GUIDELINES FOR PARALLEL IMPORTATION OF MEDICINAL PRODUCTS FOR WHICH MARKETING AUTHORISATIONS HAVE ALREADY BEEN GRANTED

Licensing Directorate

1.Introduction

A medicinal product having a Marketing Authorisation in Malta may be parallel imported in Malta provided that the parallel importer obtains a licence to market the product from the Licensing Authority. This licence is granted under the Medicines Act 2003 - Parallel Importation of Medicinal Products Regulations, 2004 – L.N. 291 of 2014**.** The licence is termed Parallel Import Licence and it is identified by the letters 'PI'.

The framework for this procedure is that set out in *Commission Communication on Parallel Imports of Proprietary Medicinal Products for which Marketing Authorisations have already been granted (COM (2003) 839 final):* https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A52003DC0839

The simplified procedure in this Guide is in accordance with the procedure in the Communication in terms of the information required to be submitted by applicants and the administrative steps to be taken by the Malta Medicines Authority.

Refer to the Malta Medicines Authority website and Subsidiary Legislation 458.40 ''PARALLEL IMPORTATION OF MEDICINAL PRODUCTS REGULATIONS'' for further guidance:

- https://legislation.mt/eli/sl/458.40/20100722/eng

https://medicinesauthority.gov.mt/parallelimportation

A parallel import licence is granted only for parallel imported medicinal products that fulfill the following criteria:

- The Maltese-market medicinal product must have a valid Marketing Authorisation in Malta when the parallel importation licence is requested.

- The parallel imported medicinal product must have the same pharmaceutical form, active ingredient and strength, and have no significant **therapeutic difference** from the Maltese-market product.
- The parallel imported medicinal product must be imported from an EU or EEA country and it must have a valid marketing authorisation in that country at the time the parallel import application is submitted.

A Parallel Import Licence is granted for a maximum of 5 years, at which time the licence must be renewed (refer to Section 5). A renewal application must be submitted no later than three months before expiry such that the parallel import licence is renewed on time.

In accordance with the European Court of Justice Judgment in C-172/00 (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62000CJ0172), a Parallel Import Licence can remain in force even where the Marketing Authorisation for the Maltese-market product is subsequently withdrawn for commercial reasons or is replaced by a new version under the same or a new marketing authorisation number, so long as there are no risks to public health. In cases where the Marketing Authorisation of the Maltese-market product is withdrawn for commercial reasons only, the Malta Medicines Authority may request certain information from the parallel importer in order to adequately monitor Adverse Drug Reactions (ADRs) in Maltese patients. This also applies for the Marketing Authorisation in the EU or EEA country from which the medicinal product is being imported. The parallel import licence holder must have in place a system for handling pharmacovigilance issues as per the Parallel Importation of

Medicinal Products Regulations.

NOTIFICATION

Any local wholesale dealer not being the marketing authorisation holder and not in a possession of a letter of access for the Maltese-market product is required to notify the Marketing Authorisation Holder and the Licensing Authority of his intention to import such product as outlined in regulation 4 of the Wholesale distribution and Brokering of Medicinal Products and Active Substance Regulations.

2. Scope

This guideline is intended for local wholesale dealers who wish to apply for a Parallel Import licence for a medicinal product to place it on the Maltese market.

This guidance document does not apply to medicinal products authorised centrally by the European Medicines Agency (EMA). Refer to the EMA website for more information on parallel distribution:
https://www.ema.europa.eu/en/human-regulatory/post-authorisation/parallel-distribution

3. Definitions

Parallel Importation
The importation from an EU Member State or a country within the EEA of a medicinal product which is already authorised on the Maltese market, by an importer who is someone other than the importer(s) authorised and appointed by the marketing authorisation holder of the Maltese-market product;

Parallel Importer
A person engaged in the activity of parallel importation;

Parallel Distribution
The importation from an EU Member State or a country within the EEA of a centrally authorised medicinal product, by an importer who is someone other than the importer(s) authorised and appointed by the marketing authorisation holder of the product on the Maltese market;

Parallel Import Licence
The licence granted by the Licensing Authority to a medicinal product imported into Malta through Parallel Importation;

Parallel Imported Medicinal Product
A product authorised in an EU/EEA Member State imported by parallel importation;

Maltese-market product
The product authorized with a Marketing Authorisation in Malta. This product will be considered as a reference product for the parallel imported product. The parallel imported product must be essentially similar to the Maltese-market product;

Source Country
The Member State or EEA country from which the parallel imported medicinal product is

imported;

Validation of the application
An administrative check to ensure that all necessary documentation and samples are submitted with the application;

Importation (Import)
In this document the term importation (import) is used, when referring to intra community trade. Parallel trade is only possible between countries in the EU/EEA.

4. Specific Guideline

4.1 APPLICATION FOR A PARALLEL IMPORT LICENCE

A licence in relation to parallel importation shall be applied for by the proposed parallel importer (a natural or legal person).

The application must be made using the applicable application form as found on the Malta Medicines Authority website.

The parallel importer can make reference to the *Guideline for submission of applications and documents for medicinal products authorisation and post-authorisation activities procedures.*

A sample of the re-packaged or re-labelled product must be sent to the Malta Medicines Authority and to the Marketing Authorisation Holder of the Maltese-market product.

A separate application form is required for each product. Different strengths, pharmaceutical forms and source countries must be applied for on separate application forms and will be granted a separate licence. A fee is applicable for each application.

The application form contains the basic information relating to the medicinal product, i.e. the name, strength, pharmaceutical form and active ingredient(s) of the medicinal product. In addition, information relating to pack size(s) and type(s) must be given in the form. Please refer to Section 9.1 hereunder regarding pack sizes and legal status. Complete information about the parallel importer and information relating to the medicinal product in the source country are also required. This information is also specified in the application form.

Any queries related to parallel importation can be sent to parallel.medicinesauthority.gov.mt.

Appropriate proof of payment should always be attached with the application.

It is important that all relevant sections of the application form are completed and all relevant annexes are attached.

Applications are subject to an administrative validation on receipt. Incomplete applications will not be reviewed until the missing documentation is provided. In certain cases, the application may be returned to the applicant for re-submission. **The 45-day timeline in the legislation is only applicable after positive validation of the application and excludes any clock-stops.**

4.1.1 APPENDICES TO THE APPLICATION

A number of appendices are required to be submitted with the application form. These include:

- Proposed Summary of Product Characteristics (SmPC) (in editable MS Word format).
- Proposed package leaflet.
- Package leaflet as authorised in the country from which the product is to be imported. This leaflet should be in the original language and in editable MS Word format.
- Photos or images of the inner and outer labelling as approved in the source country (original language).
- Photos of the over-labelled pack, including immediate packaging, as intended for placing on the market in Malta.
- Additional Risk Minimisation Measures in accordance with GVP, if applicable.
- A sample of the re-packaged or re-labelled product is required with each application.

4.1.2 RE-PACKAGING AND RE-LABELLING

For all the necessary guidance on re-packaging and re-labelling kindly refer to the guidance document published by the Malta Medicines Authority "General Guidelines & Recommendations on the Labelling & Packaging of Medicinal Products placed on the Maltese Market".

4.1.3 ASSESSMENT OF THE APPLICATION

When the application form is positively validated, it is assessed to determine if a presumption of identity is reasonable and if therapeutic equivalence between the imported and Maltese-market product can be reasonably presumed.

If these assumptions can be made, the proposed SmPC, labels and leaflet are reviewed, and any major queries sent to the parallel importer within 30 working days of validation. The 'clock' is then stopped. On receipt of a response, the clock is re-started and the assessment concluded within 45 working days of validation. The decision on the application is then forwarded to the parallel importer after completion of processing by the Malta Medicines Authority.

4.1.4 PARALLEL IMPORT LICENCE NUMBER

Each medicinal product, which is granted a Parallel Import Licence, will be assigned a Parallel Import Licence Number.

This number must be present on the outer packaging of all parallel imported products. For purposes of providing the over-labelled sample at the time of application, the PI number can be shown as PIxxxx/xxxx on the submitted sample and proposed product information. This must then be amended by the Parallel Importer to show the PI number provided by the MMA prior to marketing of the product.

4.2 VARIATION NOTIFICATIONS TO THE PARALLEL IMPORT LICENCE

The parallel importer is expected to follow up on any relevant change in the parallel imported

medicinal product in order to ensure that the parallel product licence document reflects the Maltese-market Marketing Authorisation at all times. Parallel Importers are especially reminded to check the labels and leaflets of the parallel imported medicinal product as changes made to the texts may have consequences on the product information of the parallel imported medicinal product, in particular if there are any safety updates to the product information.

The parallel importer should also regularly check the product information of the Maltese-market product, as changes may require a revision of the product information of the parallel imported medicinal product or other amendments to the parallel imported medicinal product licence. Failure to keep the product information updated as per the Maltese-market product may result in the suspension or withdrawal of the parallel import licence for that product.

Changes proposed by the importer to the SmPC, label, and leaflet of the parallel imported medicinal product must first be notified to the Malta Medicines Authority. Applications should be made using the variation notification procedure; copies of the variation notification form for parallel imported medicinal products, and information on requirements, may be obtained from the **Parallel Importation Section** of the Malta Medicines Authority website.

4.3 RENEWALS

Parallel import licences remain in force for a maximum of five years and must be renewed if the parallel importer wishes to continue parallel importation of the product. An application for renewal must be made before expiry of current licence.

4.4 BATCH RECALLS

Parallel importers are required to ensure that there is a clear audit trail from the supplier (i.e., authorised distributor or manufacturer) in the source country. In the event of a recall of a batch of the parallel imported product in the source country, it is imperative that the parallel importer is informed by the supplier so that the parallel importer can take appropriate action. The Malta Medicines Authority requires there to be a contract between the supplier in the exporting Member State and the parallel importer in Malta to ensure that information on recalls is passed to the parallel importer; this will be requested in the course of inspections of manufacturers and wholesalers. In addition, there should be a Standard Operating Procedure that covers the respective responsibilities of the supplier and the parallel importer.

4.5 PHARMACOVIGILANCE

Parallel importers must ensure proper handling of pharmacovigilance issues. They should have in place, mainly:

a) A system for the identification and reporting of Adverse Drug Reactions (ADRs);
b) A system for safety recalls;
c) A system for the implementation of additional risk minimisation measures (such as direct healthcare professional communication letters (DHPC), educational materials, etc.), where these are applicable.

4.6 FALSIFIED MEDICINES DIRECTIVE OBLIGATIONS OF PARALLEL IMPORTERS

4.6.1 Verification and Decommissioning of Safety Features on Medicines Packs

The obligations of wholesale dealers specified in the Commission Delegated Regulation (EU) 2016/161 concerning the verification and decommissioning of safety features (unique identifier and anti-tampering device) shall be binding to parallel importers.

When verifying the authenticity of a unique identifier, parallel importers importer shall check the unique identifier against the unique identifiers stored in the repositories system referred to in Article 31 of the Regulation. A unique identifier shall be considered authentic when the repositories system contains an active unique identifier with the product code and serial number that are identical to those of the unique identifier being verified.

The unique identifier shall be decommissioned in instances specified in Article 22 of the Regulation which includes: products intended to be distributed outside the Union, returned products which cannot be re-distributed in the supply chain as saleable stock, products intended for destruction, products requested as samples by competent authorities and products falling within the scope of Article 23 derogation.

4.6.2 Upload of Data on the Unique Identifier in the Repositories System

Parallel importers who repack/relabel their products and place new safety features or replace safety features in accordance with Article 47a of Directive 2001/83/EC on the medicinal products they supply have to comply with Articles 33, 40 and 42 of Commission Delegated Regulation (EU) 2016/161 as they are considered the "persons responsible for placing those medicinal products on the market" in that Member State.

If they repack and place new safety features or replace safety features in accordance with Article 47a of Directive 2001/83/EC on the medicinal products they supply, parallel importers who do not hold a marketing authorisation in the sense of Article 6 of Directive 2001/83/EC may not designate their own wholesalers and should not upload a list of wholesalers into the repository system.

Parallel importers covering or removing, fully or partially, the existing safety features are required to place equivalent safety features in accordance with Article 47a of Directive 2001/83/EC.

Furthermore, if the product code, batch number and/or expiry date of the parallel-traded product change compared to the original product, parallel importers must place a new unique identifier after first decommissioning the original one. The new unique identifier should comply with the requirements of the Member State where the medicine is intended to be placed on the market (Article 17 of Commission Delegated Regulation (EU) 2016/161).

When placing an equivalent unique identifier, parallel importers are required to fulfil, inter alia, the obligations laid down in Articles 33, 40 and 42 of Commission Delegated Regulation (EU) 2016/161 concerning the uploading and keeping up to date of the information on the new unique identifier into the repositories system.

For products which are not serialised and are EU batch released before 9 February 2019, any re-labelling activities (affixing of label/leaflet on outer pack, excluding total re-assembly and the introduction of a new pack) after the 9 February 2019 would be allowed without the introduction of safety features, if re-labelling is carried out (under GMP):

- to come in line with language requirements of Malta or to introduce the national details (MA number and MA holder) on the outer pack and

- do not form part of the actual manufacturing process described in the dossier.

This is only allowed for packs that are to be distributed on the local market. Any stocks that are EU batch released after the 9 February must be in line with the FMD regulation. This is the responsibility of the EU QP carrying out the batch release of the finished product.

4.6.3 Replacing the Anti-tampering Device (ATD)

Parallel importers/manufacturers that wish to reseal packages (e.g. replacing the leaflet) must provide the competent authority in the destination Member State with sufficient information to allow an informed assessment of equivalence of the new anti-tampering device (description, explanation, mock-ups, pictures, etc. of both the original and replacement ATD). The newly placed ATD can only be considered equivalent if, inter alia, it is equally effective in enabling the verification of authenticity of the medicinal product and in providing evidence of tampering.

An anti-tampering device (ATD) placed on top of an older, broken ATD can be considered as effective in providing evidence of tampering as an ATD placed on an intact outer packaging only if:

(a) The new ATD completely seals the pack and covers any visible sign of the original, broken ATD;

(b) The replacement of the ATD is conducted in accordance with applicable good manufacturing practice for medicinal products and is subject to supervision by the competent authority; and

(c) The manufacturer placing the equivalent ATD has verified the authenticity of the unique identifier and the integrity of the ATD on the original pack before breaking the ATD/opening the original pack, in accordance with Article 47a(1)(a) of Directive 2001/83/EC.

Further guidance can be accessed through the European Commission Q&A document (v.16) via this link: https://ec.europa.eu/health/sites/health/files/files/falsified_medicines/qa_safetyfeature_en.pdf

4.7 Points to be considered by parallel importers for the proposed product information

4.7.1 Summary of Product Characteristics (SmPC)

Reference to the SmPC of the Maltese-market product has to be made by the parallel importer to confirm similarity. The product information is available on the Malta Medicines Authority website. Guidance on specific sections of the SmPC is given below, as per sections of the SmPC.

Name of the medicinal product

The same name must be used throughout the product information i.e. in the SmPC, package leaflet and labelling. The same name as authorized in the source country mustbe used. The Malta Medicines Authority may identify the need for a name change (e.g. to be in line with the Maltese reference product.)This will be determined on a case by case basis.

Qualitative and quantitative composition

The qualitative and quantitative composition with regards to the active ingredient/s must be the same between the parallel imported and the Maltese-market product.

Relevant information on excipients of the parallel imported product should be included in this section. (Reference to excipients of the Maltese-market product should not be included).

Pharmaceutical form

The parallel imported product and the Maltese-market product must have the same

pharmaceutical form.

The parallel imported product may differ in appearance compared to the Maltese-market product. The appearance of the product should be described, making reference to the description as authorised in the Member State from which the product is to be parallel imported.

Indications

These should be the same or similar to the Maltese-market product. Additional indications which are not included in Maltese-market product should be removed.

List of excipients

Excipients can vary between the parallel imported product and the Maltese-market product. The excipients on the proposed SmPC must always reflect those of the parallel import product. (Reference to excipients of the Maltese-market product should not be included).

For clarity, it is recommended that each excipient be listed on a separate line.

Shelf life

Batches of parallel-imported product placed on the market must keep the same expiry date as they had in the country from which they are imported; the importer is not permitted to change the expiry date.

Where the parallel-imported product is repackaged into another container, the importer must justify the shelf life.

Special precautions for storage

The storage statements on the label of the Maltese-market product may be different from those on the container of the parallel-imported product. The storage conditions approved for the parallel imported product in the source country must be retained.

Nature and contents of container

All pack sizes and pack types authorized in the source country should be included unless this has an impact on the legal status of the medicinal product. Pack sizes may have an impact on the legal status (prescription-only versus non-prescription) of the parallel import product and may differ from that of the Maltese-market product.

For injectable medicinal products where, different vial sizes are present, a PI number is generated per vial size.

Parallel Import Licence Holder

Section 7 of the SPC should include the above sub header. The name and address of the proposed parallel importer in line with the wholesale dealer's licence should be included.

Parallel Import Licence Number

Section 8 of the SPC is to be present and the PI number will be included by the Malta Medicines Authority.

Date of First Authorisation / Renewal of Authorisation

Date of first authorisation: Date when the parallel import licence has been issued by the Malta Medicines Authority

Date of latest renewal: Date when product is renewed by the Malta Medicines Authority.

Date of Revision of the Text

Must reflect the date when the product is first granted a parallel import licence in Malta, or when the product information is updated after a variation notification to amend the product information is accepted.

4.7.2 Over-labelling/Re-packaging

When the parallel import has been sourced from countries where the packaging is in the English language (as the only language or in a multi-language pack), the following text has to be included on the product label for Malta:

"Procured from within the EU by [Name of the Parallel Importer and Address] and re-labelled by [Name of Manufacturer as stated in the application form]." The parallel import number given by the Malta Medicines Authority to each product should also be included.

For products sourced from countries with non-English labels and package leaflets, the text in English should be a direct translation of the text in the source country and should also include the information as mentioned above:

Braille should not be covered unless a new one is proposed while size and font should be in line with the "Guideline on the readability of the labeling and package leaflet of medicinal product for human use, revision 1". https://ec.europa.eu/health/documents/eudralex/vol-2_en

Immediate labelling may also require translation of texts (e.g. via a label) if deemed necessary. The information on the immediate labelling should be understood by patients and healthcare professionals and essential information (e.g. warnings, important safety information) should be translated where necessary and included also on the immediate packaging (e.g. on a bottle, blister). If labels are added to the immediate packaging for any reason, the name and address of the manufacturer carrying out the re-labelling should be included on the label being affixed. The re-labelling of immediate packaging should not make it difficult for the patient to use the medicinal product e.g. the affixing of a label on a blister should not make it difficult for the patient to extract tablets.

The proprietor of the trademark must be given advance notice of the repackaged/relabelled product being put on sale of at least a month, submitting a sample of the re-packaged/relabelled product. Further guidance is given by Communication from the Commission COM (2003) 839 final and in the Guide to parallel importation.

4.7.3 Package Leaflet

Product Name

The name of the product should be in line the with SmPC and the Labelling.

Clinical details

The clinical details should be similar or the same to those of the Maltese-market product..

Excipients

Excipients can vary between the parallel imported product and the Maltese-market product. The excipients on the proposed PL must always reflect those of the parallel import product. (Reference to excipients of the Maltese-market product should not be included).

Pack sizes

The pack sizes can vary between the parallel imported product and the Maltese-market product. The proposed product information for the parallel import must always reflect the pack sizes authorized in the source country only. Pack sizes must be suitable to cover the proposed posology.

ADR reporting for Malta:

When the proposed PL is translated and therefore reprinted, the ADR reporting section must be made applicable to the Maltese market as per information at https://medicinesauthority.gov.mt/adrportal

In general, the name, qualitative and quantitative composition, pharmaceutical form, the pharmacological properties and the pharmaceutical particulars of the proposed SPC and the sections related to storage and contents of the pack on the proposed PL must always reflect the details of the parallel import product as authorized in the source country.

Package leaflets should include the following text unless the PL is already in English and no changes are required:

"Procured from within the EU by [Name of the Parallel Importer and Address] and re-labelled by [Name of Manufacturer as stated in the application form]."

Moreover, where the parallel importer has added to the packaging an extra article from a source other than the trademark owner, he must ensure that the origin of the extra article is clearly indicated in such a way as to dispel any impression that the trademark owner is responsible for it.

4.8 MANUFACTURERS' AUTHORISATIONS

Labelling and repackaging are defined as manufacturing operations and the parallel importer or other company that carries out these operations must hold a manufacturer's authorisation (EU-GMP).

5. References

- *Commission Communication on Parallel Imports of Proprietary Medicinal Products for which Marketing Authorisations have already been granted (COM (2003) 839 final):* https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A52003DC0839

- *Subsidiary Legislation 458.40 ''Parallel Importation of Medicinal Products Regulations'':* https://legislation.mt/eli/sl/458.40/20100722/eng
- European Court of Justice Judgment in C-172/00 (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62000CJ0172
- EMA website – Parallel Distribution: https://www.ema.europa.eu/en/human-regulatory/post-authorisation/parallel-distribution
- Guideline for submission of applications and documents for medicinal products authorisation and post-authorisation activities procedures.
- Commission Delegated Regulation (EU) 2016/161
- European Commission Q&A document (v.16) on FMD: https://ec.europa.eu/health/sites/health/files/files/falsified_medicines/qa_safetyfeature_en.pdf
- *Guideline on the readability of the labeling and package leaflet of medicinal product for human use, revision 1* https://ec.europa.eu/health/documents/eudralex/vol-2_en

Signatures on file