



Australian Government

**Department of Health and Ageing
Therapeutic Goods Administration**



Consultation Paper

The Regulation of Blood Under the Australia New Zealand Therapeutic Products Authority (ANZTPA)

October 2006

HOW TO MAKE A SUBMISSION

You are invited to provide written comment on this consultation paper. Submissions can be sent by post or e-mail and, where possible, should be cross-referenced to specific sections set out in this consultation paper. In addition, we encourage you to provide other comments that may assist in the development of the draft Rule for the regulation of Blood under the Australia New Zealand Therapeutic Products Authority (ANZTPA).

Content of submissions

Your submission should include:

- your name and full contact details including: address, telephone number, and if applicable, facsimile and e-mail address;
- the particular issue being addressed;
- relevant evidence and/or examples to support the views expressed; and
- in the case of organisations, the level at which the submission was authorised.

Confidentiality of submissions

If you wish any information contained in a submission to be treated as confidential, please clearly identify the information and outline the reasons you wish it to be treated as confidential.

Address for submissions

Electronic submissions should be e-mailed to: consultation@anztpa.org

Hardcopy submissions should be addressed to either of the addresses below:

The Project Officer
c/- Joint Agency Establishment Group
Therapeutic Goods Administration
PO Box 100
WODEN ACT 2606
AUSTRALIA

The Project Officer
c/- Joint Agency Establishment Group
Ministry of Health
PO Box 5013
WELLINGTON
NEW ZEALAND

Questions relating to submissions

Any questions relating to submissions should be directed to the Project Officer, by e-mail at: consultation@anztpa.org

Deadline for submissions

The deadline for receipt of submissions is **6 December 2006**.

TABLE OF CONTENTS

TABLE OF CONTENTS	3
ABBREVIATIONS	4
PART A: INTRODUCTION AND PURPOSE OF THIS DOCUMENT	5
PART B: CURRENT REGULATION OF BLOOD IN AUSTRALIA	6
PART C: CURRENT REGULATION OF BLOOD IN NEW ZEALAND	8
PART D: SUMMARY OF THE PROPOSED TRANS-TASMAN REGULATORY FRAMEWORK.....	9
PART E: SUMMARY OF THE PROPOSED NEW FRAMEWORK FOR THE REGULATION OF BLOOD.....	10
PART F: CLASSIFICATION OF BLOOD	13
PART G: STANDARDS	14
PART H: TYPES OF PRODUCT LICENCES	15
PART I: APPLICATIONS FOR A PRODUCT LICENCE	17
PART J: CONDITIONS AND OTHER PARTICULARS ON A PRODUCT LICENCE	23
PART K: VARIATION, SUSPENSION AND REVOCATION OF PRODUCT LICENCE ...	25
PART L: MANUFACTURE OF BLOOD	28
PART M: ADVERTISING AND CONSUMER INFORMATION	29
PART N: ADVERSE EVENT REPORTING AND RECALLS	30
PART O: EXEMPTIONS FROM STANDARDS AND LICENSING	32
PART P: FEES AND CHARGES.....	36
PART Q: TRANSITION PROVISIONS	37

ABBREVIATIONS

AAT	Administrative Appeals Tribunal
ADEC	Australian Drug Evaluation Committee
ANZTPA	Australia New Zealand Therapeutic Products Authority
ARTG	Australian Register of Therapeutic Goods
cGMP	Code of Good Manufacturing Practice
HCTs	human cell and tissue therapies
Medsafe	Medicines and Medical Devices Safety Authority, New Zealand
NZBS	New Zealand Blood Service
OTC	Over-the-Counter
SMARTI	Medsafe Registration Database
SUSMP	Standard for the Uniform Scheduling of Medicines and Poisons
TGA	Therapeutic Goods Administration, Australia
the Authority	Australia New Zealand Therapeutic Products Authority
TMF	Technical Master File (currently used in Australia)
TSF	Technical Standards File

PART A: INTRODUCTION AND PURPOSE OF THIS DOCUMENT

On 10 December 2003 the Australian and New Zealand Governments signed an agreement to establish a joint scheme for the regulation of therapeutic products in the two countries (the Treaty).

The joint regulatory scheme will be administered by a single, bi-national authority, the Australia New Zealand Therapeutics Products Authority (ANZTPA) (the Authority). The Authority will replace the Therapeutic Goods Administration (TGA) in Australia and the Medicines and Medical Devices Safety Authority (Medsafe) in New Zealand and will be accountable to both the Australian and New Zealand Governments.

A framework, comprising Acts in both countries, Rules and Orders, will replace the existing Australian *Therapeutic Goods Act 1989* (the Therapeutic Goods Act), its Regulations and Orders and the existing New Zealand *Medicines Act 1981* (the Medicines Act) and its Regulations.

The purpose of this document is to provide an explanation of the proposed means by which Blood will be regulated by the new Authority. It is intended that the matters detailed in this document will be included in Rules relating to “Biologicals” of which Blood will be a part – this is discussed in more detail in the following parts.

Please note that this document outlines key components in relation to the proposed regulation of Blood that are intended for inclusion in the Ministerial Council Rules. Consultation on the remaining components of the Biologicals Rule will be undertaken separately.

It is not intended that there be any changes to the level of regulation applied in relation to blood. However, the means by which the regulation is administered will be different under the new ANZTPA. The purpose of this document is to explain how it is proposed that the existing regulatory framework for Blood will be reflected in the new regulatory environment of the ANZTPA.

PART B: CURRENT REGULATION OF BLOOD IN AUSTRALIA

The TGA currently defines blood, blood components and blood products as follows:

- “Blood” means whole blood extracted from human donors;
- “Blood components” means therapeutic components that have been manufactured from human blood (including red cells, white cells, platelets and plasma). This does not include haematopoietic progenitor cells (HPCs) (including cord blood) or products derived through fractionation of plasma; and
- “Blood products” or “Plasma-derived products” means therapeutic products derived from the manufacture of human plasma.

Each of these different types of blood is currently regulated differently.

Blood and blood components

The TGA has regulated blood and blood components since 2000.

All blood and blood components are regulated through licensing the manufacture under a Code of Good Manufacturing Practice (cGMP) for human blood and tissues. One of the conditions for such a licence is the submission of a Technical Master File (TMF) including product safety and quality information as prescribed in a Standard. For blood and blood components this is the Council of Europe Guide¹. The Manufacturing Licence is issued by the Manufacturer Assessment Branch and the TMF is reviewed by the Office of Devices, Blood and Tissues.

In summary, the TGA currently regulates blood and blood components in the following way:

- *All blood and blood components (except “exempt” blood and blood components) must meet the requirements of the Council of Europe Guide.*
- *All manufacturers of blood and blood components (unless exempt) must be licensed by the TGA. To obtain a licence for manufacture, blood and blood components (including plasma) must be manufactured in compliance with the cGMP for Human Blood and Tissues and in a manner consistent with the TMF lodged by the manufacturer.*
- *Autologous and directed blood and blood components (where the donation is under the supervision of a medical practitioner and where the blood or blood components are immediately supplied for a named patient) are generally exempt from oversight by the TGA (and compliance with the Council of Europe Guide). Exemptions apply to blood and blood components that are:*

¹ *Guide to the preparation, use and quality assurance of blood components*, 11th edition, Council of Europe Publishing.

- collected by a medical practitioner in the course of medical treatment and for the purposes of diagnosis of, or testing for, a medical condition;
 - manufactured by a medical practitioner for therapeutic application to a particular patient under the practitioner's care; or
 - manufactured by a blood collection centre for a medical practitioner for therapeutic application to a particular patient under the practitioner's care.
- *All laboratories that carry out viral and serological testing associated with the collection of blood and blood components (including plasma for fractionation) must also comply with the cGMP for Human Blood and Tissues.*

Blood products and Blood equivalents that are regulated as prescription medicines

Blood products derived from fractionated plasma (i.e. plasma-derived) products are currently regulated as registered (prescription) medicines.

The following substitutes for blood components and blood products are also regulated as registered (prescription) medicines:

- substitutes for blood components that are products of innovative biotechnology (such as recombinant processes for haemoglobin); and
- substitutes for plasma-derived products that are products of innovative biotechnology such as recombinant factor VIII.

All of the provisions of the Therapeutic Goods Act are in force for these products, including approval for the manufacture under GMP (through the code for Medicinal Products), pre-market review of data to determine eligibility for registration (after independent review by the Australian Drug Evaluation Committee) and post-market oversight including adverse event reporting.

PART C: CURRENT REGULATION OF BLOOD IN NEW ZEALAND

In New Zealand, blood, blood components and blood products have been defined as “prescription medicines” within the meaning of the *Medicines Act 1981*, when administered for a therapeutic purpose (listed in Part 1 of the First Schedule to the *Medicines Regulation 1984*). Haematopoietic stem cells are defined as a “blood component” under Part 3a of the *Health Act 1956*. No exemptions are provided for autologous or directed donations.

In 1995, the Ministry of Health in conjunction with the sector developed a national minimum standard for collection, processing and quality assurance for blood and medicines derived from human blood and plasma.

In 1998, the New Zealand Blood Service (NZBS) was formed, and the national minimum standards were renamed the “New Zealand Blood Service Minimum Standards”. The NZBS Minimum Standards document was considered to contain product-related material that would be submitted to Medsafe for evaluation when changes were made. The NZBS Minimum Standards are assessed and agreed to by Medsafe as being either compatible with the Council of Europe requirements, or as being otherwise acceptable in terms of individual risk benefit. GMP audits include a review of compliance to the NZBS Standards as part of the audit. The NZBS Standards were considered equivalent to a product file in conventional medicines. At this time, the NZBS Standards were revised to include bone marrow and haematopoietic stem cells for transplantation.

Since 1996, Medsafe has been assessing facilities for the collection, processing, and testing of bone marrow and peripheral stem cells because these have been deemed to be medicines under the provisions of the Medicines Act.

The expectation is that all sites that manufacture blood and blood components meet the requirements of a cGMP equivalent to conventional medicines.

Blood Products are regulated as registered medicines by Medsafe. This is similar to the regulatory approach in Australia. These products are manufactured with the expectation that they meet the current cGMP.

It should be noted that the NZBS Minimum Standards document has recently been renamed the NZBS Collection and Manufacturing Standards.

PART D: SUMMARY OF THE PROPOSED TRANS-TASMAN REGULATORY FRAMEWORK

The new Authority will regulate the import of therapeutic products into Australia and/or New Zealand, export of therapeutic products from Australia and/or New Zealand and the supply, manufacture and promotion of therapeutic products in Australia and/or New Zealand, and associated activities.

The new regime will be based around a system of licensing whereby a licence holder will be the person or entity in Australia or New Zealand with the legal responsibility for a therapeutic product that is imported into, supplied in or exported from Australia and/or New Zealand.

Article 1 of the Treaty defines ‘therapeutic product’ for the purposes of the joint scheme. This definition includes the following, all of which will be regulated under the joint scheme:

- prescription medicines;
- over-the-counter (OTC) medicines (including most sunscreens);
- complementary medicines;
- human blood and blood components;
- cellular and tissue therapies;
- medical devices (including in vitro diagnostic devices, sterilants and instrument-grade disinfectants); and
- other products meeting the definition of therapeutic product (or declared in the Rules to be therapeutic products).

A framework, comprising Acts in both countries, Rules and Orders, will replace the existing Australian Therapeutic Goods Act, its Regulations and Orders and the existing New Zealand Medicines Act and its Regulations.

Acts in both countries will contain the broad regulatory matters and obligations that must be contained in primary legislation, including criminal offences and penalties. Each Act will recognise the Authority as the regulator of therapeutic products for that country, and will give effect to the regulatory decisions of the Authority made through its Managing Director.

A Ministerial Council, comprising the Australian and New Zealand Ministers of Health, will make a single set of **Rules** (analogous to regulations in the current Australian and New Zealand systems). These Rules will contain much of the detail of the regulatory requirements. The requirements for medicines, medical devices, biologicals and therapeutic products that are not medicines, medical devices or biologicals will be set out in separate parts of the Rules.

The Managing Director of the Authority will make **Orders** in relation to technical matters such as standards, manufacturing principles and packaging and labelling requirements.

PART E: SUMMARY OF THE PROPOSED NEW FRAMEWORK FOR THE REGULATION OF BLOOD

Blood regulation to remain essentially the same under new trans-Tasman arrangements

Under the new trans-Tasman arrangements it is intended that blood and blood components would essentially be regulated in the same way as they currently are, but within a framework for Biologicals.

Blood to fall within new category of “Biologicals”

Rules made under the new legislation will describe the regulatory requirements for medicines, medical devices and therapeutic products that are not medicines or medical devices.

In addition, it is proposed that a set of Rules be developed in relation to Biologicals as a discrete set of therapeutic products, distinct from medicines and devices.² Initially the class of therapeutic product known as Biologicals is proposed to include;

- blood and blood components;
- plasma derived products;
- biotechnological substitutes to blood components and plasma derivatives, such as recombinant coagulation factors, haemoglobin solutions and synthetic platelets; and
- human cell and tissue products (HCTs).

It is proposed that a set of Rules will be developed that will be common to all Biologicals. The Biologicals Rules will also contain parts that are specific to the different types of Biologicals. For example, there will be some requirements that are specific to Blood or to specific types or classes of Blood.

As the policy surrounding the regulation of other types of Biologicals is still being developed and agreed, this document focuses specifically on Blood. Separate documents will detail the proposed requirements for other types of Biologicals such as HCTs. It is, however, anticipated that many of the requirements that are detailed in this document in relation to Blood, will be common to all Biologicals.

² As the manufacturing processes for the products of biotechnology have evolved, many regulatory authorities have used the concept of “biologicals” to facilitate the regulation of medicines or devices which are derived from living tissues.

“Blood” to include whole blood, blood components and blood products

It is proposed that “Blood” will be the generic term for human whole blood, blood components and blood products (for therapeutic use) where³:

- “whole blood” means blood in the form extracted from human donors;
- “Blood components” means therapeutic products that have been manufactured from the mature formed and circulating elements of human whole blood including plasma for fractionation but not including progenitor cells or plasma derivatives; and
- “Blood products” means therapeutic products derived from the separation and purification of human blood and plasma and the equivalents of these products such as recombinant clotting factors.

Product licence required for Blood

It is proposed that all products that are defined as Blood must obtain a product licence (unless exempted).

This is consistent with the approach adopted for other therapeutic products whereby product licensing will replace entry on the Australian ARTG or the Medsafe Registration database SMARTI in New Zealand. (For more information about the general concept of product licensing by the ANZTPA please refer to the consultation documents on the ANZTPA website).

The requirements for product licensing will vary depending on the risk posed by the product. A risk-classification scheme will be described in the Rules.

Licensing based on risk of blood – two risk-based classes proposed

It is proposed that, for the purposes of product licensing, there will be two risk classes for Blood.

In summary:

- Class 1 Blood will be whole blood and its components derived through the minimal primary separation of whole blood, and manufactured from donations from not more than twelve individual donors. For example, red cells, platelets and plasma for transfusion would be classified as Class 1; and
- Class 2 Blood will be Blood that is not Class 1 Blood but may be derived through additional processing and purification of Class 1 components, and the equivalents of such products. For example, platelets treated by viral inactivation techniques and certain plasma derived products.

³ Please note that wherever the word “blood” is used in this Guide, this is intended to include whole blood, blood components and blood products.

Requirements for Class 1 and Class 2 Blood product licence applications

In order to obtain a Class 1 or Class 2 product licence the applicant will be required to submit an application demonstrating that the product conforms to the established standards for safety, quality and efficacy, and that the applicant has in place quality systems for the manufacture of Blood. As for the majority of therapeutic products, manufacturers of Blood must also obtain a licence to manufacture (unless exempted).

A product licence would only be issued if the Authority is satisfied that the product meets the required level of safety, quality and efficacy.

The main difference between Class 1 and Class 2 is that additional preclinical and clinical data/evidence will be required to support the safety and efficacy of Class 2 product applications.

Licence holder must ensure compliance with conditions

To maintain a product licence, a licence holder must ensure that the Blood that is the subject of the licence complies at all times with the information submitted in the product licence application, and any certifications made therein, and with the approved product information and labelling. As a consequence of this, any changes to any of the information upon which the product licence was based must be the subject of an additional application (either for a variation or a new licence) and be authorised by the Authority.

Generally, a product licence will remain valid provided annual fees are paid and the product licence is not suspended or revoked.

The following parts of this document provide more detail about each of the aspects of the proposed regulation of Blood.

PART F: CLASSIFICATION OF BLOOD

Classification based on risk

Blood intended for supply in Australia and New Zealand will be classified according to the degree of risk inherent in the use of the product.

The product classifications will be determined using a set of rules based on factors relating to:

- the level of manipulation of the Blood;
- the intended effect of the product;
- the storage of the product; and
- the risk of cross infection.

Majority of products currently regulated as blood and blood components will be Class 1

It is proposed that Class 1 Blood will include Blood that is:

- (a) whole Blood or its components derived through its minimal primary separation; and
- (b) processed, stored, maintained or preserved for future use; and
- (c) manufactured from donations from not more than twelve individual donors; and
- (d) manufactured using reagents approved by the Authority for the purpose; and
- (e) manufactured such that the biological, pharmacological and therapeutic properties are not significantly altered.

Class 2 for manipulated Blood, Blood from many donors and Blood equivalents

It is proposed that Class 2 Blood will be Blood that:

- (a) is not a Class 1 Blood; and
- (b) is processed, stored, maintained or preserved for future use; and
- (c) is manufactured from Class 1 Blood such that the biological, pharmacological and therapeutic properties are significantly enhanced or altered; or
- (d) is manufactured from Class 1 blood from donations from more than twelve donors using industrial technology; or
- (e) is manufactured from other ingredients so that it has biological, pharmacological and therapeutic properties that are equivalent to those obtained under (c) and (d).

Blood kits

It is proposed that Blood kits will be regulated in accordance with the highest classification of any Blood component of the kit. Other therapeutic products included in the kit, if not assessed and approved prior to the Blood kit application, will be assessed through the provisions for ancillaries.

PART G: STANDARDS

It is proposed that the Authority may determine Standards for Biologicals (including Blood) and that these will be set out in Orders.

All Biologicals must conform to all relevant Standards except with the written consent of the Authority. For example, Blood must conform to:

- a core set of standards relating to good manufacturing practice – all classes of Blood will be expected to comply with these Standards;
- additional subject specific Standards, for example, for plasma. Such subject specific standards may be based partly or wholly on existing industry standards or international standards;
- Standards relating to quality management systems for the manufacture of Blood.

PART H: TYPES OF PRODUCT LICENCES

Blood may only be imported, exported or supplied with a Product Licence

It is proposed that Blood may only be:

- imported into Australia and New Zealand; or
- exported to a third country from Australia and New Zealand; or
- supplied in Australia and New Zealand

by, or with the written approval of, the holder of a product licence issued by the Authority, unless specifically exempted.

Other types of Product Licence

In addition to the two broad categories of product licence (for Class 1 Blood and Class 2 Blood), the Authority may issue (in relation to either Class 1 or Class 2 Blood):

- an export only product licence - An applicant intending only to export a product from Australia and/or New Zealand to a third country may obtain a special type of product licence, an 'export only product licence', in respect of the product;
- a single country product licence - A single country licence will be issued only in those exceptional circumstances where one country has decided to depart from the joint regulatory scheme in relation to a particular Blood or where the Authority deems such a restriction necessary; or
- a provisional product licence - In exceptional circumstances, and in consultation with the applicant, the Authority may issue a provisional product licence for a Blood for a time-limited period subject to conditions and further evaluation of the Blood prior to completion of the provisional authorisation period. A provisional product licence may be issued where there is insufficient safety or efficacy information to justify the granting of a full product licence but the Authority accepts that there is a clinical need for the Blood to be available.

In all cases, a product licence for Blood will only be granted on the basis of an application submitted to the Authority which demonstrates that the potential risks are outweighed by the therapeutic benefit of the Blood. In general, the licence issued will be a dual country licence.

As part of its assessment of the application, the Authority will also need to approve product information documents, labelling and in some cases certifications by the applicant before a product licence can be granted.

Separate and distinct products

Generally, a separate product licence will be issued for each Blood. The circumstances in which a Blood is a new product (i.e. separate and distinct from

other therapeutic products and requiring a new licence), will depend on the classification of the Blood and the nature of the difference or change.

For example:

- a Class 1 Blood will be separate and distinct from other therapeutic products if it has a different: licence holder; or manufacturer; or product name; or active blood component.
- a Class 2 Blood will be separate and distinct from other therapeutic products if it has a different: licence holder; or manufacturer; or product name; or dosage form; or formulation or composition; or strength or size (disregarding pack size); or indications; or directions for use; or container (disregarding container size).

Grouping of Blood on a product licence

In certain circumstances it will be possible to 'group' more than one Blood on the same product licence. The circumstances in which Bloods can be grouped will vary depending on the type of product and will be set out in Orders.

Based on the current consultation schedule, it is proposed that draft Orders will be released for consultation from March 2007.

Ancillary products

The safety and quality of a medical device or a medicine ancillary to the Blood must be verified in accordance with the requirements for medical devices or medicines, and the ancillary action of the device or medicine must be verified having regard to the intended purpose of the Blood before a product licence can be issued.

PART I: APPLICATIONS FOR A PRODUCT LICENCE

To obtain a licence for any Biological (including Blood), the applicant will be required to submit an application to the Authority. The application is to be in a form approved by the Authority and accompanied by the prescribed fee. The application must not contain any false or misleading information.

While the general process for obtaining a product licence will be the same for all Biologicals, the data requirements will differ depending on the type of Biological (i.e. Blood compared to HCTs) and the classification of the product (i.e. Class 1 Blood compared to Class 2 Blood).

All applications must contain a Technical Standards File (TSF). This file includes a description of the steps of manufacture of a blood product and details of the technical and scientific data that is collected and used to demonstrate that products made in accordance the manufacturing process can meet the quality and safety requirements of the Authority.

The TSF can include separate chapters relating to each of several blood components as long as they are made using common/shared manufacturing pathways or steps, eg a single TSF can be used to support licence applications for plasma, platelets and other blood components manufactured from whole blood. While each individual blood component manufactured at the end of this common process will be required to have its own product licence, a single TSF can be used to support all of these applications.

A. Applications for Class 1 Blood

In summary, Class 1 applications will require:

- provision of a TSF, which would include chapters for specific grouped components; and
- demonstration of compliance with manufacturing quality requirements specified through the Manufacturing Principles for compliance with quality standards/cGMP.

The Authority will screen applications to ensure that the application meets the Authority's requirements. The Authority may reject the application if:

- the Blood is not a Class 1 Blood;
- it is not in the correct form and delivered to an office of the Authority;
- the application does not contain all the data elements required in the guidelines and the licence applicant has not complied with a request for information made by the Authority; or
- the correct fee has not been paid.

If the application is accepted, the Authority will evaluate the application. In evaluating the application the Authority will have regard to:

- whether the product is a Class 1 Blood;
- whether all steps in the manufacture of the product have been carried out in accordance with manufacturing standards/the relevant cGMP;
- if a step in the manufacture of the product has been carried out outside Australia or New Zealand, whether the manufacturing and quality control procedures used in the manufacture of the product are acceptable;
- whether the product conforms to any Standards applicable to that specific type of product; and
- other matters that the Authority considers relevant.

The Authority will make a decision to grant or to refuse a Class 1 Product Licence on the basis of the evaluation and may seek advice from a relevant expert advisory committee or other experts before making a decision.

If the applicant demonstrates compliance with all requirements, the Authority will issue a Product Licence

B. Applications for Class 2 Blood

As for Class 1:

- a product licence application for a Class 2 Blood is to be made in a form approved by the Authority and delivered to an office of the Authority, accompanied by the prescribed fee and including all the required information etc;
- the Authority may reject the application if it is not a Class 2 Blood, if it is not in the correct form, if the correct fee is not paid and/ or if the application does not include all the required information (including any information requested by the Authority); and
- the Authority will make a decision to grant or to refuse a Product Licence on the basis of the evaluation and may seek advice from relevant expert advisory committees, or other relevant experts, before making a decision.

In evaluating the application, the Authority will have regard to:

- whether the product is a Class 2 Blood;
- whether the quality, safety and efficacy of the Blood for the purposes for which it is to be used have been satisfactorily established, acknowledging that the concepts of safety and efficacy can only be balanced having regard to the state of scientific knowledge at the time;
- whether the presentation of the Blood is acceptable;
- whether the Blood conforms to any Standard applicable to the Blood, or any applicable requirements relating to advertising;
- whether all of the manufacturers of the Blood are nominated as manufacturers of the Blood in the application;
- if the Blood has been manufactured in Australia or New Zealand, whether critical steps in the manufacture of the Blood have been carried out by a

- manufacturer who is licensed, or where relevant approved (by the licensed manufacturer or an approved accreditation agency), to carry out that step;
- if a step in the manufacture of the Blood has been carried out outside Australia or New Zealand, whether the manufacturing and quality control procedures used in the manufacture of the Blood are acceptable;
- whether the product contains substances that are prohibited imports for the purposes of Australian and/or New Zealand Customs legislation;
- whether a substance in the Blood meets the requirements for scheduling in the Standard for the Uniform Scheduling of Medicines and Poisons (SUSMP) and, if so, in which schedule; and
- any other matters the Authority considers relevant.

C. Application for Export Only Blood

As for Class 1 and Class 2 applications, in order to obtain a product licence for Blood intended only for export from Australia and/or New Zealand to a third country, the person will be required to submit to the Authority an application in a form approved by the Authority and accompanied by the prescribed fee.

In the application, the applicant will be required to make certifications in relation to the Blood. These will be set out in the legislation and will include certifications that:

- the Blood is intended only for export from Australia and/or New Zealand to a third country and will not be supplied in Australia or New Zealand;
- the Blood is safe for the purposes for which it is to be used;
- the Blood conforms to every standard (if any) applicable to the Blood;
- the Blood complies with all prescribed criteria for quality and safety;
- if the Blood has been manufactured in Australia or New Zealand, each step in the manufacture of the Blood has been carried out by a person who is the holder of a licence or approved to carry out that step (unless the Blood or manufacturer is exempt from this requirement);
- the applicant holds information or evidence to support any claim that the applicant makes relating to the Blood other than where a contract exists between the exporter and the overseas importer which states that the exporter is not responsible for substantiation of these claims;
- the applicant holds data to demonstrate that the product specifications will continue to be met for the period of the shelf life under the nominated storage conditions other than where a contract exists between the exporter and the overseas importer which states that the exporter is not responsible for nominating the shelf life of the Blood;
- the applicant holds product specifications and draft or actual labels for the Blood;
- where licensed for export from:
 - Australia – the Blood does not contain a substance the exportation of which is prohibited under Australian Customs legislation; or
 - New Zealand – the Blood does not contain a substance the exportation of which is prohibited under New Zealand Customs legislation; and
- the information included in, or with, the application is correct.

In certain circumstances, it will also be necessary for the applicant to obtain certifications from the Authority, prior to submitting the application. These circumstances will be set out in the legislation and include:

- if a step in the manufacture of the Blood has been carried out outside Australia or New Zealand, the Authority must have certified that the manufacturing and quality control procedures used in each such step are acceptable (unless the Blood or manufacturer is exempt from this requirement); and
- if an export-only Blood contains any ingredient of human or animal origin in respect of which the Authority considers that there is a safety risk associated with its use, the applicant must have obtained from the Authority, before the application is lodged, a certificate that the ingredient is acceptable to the Authority (subject to any specified condition) for use in a Blood.

For an export-only Class 1 or Class 2 Blood, the Authority will issue an export-only product licence if:

- the application has been made in the correct form;
- the application is complete and is accompanied by the correct fee;
- requisite certifications from the Authority have been obtained, prior to submission of the application;
- key data in the application have been validated by the Authority; and
- in the case of an export-only Blood, where an audit has been undertaken, the Authority is satisfied as to all aspects considered in the audit (refer below).

For export-only (Class 2) product licences:

- the Authority will select for a pre-licence audit, certain applications including:
 - applications for an export only Blood containing a new substance; or
 - applications where the applicant has indicated that the Blood was refused a licence for domestic supply or was the subject of a product licence that has been revoked or suspended; and
- the Authority may select for audit any other application.

If the application is selected for a pre-licence audit, the Authority will inform the applicant (within 10 working days of selecting it for audit) that the application has been selected for audit and request the applicant to provide further information and documentation necessary for the audit. The Authority may refuse to grant a Class 2 export only product licence if the applicant fails or refuses to provide all of the necessary information or documentation within 10 working days from the date of the notice of the audit. The audit may be conducted on any, or all, aspects of the application.

Where the Authority is not fully satisfied as to the safety of an export only Blood, the Authority may contact the regulatory Authority in the country to which the product is

to be exported to confirm that the authority has no objections to the product being licensed for export from Australia/New Zealand for supply to that country.

As for other product licences, at any time after a product licence has been issued for an export only Blood, the Authority may undertake an audit, evaluate the quality, safety and efficacy of the Blood or conduct a risk assessment of the Blood.

D. Kinds of Blood

It is intended that there be capacity to assess separate components derived from the same type of source material. This consideration is separate from that which describes separate and distinct product for product licensing. For the purposes of evaluation, a Blood is taken to be of the same kind as another Blood if:

- the application(s) is/are received simultaneously;
- the products are manufactured by the same manufacturer;
- the products are of the same Blood classification; and
- the products possess features that are sufficiently similar to allow common evaluation.

The Authority may declare Blood that possess particular features to allow assessment as the same kind of Blood (provided that the licence applicant and manufacturer are the same for each of the products and the products are the same classification).

Practically this provision provides the Authority with a means whereby it may accept a single submission for multiple product licences and assess this for products having substantial similarities.

In the case of a Class 2 Blood, the products must have the same unique product identifier (i.e. the same product and product name, but, for example be of different dose size, or concentration etc).

E. Timeframes for assessment

It is proposed that applications for product licences for novel Blood will be accepted or rejected for evaluation within 40 working days of receipt. If the application is accepted for evaluation, a decision to grant or to refuse a product licence will be made within 255 working days of receipt of the application.

An applicant will be notified within 20 working days of a decision to grant a licence.

These timeframes are maximum timeframes and we would anticipate that in the majority of cases timeframes would be considerably shorter.

The penalty to the Authority for not completing applications within statutory timeframes will be a forfeit of 25% of the evaluation fee to the applicant.

It is proposed that the Authority will have the facility to give priority to the evaluation of licence applications for important novel Blood where it is in the interest of public health to do so.

The circumstances in which priority status may be assigned will include when a new Blood is intended for the treatment or diagnosis of a life-threatening or otherwise severely debilitating disease, disorder or condition or there is a need for supply of medicines in emergency situations (eg. bio-terrorism).

Priority will only be given if the treatment potentially offers a major advance on currently available therapies.

F. Data protection

It is proposed that provisions will be included to protect data from “unfair commercial use” or disclosure. In practical terms, data submitted with an application to licence a new therapeutic product should be protected from use by a third party for a period of five years.

When evaluating a Biological for a product licence, the Authority must not use information regarding another Biological if that information is protected.

Using the example of Blood, information will be *protected information* if:

- the information was given to the Authority in relation to an application to licence a Blood (the new Blood) consisting of, or containing, an active component (being a substance that is, or one of the substances that together are, primarily responsible for the biological or other effect(s) identifying the Blood as a therapeutic product);
- the information is about the active component and is not available to the public;
- when the application to licence the novel Blood was lodged no other Blood consisting of, or containing, that active component was licensed; and no such Blood had been licensed at any time before then;
- five years have not passed since the day the novel Blood became licensed; and
- the person in relation to whom the novel Blood is licensed has not given the Authority permission in writing for the Authority to use the information.

PART J: CONDITIONS AND OTHER PARTICULARS ON A PRODUCT LICENCE

A. *General particulars*

The product licence document will provide a summary of the particulars of the product that is/are the subject of the licence and set out or refer to the conditions, subject to which the licence has been granted. The product licence will include:

- the product licence identifier;
- the date the product licence was issued;
- the dates and details of variations to the licence (if applicable);
- the country(ies) in which the product licence is valid;
- particulars about:
 - the licence holder;
 - the product;
 - the manufacture of the product;
 - the intended use of the product;
- the conditions subject to which the product licence is granted; and
- other information relevant to the issuing of the licence.

B. *Product Licence conditions*

As is the case with all product licences, conditions may be imposed by the Authority. The conditions will be appropriate to ensure that the relevant requirements continue to be met throughout the life of the product.

It is proposed that there will be some statutory conditions that will apply to all licensed Biologicals and some conditions that will apply only to Blood or to specific classes of Blood or types of Blood. In addition to statutory conditions, the Authority will also have the capacity to impose conditions on a case by case basis.

It is proposed that the following types of conditions will apply to all licensed Blood (and may also apply to all Biologicals). Licence holders must:

- allow authorised persons to enter premises where the licence holder or any other person deals with the Blood;
- supply samples of the Blood, on request, to the Authority for testing purposes;
- notify the Authority if they become aware of adverse effects relating to their products (including becoming aware of new information that contradicts previously supplied information, information that the product may have a harmful effect and information that the product may not be as effective as suggested in the original licence application);
- keep records relating to the products in order to expedite recall if necessary of any batch of the products; and identify the manufacturer(s) of each batch of the products;

- ensure that advertising material is consistent with the intended purpose of the product;
- retain records of the distribution for a minimum period of ten years;
- notify the Authority about any product recall or any other similar regulatory action taken overseas; and
- hold information or evidence to support claims, will also apply to all licensed Blood.

In addition to the statutory conditions, the Authority may impose specific conditions as part of the decision to issue a product licence. Conditions may relate to:

- the manufacture of the Blood;
- the custody, use, supply, disposal or destruction of the Blood;
- testing of the Blood;
- the presentation of the Blood;
- the keeping of records relating to the Blood;
- matters dealt with in Standards applicable to the Blood (or additional matters); or
- other matters relating to the Blood, which the Authority thinks appropriate.

The Authority may also:

- by a notice given in writing, impose specific conditions on an existing product licence or vary or remove existing conditions. If the imposition or variation of the condition is necessary to prevent imminent risk of death, serious illness or serious injury, it will have immediate effect. In any other case, it will take effect no earlier than 20 working days after a notice is given to the licence holder.
- impose or vary conditions on a product licence, with immediate effect, if he/she is satisfied that there is a potential risk of death, serious illness or serious injury if the Blood continues to be licensed and that, by the imposition of conditions, it is likely that the Blood would not cause a potential risk of death, serious illness or serious injury. This is in addition to the power to suspend the product licence if the Authority is satisfied that there is a potential risk of death, serious illness or serious injury if the Blood continues to be licensed and it is likely that the licence holder can take action to address the problem.

PART K: VARIATION, SUSPENSION AND REVOCATION OF PRODUCT LICENCE

A. Variation

It is proposed that the Authority may vary the terms of the product licence:

- on the Authority's own initiative – for example, if the particulars on a product licence are incomplete or incorrect; and
- on application by the licence holder. This may include where the particulars on a product licence are incomplete or incorrect or where a more substantial change is required. For example, the licence holder must apply to vary the product licence if the particulars on a product licence change or if there are changes to:
 - information contained in the product licence application or any subsequent product licence variation applications, being information that would have been relevant to a decision to licence the Blood or to vary the licence for the Blood, including information on the formulation or composition of the Blood and information on the manufacture of the Blood;
 - the approved product information for the Blood; or
 - the labels for the Blood.

Where the applicant seeks to vary a product licence to the extent that the change results in a new Blood product (ie a separate and distinct product) the applicant will be required to submit an application for a new product.

It is proposed that the Rules will describe periods within which applications to vary product licences must be accepted or rejected for evaluation and within which product licence variations are to be completed. Applications, where clinical, toxicological or bioequivalence data are not required to support the variation, will be decided within 45 working days from the date of acceptance of the application. In this case, if the Authority has not made a decision within 45 days, the application is deemed to have been approved.

B. Suspension and Revocation of Product Licences

It is proposed that the Authority will be able to suspend or revoke a product licence in the event that the licence holder fails to comply with its obligations, or the Authority receives new information on the safety, quality or efficacy of a Blood which makes such an action necessary. Appropriate safeguards will be put in place to ensure that licence holders are informed and given adequate opportunity to respond to concerns and to seek a review of any decision to suspend or revoke a product licence, where appropriate.

C. *Revocation with immediate effect*

It is proposed that, in certain circumstances, the Authority may revoke a product licence with immediate effect, in which case the licence holder must immediately cease import, supply or export of the product. In certain circumstances, the product may also be recalled.

Examples of circumstances in which a licence may be revoked with immediate effect include:

- if there is imminent risk of death, serious illness or serious injury if the Blood continues to be licensed
- if the product has been misrepresented and accordingly misclassified as Class 1;
- if the product has become exempt from product licensing;
- where the licence holder requests in writing that the product licence be revoked; and
- if the product contains substances that are prohibited imports for the purposes of the Australian and/or New Zealand Customs legislation.

D *Revocation after notice of proposal to revoke*

If the Authority decides that a product licence should be revoked and the legislation does not provide for the licence to be revoked with immediate effect, the Authority must advise the licence holder of the intention to revoke the licence and give the licence holder the opportunity to respond to the proposed action.

In this case, the licence holder may continue to import, supply or export the product until such time as the Authority decides to revoke the product licence.

Examples of circumstances in which the Authority may revoke a product licence for a Blood (following a notice of proposal to revoke) include:

- if the product has changed so that it has become separate and distinct from the product that was licensed;
- the licence holder has refused to comply with a condition on the product licence;
- the product does not conform to a standard applicable to the product; or
- the classification for determining the level of assessment of the product changes.

E. *Suspension*

Suspension of a product licence will stop further import, supply or export of a product pending provision of additional information by the licence holder to enable the Authority to determine whether or not the product licence should remain valid or be

revoked. The Authority may suspend a product licence for Blood if the Authority is satisfied that, for example:

- there is a potential risk of death, serious illness or serious injury if the Blood continues to be licensed and it is likely that, within the period of the suspension, the licence holder will be able to take the action necessary to ensure that the Blood would not cause a potential risk of death, serious illness or serious injury if it were to continue to be licensed; or
- it is likely there are grounds for revoking the product licence.

It is proposed that the period of suspension will not exceed 6 months but this may be extended by up to an additional 6 months if the licence holder is able to show that he/she has taken steps to remove the grounds for suspending the licence.

In addition to these provisions, it will be possible for the Authority to add an immediate condition to a product licence, prior to any suspension, which would require the licence holder to undertake certain actions such as labelling changes or distributing correspondence to healthcare professionals notifying them of potential problems with the product.

PART L: MANUFACTURE OF BLOOD

A. *Manufacturing Licences*

Australian and New Zealand manufacturers of Blood will be required to hold a manufacturing licence issued by the Authority, unless exempted from this requirement.

The Authority will assess a manufacturer for compliance with the required Manufacturing Principles. The Manufacturing Principles to be observed in the manufacture of Blood will relate to:

- the standards to be maintained in the manufacture;
- the premises and the equipment to be used;
- procedures for quality assurance and quality control to be employed;
- the qualifications and experience required of people employed in its manufacture;
- the manufacturing practices to be employed in its manufacture; and
- other manufacturing matters relevant to the quality, safety and efficacy of the Blood.

B. *Obtaining a Manufacturing Licence*

The process for obtaining a manufacturing licence for Blood will be the same as the process for assessment of any other manufacturer of a therapeutic product (as will the processes for renewal and variation of a manufacturing licence)

C. *Conditions on a Manufacturing Licence*

It is proposed that there will be statutory conditions and conditions that the Authority may impose on a case by case basis.

For example, as per medicines/medical devices, the Authority may obtain information from the applicant, may require the applicant to allow an authorised person to inspect the premises, equipment, processes and facilities etc that will be used to manufacture blood, blood components and blood products.

D. *Suspension or Revocation of Manufacturing Licence*

As for all other manufacturing licences, the Authority will have the power to revoke a manufacturing licence or suspend a licence for a period of time.

PART M: ADVERTISING AND CONSUMER INFORMATION

It is proposed that advertising in respect of a Blood must be consistent with the Australia and New Zealand Therapeutic Products Advertising Code, and in New Zealand with the prohibitions on advertising of blood included in Section 92F of the Health Act 1956. This proposal is consistent with the proposed Advertising Rule which sets out minimum requirements for advertising but leaves decisions on the type of advertising that is permitted in each country to be determined by local legislation.

Where advertising of blood is permitted it is proposed that it must not represent the Blood as effective for indications not specified in the licence.

In line with the proposals in the draft Medicines Rule, the Authority will also be able to impose requirements with respect to the information to be provided in product information documents and consumer information documents for certain Blood.

PART N: ADVERSE EVENT REPORTING AND RECALLS

A. *Adverse events reporting*

It is proposed that the Authority will have systems, procedures and strategies in place for the reporting of problems with Biologicals including Blood.

A comprehensive adverse reaction monitoring program will operate in Australia and New Zealand in relation to all therapeutic products and this program will also monitor the safety of Blood supplied in Australia and New Zealand. Further detail on the proposed product vigilance requirements are described in the consultation document "Product Vigilance in ANZTPA" released in October 2006. This document includes proposals for:

- the submission of reports of suspected adverse events and problems with Blood, in accordance with the Rules, either electronic or written form to Australia or New Zealand. The submission of these reports will be mandatory for licence holders and voluntary for healthcare professionals and consumers;
- guidance on the reporting of these events, including the types of reports that must, or may, be submitted;
- electronic database/s, with capacity to store and process information from either country or from both countries;
- vigilance requirements;
- auditing of licence holders for compliance with vigilance requirements;
- systems for the review of reports in both countries;
- systems for communicating, within the Authority, information on actual or potential problems with Blood and for developing policy on vigilance and adverse event reporting matters; and
- systems for the dissemination of information to healthcare professionals and consumers on problems with Blood.

Licence holders will be required to actively monitor the performance of their Blood in the market place. At any time while a product licence has effect, as soon as a licence holder becomes aware of particular information in relation to the licensed Blood, the licence holder must inform the Authority in writing.

Where details of adverse events are reported to the licence holder by a third party, the licence holder must keep the details of this third-party and provide the details to the Authority on request.

It is proposed that the particular information that must be reported includes information such as that which:

- contradicts information already provided to the Authority;
- indicates that the use of the Blood in accordance with the recommendations for its use may have an unintended harmful effect;
- indicates that the Blood, when used in accordance with the recommendations for its use, may not be as effective as information already provided to the Authority might suggest; or
- indicates that the quality, safety or efficacy of the Blood is unacceptable.

Currently licence holders are required to report each adverse event as soon as they become aware of the information. However, there are circumstances when such reporting is onerous or unnecessary. Therefore, it is proposed that provisions will be included in the Rules to enable exemptions to such reporting to be prescribed, or to enable reporting requirements to be modified.

Adverse event reporting by healthcare professionals and consumers will remain voluntary. Provisions will be put in place to maintain the confidentiality of the reporting scheme.

B. Recalls

It is proposed that the Authority will be able to issue notices for the recall / recovery of Blood that is defective or is supplied in contravention of the Rules. Product licence holders and others to whom a notice is addressed must comply with the requirements of a notice. The Authority may also issue notices informing the public about the recovery.

As for medicines, it is proposed that provisions be included to ensure recovery of any Blood that may have been approved for public health emergency, and disposal of any unused product.

PART O: EXEMPTIONS FROM STANDARDS AND LICENSING

A. Exemptions from product licensing

(i) Medical practitioners

The following Class 1 Blood and Blood components would not be subject to product licensing (or manufacturer licensing). Class 1 Blood and Blood components:

- collected by a medical practitioner in the course of medical treatment and for the purposes of diagnosis or of testing for a medical condition; or
- manufactured by a medical practitioner for use in an emergency to save life or limb/function for a particular patient under the practitioner's care.

(ii) Personal importation

Blood imported into Australia or New Zealand by an individual (or a member of a group) visiting Australia or New Zealand for a particular purpose (including but not limited to sports purposes) will be exempt from product and manufacturer licensing. However, the importation of Blood (other than synthetic Blood equivalents) will be subject to a Special Access Scheme as discussed below. This reflects the current practice.

(iii) Blood for export

Blood imported solely for the purpose of export that remains subject to the control of the Australian or New Zealand Customs and that is not subject to manufacture in Australia or New Zealand will not require a product licence.

Blood will also be exempt from product licensing if it is exported, provided that:

- it is not for commercial supply;
- where exported from Australia, it does not contain a substance the exportation of which is prohibited under Australian customs legislation or where exported from New Zealand, it does not contain a substance the exportation of which is prohibited under New Zealand customs legislation; and
- it is not intended for use in clinical trials on humans.

This exemption is only an exemption from product licensing – there may still be requirements for license of the manufacturer and/or export approval.

Blood will also be exempt from licensing if it is for personal use by persons leaving Australia or New Zealand. It is envisaged that blood donated for export for humanitarian purposes will be drawn from regulated supplies.

(iv) Samples of Blood

Samples of Blood exported for:

- submission to a regulatory authority; or
- developmental or quality control procedures; or
- examination, demonstration or display; or
- analysis or laboratory testing procedures.

This exemption is only an exemption from product licensing – any exports must comply with any relevant domestic laws including import/export requirements.

(v) Starting material

An ingredient (other than water) used in the manufacture of a Blood (provided the ingredient does not have a therapeutic action) is proposed to be exempt from product licensing and manufacturer licensing.

B. Conditional exemptions from product licensing

Following is a summary of some of the exemptions (subject to conditions) that will operate and an explanation of how they would operate in relation to Blood and Blood components.

It should be noted that there will not be an exemption for collection and processing equipment, reagents, containers and delivery systems for Class 1 Blood – these will no longer be exempt and will be required to be licensed.

(i) Life Threatening Circumstances

It is proposed that provisions will be included to enable the urgent use of Blood for a life-threatening or seriously debilitating condition – these will mirror the provisions proposed in relation to medicines.

(ii) Emergency situations

It is proposed that the emergency exemption provisions that apply to medicines would also apply to Blood.

For example, it is proposed that the exemptions would enable Blood to be:

- stockpiled as quickly as possible in order to create a preparedness to deal with a potential threat to public health that may be caused by a possible future emergency; and
- made available urgently in order to deal with an actual threat to public health caused by an emergency that has occurred.

It is proposed that Blood would only be exempt from product licensing under these provisions if it is in the national interest of one or both countries.

(iii) Short supply

It is proposed that the Authority would have the capacity to exempt a Blood from product licensing if it is satisfied that no licensed product that could act as a substitute is available or is in short supply and that such an approval is necessary in the interests of public health.

(iv) Clinical Trials/ Experimental use

It is proposed that Blood used in clinical trials would be exempt from the requirement to have a product licence but would require a manufacturing licence (other than for initial experimental studies in humans (Phase 1)).

An application for an exemption of this kind must be made to the Authority in writing. In the case of an approval for use for experimental purposes, the application must be accompanied by any information required by the Authority and by the prescribed evaluation fee. Before any clinical trials are undertaken, the Authority must receive from the person to whom the approval is granted and the principal investigator for each trial site:

- a written assurance that the trial will be conducted in accordance with guidelines; and
- a written undertaking to comply with requests from an authorised person to give information about the conduct of the trial and allow authorised persons to audit the trial.

Any approval given by the Authority for Blood to be used solely for experimental purposes in humans may be subject to conditions (as specified in the notice of approval).

(v) Supply of unapproved product in special circumstances

It is proposed that a Special Access Scheme, similar to the one that is currently applicable to medicines and medical devices in Australia, will also apply to Blood.

The Authority may authorise a specified medical practitioner to supply specified unlicensed Blood or types of Blood to specified recipients or classes of recipients. Conditions may be imposed on this kind of authorisation.

C. Exemptions from manufacture licensing

It is proposed that the following people (in the following circumstances) would be exempt from the requirement to be licensed to manufacture Blood:

- a medical practitioner who collects and manufactures whole blood/blood components (excluding the manufacture of gene therapy) specifically for the patient under his care;
- a blood collection centre manufacturing Class 1 or 2 Blood for a medical practitioner for therapeutic application to a particular patient under the practitioner's care (excluding gene therapy);
- a person who applies supplementary labelling (only name and address, or product licence number) to a manufactured Blood; or
- a person who re-labels (add a new label without obscuring product label) a Blood in order to comply with the signal heading labeling requirements of the Scheduling Standard.

Manufacture of a kind of Blood that is exempt from requiring a licence to manufacture:

- a Blood prepared for the initial experimental studies in human volunteers at the preliminary stages of development of the Blood.

D. Intermediate Products

Intermediate products will not form a separate class of Blood as they are not finished product and therefore do not require a product licence (exempt from Product Licence eg starting materials).

However, provision will be made for these to be recognised as requiring an application (with application fee) for evaluation of data compiled in a Master File (an evaluation fee to be specified in the Fees Schedule). A decision regarding the acceptability of the data will be issued to the applicant.

Intermediate product status will apply to active medicinal ingredients (eg anticoagulant, antibiotic), the active/principle raw material (eg plasma) and raw materials derived from human, animal or microbial sources.

The applicant will generally be the manufacturer of the ingredient/raw material whose data may be applicable to the ingredient, raw material to be used by the same or another manufacturer to bring his product to its final form. Intermediate products may also be licensed products, in which case its use as an intermediate product will be supported by the preclinical assessment undertaken to substantiate its product licence.

PART P: FEES AND CHARGES

Article 15 of the Treaty provides that fees and charges may be collected by the Authority in connection with the performance of its functions and that these fees and charges will be prescribed in Rules.

The fees and charges will be designed to recover the full costs of the Authority's activities in an efficient and equitable manner and will comply with such other principles or requirements as may be prescribed in the Rules.

The Ministerial Council will seek recommendations from the Board in respect of fees and charges and ensure appropriate stakeholder consultation.

The Authority may engage in activities that fall outside the scope of the joint regulatory scheme. For activities that the Authority performs that do not fall within the joint regulatory scheme, either Australia or New Zealand may agree to provide funding to the Authority in connection with such activities, or the Authority may be empowered to collect fees or charges in respect of such activities.

Some information regarding fees and charges for blood was included in a consultation paper released in May 2006. Further details will be incorporated into a fees and charges Draft Rule for the joint scheme and separate consultation will be undertaken.

PART Q: TRANSITION PROVISIONS

The overarching principles to apply to the transitional arrangements are outlined in Article 21 of the Treaty, that is,

“On and after the commencement date, the manufacture, supply, import, export or promotion of a therapeutic product that was lawful in the territory of one Party immediately before the commencement date continues to be lawful in the territory of that Party for a specified period by virtue of the deemed grant of a transitional approval under the Scheme on the terms and conditions (if any) that applied in respect of the manufacture, supply, import, export or promotion of that therapeutic product before the commencement date.”

Current Approvals

Product Approvals

The Treaty obligations on both countries mean that at commencement of the joint scheme, all products that could be lawfully supplied in Australia or New Zealand can continue to be supplied in the country in which they were being supplied lawfully, for the duration of the specified transition period of three years from the commencement date of the joint scheme.

All blood and blood products currently included on the Australian Register of Therapeutic Goods (ARTG) (Class 2) approved for supply in Australia, and legally manufactured Class 1 blood in Australia will be granted transitional approval in the form of an Interim Product Licence that permits the continued supply of the product in Australia only. The interim product licence will impose the same conditions as those that applied to the inclusion of that product on the ARTG or in the case of Class 1 blood on the manufacturing licence under the Therapeutic Goods Act.

Any blood or blood product supplied in New Zealand that has been granted either Ministerial consent or provisional consent under the New Zealand Medicines Act will be granted transitional approval in the form of an Interim Product Licence that permits the continued supply of the product in New Zealand only. The Interim Product Licence will impose the same conditions as those that applied in the granting of Ministerial consent or provisional consent under the New Zealand Medicines Act.

It will be illegal to supply a therapeutic product in Australia and/or New Zealand after commencement of the joint regulatory scheme if the product is not the subject of either an Interim or an ANZTPA Product Licence.

During the transition period, all products including those on the interim New Zealand registers will need to apply for (and be granted) a full Authority product licence issued by the Authority or, at the end of the transition period, the transitional approval will lapse.

Products that are available in both Australia and New Zealand prior to commencement of the joint scheme will not be entitled to a full Authority product licence enabling supply in both countries until the sponsor of the product has demonstrated that the product complies with all requirements under the joint scheme. A result of this arrangement is that where a product is legally available in both Australia and New Zealand prior to commencement of the joint scheme, it will be granted two transitional approvals (one for Australia and one for New Zealand) until such time as a full Authority product licence has been applied for, and granted.

It will be possible for the Authority to impose additional or different conditions on a transitional approval in accordance with the Rules. Every transitional approval will lapse at the end of the transition period. Therefore, prior to the end of the transition period, all products will need to demonstrate that they meet the standards of the Authority in order to obtain a full Authority product licence enabling supply in both countries. At the end of the transition period, any product that has not gained a full Authority product licence from the Authority will no longer be able to be supplied. This condition will be imposed in order to ensure sponsors apply for a full Authority licence thus ensuring that all approved products meet the Authority standards.

Preparation for transition

As most Class 1 blood are products collected, manufactured and utilized locally in each country, preparing the product for transition to an ANZTPA Product Licence will focus on product safety and quality, and compliance with GMP issues.

Class 2 blood products, such as recombinant clotting factors or immunoglobulins, are approved and marketed in both countries, and there are often differences in the product details for those registrations. In preparation for transition to the joint scheme, sponsors of Class 2 blood in particular should review their current product ranges and marketing authorisations to take advantage of the “single market” opportunities provided by the joint regulatory scheme. Sponsors might find it useful to refer to the information in the document titled *Plain English Guide to the Draft Medicines Rule, Draft Medical Devices Rule, and Key Components of the Draft Administration and Interpretation Rules*, which was released in May 2006 and is available on the ANZTPA website (www.anztpa.org) .

Having demonstrated compliance with Authority standards, a full Authority Product Licence will be issued enabling supply in both Australia and New Zealand.

Manufacturing Approvals

On the date of commencement of the joint scheme, lawful manufacture of therapeutic products in Australia and New Zealand will continue to be lawful by the deemed grant of a transitional approval to the lawful manufacturer of these products.

In other words, any manufacturer of therapeutic products authorised under the Therapeutic Goods Act or the Medicines Act in either Australia or New Zealand will be granted a transitional approval that applies on the terms under which the existing approval was issued. This transitional approval will be valid for a period of two years.

During the period of the transitional approval, the holder of the transitional approval will have to apply to the Authority for a full Authority manufacturing licence. This licence application will be assessed against requirements under the joint scheme and will be issued under the terms and conditions of all full Authority manufacturing licences issued by the Authority.

Other Activities and Exemptions

Apart from existing product and manufacturing approvals, there may be other regulatory actions that will already have been commenced at the time the joint scheme comes into existence such as suspensions of manufacturing licences, pending cancellations, prosecutions, recalls, monitoring action and audits, and property that has been seized under search powers. In order to accommodate the finalisation of these activities, the regulatory action will be finalised under the legislation existing when the activity was commenced.

All post-market surveillance activities, appeals and reviews that were commenced under the Therapeutic Goods Act or the Medicines Act but not completed by the commencement date of the joint scheme, will be completed under the legislation under which the activity was commenced.

Upon commencement of the joint scheme, products, persons or activities that were exempt from regulatory requirements under the Therapeutic Goods Act and Medicines Act will continue to be exempt from regulatory requirements for the duration of the transition period or for the period stated in the exemption (whichever is the shorter). At the end of the transition period the exemption will only remain in place if the Authority legislation or Rules continues to specifically exempt these products, persons or activities. If, at the end of the transition period, the Authority legislation or Rules no longer exempts these products, persons or activities, then the exemption will cease and compliance with the relevant requirements under the joint scheme will need to be demonstrated.

It is anticipated that clinical trials that are ongoing at commencement of the joint scheme will be allowed to be finalised under the same conditions of exemption that were applied under the Therapeutic Goods Act and Medicines Act. Clinical trials commencing after commencement of the joint scheme will have to comply with relevant requirements under the joint scheme.

Applications In Progress

The transitional system set up in each country will deal with applications for product approvals received by the TGA under the Therapeutic Goods Act and Medsafe under the Medicines Act prior to commencement of the joint scheme but not finalised by the commencement date of the joint scheme.

The transitional systems will ensure that applications for product approvals are determined on the same basis as applied to the application before the commencement date of the joint scheme and will provide for the grant of transitional approvals. These transitional approvals will be valid only for the duration of the transition period and only in the country where the original application was received.

Applicants whose applications for product approval were lodged under the Therapeutic Goods Act or the Medicines Act but which are not, or are unlikely to be, finalised by the commencement of the joint scheme, may elect to have their applications determined by the Authority under the joint scheme rather than under the legislation under which they were submitted. In order to do this, the applicant will need to withdraw the original application and resubmit the appropriate application to the Authority. Every applicant to whom this situation applies must elect within three months of the commencement of the joint scheme to either have their application completed in accordance with the legislation under which the application was made (and any applicable Rules and Orders) or withdraw their application and make a new application for a full Authority product licence in accordance with the requirements of the Authority. If an application is withdrawn under this provision, a full refund of the original application fee will be made to the sponsor and the sponsor will then have to pay the full Authority evaluation fee. Any statutory timeframes applying to evaluations will restart on the day the new application was made to the Authority.

The Transition Period

Existing Products

All therapeutic products that are entered on the ARTG in Australia or have Ministerial Consent in New Zealand will receive transitional approvals that are valid for a period of three years from the commencement date of the joint scheme.

It may be possible to grant extensions of time in which to obtain a full Authority product licence under certain circumstances. Following the transition period, extensions to transitional approvals will only be granted to products that can demonstrate an ongoing program designed to demonstrate conformance to the Authority standards. However, holders of transitional approvals will be encouraged to gain full Authority product licences during the transition period by incurring increased fees for applications received during any period of extension.

As a general principle, an Interim Product Licence (for either country) would become an ANZTPA Product Licence without further evaluation where compliance with the ANZTPA requirements can be demonstrated. There will be no fees payable in transferring to an ANZTPA Product Licence where evaluation or assessment is not required. Where compliance with ANZTPA requirements cannot be demonstrated and an additional evaluation or assessment is required the requisite fees will be payable. As the standards documents are currently different in Australia and New Zealand, the TGA and Medsafe are conducting a 'gap analysis' in relation to the requirements for the ANZTPA TSF. The outcome of this analysis will be a single standard to apply in both countries. For Class 2, it is envisaged that the difference would predominantly relate to labelling issues.

In exceptional circumstances (i.e. a clearly demonstrated clinical need) certain products that are unable to demonstrate compliance with Authority standards may be issued a conditional product licence enabling continued supply in the country in which they were legally supplied prior to commencement of the joint scheme.

Existing Manufacturing Licences

Licensed manufacturers in Australia and New Zealand will be able to continue to manufacture under the terms of their existing licence for a period of no more than two years following commencement of the joint scheme. During this two-year transition period, manufacturers will need to submit an application to the Authority for a full Authority manufacturing licence. Given that current Australian and New Zealand processes for the granting of manufacturing licences are well aligned, gaining a full Authority manufacturing licence should not be significantly more onerous for manufacturers than maintaining their current national licences.