ROADMAP

Title of the initiative**: Legislative proposal on a Regulation/Directive amending the Clinical Trials Directive 2001/20/EC**
Type of initiative (CWP/Catalogue/Comitology): Legislative
Lead DG/contact person/details: DG SANCO
Expected date of adoption of the initiative (month/year): 10/2011
Date of modification: 23/03/2010
Version No: 2

Initial IA screening & planning of further work

A. Context and problem definition

(i) What is the political context of the initiative? (ii) How does this initiative relate to past and possible future initiatives, and to other EU policies?

Clinical trials are an indispensable part of clinical research which, in turn, is essential for innovation when developing medicinal products and improving medical treatment. These are key to strengthening knowledge and innovation as drivers of future growth, as highlighted in the 'Europe 2020 strategy for smart, sustainable and inclusive growth'.[1]

Since 2004, clinical trials are regulated in the Union by the Directive 2001/20/EC of the European Parliament and of the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use ("Clinical Trials Directive").

The Clinical Trials Directive is arguably the most criticised piece of legislation in the Union *acquis* on medicines.

The criticisms focus on three main issues: (1) The divergent application of the Clinical Trials Directive in the Member States; (2) the increased administrative burden for clinical trials in view of regulatory requirements which do not take into account practical necessities and constraints; (3) the fact that clinical trial regulation does not sufficiently take into account the increasingly global scale of clinical trials.

To address these concerns the Commission has committed, in its Communication of 10 December 2008 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on "Safe, Innovative and Accessible Medicines: a Renewed Vision for the Pharmaceutical Sector", to undertake an impact assessment which would consider, in particular, various options for improving the functioning of the Clinical Trials Directive with a view to making legislative proposals, if appropriate, while taking the global dimension of clinical trials into account.

What are the main problems identified?

The difficulties outlined above bring about two main problems:
(1) Unnecessary costs and delays for conducting clinical trials in the Union, in particular in the case of multi-national clinical trials;
(2) Increased difficulties in conducting clinical trials in view of regulatory requirements not adopted to the practicalities and needs.

[1] COM(2010) 2020, 3.3.2010.

Who is affected?

Affected parties are those conducting and sponsoring clinical research with medicinal products, national assessment bodies in the Member States, as well as clinical trial participants (patients or healthy volunteers).

(i) Is EU action justified on grounds of subsidiarity? (ii) Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)? (iii) As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)?

Prior to the entry into force of the Clinical Trials Directive the provisions laid down by law, regulation or administrative action in force in the Member States differed from one Member State to another. These differences between national laws led to differences in the approval and acceptability of clinical trials referred to in the framework of request for authorisation for placing a medicinal product on the market. Moreover, these differences hindered trade in products used in a clinical trial. As a result, this had a direct effect on the establishment and functioning of the internal market for medicinal products for human use.

To address this issue, it was necessary to harmonise the regulation in place in the internal market. It would not have been possible for each Member State individually to establish identical rules. The EU legislation on clinical trials attempts to address this. It determines at Union level the rules to be complied with as regards *inter alia* the authorisation and performance of clinical trials, manufacturing and labelling of medicinal products used in a clinical trial, as well as inspections.

These rules are in principle, and unless provided otherwise in the Directive, exhaustive, i.e. they are not 'minimum standards'. Member States are not allowed to 'add to' these rules. Changes made by Member States to these rules would conflict with the requirements of the Treaty, as only the Union legislator can amend the rules. Hence, only the Union can act in addressing the shortcomings identified in the Clinical Trials Directive, as far as these shortcomings are rooted in the Directive itself.

B. Objectives of EU initiative

What are the main policy objectives?

Objective n°1: A modern regulatory framework, taking into account the multi-national research environment and the needs of the highly innovative, research-based pharmaceutical sector. This holds in particular as regards the assessment and regulatory follow-up of clinical trials applications in a multinational setting;

Objective n°2: Regulatory requirements which are adapted to practical requirements, constraints, and needs, without compromising the safety, well-being and rights of clinical trial participants;

Objective n°3: Addressing the global dimension of clinical trials in terms of global alignment and ensuring respect of GCP.

Do the objectives imply developing EU policy in new areas or in areas of strategic importance?

No.

C. Options

(i) What are the policy options? (ii) What legislative or 'soft law' instruments could be considered? (iii) Would any legislative initiatives go beyond routine up-date of existing legislation?

(i):

Policy-option to address objective n°1: Policy options are (a) a streamlined clinical trial authorisation, based on a joint assessment and follow-up by Member States, (b) a clarification of certain provisions of the Clinical Trials Directive in order to reduce divergencies in assessment by Member States, and/or (c) the adoption of the Clinical Trials Directive as Regulation in order to avoid divergent transpositions.

Policy options to address objective n°2: Policy options are (a) a revision of the Clinical Trials Directive and/or (b) a review of implementing guidelines in order to address, where possible, the issues.

Policy options to address objective n°3: Policy options are (a) a strengthened international dialogue and cooperation, including capacity-building in certain third countries, (b) stronger alignment of existing implementing guidelines in the Union with international developments, as well as (c) stronger scrutiny of results of clinical trial performed in third countries if these are referred to in the regulatory setting of the Union.

(ii):
In terms of instruments, depending of the concrete objective to be addressed, the policy options include (1) amending the Clinical Trials Directive, (2) replacing the Directive (partly) by a Regulation, (3) revision of guidelines and infringement procedures, or (4) relying on voluntary cooperation of Member States in order to address the identified shortcomings.

(iii):
If the impact assessment exercise shows that (in terms of substance, cf. above, i) the clinical trial authorisation process should be streamlined or that (in terms of instruments, cf. above, ii) the Clinical Trial Directive should be (partly) replaced by a Regulation, this would go beyond routine up-date of existing legislation.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No.

Explain how the options respect the proportionality principle

None of the options discussed in the impact assessment exercise violates the proportionality principle at the outset. However, in the process of the ongoing impact evaluation this assessment is going to be further fine-tuned in order to assess in detail which policy option (both in terms of substance and instrument) achieves the objective, while keeping negative socio-economic impacts as low as possible.

D. Initial assessment of impacts

What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?

Significant impacts would be as follows:
Socio-economic impacts:
- Improvement of protection of the safety, well-being, and rights of clinical trial participants in the Union;
- Reduction of administrative costs and administrative burden for sponsors and investigators;
- Facilitation of clinical research with medicinal products, in particular as regards multinational clinical trials. This is particularly crucial as multinational clinical trials often assess low prevalence conditions (eg. rare diseases) where additional research is crucial.
- Strengthening reliability of global clinical trials.

Environmental impacts:

The policy options have only very limited, if any, environmental impacts.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

Yes. The impact assessment may conclude that certain tasks should be performed for the entire Union by the European Medicines Agency (EMA), which is partly financed with the Union budget. This would include in particular costs for improving the functionalities of IT systems.

Could the options have significant impacts on (i) simplification, (ii) administrative burden or on (iii) relations with third countries?

(i), (ii): Yes. Some of the options (in particular the review of the Directive or the (partly) replacement by a Regulation) have considerable potential for simplifying the regulatory framework for clinical trials in the Union, a well as reduction of administrative burden.
(iii): No significant impacts.

E. Planning of further impact assessment work

When will the impact assessment work start?

Impact assessment work started in spring 2009.

(i) What information and data are already available? (ii) Will this impact assessment build on already existing impact assessment work or evaluations carried out? (iii) What further information needs to be gathered? (iv) How will this be done (e.g. internally or by an external contractor) and by when? (v) What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

(i), (ii): An extensive, quantitative study has been carried out in the framework of the 7th Framework Program for Research. Moreover, there is a wealth of articles quantifying (partly) the existing administrative burden. Finally, the public consultation, which has been open from 9 October 2009 until 8 January 2010 and which was integral part of the impact assessment exercise has brought about very useful additional quantitative and qualitative information. This data provides for a useful baseline of administrative burden, and the consequent measurement of reductions through the EU Standard Cost Model.
(iii) Additional data and information is going to be gathered in particular as regards the impact of clinical research on human health, i.e. a quantified assessment of the benefit of clinical research.
(iv) This additional data and information is going to be collected through in-house expertise as well as dedicated meetings with expert-stakeholders in the course of 2010. It is not planned to recruit an external contractor.
(v) The impact assessment is part of a 'narrow' legislative action (cf. Commission impact assessment guidelines (2009), p.15). It will focus in particular on a detailed description of problems and challenges, their likely evolution, as well as a thorough analysis of all options. Simplification potential as well as administrative burden are going to be assessed in depth.

Which stakeholders & experts have been/will be consulted, how and at what stage?

All relevant stakeholders have been consulted and are being consulted in dedicated meetings throughout the impact assessment process.