

EUCOMED POSITION PAPER
on the proposal for a Community Regulatory Framework on Advanced Therapies of 04 May 2005

Eucomed, the Federation of Medical Technology Manufacturers¹, welcomes the opportunity to comment on the proposed Regulation on Advanced Therapies.

Eucomed can share by and large the general comments made by other trade federations, like EuropaBio and EBE (Emerging Biopharmaceutical Enterprises), with whom we have held extensive consultation and exchange of views.

Due to the nature of some of the products covered by this draft Regulation and the interest that Eucomed members have in them, we felt nevertheless that it was necessary to complement the comments from the other Trade Federations with a set of suggestions, which you will find in the attached amended version of the consultation paper.

We would like to join the other Trade Federations in offering our help, with our experts, for the elaboration of the numerous guidance documents, at all levels, requested by the Regulation. We believe that the experience gained by Eucomed members in the Medical Devices field in providing loyal support to regulators in the elaboration of sound and balanced guidance is a wealth to be fully exploited also in this area.

The principal Points which Eucomed would like to address are the following:

1. We can accept that the overall regulatory framework is linked to the pharmaceutical legislation, in the attempt to achieve a fast conclusion of the long process for having a regulatory framework for human tissue engineered products (hTEP). This does not mean, however that hTEPs "become" medicinal products in the strict sense of the definition. We have to ensure that any further modifications to the Regulation on Medicinal Products for Human use will appropriately take into account that hTEPs are NOT medicinal products. For this reason, we suggest dropping the term "medicinal" from the expression "Advanced Therapy Medicinal Products", or to change it into "medical"
2. We believe that it is paramount to ensure that the regulatory regime takes into account the speed of innovation in this sector, the technology used (much more engineering oriented rather than pure pharmaceutical oriented) and the needs of the patients, who cannot wait too long for access to the health products they need, in certain cases, to survive. This, of course, does not imply that the level of

¹ Eucomed is the voice of the medical technology industry in Europe. Eucomed represents 25 European associations and 4500 designers, manufacturers and suppliers of medical technology used in the diagnosis, prevention, treatment and amelioration of disease and disability. Small and medium size companies make up more than 80% of this sector. The European medical technology industry invests on average 6,4% of sales in R&D and employs near to 400.000 highly skilled workers. The mission of Eucomed is to improve patient and clinician access to modern, innovative and reliable medical technology.

controls should be less than rigorous, but it also has to be appropriate in order to achieve the end objective: timely, effective, safe and quality patient care.

3. It must also be noted that the times and fees for approval are extremely critical to encourage (or discourage) not only SMEs, which represent the large majority of manufacturers of these products, but also big Corporations to invest in this promising branch of medical technology.
4. We suggest paying the greatest caution when applying a broad reference to existing legislation, which could lead to conflicting requirements or definitions: for example, Directive 2001/83/EC and Directive 2004/23/EC both contain a definition of "serious adverse reaction", but the definitions are completely different.
5. We do not have philosophical objections to the fact that the EMEA (European Medicines Agency) will deal with hTEPs, on the contrary, we believe that a centralized approach may help in creating a favorable environment for the development of this innovative technology. However, we offer some improvements (see attached document), which we value as essential to allow a rigorous evaluation of these products by appropriately knowledgeable experts, while allowing Member States' Authorities to have appropriate control of the process. We refer to the need to have the Committee for Advanced Therapies (CAT) as an independent body within the EMEA structure and it being a balanced mix of experts of the various technologies and some national experts. If this is not possible, and only in this case, we would then recommend that the "veto" right of the CHMP (Committee for Medicinal Products for Human Use) is lifted, that the CAT is made exclusively of experts and that a new Standing Committee is put in place by the Regulation to assist the Commission in the final approval of the hTEP.
6. We believe that the European Union should be a level playing field for those researching, designing and manufacturing hTEPs, but over all, we believe that patients should be entitled to have access to hTEPs based on the highest safety, quality and efficacy standards. This cannot be reached if different rules apply depending on the nature of the business of the manufacturer. For this reason, we oppose the creation of special rules for "one-off, non-industrially manufactured" hTEPs.
7. Since hTEPs are not Medicinal Products and cannot be regulated by the existing, unchanged, rules for Medicinal Products, we believe that the application of technical requirements for hTEPs shall be derived directly from a pre-marketing risk analysis and design control procedure (this is already an integral facet of the Medical Devices and other New Approach legislation and in Standards terminology is called Risk Management). This should also apply equally to the application of requirements for clinical investigations, to the requirements for Good Manufacturing Practice and to the requirements for post-marketing vigilance which need to be tailored to the specificities of these products. We therefore suggest that the existing requirements for Clinical Investigation² and for Good Manufacturing Practice for medicinal products are appropriately adapted from the technical point of view, while maintaining their general Ethical requirements. We also suggest dropping the term "pharmacovigilance" to become simply "vigilance".
8. We would suggest considering the consequences of some definitions and their impact on the scope of the proposed Regulation. For example, the current text excludes products being a combination of animal derived medical devices and human tissues and/or cells. In consideration of the fact that the Medical Devices Directive excludes devices which contain human tissues and cells, these products would not be covered by any community legislation, unless a specific amendment

² Please refer to the position paper of EuropaBio for the details on the objective difficulties to apply Directive 2001/20/EC to hTEP

is introduced in the 93/42/EED Directive. Our attached proposal gives some suggestions.

9. We have made some suggestions for an effective procedure when dealing with combinations of hTEPs and medical devices.
10. We support the comments from EuropaBio on the need to appropriately address the responsibilities for traceability.
11. We also support EuropaBio for the need to have approval procedures which allow timely access to the market for products which constantly evolve.
12. We suggest that special rules and guidance should be elaborated to address the transitional period. Existing different legal schemes which apply in the European Union for these products shall be taken into consideration when drafting such rules, to avoid unnecessary duplication of work. For this reason, we would suggest limiting the evaluation for products already legally on the market to, for example, manufacturing, vigilance procedures and risk management requirements.