New guidance for importers of medicinal products into the EU is on the horizon

You need to be ready to embrace the changes triggered by Annex 21 and the new Swiss drug regulation

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Executive summary

At present, there is no European definition of “import” from a regulatory point of view. In addition, this notion is interpreted differently within the European Economic Area (EEA).

Annex 21 to the EU Good Manufacturing Practice (GMP) requirements is expected to provide guidance on imports of medicinal products into the EEA. Pharmaceutical companies must closely monitor the publication of this Annex 21 if their principal is based outside the EEA.

The Swiss drug regulation will be amended to strengthen, in particular, the traceability of medicinal products in the supply chain. This new regulation will have an impact on Swiss principal models.

You need to be prepared for the changes expected with the release of Annex 21 and the new Swiss drug regulation, to transform these constraints into competitive advantages.
The origin of Annex 21

Pharmaceutical supply chains are intrinsically complex, and globalization adds to the complexity

The pharmaceutical sector presents very complex supply chains. Diversified portfolios of finished products, raw materials, components and intermediates are shipped daily to countries throughout the world. Products can cross multiple borders as part of manufacturing (whether they are intended for clinical trial or for commercial distribution).

Globalization adds to the complexity in supply chains. In recent years, the EU has thus witnessed an increase in importations of medicinal products from outside of the EU.

There is a lack of clarity on the definition of import

At present, there is no European definition of import of medicinal products from a regulatory point of view.

In addition, this notion is interpreted differently within the EEA.

Traditionally, EEA authorities deemed imports as the physical entry of the products on the EEA territory.

However, following the adoption of the Good Distribution Practices (GDP) in November 2013, some EEA local authorities initiated a change in their position regarding buying operations from non-EEA countries. These authorities are now considering that buying operations with a non-EEA established entity are to be deemed as imports from a regulatory point of view, even if the product remains at all times within the EEA territory.

On the other hand, other countries in the EEA are challenging the non-EEA ownership of the products while on the EEA territory.

EMA guidance on defining and standardizing the definition of import

In May 2015, the European Medicines Agency (EMA) published a concept paper for public consultation on new guidance for importers of medicinal products, in which it stated its intent to provide guidance for importers of medicinal products and to harmonize the position of the local authorities on EU GMP requirements specific for importation via a new annex (Annex 21) to the GDP guidelines.

Timeline

The European Commission (EC) was initially expected to adopt Annex 21 in March 2016; it is currently anticipated that the Inspectors Working Group of the European Medicines Agency will provide in Q4 2018 the EC with a final text for publication.

Way forward

Pharmaceutical companies must closely monitor the position of the EU: they must plan now to embrace this change if their principal is based outside the EEA (e.g., in Switzerland). The same may apply to UK principals depending on the final terms of Brexit.

Focus on new Swiss drug regulation

Switzerland has initiated a consultation procedure to amend its drug regulation as regards authorizations in the field of medicinal products. The project aims at strengthening the quality and safety of medicinal products including improving their traceability in the supply chain.

Today, Swiss entities that trade medicinal products outside of Switzerland hold the “foreign trade license” (E-license), including if they are toll manufacturers or buy or sell products that are manufactured outside Switzerland.

The current draft of the new regulation expressly prohibits holders of this E-license from participating in the manufacturing process.

The new Swiss drug regulation was the subject of a consultation procedure that ended on 25 May 2018, with an entry into force planned in the “beginning of 2019.”

Swiss principals must closely monitor the new Swiss drug regulation to adapt their structure if necessary.
Annex 21 and the new Swiss drug regulation are expected to require an update of supply chains

### Annex 21

<table>
<thead>
<tr>
<th>Impending changes</th>
<th>License requirements</th>
<th>Regulatory substance and release processes</th>
<th>Ownership of stocks</th>
<th>Contracts and MA dossiers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Whenever a non-EEA entity sells to an EEA entity, the latter may need to hold a Manufacturing &amp; Import Authorization (MIA)</td>
<td>Importer will face additional regulatory requirements</td>
<td>It might be necessary to restructure supply chains to ensure that no non-EEA entity is the owner of stocks that are in the EEA territory or to find alternative solutions</td>
<td>The contracts with the importer, and their Quality Technical Agreements (QTA), will need to be updated</td>
</tr>
</tbody>
</table>

### New Swiss drug regulation

<table>
<thead>
<tr>
<th>Impending changes</th>
<th>License requirements</th>
<th>Regulatory substance</th>
<th>Business processes</th>
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</tr>
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<tbody>
<tr>
<td></td>
<td>Swiss principals may need to obtain an additional license if they participate in the manufacturing process</td>
<td>In addition to the current GDP requirements, said Swiss principals will face additional GMP oriented requirements</td>
<td>New legislation may have an impact on release processes.</td>
<td>The contracts entered by Swiss principals with contract manufacturing organizations (CMO) and toll manufacturers, and their QTAs, will need to be updated</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Possible impacts on physical flows should be carefully monitored</td>
<td>The same could apply to distribution contracts</td>
</tr>
</tbody>
</table>

### Expected implications for the pharmaceutical industry

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Expected implications for the pharmaceutical industry

- Tax implications (VAT and customs)
- Delay in batch release resulting in reduced shelf life
- Impact on legal responsibilities and regulatory substance
- More complicated trade relations with Switzerland, the UK (depending on the final terms of Brexit) and other non-EEA partner countries
- Change in company operating model
- Reduced financial efficiency of supply chain
- Impact on contracts and Quality Technical Agreements

Annex 21 implications for the industry

New guidance for importers of medicinal products into the EU is on the horizon
EY’s four-step approach to understanding Annex 21 and the new Swiss drug regulation, and securing your supply chains

On top of regulatory matters, Annex 21 and the new Swiss drug regulation may have broad implications on tax, supply chain and operating model considerations.

Our team at EY delivers an integrated approach to assist you in preparing for this significant development.

**Identify**
- Assess the regulatory license requirements for each entity in the supply chain of medicinal products: import or export license, wholesaler license, and manufacturing license taking into account:
  - Physical flows and invoicing flows
  - Transfer of title of ownership
  - Marketing authorization holders
  - Pharmaceutical release operations and batch testing operations

**Diagnose**
- Identify the gaps compared with the current situation taking into account:
  - Which licenses need to be obtained?
  - What are the regulatory requirements (e.g., personnel, systems, procedures)?
  - What are the impacts on the product flows?
  - What are the impacts on the batch release processes? On the MA dossiers?

**Design**
- Evaluate the potential options available to address the new requirements and to manage issues arising from a regulatory, tax and supply chain point of view
  - Optional: test the various options with the EEA local regulatory authorities
  - Rationalize the options for balanced recommendations for client’s decision
  - Prepare a high level roadmap

**Implement and monitor**
- Support the client in:
  - Updating the contracts and the QTAs to reflect the changes and the new responsibilities
  - Updating the procedures
  - Updating the processes
  - Monitoring the evolution of the position of the authorities in the EEA and in Switzerland

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Increased customer expectations and rapid technological advances are disrupting the health care industry, causing power to shift across traditional stakeholder groups and creating opportunities for new entrants. As the data and algorithms that drive patient-centric health outcomes become the ultimate health care products, organizations that harness data-fueled insights will lead in this new industry paradigm.

Life Sciences 4.0 examines this power shift, creates a future vision for the health care industry and suggests how life sciences companies should respond. To create value now and in the future, biopharmas and medtechs must adopt agile, data-centric business models presently only seen in other industries. That means life sciences companies must build – or participate in – interoperable information systems that deliver data-driven improvements to health outcomes. And they must form agile, often short-term, partnerships and collaborations.

As competition increases and capital becomes scarcer, we expect to see companies narrowing their focus from diversified business models.

A new equation for delivering value

Future value (FV) is driven by innovation (I) that focuses on outcomes with a high degree of personalization and is fueled by unlocking the power of data (D)

\[ FV = I^D \]

Future value = Innovation (Outcomes x Personalization)

- For people
- For physicians
- For payers
- For policymakers

Participatory
Precise
Predictive
Proactive

Data (Connect + Combine + Share)

- Data streams
- Traditional and non-traditional partners
- Platforms of care

Source: EY

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“Embracing Life Sciences 4.0 is both a global urgent need and an opportunity. If companies leverage technology to create platform interfaces and combine their proprietary data with those from other health stakeholders, they can position themselves as powerful leaders and capture sustainable future value.”

Pamela Spence, EY Global Life Sciences Industry Leader

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New guidance for importers of medicinal products into the EU is on the horizon
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How EY's Global Life Sciences Sector can help your business
As populations age and chronic diseases become commonplace, health care will take an ever larger share of GDP. Scientific progress, augmented intelligence and a more empowered patient are driving changes in the delivery of health care to a personalized experience that demands health outcomes as the core metric. This is causing a power shift among traditional stakeholder groups, with new entrants (often not driven by profit) disrupting incumbents. Innovation, productivity and access to patients remain the industry's biggest challenges. These trends challenge the capital strategy of every link in the life sciences value chain, from R&D and product supply to product launch and patient-centric operating models.

Our Global Life Sciences Sector brings together a worldwide network of nearly 17,000 sector-focused professionals to anticipate trends, identify their implications and help our clients create competitive advantage. We can help you navigate your way forward and achieve sustainable success in the new health-outcomes-driven ecosystem.

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