisation. It is likewise satisfied if the number or quantity of ingredients of the medicinal product has been reduced during the period as mentioned in this article.*

*A corresponding medicinal products is characterised by*

- i) same active ingredients, irrespective of excipients used;*
- ii) same or similar intended purpose;*
- iii) equivalent strength;*
- iv) same or similar route of administration*

*as the medicinal product applied for.*

Overall the IMB/SCHMP acknowledge that in order to comply with and allow ease of transition to the pending EU legislation, the following proposal for an interim national licensing scheme should incorporate the same inclusion criteria as the proposed EU Directive<sup>10</sup>. It is the opinion of the IMB and its *ad hoc* SCHMP that by adopting the provisions as proposed at EU level, any disruption to consumers and industry will be reduced. However, the IMB and its *ad hoc* SCHMP would support and will continue to suggest, where appropriate, that the proposed Directive<sup>10</sup> adopt a more flexible and inclusive approach.

### **3.2.3 Registration of Non-Medical Practitioners**

The IMB and the *ad hoc* SCHMP acknowledge that the registration of non-medical practitioners is outside the remit of the Herbal Medicines Project. However, it is considered necessary to highlight the fact that the following proposals will fall short of effectively regulating the traditional medicines market in the absence of a provision for non-medical practitioners to have legitimate access to traditional medicinal products, herbal substances and herbal preparations for the treatment of patients under their care.

In relation to medical herbalists, it is our understanding that extemporaneous preparation of complex mixtures of herbal substances and/or preparations is central to the practice of medical herbalism. Statutory self-regulation of this professional group would better safeguard public health by ensuring that practitioners, for whom exemptions from these regulations are proposed, have appropriate training. The IMB/SCHMP believe that an interim national licensing scheme should not require that herbal practitioners obtain a Manufacturer's Licence and/or a product registration/authorisation for herbal preparations extemporaneously compounded by them for individuals under their care.

The Irish Herbal Practitioners Association has presented the following proposal for an interim provision for such exemptions to the Department of Health and Children:

*Exemption in respect of herbal remedies:*

*12.(1) The restrictions imposed by sections 7 and 8 of this Act do not apply to the sale, supply, manufacture or assembly of any herbal remedy in the course of a business where –*

*a) the remedy is manufactured or assembled on premises of which the person carrying on the business is the occupier and which he is able to close so as to exclude the public, and*

b) *the person carrying on the business sells or supplies the remedy for administration to a particular person after being requested by or on behalf of that person and in that person's presence to use his own judgement as to the treatment required.'*

It should be noted that the reference to 'sections 7 and 8 of this Act' above refers to the United Kingdom Medicines Act 1968<sup>28</sup> from which the text of this exemption is originally taken.

### **3.3 Part I Definitions and Scope**

The term ‘alternative medicinal product’ as per the original remit of the Herbal Medicines Project outlined by the Minister for Health and Children [see [Appendix 1](#)] was considered imprecise. It is proposed to omit this term from these regulations.

All traditional herbal and traditional non-herbal medicinal products available on the market in Ireland shall be subject to registration to be co-ordinated by the Competent Authority for traditional medicinal products in Ireland.

#### [Explanatory Note 1](#)

##### Article 1      Scope of Application

1. These regulations apply to traditional herbal medicinal products for human use.
2. These regulations apply to the following traditional non-herbal substances when used in medicinal products or where medicinal claims are made or inferred:
  - fish oils,
  - royal jelly and other insect products,
  - activated charcoal and other therapeutic clays.
  - acidophilus/acidobifidus/lactobacillus and other bacterial products,
  - other.
3. These regulations apply to combinations of traditional herbal substances or to combinations of traditional non-herbal substances [[Articles 1.2-1.3](#)] and/or preparations thereof with other non-herbal, non-traditional substances [e.g. vitamins/minerals below levels at which they are considered to fall within standard medicines legislation], where the primary active ingredient of such a product is the traditional herbal or traditional non-herbal substances/preparations.

#### [Explanatory Note 2](#)

## Article 2      Definitions

**Traditional** is defined as having been ‘in medicinal use in the Community throughout period of at least 30 years preceding the date of application. The requirement to show medicinal use throughout this period is satisfied even where the marketing of the product has not been based on a specific authorisation. It is likewise satisfied if the number or quantity of ingredients of the medicinal product has been reduced during the period as mentioned in this article.

As an alternative to supplying evidence of medicinal use throughout a period of 30 years within the EU, the applicant may supply evidence of medicinal use throughout a period of 30 years in either:

- (i) a specified territory or territories outside the Community, or
- (ii) partly in one or more Member State and partly in such a specified territory or territories,

if during this period the product has been available within the Community for at least 15 years.

2. **Herbal Medicinal Product** is any medicinal product, containing as active ingredients one or more herbal substances or one or more herbal preparations, or one or more such herbal substances in combination with one or more such herbal preparations.

3. **Herbal Substances** are all mainly whole, fragmented or cut plants, plant parts, algae, fungi, lichen in an unprocessed, usually in dried form but sometimes fresh. Certain exudates that have not been subjected to a specific treatment are also considered to be herbal substances. Herbal substances are precisely defined by the plant part used and the botanical name according to the binomial system [genus, species, variety and author].

4. **Herbal Preparations** are obtained by subjecting herbal substances to treatments such as extraction, distillation, expression, fractionation, purification,

concentration and fermentation. These include comminuted or powdered herbal substances, tinctures, extracts, essential oils, expressed juices and processed exudates.

5. A **Non-Herbal Medicinal Product** is any medicinal product containing as active ingredient(s) one or more of those substances listed in [Article 1.2](#).

### Explanatory Note 3

#### Article 3      Exemptions from Product Registration

1. These regulations do not apply to any herbal or non-herbal medicinal product that should be authorised according to the [Medicinal Products \(Prescription and Control of Supply\) Regulations, 1996](#)<sup>14</sup> as amended and/or the [Medicinal Products \(Licensing and Sale\) Regulations, 1998](#)<sup>13</sup> as amended. Products covered by the [Misuse of Drugs Act, 1977](#)<sup>29</sup> and/or the [Poisons Act, 1961](#)<sup>30</sup> as amended, are likewise excluded from these regulations.
2. These regulations do not apply to products containing one or more vitamin substances or one or more mineral substances or one or more such vitamin substances in combination with one or more such mineral substances.
3. These regulations do not apply to homoeopathic medicinal products as defined by Council Directive [92/73/EEC](#)<sup>11</sup>. Pending the on-going review of Council Directive [92/73/EEC](#)<sup>11</sup>, it is proposed that Bach and other flower remedies, as well as anthroposophic medicinal products, will likewise be excluded.

### Explanatory Note 4

### **3.4 Part II Product Registration**

A product registration will be issued by the Competent Authority following receipt and assessment of a product registration application in accordance with these regulations.

#### [Explanatory Note 5](#)

##### Article 4      Criteria for Product Registration

In order to qualify for registration in accordance with these regulations, a medicinal products must:

- (i) Comply with [Article 2.1](#), and
- (ii) Comply with [Article 2.2](#) or [Article 2.5](#).

#### [Explanatory Note 6](#)

##### Article 5      Application for Product Registration

1. In order to obtain product registration, the applicant must submit an application to the Competent Authority for traditional medicinal products in Ireland.
2. The applicant must hold a valid Manufacturer's or Wholesaler's Licence from the Irish Competent Authority or the Competent Authority of another Member State – see [Articles 20-21](#).
3. Each registration application submitted should include the following:
  - (i) administrative details [product name, composition, manufacturer etc.]
  - (ii) summary of product characteristics [SPC] – see [Article 6](#),
  - (iii) details of any authorisation or registration, obtained by the applicant in another EU Member State or third country, to place the medicinal product on the market, and details of any decision to refuse to grant or

to suspend or revoke an authorisation or registration and the reasons for such a decision,

- (iv) evidence that the person seeking to register the product holds a valid Manufacturer's or Wholesaler's Licence as per [Articles 20-21](#),
- (v) copies of proposed product label and patient information leaflet,
- (vi) bibliographic evidence to the effect that the medicinal product in question or a corresponding medicinal product has been in medicinal use in the EU throughout a period of at least 30 years preceding the date of application [see [Article 2.1](#)],
- (vii) a full quality dossier – see [Part III](#),
- (viii) a bibliographic review of the safety data. For combination products, such data should relate to the specific combination; the data need to relate to individual active ingredients only, if they are not sufficiently known [cf. [Article 4.3a](#)) - proposed EU Directive<sup>10</sup>] – see [Part IV](#),
- (ix) evidence in support of the traditional status of the product and the proposed traditional use claim – see [Part V](#),
- (x) an expert report that details, explains, justifies and validates the information submitted under (vi) - (ix) above.

## [Explanatory Note 7](#)

### Article 6      Summary of Product Characteristics

The Summary of Product Characteristics [SPC] which must accompany each product registration application should include the following particulars:

- (i) the name of the product,
- (ii) qualitative and quantitative particulars of all constituents of the product,
- (iii) pharmaceutical form,
- (iv) clinical particulars:
  - traditional use indications,

- posology and method of administration for adults and, where necessary, for children,
  - contra-indications,
  - special warnings and precautions for use,
  - interaction with other medicaments and other forms of interaction,
  - use during pregnancy and lactation,
  - effects on ability to drive and to use machines,
  - undesirable effects [frequency and seriousness],
  - overdose [symptoms, emergency procedures, antidotes],
- (v) pharmaceutical particulars:
- list of excipients,
  - incompatibilities [major],
  - shelf-life, when necessary after reconstitution of the product or when the container is opened for the first time,
  - special precautions for storage,
  - nature and contents of container,
  - instructions for use, handling and disposal,
- (vi) product registration number,
- (vii) name and address of product registration holder and, where applicable, the manufacturer,
- (viii) date of first registration or date of renewal,
- (ix) date of last revision of text.

## Explanatory Note 8

### 3.5 Part III Quality Assessment

A quality dossier in accordance with Part II of the [Rules Governing Medicinal Products in the European Union – Vol. 2B](#) ‘Notice to Applicants, Medicinal Products for Human Use, Presentation and Content of the Dossier<sup>33</sup>’ is required for all product applications under these regulations [as detailed in [Article 7](#)].

#### [Explanatory Note 9](#)

##### Article 7      Requirements of the Quality Dossier

1. For traditional herbal medicinal products the CPMP/CVMP ‘[Note for Guidance on Quality of Herbal Medicinal Products](#)<sup>9</sup>’ will apply. This should be read in conjunction with Annex 7 to the [Good Manufacturing Practices Guideline](#) ‘Good Manufacturing Practices – Medicinal products for human and veterinary use’ from Vol. 4, Rules Governing Medicinal Products in the European Union<sup>34</sup>; GMP recommendations should be observed in full.

In addition, the CPMP/CVMP ‘[Note for Guidance on Specifications: Test Procedures and Acceptance Criteria for Herbal Drugs, Herbal Drug Preparations and Herbal Medicinal Products](#)<sup>35</sup>’ will apply.

2. For traditional non-herbal medicinal products, analogous requirements to ensure the quality of such products will be drawn up in due course. In the interim, GMP recommendations should be observed.

#### [Explanatory Note 10](#)

### **3.6 Part IV Safety Assessment**

The safety of a medicinal product subject to registration under these regulations will be determined by reference to all available data, both favourable and unfavourable, presented as outlined below.

#### [Explanatory Note 11](#)

#### Article 8      Evaluation of Safety

1. In the absence of clinical or toxicological data, the safety of a product may be determined primarily by reference to bibliographic data.
2. Such bibliographic data should include any available post-marketing surveillance data and periodic safety update reports [PSURs] collated as part of a formal pharmacovigilance system. Such systems will be mandatory for all product registration holders once these regulations are in place [see [Article 22](#)].
3. Bibliographic data should be justified, validated and prioritised by the applicant's chosen expert.

#### [Explanatory Note 12](#)

### **3.7 Part V Assessment of Traditional Status and Claim**

Persons seeking to register a product under these regulations will provide evidence that the product has a traditional status as per [Article 4](#). In addition the applicant will be required to provide bibliographic evidence in support of the proposed traditional use claim.

#### [Explanatory Note 13](#)

##### Article 9      Evaluation of Traditional Use

The applicant must provide evidence that the product in question or a corresponding product [see [Article 5](#)] is a ‘traditional’ medicinal product as defined in [Article 2.1](#) as follows:

1. Bibliographic data shall provide evidence that the product has been in continuous medicinal use in the Community for a period of 30 years preceding the date of application, or
2. Bibliographic data shall provide evidence that the product has been in continuous medicinal use in another specified territory or partly in such a territory and partly in an EU Member State for 30 years preceding the date of application and 15 years in an EU Member State, and
3. The application should be accompanied by an expert evaluation of the reference(s) provided.

#### [Explanatory Note 14](#)

##### Article 10      Evaluation of the Traditional Indication Claim

The traditional indication claim for a product is chosen by the applicant. Such a claim should be supported by bibliographic evidence as defined below. Medicinal products

registered under these regulations shall be available for sale in pharmacies only or will be available for general sale.

1. Evidence in support of a traditional indication claim shall be:
  - (i) Three references from conventional or traditional medical literature, and
  - (ii) EU recognised pharmacopoeial monographs, where applicable, or
  - (iii) Other monographs recognised by the Competent Authority.
  
2. An expert report providing a critical evaluation of all data provided.

[Explanatory Note 15](#)

### **3.8 Part VI Final Provisions**

#### Article 11 Refusal of Product Registration

The registration of a product under these regulations can be refused if, for example:

1. The product does not meet the requirements of these regulations,
2. The qualitative and/or quantitative composition is not as declared,
3. The proposed therapeutic indication does not comply with the requirements of these regulations and/or specifies a condition or disease as outlined in the [Medical Preparations \(Advertising\) Regulations 1993](#)<sup>7</sup>, as amended,
4. The product could be harmful under normal conditions of use,
5. Information on traditional use is insufficient, especially if pharmacological effects or efficacy are not plausible on the basis of long-term use and experience,
6. The product would be classed as a medicinal product subject to medical prescription as per [Medicinal Products \(Prescription and Control of Supply\) Regulations, 1996](#)<sup>14</sup>, as amended,
7. The product is other than an oral, external or inhalation preparation,
8. The pharmaceutical quality is not satisfactorily demonstrated.

#### [Explanatory Note 16](#)

#### Article 12 Suspension/Revocation of Product Registration

A product registration issued under these regulations may be suspended or revoked if, for example:

1. The product registration holder fails to comply with any conditions of the registration,
2. New safety data highlight a potential threat to public health.

#### [Explanatory Note 17](#)

### Article 13      Appeals Procedure

The applicant will be provided with an opportunity to appeal any decision taken by the Competent Authority to refuse, suspend or cancel a product registration.

#### [Explanatory Note 18](#)

### Article 14      Traditional Medicinal Products Unit

A unit dedicated to the evaluation of applications for product registration under these regulations shall be set up within the Competent Authority. This unit will be adequately resourced and staffed so that it has pharmaceutical, medical and herbal assessors.

#### [Explanatory Note 19](#)

### Article 15      Sub-Committee on Traditional Medicinal Products

A Sub-Committee of the IMB Advisory Committee on Human Medicines [ACHM] shall be established. The chairperson shall be appointed to the ACHM. The membership of this new committee should closely reflect the membership of the *ad hoc* SCHMP and should include individuals with *inter alia* expertise in:

- Medical Herbalism
- Medicine
- Pharmacy
- Pharmacognosy
- Toxicology
- Aromatherapy
- Traditional Chinese Medicine
- Complementary Medicine in General

The Terms of Reference should include the provision of advice on the implementation of this regulation; monitoring the implementation of these regulations; establishment of national lists of approved indication claims and approved bibliographic sources

which could be used to support the claims; approval of any positive or negative lists which might be prepared and the general provision of advice and technical back up to the staff of the Traditional Medicines Unit.

## [Explanatory Note 20](#)

### Article 16    Implementation

1. The Competent Authority shall comply with these regulations at such a time as the Department of Health and Children directs it to do so.
2. Persons responsible for putting traditional medicinal products [as defined in [Article 2](#)] on the market in Ireland at the time of entry into force of these regulations shall inform the Competent Authority of the details of such products within three months. Such persons will be required to submit an application for registration of such products to the Competent Authority within six months of entry into force of these regulations. Products not so notified shall be removed from the market.
3. The Competent Authority will apply the provisions of these regulations within three years after their entry into force.
4. Persons responsible for the marketing of traditional medicinal products shall, within three years after entry into force of these regulations, comply fully with the requirements of **Part VII** of these regulations.

## [Explanatory Note 21](#)

### 3.9 Part VII Additional Provisions

The following provisions relate to traditional medicinal products registered under these regulations and the product registration holders. The provisions as outlined in [Articles 17-22](#) are adapted from existing legislation for conventional medicines in the relevant areas and, where appropriate, the proposed Directive on Traditional Herbal Medicinal Products<sup>10</sup>.

#### Article 17    Labelling

1. The following should appear on the outer packaging:
  - a.) the product is a traditional use medicinal product for use in a specified indication and that the efficacy of the product has not been clinically proven but relies exclusively on long-term use and experience,
  - b.) the user should consult a doctor or a qualified practitioner if symptoms persist during the use of the medicinal product,
  - c.) the name of the product followed by the Latin or other accepted scientific name where the product contains a single active substance; where a product is available in a number of strengths or forms this information should also be included,
  - d.) a statement of the active ingredients [i.e. herbal substance – including the Latin names and plant part, where appropriate] expressed, where possible, qualitatively and quantitatively,
  - e.) the pharmaceutical form and, where possible, the contents by weight, volume or number of doses,
  - f.) the method and route of administration,
  - g.) a warning to ‘store out of reach of children’,
  - h.) other specific warnings for the product concerned,
  - i.) the expiry date,
  - j.) special storage conditions if required,
  - k.) the name and address of product registration holder,
  - l.) the registration number,
  - m.) the batch number,
  - n.) instructions for use of the product,



Pharmacy Acts, 1875-1977<sup>36</sup> where such a sale is carried out and the product is extemporaneously compounded by or under the supervision of a pharmacist for such particular sale.

6. Traditional medicinal products sold or supplied in accordance with [Article 17.5](#) of these regulations should be labelled in accordance with the requirements for a 'dispensed medicinal product' as per the [Medicinal Products \(Prescription and Control of Supply\) Regulations, 1996](#)<sup>14</sup>, as amended.

## Explanatory Note 22

### Article 18      Patient Information Leaflets

1. The following should appear in the Patient Information Leaflet [PIL]:
  - a.) the product is a traditional use medicinal product for use in a specified indication and that the efficacy of the product has not been clinically proven but relies exclusively on long-term use and experience
  - b.) the user should consult a doctor or a qualified practitioner if symptoms persist during the use of the medicinal product
  - c.) the name of product followed by the Latin or other accepted scientific name where the product contains a single active substance; where a product is available in a number of strengths or forms this information should also be included,
  - d.) a full statement of active substances [i.e. herbal substance - including Latin names and plant part, where appropriate], and excipients expressed qualitatively and quantitatively,
  - e.) the form and contents of the product by weight, volume or number of doses,
  - f.) the name and address of the product registration holder and the product manufacturer, where these differ,
  - g.) traditional use claims - to appear in English and if required, the language of the specific tradition,
  - h.) contra-indications,
  - i.) interactions, where known,
  - j.) special warnings,

- k.) the dosage,
  - l.) the method and route of administration,
  - m.) the duration of treatment,
  - n.) the action to be taken in the event of overdose, where appropriate/known,
  - o.) a description of undesirable effects which can occur under normal conditions of use; the user should be specifically invited to report any undesirable effects to his/her registered practitioner, pharmacist or the registration holder,
  - p.) the expiry date,
  - q.) any special storage conditions,
  - r.) date of last revision of the package leaflet,
  - s.) the statement 'Do not exceed the stated dose'.
2. Information shall be clearly legible and shall appear in English. The particulars may, in addition, indicate the specific tradition from which the product originates and appear in the language of that tradition.
  3. The inclusion of a patient information leaflet shall be obligatory unless the required information appears on the outer packaging of the product.
  4. The above requirements will be mandatory from the date of entry into force of these regulations; all registration holders will be required to comply with these requirements within three years.
  5. The above requirements shall not apply to a traditional medicinal product that is:
    - a.) sold or supplied by a registered practitioner for or to a patient under their care.
    - b.) sold or supplied by a person lawfully keeping open shop for the dispensing or compounding of medical prescriptions or for the sale of poisons under the Pharmacy Acts, 1875-1977<sup>36</sup> where such a sale is carried out and the product is extemporaneously compounded by or under the supervision of a pharmacist for such particular sale.
  6. Traditional medicinal products sold or supplied in accordance with Article 17.5 of these regulations should be labelled in accordance with the requirements for a

‘dispensed medicinal product’ as per the [Medicinal Products \(Prescription and Control of Supply\) Regulations, 1996](#)<sup>14</sup>, as amended.

### Explanatory Note 23

#### Article 19      Advertising

1. The provisions of the [Medical Preparations \(Advertising\) Regulations, 1993](#)<sup>7</sup> as amended shall likewise apply to traditional medicinal products registered in accordance with these regulations.
2. In accordance with the draft Directive on Traditional Herbal Medicinal Products<sup>10</sup> the following shall also appear in any advertising for a traditional medicinal product registered in accordance with these regulations:
  - a.) the product is a traditional use medicinal product for use in a specified indication and that the efficacy of the product has not been clinically proven but relies exclusively on long-term use and experience,
  - b.) the user should consult a doctor or a qualified practitioner if symptoms persist during the use of the medicinal product.

### Explanatory Note 24

#### Article 20      Manufacturer’s Licences and Compliance with GMP

1. Any person involved in the manufacture of a traditional medicinal product registered in accordance with these regulations is required to hold a Manufacturer’s Licence issued by the Competent Authority in accordance with Council Directives [75/319/EEC](#)<sup>38</sup> and [91/356/EEC](#)<sup>39</sup> and associated Irish legislation [[Medical Preparations \(Licensing of Manufacture\) Regulations, 1993](#)<sup>40</sup> as amended] or by the Competent Authority of another EU Member State in accordance with the national legislation of the Member State concerned.
2. Any person involved in the importation from a country outside the European Economic Area [EEA] of a traditional medicinal product is required to hold a

Manufacturer's Licence issued by the Competent Authority in accordance with Council Directives [75/319/EEC](#)<sup>38</sup> and [91/356/EEC](#)<sup>39</sup> and associated Irish legislation [[Medical Preparations \(Licensing of Manufacture\) Regulations, 1993](#)<sup>40</sup> as amended] or by the Competent Authority of another EU Member State in accordance with the national legislation of the Member State concerned.

#### [Explanatory Note 25](#)

##### Article 21      Wholesaler's Licence and Compliance with GDP

Any person involved in the wholesale and distribution of a traditional medicinal product registered in accordance with these regulations is required to hold a Wholesaler's Licence issued by the Competent Authority in accordance with Council Directives [75/319/EEC](#)<sup>38</sup> and [92/25/EEC](#)<sup>41</sup> and associated Irish legislation [[Medical Preparations \(Wholesale Licences\) Regulations, 1993](#)<sup>16</sup> as amended].

#### [Explanatory Note 26](#)

##### Article 22      Pharmacovigilance

1. The established conventional system of pharmacovigilance as per Council Directive [75/319/EEC](#)<sup>38</sup> and Council Regulation [2309/93](#)<sup>43</sup> will likewise apply to traditional medicinal products registered in accordance with these regulations, unless specific herbal legislation is defined which addresses pharmacovigilance of herbal medicinal products.
1. Each product registration holder will be required to establish a formal pharmacovigilance system in accordance with the above legislation.
2. A formal reporting system for registered practitioners, including herbal practitioners will be established.

#### [Explanatory Note 27](#)

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