Schedule M-III

REQUIREMENTS FOR THE MANUFACTURE, IMPORT AND SALE OF MEDICAL DEVICES

Note: The manufacture, import and sale of Medical Devices, which have been notified as drugs are regulated under the Drugs & Cosmetics Act and Rules.

All application of devices for manufacture of devices shall be made in accordance of Rule 76, but in case of inspections and other requirements Schedule M III will apply.

1. General

1.1 For the purposes of this Schedule any instrument, apparatus, implement, machine, appliance, implant, in vitro reagent or calibrator, software, material or other similar or related article shall be deemed to be a Device under the meaning of Section 3 (b) (iv), which is:

(a) intended by the manufacturer to be used alone or in combination for human beings for one or more specific purpose(s) of;

(i) diagnosis, prevention, monitoring, treatment or alleviation of disease,

(ii) diagnosis, monitoring, treatment, alleviation of or compensation for an injury,

(iii) investigation, replacement, modification or support of the anatomy or of a physiological process,

(iv) supporting or sustaining life,

(v) control of conception,

(vi) disinfection of medical devices,

(vii) providing information for medical or diagnostic purposes by means of in vitro examination of specimens derived from the human body;

and

(b) which does not achieve its primary intended action in or on the human body by pharmacological, immunological or metabolic means, but which may be assisted in its intended function by such means.

Note 1: The definition of a device for *in vitro* examination includes, for example, reagents, calibrators, sample collection and storage devices, control

materials and related instruments or apparatus. The information provided by such an *in vitro* diagnostic device may be for diagnostic, monitoring or compatibility purposes. I*n vitro* diagnostic devices, including reagents and the like, may be covered by separate regulations under D&C Act.

Note 2: Accessories intended specifically by manufacturers to be used together with a 'parent' medical device to enable that medical device to achieve its intended purpose are subject to the same procedures as apply to the medical device itself. For example, an accessory will be classified as though it is a medical device in its own right. This may result in the accessory having a different classification than the 'parent' device.

Note 3: Components to medical devices are generally controlled through the manufacturer's quality management system and the conformity assessment procedures for the device.

Note 3a: Semi-finished products, in specific processes performed by sub contractors are to be generally controlled through the manufacturer's quality management system and the conformity assessment procedures for the device.

Note 4: (1) 'accessory' means an article which whilst not being a device is intended specifically by its manufacturer to be used together with a device to enable it to be used in accordance with the use of the device intended by the manufacturer of the device;

(2) '*in vitro* diagnostic medical device' means any medical device which is a reagent, reagent product, calibrator, control material, kit, instrument, apparatus, equipment or system, whether used alone or in combination, intended by the manufacturer to be used *in vitro* for the examination of specimens, including blood and tissue donation from the human body, solely or principally for the purpose of providing information:

(a) concerning a physiological or pathological state, or
(b) concerning a congenital abnormality, or
(c) to determine the safety and compatibility with potential recipients, or
(d) to monitor therapeutic measures.

Specimen receptacles are considered to be *in vitro* diagnostic medical devices. 'Specimen receptacles' are those devices, whether vacuum-type or not, specifically intended by their manufacturers for the primary containment and

preservation of specimens derived from the human body for the purpose of *in vitro* diagnostic examination. Products for general laboratory use are not *in vitro* diagnostic medical devices

(3) 'custom-made device' means any device specifically made in accordance with a duly qualified medical practitioner's written prescription which gives, under his responsibility, specific design characteristics and is intended for the sole use of a particular patient.

Mass-produced devices which need to be adapted to meet the specific requirements of the medical practitioner or any other professional user shall not be considered to be custom-made devices;

(4) 'device intended for clinical investigation' means any device intended for use by a duly qualified medical practitioner or by paramedical personnel when conducting investigations as referred to in Section 2.1 of Annex X in an adequate human clinical environment. For the purpose of conducting clinical investigation, any other person who, by virtue of his professional qualifications, is authorized to carry out such investigation shall be accepted as equivalent to a duly qualified medical practitioner;

(5) 'intended purpose' means the use for which the device is intended according to the data supplied by the manufacturer on the labelling, in the instructions and/or in promotional materials;

(6) 'clinical data' means the safety and/or performance information that is generated from the use of a device. Clinical data are sourced from:

(a) clinical investigation(s) of the device concerned; or
(b) clinical investigation(s) or other studies reported in the scientific literature, of a similar device for which equivalence to the device in question can be demonstrated; or
(c) published and/or unpublished reports on other clinical experience of either the device in question or a similar device for which equivalence to the device in question can be demonstrated;

(7) 'device subcategory' means a set of devices having common areas of intended use or common technology;

(8) 'generic device group' means a set of devices having the same or similar intended uses or commonality of technology allowing them to be classified in a generic manner not reflecting specific characteristics;

(9) ‘single use device’ means a device intended to be used once only for a single patient.

(10) ‘placing on the market’ means the first making available in return for payment or free of charge of a device other than a device intended for clinical investigation, with a view to distribution and/or use in the market, regardless of whether it is new or fully/partly refurbished;

(11) ‘putting into service’ means the stage at which a device is ready for use in the market for the first time for its intended purpose.

(12) Notified Body is a formally designated conformity assessment body which verifies the product and reviews the technical documentation and assesses whether the product and technical documentation in respect of a product demonstrates that the relevant essential requirements have been met. The Notified Body may also audit the manufacturer’s quality management system according to regulatory requirements. As appropriate, the Notified Body issues certificates of conformity.

(13) ‘Authorized Representative’ means any natural or legal person established within India who has received a mandate from the manufacturer to act on his behalf for specified tasks with regard to the latter’s obligations under that country or jurisdiction’s legislation.

(14) 'manufacturer' means the natural or legal person with responsibility for the design, manufacture, packaging and labelling of a device before it is placed on the market under his own name,(regardless of whether these operations are carried out by that person himself or on his behalf by a third party). The obligations of this Directive to be met by manufacturers also apply to the natural or legal person who assembles, packages, processes, fully refurbishes and/or labels one or more ready-made products and/or assigns to them their intended purpose as a device with a view to their being placed on the market under his own name. This subparagraph does not apply to the person who, while not a manufacturer within the meaning of the first subparagraph, assembles or adapts devices already on the market to their intended purpose for an individual patient;

(16) **Active medical device:** Any medical device, operation of which depends on a source of electrical energy or any source of power other than that directly generated by the human body or gravity and which acts by converting this energy. Medical devices intended to transmit energy, substances or other elements between an active medical device and the patients, without any significant change, are not considered to be active medical devices.

(17) **Active therapeutic device:** Any active medical device, whether used alone or in combination with other medical devices, to support, modify, replace or restore biological functions or structures with a view to treatment or alleviation of an illness, injury or handicap.

(18) **Active device intended for diagnosis:** Any active medical device, whether used alone or in combination with other medical devices, to supply information for detecting, diagnosing, monitoring or to support in treating physiological conditions, states of health, illnesses or congenital deformities.

1.2 a) Where a device is intended to administer a medicinal product within the meaning of D&C Act relating to medicinal products for human use it shall be governed by this schedule. If, however, such a device is placed on the market in such a way that the device and the medicinal product form a single integral product which is intended exclusively for use in the given combination and which is not reusable, that single product shall not be governed by this Schedule. The relevant essential requirements of Annex I shall apply to that product as far as safety and performance related device features are concerned. (Eg : Prefilled Insulin Syringe)

b) Where a device incorporates, as an integral part, a substance which, if used separately, may be considered to be a medicinal product within the meaning of the D&C Act and which is liable to act upon the body with action ancillary to that of the device, that device shall be assessed and authorized in accordance with this schedule.

(Eg : Drug Eluting Stent.)

c) Where a device incorporates, as an integral part, a substance which, if used separately, may be considered to be a medicinal product constituent or a medicinal product derived from human blood or human plasma within the meaning of the D&C Act and which is liable to act upon the human body with action ancillary to that of the device, hereinafter referred to as a 'human blood derivative', that device shall be assessed and authorized in accordance with this schedule. (Eg : .Cord blood coated stent)

d) This Schedule shall not apply to:

(i) medicinal products covered by D&C Act. In deciding whether a product falls under the drug category under D&C Act or Medical Devices under this Schedule, particular account shall be taken of the principal mode of action of the product;

(ii) cosmetic products covered by D&C Act

(iii) human blood, blood products, plasma or blood cells of human origin or to devices which incorporate at the time of placing on the market such blood products, plasma or cells, ;

(iv) transplants or tissues or cells of human origin or to products incorporating or derived from tissues or cells of human origin,;

(v) transplants or tissues or cells of animal origin, unless a device is manufactured utilizing animal tissue which is rendered non-viable or non-viable products derived from animal tissue on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products and laying down special provisions for medicinal products derived from human blood or human plasma.

2. Classification:

Medical Devices shall be classified as per their risk level and intended use . They shall be divided into Classes A,B,C,D. Classification shall be carried out in accordance with Annex IX.

The classification rules set out in Annex IX may be adapted by CLAA in accordance in the light of technical progress and any information which becomes available under the information system provided for in 10**.** (Information on incidents occurring following placing of devices on the market)

Whereas the classification rules are based on the vulnerability of the human body taking account of the potential risks associated with the technical design and manufacture of the devices;

2.1 Risk Level

Medical Devices shall be classified as per the **Figure 1** mentioned below. The examples given are for illustration only and the classification of Medical Devices must be done as per the classification rules for each medical device according to its intended purpose.

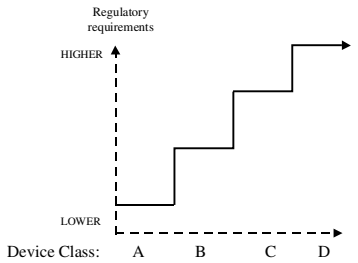
Figure 1: ..General classification system for medical devices

CLASS	RISK LEVEL	DEVICE EXAMPLES
A	Low Risk	Thermometers / tongue depressors
B	Low-moderate Risk	Hypodermic Needles / suction equipment

C	Moderate-high Risk	Lung ventilator / bone fixation plate
D	High Risk	Heart valves / implantable defibrillator

Figure 2 shows a conceptual illustration of increasing levels of regulatory requirements as the device risk class increases. These regulatory controls may include, for example: -

- operation of a quality system (recommended for all devices);
- technical data;
- product testing using in-house or independent resources;
- documentation of clinical evidence to support the manufacturer's claims;
- the need for and frequency of independent external audit of the manufacturer's quality system; and
- Independent external review of the manufacturer's technical data.



The classification rules generally enable medical devices to be appropriately classified.

In view of the diverse nature of the devices and technological progress in this field, steps must be taken to include amongst the implementing powers conferred on the CLAA the decisions to be taken with regard to the proper classification or reclassification or confirmation of the classification of the devices or, where appropriate, the adjustment of the classification rules themselves;

The confirmation of compliance with the essential requirements may mean that clinical investigations have to be carried out by the manufacturer; as per requirements of clinical investigation of this schedule.

For the purpose of carrying out the clinical investigations, appropriate means have to be specified for the protection of public health and public order;

If a manufacturer desires to reclassify a device to a lower class, it must submit justification to the CLAA for evaluation that less stringent class requirement will assure sufficient safety and effectiveness of the device.

3. Placing on the market and putting into service:

Whereas medical devices should provide patients, users and third parties with a high level of protection and attain the performance levels attributed to them by the manufacturer; whereas, therefore, the maintenance or improvement of the level of protection attained in the country is one of the essential objectives of this Schedule;

Whereas, for the purpose of this Schedule Compliance with the essential requirements shall be presumed in respect of devices when the manufacturer relies on relevant latest BIS standard(s) or ISO standard(s) or any other official standard(s) or the manufacturer's own validated standard(s).

Harmonized conformity assessment procedures shall be the responsibility of manufacturers and notified bodies for carrying out conformity assessment on the basis of the type of devices intended to be manufactured.

Whereas the details added to these procedures are justified by the nature of the verification required for medical devices;

Whereas it is necessary, essentially for the purpose of the conformity assessment procedures, to group the devices into four product classes;

The conformity assessment procedures for Class A devices can be carried out, as a general rule, under the sole responsibility of the manufacturers in view of the low level of vulnerability associated with these products; The manufacturers are not required to obtain manufacturing license from Central Licensing Authority CLAA. Class A device manufacturer shall register with the CLAA.

For Class B devices, a notified body should assess and certify the manufacturing facility quality management system. Based on the assessment by Notified body CLAA shall have no objection to manufacture such device(s). Class B device manufacturers shall register with the CLAA.

For device(s) falling under Class C which constitute a medium high risk potential, certification by a notified body is required with regard to the design and manufacture of the device(s). The manufacturers are required to apply for a

license along with supportive documents with respect to safety and effectiveness of these devises to CLAA. Based on these documents and certificate issued by the Notified body, the manufacturing license will be issued by CLAA.

For devices falling under Class D which constitute a high risk potential, certification by a notified body is required with regard to the design and manufacture of the devices. The manufacturers are required to apply for a license along with the supportive documents in respect of safety and effectiveness of these devices to CLAA. The class D devices manufacturing facility will also be inspected jointly by CLAA and state licensing authority. Based on the recommendations of joint inspections report and the certification by the Notified body, the manufacturing license will be issued by CLAA.

The manufacturer which has already gone through Quality Management system (QMS) and product certification through a Notified body elsewhere need to produce approval documents for consideration of registration or licensing of Quality Management system and product.

Any expenses incurred by an applicant for assessment and certification by the notified body shall be borne by the manufacturer only.

Fees required to be paid for obtaining a license in this schedule shall be as specified in relevant D&C Act Rules.

Medical devices sold in this country should, as a general rule, bear the **ICAC** mark (Indian Conformity Assessment Certificate) to indicate their conformity with the provisions of this schedule to enable them to move freely within the Country and to be put into service in accordance with their intended purpose;

Wherever possible sampling of a medical devices shall be carried out in accordance of the procedure laid down in Drugs and Cosmetics Act, 1940. In case the nature of the devices is such that above procedure cannot be adopted, CLAA may take samples for evaluation from experts in the field or take any other measure to verify the claim of the **manufacturer.**

4. Essential requirements:

The devices must meet the essential requirements set out in Annex I which apply to them, taking account of the intended purpose of the devices concerned.

5. Post-Marketing Surveillance and Adverse Event (Vigilance) Reporting:

Once a medical device is placed on the market in India, the manufacturer shall adhere to requirements of post-marketing surveillance (PMS) to systematically monitor the performance of the device during use. As appropriate, events meeting certain criteria should be analyzed and reported to a designated authority ("vigilance reports"). As part of the manufacturer's Quality Management System, appropriate corrective and preventive actions may be applied to prevent the recurrence of adverse events. Medical device manufacturers should comply with post-marketing surveillance and vigilance reporting guidance provided hereinafter. In addition, the manufacturer should submit to CLAA vigilance reports for analysis. The Manufacturer shall follow the procedure referred to in Annex XII in respect of Adverse Event Reporting.

6.Free movement, devices intended for special purposes:

6.1 CLAA shall not create any obstacle to the placing on the market or the putting into service within the country devices bearing the ICAC marking provided for in ICAC marking which indicate that they have been the subject of an assessment of their conformity in accordance with the provisions of Conformity Assessment procedure (11)

Note : It should be understood the requirement to bear the ICAC mark also applies to devices in Classes A and B (which do not require conformity assessment by a Notified Body.

6.2 CLAA shall not create any obstacle to:

Devices intended for clinical investigation being made available to medical practitioners or authorized persons for that purpose if they meet the conditions laid down in Clinical Investigation (14) and in Declaration of Conformity (Annex VII) and bear form12 License under D&C Act.

Custom-made devices being placed on the market and put into service if they meet the conditions laid down; Class B, C and D devices shall be accompanied by the statement, which shall be available to the particular patient or user identified by name, an acronym or a numerical code.

These devices may not bear the ICAC marking.

6.2 At trade fairs, exhibitions, demonstrations, etc. there shall not be any obstacle to the showing of devices which do not conform to this Schedule, provided that a visible sign clearly indicates that such devices cannot be marketed or put into service until they have been made to comply and the manufacturer has permission under appropriate Rules of the D&C Act.

7. Reference to standards:

7.1 Standards:

1. In order for the manufacturer to demonstrate conformity with the relevant regulatory requirements, the CLAA shall adopt and recognize BIS 15575 or its revisions and ISO 13485 in respect of the specifications to be followed for Quality Management Systems.

2. For the purposes of this Schedule, reference to harmonized standards also includes the monographs of the Indian *Pharmacopoeia and US, EU pharmacopoeia wherever applicable,* notably on surgical sutures and on combination of pharmaceutical and devices.

7.2 Labelling:

The packaging of medical devices shall be labelled as per the Annex XIII and relevant ISO standards .

Additionally relevant internationally accepted symbols denoting sterilization, single use etc, as per ISO 15223-1:2007shall also be depicted.

Note 1: Medical Devices shall be exempted from mentioning Date of manufacture in labelling.

Note 2: In case of medical devices sold in bulk packaging without any primary packaging, labelling shall be on the bulk package.

Note 3: In case of Medical Devices imported to the country, the importer can take permission for further labelling of the package under provision of Rule 104A of the drugs and cosmetic rules from the CLAA before release for sale in the market.

Note 4: The rules for labelling specified as per Rule 109A shall not be applicable to medical devices

7.3 Shelf Life: In special circumstances to be mentioned in writing and permission taken thereof from the CLAA, shelf life of imported medical devices may not be covered under Rule 31 of the D&C Rules.

8. Expert Committee on Medical Devices:

An Expert Committee consisting of experts of relevant fields of the devices constituted by the Government shall assist CLAA in evaluation of application of devices.

9. Safeguard Clause:

Where CLAA ascertains that the devices, when correctly installed, maintained and used for their intended purpose, may compromise the health and/or safety of patients, users or, where applicable, other persons, it shall take all appropriate interim measures to withdraw such devices from the market or prohibit or restrict their being placed on the market or put into service.

The CLAA shall immediately inform the manufacturer or importer of any such measures, indicating the reasons for its decision and, in particular, whether non-compliance is due to:

(a) failure to meet the essential requirements referred to in. 6 (Free movement, devices

intended for special purposes)

(b) incorrect application of the standards referred to in 7.(Reference to standards)

(c) Shortcomings in standard themselves

10. Information on incidents occurring following placing of devices on the market:

10.1. CLAA shall take the necessary steps to ensure that any information brought to their knowledge, in accordance with the provisions of this Schedule, regarding the incidents mentioned below involving a Class A, B, C or D device is recorded and evaluated centrally:

(a) any malfunction or deterioration in the characteristics and/or performance of a device, as well as any inadequacy in the labelling or the instructions for use which might lead to or might have led to the death of a patient or user or to a serious deterioration in his state of health;

(b) any technical or medical reason in relation to the characteristics or performance of a device for the reasons referred to in subparagraph (a), leading to systematic recall of devices of the same type by the manufacturer.

10.2. Where the CLAA requires medical practitioners or the medical institutions to inform the competent authorities of any incidents referred to in paragraph 1, it shall take the necessary steps to ensure that the manufacturer of the device concerned, or his authorized representative is also informed of the incident.

10.3. After carrying out an assessment if possible together with, the manufacturer or his authorized representative, without prejudice to Safe Guard (9) Clause shall immediately inform the CLAA of measures that have been taken or are contemplated to minimise the recurrence of the incidents referred to in paragraph 10.1, including information on the underlying incidents.

10.4. Any appropriate measures to adopt procedures to implement this action shall be taken in accordance to the Dugs & Cosmetic Rules.

11. Conformity assessment procedures:

11.1. In the case of devices falling within Class B, other than devices which are custom-made or intended for clinical investigations, the manufacturer shall, in order to affix the ICAC marking, follow the procedure relating to the ICAC declaration of conformity set out in Annex VII and coupled with either:

(a) the procedure relating to the ICAC verification set out in Annex IV

or

(b) the procedure relating to the ICAC declaration of conformity production quality assurance set out in Annex V

or

(c) the procedure relating to the ICAC declaration of conformity in product quality assurance set out in Annex VI.

(d) Instead of applying this procedure the manufacturer may also follow the procedure referred to in the paragraph 11.2 (a).

11.2. In the case of devices falling within Class C, other than devices which are custom-made or intended for clinical investigations, the manufacturer shall, in order to affix the ICAC marking, either:

(a) follow the procedure relating to the ICAC declaration of conformity full quality assurance set out in Annex II; in this case point 4 of Annexure II is not applicable.

Or

(b) follow the procedure relating to the ICAC type-examination set out in Annex III coupled with:

(i) the procedure relating to the ICAC verification set out in Annex IV or

(ii) the procedure relating to the ICAC declaration of conformity- production quality assurance set out in Annex V; or

(iii) the procedure relating to the ICAC declaration of conformity -product quality assurance set out in Annex VI.

11.3. In the case of devices falling within Class D, other than devices which are custom-made or intended for clinical investigations, the manufacturer shall, in order to affix the ICAC marking, either:

(a) follow the procedure relating to the ICAC declaration of conformity full quality assurance set out in Annex II; or

(b) follow the procedure relating to the ICAC type-examination set out in Annex III coupled with:

(i) the procedure relating to the ICAC verification set out in Annex IV or

(ii) the procedure relating to the ICAC declaration of conformity production quality assurance set out in Annex V.

11.4. In the case of devices falling within Class A, other than devices which are custom-made or intended for clinical investigations, the manufacturer shall, in order to affix the ICAC marking, follow the procedure referred to in Annex VII and draw up the ICAC declaration of conformity required before placing the device on the market.

11.5. In the case of custom-made devices, the manufacturer shall follow the procedure referred to in Annex VIII and draw up the statement set out in that Annex before placing each device on the market.

CLAA may require that the manufacturer shall submit a list of such devices which have been put into service in the country .

11.6. During the conformity assessment procedure for a device, the manufacturer and/or the notified body shall take account of the results of any assessment and verification operations which, where appropriate, have been carried out in accordance with this Schedule at an intermediate stage of manufacture.

11.7. Where the conformity assessment procedure involves the intervention of a notified body, the manufacturer, or his authorized representative may apply to a body of his choice within the framework of the tasks for which the body has been notified.

11.8. The notified body may require, where duly justified, any information or data, which is necessary for establishing and maintaining the attestation of conformity in view of the chosen procedure.

11.9 Certificate issued by the notified bodies in accordance with this Schedule shall be valid for a maximum of five years.

By derogation from above mentioned cases,(11.1 to 11.5) the CLAA may authorize, on duly justified request, the placing on the market and putting into service, within the country, of individual devices for which the procedures referred to in above paragraphs ,(11.1 to 11.5) have not been carried out and the use of which is in the interest of protection of health.

11.10 Any manufacturer or authorized agent who wants to market in the India a Class B, C, and D device intended for human use, which if proved to be substantially equivalent at least as safe and effective to a legally marketed device or if device is already approved by CE/USFDA or any other major regulatory body may be considered for a manufacturing license based on supportive documents submitted to CLAA. Submitters must compare their device to one or more similar legally marketed devices and make and support their substantial equivalency claims. The legally marketed device(s) to which equivalence is drawn is commonly known as the "predicate."

Before marketing a device, each submitter must receive an order, in the form of a Registration Certificate, from CLAA which finds the device to be substantially equivalent (SE) and states that the device can be marketed in India. This order "clears" the device for commercial distribution.

11.11: Periodic Safety Update data compilation and submission (PSUR) / Clinical Registry method of clinical data compilation need not be approved by CLAA.

11.12The periodicity of surveillance audit will be annual .

12. **Particular procedure for systems , procedure packs and procedure for Sterilisation:**

By way of derogation from 11 the following paragraphs shall apply to systems and procedure packs.

12.1 Any manufacturer who puts devices bearing the ICAC marking together within their intended purpose and within the limits of use specified by their manufacturers, in order to place them on the market as a system or procedure pack, shall draw up a declaration by which he states that:

(a) he has verified the, mutual compatibility of the devices in accordance with the manufacturers' instructions and has carried out his operations in accordance with these instructions; and

(b) he has packaged the system or procedure pack and supplied relevant information to users incorporating relevant instructions from the manufacturers; and

(c) the whole activity is subjected to appropriate methods of internal control and inspection.

Where the conditions above are not met, as in cases where the system or procedure pack incorporate devices which do not bear a ICAC mark or

Where the chosen combination of devices is not compatible in view of their original intended use, the system or procedure pack shall be treated as a device in its own right and as such subjected to the relevant procedure pursuant to 11.

12.2 Any Licensed firm /entity who sterilizes, for the purpose of placing on the market, systems or procedure packs referred to in 12.1 or other ICAC-marked medical devices designed by their manufacturers to be sterilized before use, shall, at his choice, follow one of the procedures referred to in the quality systems as per Annex IV,V or VI and relevant BIS and ISO standards. The application of the abovementioned and the intervention of the notified body are limited to the aspects of the procedure relating to the obtaining of sterility until the sterile package is opened or damaged. The person shall draw up a declaration

stating that sterilisation has been carried out in accordance with the manufacturer's instructions.

The products referred to in paragraphs 12.1 and 12.2 themselves shall not bear an additional ICAC marking. They shall be accompanied by the information referred to point 13 of Annex I which includes where appropriate, the information supplied by the manufacturer of the devices which have been put together.. If the labelled intended use(s) of the system or procedure pack differs from that of the original device(s), then it should require a new conformity assessment procedure and a new ICAC mark.

12.3 The declarations referred to in paragraphs 12.1 and 12.2 shall be kept at the disposal of the CLAA. for a period of 5 years.

13. Particular health monitoring measures:

Where CLAA considers in relation to a given product or group of products, that, in order to ensure protection of health and safety and/or to ensure that public health requirements are observed, such products should be withdrawn from the market, or their placing on the market and putting into service should be prohibited, restricted or subjected to particular requirements, it may take any necessary and justified transitional measures. CLAA shall then inform the Notified Body, manufacturer and all other Stakeholders, giving the reasons for its decision. The CLAA shall, whenever possible, consult the interested Parties.

The CLAA shall adopt its opinion, indicating whether the national measures are justified or not. The CLAA shall inform all the stakeholders and the consulted interested Parties thereof. When appropriate, the necessary measures designed to amend non- essential elements of this Schedule MIII, relating to withdrawal from the market, prohibition of placing on the market and putting into service of a certain product or group of products or to restrictions or intro- duction of particular requirements in order for such products to be put on the market, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in D&C Act. On imperative grounds of urgency, the CLAA may exceptionally use the urgency procedure referred to in D&C Act.

14. Clinical investigation:

14.1. In the case of devices intended for clinical investigations, the manufacturer or the authorized representative of the manufacturer shall follow the procedure referred to in Annex VIII and notify the CLAA

14.2. In the case of devices falling within Class D and implantable and long-term invasive devices falling within Class B or C, the manufacturer may commence the relevant clinical investigation after obtaining approval from CLAA.

14.3. In the case of devices other than those referred to in paragraph 14.2, CLAA may authorize manufacturers to commence clinical investigations immediately after the date of information and submission to CLAA, provided that the ethics committee concerned has issued a favourable opinion on the program of investigation in question including its review of the clinical investigation plan.

14.4. Clinical investigation shall be conducted in accordance with provisions of Annex X and in the manner provided in ISO 14155.

14.4. The manufacturer or his authorized representative shall notify the CLAA of the end of the clinical investigation, with a justification in case of early termination.

14.5. The provisions of paragraphs 14.1 and 14.2 do not apply where the clinical investigations are conducted using devices which are authorized in accordance with conformity assessment to bear the ICAC mark unless the aim of these investigations is to use the devices for a purpose other than that referred to in the relevant conformity assessment procedure. The relevant procedure of Annex X remains applicable.

15. Notified bodies:

Notified bodies for conformity assessment and /or ICAC certification of the medical devices shall be listed by the CLAA in consultation with the BIS or any other such competent body and publicly circulated for the benefit of the users of such services.

1. Manufacturer shall notify the CLAA of the Accredited Notified Bodies which they have selected for carrying out the tasks pertaining to the procedures referred to in conformity assessment and the specific tasks for which the Notified Bodies have been designated.

2. The appointed Notified bodies by the Manufacturer shall be compliant with the criteria set out in this Schedule (Annex XI).

3. After manufacturer has notified a notified body to CLAA,it shall withdraw that notification if it finds that the body no longer meets the criteria set out.

4. The notified body and the manufacturer, or his authorized representative, shall lay down, by common accord, the time limits for completion of the

assessment and verification operations referred to in Annexes relating to Declaration of Conformity to Quality Assurance Systems for Production, Declaration of Conformity to Quality Assurance Systems for Product, Type Examination and Verification.

5. The notified body shall inform the CLAA about all certificates issued, modified, supplemented, suspended, withdrawn or refused and the other notified bodies within the scope of this Schedule M III about certificates suspended, withdrawn or refused and, on request, about certificates issued. The notified body shall also make available, on request, all additional relevant information.

6. Where a notified body finds that pertinent requirements of this Schedule M III have not been met or are no longer met by the manufacturer or where a certificate should not have been issued, it shall, taking account of the principle of proportionality, suspend or withdraw the certificate issued or place any restrictions on it unless compliance with such requirements is ensured by the implementation of appropriate corrective measures by the manufacturer. In the case of suspension or withdrawal of the certificate or of any restriction placed on it or in cases where an intervention of the CLAA may become necessary, the notified body shall inform CLAA thereof.

7. The notified body shall, on request, supply all relevant information and documents, required to enable the CLAA to verify compliance with Annex XI requirements of Schedule M III.

8. CLAA will have the its right to review the functioning of the Notified body either pro actively or with respect to complaint redressal.

9. In the event of a dispute between the manufacturer and the notified body concerned, resulting from the application of the classification rules, the matter shall be referred for decision to the CLAA.

10. Change of Notified body can be after obtaining No objection certificate from existing one.

16. Indian Conformity Assessment Certificate (ICAC):

1. Devices, other than devices which are custom-made or intended for clinical investigations, considered to meet the essential requirements referred to in Rule 3 must bear the ICAC marking of conformity when they are placed on the market.

2. The ICAC marking of conformity, consisting of the initials 'IC' must appear in a visible, legible and indelible form on its packaging, where practicable and appropriate, and on the instructions for use. Where applicable, the ICAC marking must also appear on the sales packaging.

The various components of the 'IC' marking must be vertical, and may not be less than 5mm in height.

It shall be accompanied by the identification number of the notified body issued by CLAA responsible for implementation of the procedures set out in Annexes II, IV, V and VI.

3. It is prohibited to affix marks or inscriptions which are likely to mislead third parties with regard to the meaning or the graphics of the ICAC marking. Any other mark may be affixed to the device, to the packaging or to the instruction leaflet accompanying the device provided that the visibility and legibility of the ICAC marking is not thereby reduced.

17. Wrongly affixed ICAC marking:

(a) where CLAA establishes that the ICAC marking has been affixed unduly or is missing in violation of the Schedule M III, the manufacturer or his authorized representative shall be obliged to end the infringement under conditions imposed by the CLAA;

(b) where non-compliance continues, the CLAA must take all appropriate measures to restrict or prohibit the placing on the market of the product in question or to ensure that it is withdrawn from the market, in accordance with the procedure in this Schedule. (No 9).

Those provisions shall also apply where the ICAC marking has been affixed in accordance with the procedures in this Schedule M III, but inappropriately, on products that are not covered by this Schedule M III.

18. Decision in respect of refusal or restriction:

1. Any decision taken pursuant to this Schedule M III:

(a) to refuse or restrict the placing on the market or the putting into service of a device or the carrying out of clinical investigations;

or

(b) to withdraw devices from the market, shall state the exact grounds on which it is based. Such decisions shall be notified without delay to the party

concerned, who shall at the same time be informed of the remedies available to him under the Drugs & Cosmetics Act in question and of the time limits to which such remedies are subject.

2. In the event of a decision as referred to in paragraph 1, the manufacturer, or his authorized representative shall have an opportunity to put forward his viewpoint in advance, unless such consultation is not possible because of the urgency of the measure to be taken

In the event of a decision as referred to in paragraph 1, the manufacturer, or his authorized representative shall have an opportunity to put forward his viewpoint in advance advance, unless such consultation is not possible because of the urgency of the measure to be taken.

19. Confidentiality:

1. Without prejudice to the existing national provisions and practices on medical confidentiality, CLAA shall ensure that all the Parties involved in the application of this Schedule M III are bound to observe confidentiality with regard to all information obtained in carrying out their tasks. This does not affect the obligation of CLAA and notified bodies with regard to mutual information and the dissemination of warnings, nor the obligations of the persons concerned to provide information under criminal law.

2. The following information shall not be treated as confidential:

(a) information on the registration of persons responsible for placing devices on the market in accordance with Schedule;

(b) information to users sent out by the manufacturer, authorized representative or distributor in relation to a measure according to Schedule

(c) information contained in certificates issued, modified, supplemented, suspended or withdrawn.

3. The measures designed to amend non-essential elements of this Schedule M III inter-alia by supplementing it, relating to determination of the conditions under which other information may be made publicly available, and in particular for Class D and above devices to any obligation for manufacturers to prepare and make available a summary of the information and data related to the device, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Schedule and D&C Act.

ANNEX I

ESSENTIAL REQUIREMENTS

I. GENERAL REQUIREMENTS

1. The devices must be designed and manufactured in such a way that, when used under the conditions and for the purposes intended, they will not compromise the clinical condition or the safety of patients, or the safety and health of users or, where applicable, other persons, provided that any risks which may be associated with their use constitute acceptable risks when weighed against the benefits to the patient and are compatible with a high level of protection of health and safety.

2. The solutions adopted by the manufacturer for the design and construction of the devices must conform to safety principles, taking account of the generally acknowledged state of the art.

In selecting the most appropriate solutions, the manufacturer must apply the following principles in the following order:

- eliminate or reduce risks as far as possible (inherently safe design and construction),

- where appropriate take adequate protection measures including alarms if necessary, in relation to risks that cannot be eliminated,

- inform users of the residual risks due to any shortcomings of the protection measures adopted.

3. The devices must achieve the performances intended by the manufacturer and be designed, manufactured and packaged in such a way that they are suitable for one or more of the functions referred to in Article 1 (2) (a), as specified by the manufacturer.

4. The characteristics and performances referred to in Sections 1, 2 and 3 must not be adversely affected to such a degree that the clinical conditions and safety of the patients and, where applicable, of other persons are compromised during the lifetime of the device as indicated by the manufacturer, when the device is subjected to the stresses which can occur during normal conditions of use.

5. The devices must be designed, manufactured and packed in such a way that their characteristics and performances during their intended use will not be

adversely affected during transport and storage taking account of the instructions and information provided by the manufacturer.

6. Any undesirable side-effect must constitute an acceptable risk when weighed against the performances intended.

II. REQUIREMENTS REGARDING DESIGN AND CONSTRUCTION

7. Chemical, physical and biological properties

7.1. The devices must be designed and manufactured in such a way as to guarantee the characteristics and performances referred to in Section I on the 'General requirements'. Particular attention must be paid to:

- the choice of materials used, particularly as regards toxicity and, where appropriate, flammability,

- the compatibility between the materials used and biological tissues, cells and body fluids, taking account of the intended purpose of the device.

7.2. The devices must be designed, manufactured and packed in such a way as to minimize the risk posed by contaminants and residues to the persons involved in the transport, storage and use of the devices and to the patients, taking account of the intended purpose of the product. Particular attention must be paid to the tissues exposed and to the duration and frequency of exposure.

7.3. The devices must be designed and manufactured in such a way that they can be used safely with the materials, substances and gases with which they enter into contact during their normal use or during routine procedures; if the devices are intended to administer medicinal products they must be designed and manufactured in such a way as to be compatible with the medicinal products concerned according to the provisions and restrictions governing these products and that their performance is maintained in accordance with the intended use.

7.4. Where a device incorporates, as an integral part, a substance which, if used separately, may be considered to be a medicinal product and which is liable to act upon the body with action ancillary to that of the device, the safety, quality and usefulness of the substance must be verified, taking account of the intended purpose of the device, by analogy with the appropriate methods.

7.5. The devices must be designed and manufactured in such a way as to reduce to a minimum the risks posed by substances leaking from the device.

7.6. Devices must be designed and manufactured in such a way as to reduce, as much as possible, risks posed by the unintentional ingress of substances into the device taking into account the device and the nature of the environment in which it is intended to be used.

8. Infection and microbial contamination

8.1. The devices and manufacturing processes must be designed in such a way as to eliminate or reduce as far as possible the risk of infection to the patient, user and third parties. The design must allow easy handling and, where necessary, minimize contamination of the device by the patient or vice versa during use.

8.2. Tissues of animal origin must originate from animals that have been subjected to veterinary controls and surveillance adapted to the intended use of the tissues.

Notified bodies shall retain information on the geographical origin of the animals.

Processing, preservation, testing and handling of tissues, cells and substances of animal origin must be carried out so as to provide optimal security. In particular safety with regard to viruses and other transferable agents must be addressed by implementation of validated methods of elimination or viral inactivation in the course of the manufacturing process.

8.3. Devices delivered in a sterile state must be designed, manufactured and packed in a non-reusable pack and/or according to appropriate procedures to ensure that they are sterile when placed on the market and remain sterile, under the storage and transport conditions laid down, until the protective packaging is damaged or opened.

8.4. Devices delivered in a sterile state must have been manufactured and sterilized by an appropriate, validated method.

8.5. Devices intended to be sterilized must be manufactured in appropriately controlled (e. g. environmental) conditions.

8.6. Packaging systems for non-sterile devices must keep the product without deterioration at the level of cleanliness stipulated and, if the devices are to be sterilized prior to use, minimize the risk of microbial contamination; the packaging system must be suitable taking account of the method of sterilization indicated by the manufacturer.

8.7. The packaging and/or label of the device must distinguish between identical or similar products sold in both sterile and non-sterile condition.

9. Construction and environmental properties

9.1. If the device is intended for use in combination with other devices or equipment, the whole combination, including the connection system must be safe

and must not impair the specified performances of the devices. Any restrictions on use must be indicated on the label or in the instructions for use.

9.2. Devices must be designed and manufactured in such a way as to remove or minimize as far as is possible:

- the risk of injury, in connection with their physical features, including the volume/pressure ratio, dimensional and where appropriate ergonomic features,

- risks connected with reasonably foreseeable environmental conditions, such as magnetic fields, external electrical influences, electrostatic discharge, pressure, temperature or variations in pressure and acceleration,

- the risks of reciprocal interference with other devices normally used in the investigations or for the treatment given,

- risks arising where maintenance or calibration are not possible (as with implants), from ageing of materials used or loss of accuracy of any measuring or control mechanism.

9.3. Devices must be designed and manufactured in such a way as to minimize the risks of fire or explosion during normal use and in single fault condition. Particular attention must be paid to devices whose intended use includes exposure to flammable substances or to substances which could cause combustion.

10. Devices with a measuring function

10.1. Devices with a measuring function must be designed and manufactured in such a way as to provide sufficient accuracy and stability within appropriate limits of accuracy and taking account of the intended purpose of the device. The limits of accuracy must be indicated by the manufacturer.

10.2. The measurement, monitoring and display scale must be designed in line with ergonomic principles, taking account of the intended purpose of the device.

10.3. The measurements made by devices with a measuring function must be expressed in legal units conforming to the provisions of Weights and Measures Act 1977.

11. Protection against radiation

11.1. General

11.1.1. Devices shall be designed and manufactured in such a way that exposure of patients, users and other persons to radiation shall be reduced as far

as possible compatible with the intended purpose, whilst not restricting the application of appropriate specified levels for therapeutic and diagnostic purposes.

11.2. Intended radiation

11.2.1. Where devices are designed to emit hazardous levels of radiation necessary for a specific medical purpose the benefit of which is considered to outweigh the risks inherent in the emission, it must be possible for the user to control the emissions. Such devices shall be designed and manufactured to ensure reproducibility and tolerance of relevant variable parameters.

11.2.2. Where devices are intended to emit potentially hazardous, visible and/or invisible radiation, they must be fitted, where practicable, with visual displays and/or audible warnings of such emissions.

11.3. Unintended radiation

11.3.1. Devices shall be designed and manufactured in such a way that exposure of patients, users and other persons to the emission of unintended, stray or scattered radiation is reduced as far as possible.

11.4. Instructions

11.4.1. The operating instructions for devices emitting radiation must give detailed information as to the nature of the emitted radiation, means of protecting the patient and the user and on ways of avoiding misuse and of eliminating the risks inherent in installation.

11.5. Ionizing radiation

11.5.1. Devices intended to emit ionizing radiation must be designed and manufactured in such a way as to ensure that, where practicable, the quantity, geometry and quality of radiation emitted can be varied and controlled taking into account the intended use.

11.5.2. Devices emitting ionizing radiation intended for diagnostic radiology shall be designed and manufactured in such a way as to achieve appropriate image and/or output quality for the intended medical purpose whilst minimizing radiation exposure of the patient and user.

11.5.3. Devices emitting ionizing radiation, intended for therapeutic radiology shall be designed and manufactured in such a way as to enable reliable monitoring and control of the delivered dose, the beam type and energy and where appropriate the quality of radiation.

12. Requirements for medical devices connected to or equipped with an energy source

12.1. Devices incorporating electronic programmable systems must be designed to ensure the repeatability, reliability and performance of these systems according to the intended use. In the event of a single fault condition (in the system) appropriate means should be adopted to eliminate or reduce as far as possible consequent risks.

12.2. Devices where the safety of the patients depends on an internal power supply must be equipped with a means of determining the state of the power supply.

12.3. Devices where the safety of the patients depends on an external power supply must include an alarm system to signal any power failure.

12.4. Devices intended to monitor one or more clinical parameters of a patient must be equipped with appropriate alarm systems to alert the user of situations which could lead to death or severe deterioration of the patient's state of health.

12.5. Devices must be designed and manufactured in such a way as to minimize the risks of creating electromagnetic fields which could impair the operation of other devices or equipment in the usual environment.

12.6. Protection against electrical risks

Devices must be designed and manufactured in such a way as to avoid, as far as possible, the risk of accidental electric shocks during normal use and in single fault condition, provided the devices are installed correctly.

12.7. Protection against mechanical and thermal risks

12.7.1. Devices must be designed and manufactured in such a way as to protect the patient and user against mechanical risks connected with, for example, resistance, stability and moving parts.

12.7.2. Devices must be designed and manufactured in such a way as to reduce to the lowest possible level the risks arising from vibration generated by the devices, taking account of technical progress and of the means available for limiting vibrations, particularly at source, unless the vibrations are part of the specified performance.

12.7.3. Devices must be designed and manufactured in such a way as to reduce to the lowest possible level the risks arising from the noise emitted, taking account of technical progress and of the means available to reduce noise,

particularly at source, unless the noise emitted is part of the specified performance.

12.7.4. Terminals and connectors to the electricity, gas or hydraulic and pneumatic energy supplies which the user has to handle must be designed and constructed in such a way as to minimize all possible risks.

12.7.5. Accessible parts of the devices (excluding the parts or areas intended to supply heat or reach given temperatures) and their surroundings must not attain potentially dangerous temperatures under normal use.

12.8. Protection against the risks posed to the patient by energy supplies or substances

12.8.1. Devices for supplying the patient with energy or substances must be designed and constructed in such a way that the flow-rate can be set and maintained accurately enough to guarantee the safety of the patient and of the user.

12.8.2. Devices must be fitted with the means of preventing and/or indicating any inadequacies in the flow-rate which could pose a danger.

Devices must incorporate suitable means to prevent, as far as possible, the accidental release of dangerous levels of energy from an energy and/or substance source.

12.9. The function of the controls and indicators must be clearly specified on the devices.

Where a device bears instructions required for its operation or indicates operating or adjustment parameters by means of a visual system, such information must be understandable to the user and, as appropriate, the patient.

13. Information to be submitted by the manufacturer

13.1. Each device must be accompanied by the information needed to use it safely and to identify the manufacturer, taking account of the training and knowledge of the potential users.

This information comprises the details on the label and the data in the instructions for use.

As far as practicable and appropriate, the information needed to use the device safely must be set out on the device itself and/or on the packaging for each unit or, where appropriate, on the sales packaging. If individual packaging of each unit is not practicable, the information must be set out in the leaflet supplied with one or more devices.

Instructions for use must be included in the packaging for every device. By way of exception, no such instructions for use are needed for devices in Class A or B if they can be used safely without any such instructions.

13.2. Where appropriate, this information should take the form of symbols. Any symbol or identification colour used must conform to the harmonized standards. In areas for which no standards exist, the symbols and colours must be described in the documentation supplied with the device.

13.3. The label must bear the following particulars: Also adhere to RULE 96

(a) the name or trade name and address of the manufacturer. For devices imported into the Country, in view of their distribution in the Country, the label, or the outer packaging, or instructions for use, shall contain in addition the name and address of either the Authorized Agent responsible or of the authorized representative of the manufacturer established within the Country or of the importer established within the Country, as appropriate;

(b) the details strictly necessary for the user to identify the device and the contents of the packaging;

(c) where appropriate, the word 'STERILE';

(d) where appropriate, the batch code, preceded by the word 'LOT', or the serial number;

(e) where appropriate, an indication of the date by which the device should be used, in safety, expressed as the year and month;

(f) where appropriate, an indication that the device is for single use;

(g) if the device is costum-made, the words 'custom-made device';

(h) if the device is intended for clinical investigations, the words 'exclusively for clinical investigations';

(i) any special storage and/or handling conditions;

(j) any special operating instructions;

(k) any warnings and/or precautions to take;

(l) year of manufacture for active devices other than those covered by (e). This indication may be included in the batch or serial number;

(m) where applicable, method of sterilization.

13.4. If the intended purpose of the device is not obvious to the user, the manufacturer must clearly state it on the label and in the instructions for use.

13.5. Wherever reasonable and practicable, the devices and detachable components must be identified, where appropriate in terms of batches, to allow all appropriate action to detect any potential risk posed by the devices and detachable components.

13.6. Where appropriate, the instructions for use must contain the following particulars:

(a) the details referred to in Section 13.3, with the exception of (d) and (e);

(b) any undesirable side-effects;

(c) if the device must be installed with or connected to other medical devices or equipment in order to operate as required for its intended purpose, sufficient details of its characteristics to identify the correct devices or equipment to use in order to obtain a safe combination;

(d) all the information needed to verify whether the device is properly installed and can operate correctly and safely, plus details of the nature and frequency of the maintenance and calibration needed to ensure that the devices operate properly and safely at all times;

(e) where appropriate, information to avoid certain risks in connection with implantation of the device;

(f) information regarding the risks of reciprocal interference posed by the presence of the device during specific investigations or treatment;

(g) the necessary instructions in the event of damage to the sterile packaging and, where appropriate, details of appropriate methods of resterilization;

(h) if the device is reusable, information on the appropriate processes to allow reuse, including cleaning, disinfection, packaging and, where appropriate, the method of sterilization of the device to be resterilized, and any restriction on the number of reuses.

Where devices are supplied with the intention that they be sterilized before use, the instructions for cleaning and sterilization must be such that, if correctly followed, the device will still comply with the requirements in Section I;

(i) details of any further treatment or handling needed before the device can be used (for example, sterilization, final assembly, etc.);

(j) in the case of devices emitting radiation for medical purposes, details of the nature, type, intensity and distribution of this radiation.

The instructions for use must also include details allowing the medical staff to brief the patient on any contra-indications and any precautions to be taken. These details should cover in particular:

(k) precautions to be taken in the event of changes in the performance of the device;

(l) precautions to be taken as regards exposure, in reasonably foreseeable environmental conditions, to magnetic fields, external electrical influences, electrostatic discharge, pressure or variations in pressure, acceleration, thermal ignition sources, etc.;

(m) adequate information regarding the medicinal product or products which the device in question is designed to administer, including any limitations in the choice of substances to be delivered;

(n) precautions to be taken against any special, unusual risks related to the disposal of the device;

(o) medicinal substances incorporated into the device as an integral part in accordance with Section 7.4;

(p) degree of accuracy claimed for devices with a measuring function.

14. Where conformity with the essential requirements must be based on clinical data, such data must be established in accordance with Annex X.

ANNEX II

ICAC DECLARATION OF CONFORMITY (Full quality assurance system)

1. The manufacturer must ensure application of the quality system approved for the design, manufacture and final inspection of the products concerned, as specified in Section 3 and is subject to audit as laid down in Sections 3.3 and 4 and to surveillance as specified in Section 5.

2. The declaration of conformity is the procedure whereby the manufacturer who fulfils the obligations imposed by Section 1 ensures and declares that the products concerned meet the provisions of this Schedule which apply to them.

The manufacturer must affix the ICA marking in and draw up a written declaration of conformity. This declaration must cover a given number of the products manufactured and be kept by the manufacturer.

3. Quality system

3.1. The manufacturer must lodge an application for assessment of his quality system with a notified body and must submit a copy of under-mentioned documents to the competent authority in case of Class C and D devices.

The application must include:

- the name and address of the manufacturer and any additional manufacturing site covered by the quality system,

- all the relevant information on the product or product category covered by the procedure,

- a written declaration that no application has been lodged with any other notified body for the same product-related quality system,

- the documentation on the quality system,

- an undertaking by the manufacturer to fulfil the obligations imposed by the quality system approved,

- an undertaking by the manufacturer to keep the approved quality system adequate and efficacious,

- an undertaking by the manufacturer to institute and keep up to date a systematic procedure to review experience gained from devices in the post-production phase and to implement appropriate means to apply any necessary corrective action. This undertaking must include an obligation for the manufacturer to notify the competent authorities of the following incidents immediately on learning of them:

(i) any malfunction or deterioration in the characteristics and/or performance of a device, as well as any inadequacy in the instructions for use which might lead to or might have led to the death of a patient or user or to a serious deterioration in his state of health;

(ii) any technical or medical reason connected with the characteristics or performance of a device leading for the reasons referred to in subparagraph (i) to systematic recall of devices of the same type by the manufacturer.

3.2. Application of the quality system must ensure that the products conform to the provisions of this Schedule which apply to them at every stage, from design to final inspection. All the elements, requirements and provisions adopted by the manufacturer for his quality system must be documented in a systematic and orderly manner in the form of written policies and procedures such as quality programmes, quality plans, quality manuals and quality records.

It shall include in particular an adequate description of:

(a) the manufacturer's quality objectives;

(b) the organization of the business and in particular:

- the organizational structures, the responsibilities of the managerial staff and their organizational authority where quality of design and manufacture of the products is concerned,

- the methods of monitoring the efficient operation of the quality system and in particular its ability to achieve the desired quality of design and of product, including control of products which fail to conform;

(c) the procedures for monitoring and verifying the design of the products and in particular:

- a general description of the product, including any variants planned,

- the design specifications, including the standards which will be applied and the results of the risk analysis, and also a description of the solutions adopted to fulfil the essential requirements which apply to the products if the standards referred to in Article 5 are not applied in full,

- the techniques used to control and verify the design and the processes and systematic measures which will be used when the products are being designed,

- if the device is to be connected to other device(s) in order to operate as intended, proof must be provided that it conforms to the essential requirements when connected to any such device(s) having the characteristics specified by the manufacturer,

- a statement indicating whether or not the device incorporates, as an integral part, a substance as referred to in Section 7.4 of Annex I and data on the tests conducted in this connection,

- the clinical data referred to in Annex ,

- the draft label and, where appropriate, instructions for use;

(d) the inspection and quality assurance techniques at the manufacturing stage and in particular:

- the processes and procedures which will be used, particularly as regards sterilization, purchasing and the relevant documents,

- the product identification procedures drawn up and kept up to date from drawings, specifications or other relevant documents at every stage of manufacture;

(e) the appropriate tests and trials which will be carried out before, during and after manufacture, the frequency with which they will take place, and the test equipment used; it must be possible to trace back the calibration of the test equipment adequately.

3.3. The notified body must audit the quality system to determine whether it meets the requirements referred to in Section 3.2. It must verify that quality systems which implement the relevant harmonized standards conform to these requirements.

The assessment team must include at least one member with past experience of assessments of the technology concerned. The assessment procedure must include an inspection on the manufacturer's premises and, in duly substantiated cases, on the premises of the manufacturer's suppliers and/or subcontractors to inspect the manufacturing processes.

The decision is notified to the manufacturer. It must contain the conclusions of the inspection and a reasoned assessment.

3.4. The manufacturer must inform the notified body which approved the quality system of any plan for substantial changes to the quality system or the product-range covered. The notified body must assess the changes proposed and verify whether after these changes the quality system still meets the requirements referred to in Section 3.2. It must notify the manufacturer of its decision. This decision must contain the conclusions of the inspection and a reasoned assessment.

4. Examination of the design of the product

4.1. In addition to the obligations imposed by Section 3, the manufacturer must lodge with the notified body an application for examination of the design dossier relating to the product which he plans to manufacture and which falls into the category referred to in Section 3.1.

4.2. The application must describe the design, manufacture and performances of the product in question. It must include the documents needed to assess whether the product conforms to the requirements of this schedule, as referred to in Section 3.2 (c).

4.3. The notified body must examine the application and, if the product conforms to the relevant provisions of this Schedule, issue the application with an design-examination certificate. The notified body may require the application to be completed by further tests or proof to allow assessment of conformity with the

requirements of the Schedule. The certificate must contain the conclusions of the examination, the conditions of validity, the data needed for identification of the approved design, where appropriate, a description of the intended purpose of the product.

In the case of devices referred to in Annex I, paragraph 7.4, the notified body shall, in view of the aspects addressed in that paragraph, consult one of the competent bodies in the country before taking a decision.

The notified body will give due consideration to the views expressed in this consultation when making its decision. It will convey its final decision to the competent body concerned.

4.4. Changes to the approved design must receive further approval from the notified body which issued the design-examination certificate wherever the changes could affect conformity with the essential requirements of the Schedule or with the conditions prescribed for use of the product. The applicant shall inform the notified body which issued the design-examination certificate of any such changes made to the approved design. This additional approval must take the form of a supplement to the ICA design-examination certificate.

5. Surveillance

5.1. The aim of surveillance is to ensure that the manufacturer duly fulfils the obligations imposed by the approved quality system.

5.2. The manufacturer must authorize the notified body to carry out all the necessary inspections and supply it with all relevant information, in particular:

- the documentation on the quality system,

- the data stipulated in the part of the quality system relating to design, such as the results of analyses, calculation tests, etc.,

- the data stipulated in the part of the quality system relating to manufacture, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

5.3. The notified body must periodically carry out appropriate inspections and assessments to make sure that the manufacturer applies the approved quality system and must supply the manufacturer with an assessment report.

5.4. In addition, the notified body may pay unannounced visits to the manufacturer. At the time of such visits, the notified body may, where necessary, carry out or ask for tests in order to check that the quality system is working properly. It must provide the manufacturer with an inspection report and, if a test has been carried out, with a test report.

6. Administrative provisions

6.1. The manufacturer must, for a period ending at least five years after the last product has been manufactured, keep at the disposal of the national authorities:

- the declaration of conformity,

- the documentation referred to in the fourth indent of Section 3.1,

- the changes referred to in Section 3.4,

- the documentation referred to in Section 4.2, and

- the decisions and reports from the notified body as referred to in Sections 3.3, 4.3, 4.4, 5.3 and 5.4.

6.2. The notified body must make available to the other notified bodies and the competent authority, on request, all relevant information concerning quality system approvals issued, refused or withdrawn.

6.3. In respect of devices subject to the procedure in Section 4, when neither the manufacturer nor his authorized representative, the obligation to keep available the technical documentation shall fall to the person responsible for placing the device on the market or the importer referred to in Annex I, Section 13.3 (a).

7. Application to devices in Classes B and C

This Annex may apply to products in Classes A and B. Section 4, however, does not apply.

ANNEX III

ICAC Type-Examination

1. Type-examination is the procedure whereby a notified body ascertains and certifies that a representative sample of the production covered fulfils the relevant provisions of this Schedule.

2. The application includes:

- the name and address of the manufacturer and the name and address of the authorized representative if the application is lodged by the representative,

- the documentation described in Section 3 needed to assess the conformity of the representative sample of the production in question, hereinafter referred to

as the 'type', with the requirements of this Schedule. The applicant must make a 'type' available to the notified body. The notified body may request other samples as necessary,

- a written declaration that no application has been lodged with any other notified body for the same type.

3. The documentation must allow an understanding of the design, the manufacture and the performances of the product and must contain the following items in particular:

- a general description of the type, including any variants planned,

- design drawings, methods of manufacture envisaged, in particular as regards sterilization, and diagrams of components, sub-assemblies, circuits, etc.,

- the descriptions and explanations necessary to understand the abovementioned drawings and diagrams and the operation of the product,

- a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements if the standards referred to in Article 5 have not been applied in full,

- the results of the design calculations, risk analysis, investigations, technical tests, etc. carried out,

- a statement indicating whether or not the device incorporates, as an integral part, a substance as referred to in Section 7.4 of Annex I and data on the tests conducted in this connection,

- the clinical data referred to in Annex ,

- the draft label and, where appropriate, instructions for use.

4. The notified body must:

4.1. examine and assess the documentation and verify that the type has been manufactured in conformity with that documentation; it must also record the items designed in conformity with the applicable provisions of the standards referred to in Article 5, as well as the items not designed on the basis of the relevant provisions of the abovementioned standards;

4.2. carry out or arrange for the appropriate inspections and the tests necessary to verify whether the solutions adopted by the manufacturer meet the essential requirements of this Schedule if the standards referred to in Article 5 have not been applied; if the device is to be connected to other device(s) in order to operate as intended, proof must be provided that it conforms to the essential

requirements when connected to any such device(s) having the characteristics specified by the manufacturer;

4.3. carry out or arrange for the appropriate inspections and the tests necessary to verify whether, if the manufacturer has chosen to apply the relevant standards, these have actually been applied;

4.4. agree with the applicant on the place where the necessary inspections and tests will be caried out.

5. If the type conforms to the provisions of this Schedule, the notified body issues the applicant with an ICA type-examination certificate. The certificate must contain the name and address of the manufacturer, the conclusions of the inspection, the conditions of validity and the data needed for identification of the type approved. The relevant parts of the documentation must be annexed to the certificate and a copy kept by the notified body.

In the case of devices referred to in Annex I, paragraph 7.4, the notified body shall, in view of the aspects addressed in that paragraph, consult one of the competent bodies established in the country before taking a decision.

The notified body will give due consideration to the views expressed in this consultation when making its decision. It will convey its final decision to the competent body concerned.

6. The applicant must inform the notified body which issued the type-examination certificate of any significant change made to the approved product.

Changes to the approved product must receive further approval from the notified body which issued the ICA type-examination certificate wherever the changes may affect conformity with the essential requirements or with the conditions prescribed for use of the product. This new approval must, where appropriate, take the form of a supplement to the initial ICA type-examination certificate.

7. Administrative provisions

7.1. The notified body must make available to the other notified bodies on request, all relevant information on ICA type-examination certificates and supplements issued, refused or withdrawn.

7.2. Other notified bodies may obtain a copy of the ICA type-examination certificates and/or the supplements thereto. The Annexes to the certificates must be made available to other notified bodies on reasoned application, after the manufacturer has been informed.

7.3. The manufacturer or his authorized representative must keep with the technical documentation copies of ICA type-examination certificates and their additions for a period ending at least five years after the last device has been manufactured.

7.4. When neither the manufacturer nor his authorized representative approved in the Country, the obligation to keep available the technical documentation shall fall to the person responsible for placing the device on the Indian market or the importer referred to in Annex I, Section 13.3 (a).

ANNEX IV

ICAC Verification

1. ICAC verification is the procedure whereby the manufacturer or his authorized representative established in the Country ensures and declares that the products which have been subject to the procedure set out in Section 4 conform to the type described in the IC type-examination certificate and meet the requirements of this Schedule which apply to them.

2. The manufacturer must take all the measures necessary to ensure that the manufacturing process produces products which conform to the type described in the IC type-examination certificate and to the requirements of the Schedule which apply to them. Before the start of manufacture, the manufacturer must prepare documents defining the manufacturing process, in particular as regards sterilization where necessary, together with all the routine, pre-established provisions to be implemented to ensure homogeneous production and, where appropriate, conformity of the products with the type described in the IC type-examination certificate and with the requirements of this Schedule which apply to them. The manufacturer must affix the ICA marking in accordance with Article 17 and draw up a declaration of conformity.

In addition, for products placed on the market in sterile condition, and only for those aspects of the manufacturing process designed to secure and maintain sterility, the manufacturer must apply the provisions of Annex V, Sections 3 and 4.

3. The manufacturer must undertake to institute and keep up to date a systematic procedure to review experience gained from devices in the post-production phase and to implement appropriate means to apply any necessary corrective action. This undertaking must include an obligation for the manufacturer to notify the competent authorities of the following incidents immediately on learning of them:

(i) any malfunction or deterioration in the characteristics and/or performance of a device, as well as any inadequacy in the labelling or the instructions for use

which might lead to or might have led to the death of a patient or user or to a serious deterioration in his state of health;

(ii) any technical or medical reason connected with the characteristics or performance of a device for the reasons referred to in subparagraph (i) leading to systematic recall of devices of the same type by the manufacturer.

4. The notified body must carry out the appropriate examinations and tests in order to verify the conformity of the product with the requirements of the Schedule either by examining and testing every product as specified in Section 5 or by examining and testing products on a statistical basis as specified in Section 6, as the manufacturer decides.

The aforementioned checks do not apply to those aspects of the manufacturing process designed to secure sterility.

5. Verification by examination and testing of every product

5.1. Every product is examined individually and the appropriate tests defined in the relevant standard(s) referred to in Article 5 or equivalent tests must be carried out in order to verify, where appropriate, the conformity of the products with the IC type described in the type-examination certificate and with the requirements of the Schedule which apply to them.

5.2. The notified body must affix, or have affixed its identification number to each approved product and must draw up a written certificate of conformity relating to the tests carried out.

6. Statistical verification

6.1. The manufacturer must present the manufactured products in the form of homogeneous batches.

6.2. A random sample is taken from each batch. The products which make up the sample are examined individually and the appropriate tests defined in the relevant standard(s) referred to in Article 5 or equivalent tests must be carried out to verify, where appropriate, the conformity of the products with the type described in the IC type-examination certificate and with the requirements of the Schedule which apply to them in order to determine whether to accept or reject the batch.

6.3. Statistical control of products will be based on attributes, entailing a sampling system ensuring a limit quality corresponding to a probability of acceptance of 5 %, with a non-conformity percentage of between 3 and 7 %. The sampling method will be established by the harmonized standards referred to in Article 5, taking account of the specific nature of the product categories in question.

6.4. If the batch is accepted, the notified body affixes or has affixed its identification number to each product and draws up a written certificate of conformity relating to the tests carried out. All products in the batch may be put on the market except any in the sample which failed to conform.

If a batch is rejected, the competent notified body must take appropriate measures to prevent the batch from being placed on the market. In the event of frequent rejection of batches, the notified body may suspend the statistical verification.

The manufacturer may, on the responsibility of the notified body, affix the notified body's identification number during the manufacturing process.

7. Administrative provisions

The manufacturer or his authorized representative must, for a period ending at least five years after the last product has been manufactured, make available to the CLAA:

- the declaration of conformity,

- the documentation referred to in Section 2,

- the certificates referred to in Sections 5.2 and 6.4,

- where appropriate, the type-examination certificate referred to in Annex III.

8. Application to devices in Class B

In line with Article 11 (2), this Annex may apply to products in Class B, subject to the following exemptions:

8.1. in derogation from Sections 1 and 2, by virtue of the declaration of conformity the manufacturer ensures and declares that the products in Class B are manufactured in conformity with the technical documentation referred to in Section 3 of Annex VII and meet the requirements of this Schedule which apply to them;

8.2. in derogation from Sections 1, 2, 5 and 6, the verifications conducted by the notified body are intended to confirm the conformity of the products in Class B with the technical documentation referred to in Section 3 of Annex VII.

ANNEX V

ICAC DECLARATION OF CONFORMITY (Production quality assurance)

1. The manufacturer must ensure application of the quality system approved for the manufacture of the products concerned and carry out the final inspection, as specified in Section 3, and is subject to the surveillance referred to in Section 4.

2. The declaration of conformity is the part of the procedure whereby the manufacturer who fulfils the obligations imposed by Section 1 ensures and declares that the products concerned conform to the type described in the EC type-examination certificate and meets the provisions of this Schedule which apply to them.

The manufacturer must affix the ICA marking in accordance with Article 17 and draw up a written declaration of conformity. This declaration must cover a given number of identified specimens of the products manufactured and must be kept by the manufacturer.

3. Quality system

3.1. The manufacturer must lodge an application for assessment of his quality system with a notified body.

The application must include:

- the name and address of the manufacturer,

- all the relevant information on the product or product category covered by the procedure,

- a written declaration that no application has been lodged with any other notified body for the same products,

- the documentation on the quality system,

- an undertaking to fulfil the obligations imposed by the quality system is approved,

- an undertaking to maintain the practicability and effectiveness of the approved quality system,

- where appropriate, the technical documentation on the types approved and a copy of the IC type-examination certificates,

- an undertaking by the manufacturer to institute and keep up to date a systematic procedure to review experience gained from devices in the post-production phase and to implement appropriate means to apply any necessary corrective action. This undertaking must include an obligation for the

manufacturer to notify the competent authorities of the following incidents immediately on learning of them:

(i) any malfunction or deterioration in the characteristics and/or performance of a device, as well as any inadequacy in the labelling or the instructions for use which might lead to or might have led to the death of a patient or user or to a serious deterioration in his state of health;

(ii) any technical or medical reason connected with the characteristics or performance of a device for the reasons referred to in subparagraph (i) above leading to a systematic recall of devices of the same type by the manufacturer.

3.2. Application of the quality system must ensure that the products conform to the type described in the IC type-examination certificate.

All the elements, requirements and provisions adopted by the manufacturer for his quality system must be documented in a systematic and orderly manner in the form of written policy statements and procedures. This quality system documentation must permit uniform interpretation of the quality policy and procedures such as quality programmes, plans, manuals and records.

It must include in particular an adequate description of:

(a) the manufacturer's quality objectives;

(b) the organization of the business and in particular:

- the organizational structures, the responsibilities of the managerial staff and their organizational authority where manufacture of the products is concerned,

- the methods of monitoring the efficient operation of the quality system and in particular its ability to achieve the desired quality of product, including control of products which fail to conform;

(c) the inspection and quality assurance techniques at the manufacturing stage and in particular:

- the processes and procedures which will be used, particularly as regards sterilization, purchasing and the relevant documents,

- the product identification procedures drawn up and kept up to date from drawings, specifications or other relevant documents at every stage of manufacture;

(d) the appropriate tests and trials to be carried out before, during and after manufacture, the frequency with which they will take place, and the test

equipment used; it must be possible adequately to trace back the calibration of the test equipment.

3.3. The notified body must audit the quality system to determine whether it meets the requirements referred to in Section 3.2. It must presume that quality systems which implement the relevant harmonized standards conform to these requirements.

The assessment team must include at least one member with past experience of assessments of the technology concerned. The assessment procedure must include an inspection on the manufacturer's premises and, in duly substantiated cases, on the premises of the manufacturer's suppliers to inspect the manufacturing processes.

The decision must be notified to the manufacturer after the final inspection and contain the conclusions of the inspection and a reasoned assessment.

3.4. The manufacturer must inform the notified body which approved the quality system of any plan for substantial changes to the quality system.

The notified body must assess the changes proposed and verify whether after these changes the quality system still meets the requirements referred to in Section 3.2.

After the abovementioned information has been received the decision is notified to the manufacturer. It must contain the conclusions of the inspection and a reasoned assessment.

4. Surveillance

4.1. The aim of surveillance is to ensure that the manufacturer duly fulfils the obligations imposed by the approved quality system.

4.2. The manufacturer authorizes the notified body to carry out all the necessary inspections and must supply it with all relevant information, in particular:

- the documentation on the quality system,

- the data stipulated in the part of the quality system relating to manufacture, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.

4.3. The notified body must periodically carry out appropriate inspections and assessments to make sure that the manufacturer applies the approved quality system and supply the manufacturer with an assessment report.

4.4. In addition, the notified body may pay unannounced visits to the manufacturer. At the time of such visits, the notified body may, where necessary, carry out or ask for tests in order to check that the quality system is working properly. It must provide the manufacturer with an inspection report and, if a test has been carried out, with a test report.

5. Administrative provisions

5.1. The manufacturer must, for a period ending at least five years after the last product has been manufactured, make available to the national authorities:

- the declaration of conformity,

- the documentation referred to in the fourth indent of Section 3.1,

- the changes referred to in Section 3.4,

- the documentation referred to in the seventh indent of Section 3.1,

- the decisions and reports from the notified body as referred to in Sections 4.3 and 4.4,

- where appropriate, the type-examination certificate referred to in Annex III.

5.2. The notified body must make available to the other notified bodies, on request, all relevant information concerning the quality system approvals issued, refused or withdrawn.

6. Application to devices in Class B

In line with Article 11 (2), this Annex may apply to products in Class B, subject to the following exemption:

6.1. in derogation from Sections 2, 3.1 and 3.2, by virtue of the declaration of conformity the manufacturer ensures and declares that the products in Class B are manufactured in conformity with the technical documentation referred to in Section 3 of Annex VII and meet the requirements of this Schedule which apply to them.

ANNEX VI

ICAC DECLARATION OF CONFORMITY (Product quality assurance)

1. The manufacturer must ensure application of the quality system approved for the final inspection and testing of the product, as specified in Section 3 and must be subject to the surveillance referred to in Section 4.

In addition, for products placed on the market in sterile condition, and only for those aspects of the manufacturing process designed to secure and maintain sterility, the manufacturer must apply the provisions of Annex V, Sections 3 and 4.

2. The declaration of conformity is the part of the procedure whereby the manufacturer who fulfils the obligations imposed by Section 1 ensures and declares that the products concerned conform to the type described in the IC type-examination certificate and meet the provisions of this Schedule which apply to them.

The manufacturer affixes the ICA marking in accordance with Article 17 and draws up a written declaration of conformity. This declaration must cover a given number of identified specimens of the products manufactured and be kept by the manufacturer. The ICA marking must be accompanied by the identification number of the notified body which performs the tasks referred to in this Annex.

3. Quality system

3.1. The manufacturer lodges an application for assessment of his quality system with a notified body.

The application must include:

- the name and address of the manufacturer,

- all the relevant information on the product or product category covered by the procedure,

- a written declaration specifying that no application has been lodged with any other notified body for the same products,

- the documentation on the quality system,

- an undertaking by the manufacturer to fulfil the obligations imposed by the quality system approved,

- an undertaking by the manufacturer to keep the approved quality system adequate and efficacious,

- where appropriate, the technical documentation on the types approved and a copy of the IC type-examination certificates,

- an undertaking by the manufacturer to institute and keep up to date a systematic procedure to review experience gained from devices in the post-production phase and to implement appropriate means to apply any necessary corrective action. This undertaking must include an obligation for the

manufacturer to notify the competent authorities of the following incidents immediately on learning of them:

(i) any malfunction or deterioration in the characteristics and/or performance of a device, as well as any inadequacy in the labelling or the instructions for use which might lead to or might have led to the death of a patient or user or to a serious deterioration in his state of health;

(ii) any technical or medical reason connected with the characteristics or the performance of a device for the reasons referred to in subparagraph (i) leading to a systematic recall of devices of the same type by the manufacturer.

3.2. Under the quality system, each product or a representative sample of each batch is examined and the appropriate tests defined in the relevant standard(s) referred to in Article 5 or equivalent tests are carried out to ensure that the products conform to the type described in the IC type-examination certificate and fulfil the provisions of this Schedule which apply to them. All the elements, requirements and provisions adopted by the manufacturer must be documented in a systematic and orderly manner in the form of written measures, procedures and instructions. This quality system documentation must permit uniform interpretation of the quality programmes, quality plans, quality manuals and quality records.

It must include in particular an adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the managerial staff with regard to product quality,

- the examinations and tests that will be carried out after manufacture; it must be possible to trace back the calibration of the test equipment adequately,

- the methods of monitoring the efficient operation of the quality system

- the quality records, such as reports concerning inspections, tests, calibration and the qualifications of the staff concerned, etc.

The aforementioned checks do not apply to those aspects of the manufacturing process designed to secure sterility.

3.3. The notified body audits the quality system to determine whether it meets the requirements referred to in section 3.2. It must presume that quality systems which implement the relevant harmonized standards conform to these requirements.

The assessment team must include at least one member with past experience of assessments of the technology concerned. The assessment procedure must include an inspection on the manufacturer's premises and, in

duly substantiated cases, on the premises of the manufacturer's suppliers to inspect the manufacturing processes.

The decision must be notified to the manufacturer. It must contain the conclusions of the inspection and a reasoned assessment.

3.4. The manufacturer must inform the notified body which approved the quality system of any plan for substantial changes to the quality system.

The notified body must assess the changes proposed and verify whether after these changes the quality system will still meet the requirements referred to in Section 3.2.

After receiving the abovementioned information it must notify the manufacturer of its decision. This decision must contain the conclusions of the inspection and a reasoned assessment.

4. Surveillance

4.1. The aim of surveillance is to ensure that the manufacturer duly fulfils the obligations imposed by the approved quality system.

4.2. The manufacturer must allow the notified body access for inspection purposes to the inspection, testing and storage locations and supply it with all relevant information, in particular:

- the documentation on the quality system,

- the technical documentation,

- the quality records, such as inspection reports, test data, calibration data, qualification reports of the staff concerned, etc.

4.3. The notified body must periodically carry out appropriate inspections and assessments to make sure that the manufacturer applies the quality system and must supply the manufacturer with an assessment report.

4.4. In addition, the notified body may pay unannounced visits to the manufacturer. At the time of such visits, the notified body may, where necessary, carry out or ask for tests in order to check that the quality system is working properly and that the production conforms to the requirements of the Schedule which apply to it. To this end, an adequate sample of the final products, taken on site by the notified body, must be examined and the appropriate tests defined in the relevant standard(s) referred to in Article 5 or equivalent tests must be carried out. Where one or more of the samples fails to conform, the notified body must take the appropriate measures.

It must provide the manufacturer with an inspection report and, if a test has been carried out, with a test report.

5. Administrative provisions

5.1. The manufacturer must, for a period ending at least five years after the last product has been manufactured, make available to the national authorities:

- the declaration of conformity,

- the documentation referred to in the seventh indent of Section 3.1,

- the changes referred to in Section 3.4,

- the decisions and reports from the notified body as referred to in the final indent of Section 3.4 and in Sections 4.3 and 4.4,

- where appropriate, the certificate of conformity referred to in Annex III.

5.2. The notified body must make available to the other notified bodies, on request, all relevant information concerning the quality system approvals issued, refused or withdrawn.

6. Application to devices in Class B

In line with Article 11 (2), this Annex may apply to products in Class B, subject to this derogation:

6.1. by derogation from Sections 2, 3.1 and 3.2 by virtue of the declaration of conformity the manufacturer ensures and declares that the products in Class B are manufactured in conformity with the technical documentation referred to in Section 3 of Annex VII and meet the requirements of this Schedule which apply to them.

ANNEX VII

ICAC DECLARATION OF CONFORMITY

1. The ICAC declaration of conformity is the procedure whereby the manufacturer or his authorized representative fulfils the obligations imposed by Section 2 and, in the case of products placed on the market in a sterile condition and devices with a measuring function, the obligations imposed by Section 5 ensures and declares that the products concerned meet the provisions of this Schedule which apply to them.

2. The manufacturer must prepare the technical documentation described in Section 3. The manufacturer or his authorized representative must make this

documentation, including the declaration of conformity, available to notified bodies for inspection purposes for a period ending at least five years after the last product has been manufactured.

3. The technical documentation must allow assessment of the conformity of the product with the requirements of the Schedule. It must include in particular:

- a general description of the product, including any variants planned,

- design drawings, methods of manufacture envisaged and diagrams of components, sub-assemblies, circuits, etc.,

- the descriptions and explanations necessary to understand the abovementioned drawings and diagrams and the operations of the product,

- the results of the risk analysis and a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements of the Schedule if the standards referred to in Article 5 have not been applied in full,

- in the case of products placed on the market in a sterile condition, description of the methods used,

- the results of the design calculations and of the inspections carried out, etc.; if the device is to be connected to other device(s) in order to operate as intended, proof must be provided that it conforms to the essential requirements when connected to any such device(s) having the characteristics specified by the manufacturer,

- the test reports and, where appropriate, clinical data in accordance with Annex X,

- the label and instructions for use.

4. The manufacturer shall institute and keep up to date a systematic procedure to review experience gained from devices in the post-production phase and to implement appropriate means to apply any necessary corrective actions, taking account of the nature and risks in relation to the product. He shall notify the competent authorities of the following incidents immediately on learning of them:

(i) any malfunction or deterioration in the characteristics and/or performance of a device, as well as any inadequacy in the labelling or the instructions for use which might lead to or might have led to the death of a patient or user or to a serious deterioration in his state of health;

(ii) any technical or medical reason connected with the characteristics on the performance of a device for the reasons referred to in subparagraph (i) leading to systematic recall of devices of the same type by the manufacturer.

5. With products placed on the market in sterile condition and Class A devices with a measuring function, the manufacturer must observe not only the provisions laid down in this Annex but also one of the procedures referred to in Annex IV, V or VI. Application of the abovementioned Annexes and the intervention by the notified body is limited to:

- in the case of products placed on the market in sterile condition, only the aspects of manufacture concerned with securing and maintaining sterile conditions,

- in the case of devices with a measuring function, only the aspects of manufacture concerned with the conformity of the products with the metrological requirements.

Section 6.1. of this Annex is applicable.

6. Application to devices in Class B

In line with Article 11 (2), this Annex may apply to products in Class B, subject to the following derogation:

6.1. where this Annex is applied in conjunction with the procedure referred to in Annex IV, V or VI, the declaration of conformity referred to in the abovementioned Annexes forms a single declaration. As regards the declaration based on this Annex, the manufacturer must ensure and declare that the product design meets the provisions of this Schedule which apply to it.

ANNEX VIII

STATEMENT CONCERNING DEVICES FOR SPECIAL PURPOSES

1. For custom-made devices or for devices intended for clinical investigations the manufacturer or his authorized representative established in the country must draw up the statement containing the information stipulated in Section 2.

2. The statement must contain the following information:

2.1. for custom-made devices:

- data allowing identification of the device in question,

- a statement that the device is intended for exclusive use by a particular patient, together with the name of the patient,

- the name of the medical practitioner or other authorized person who made out the prescription and, where applicable, the name of the clinic concerned,

- the particular features of the device as specified in the relevant medical prescription,

- a statement that the device in question conforms to the essential requirements set out in Annex I and, where applicable, indicating which essential requirements have not been fully met, together with the grounds;

2.2. for devices intended for the clinical investigations covered by Annex X:

- data allowing identification of the device in question,

- an investigation plan stating in particular the purpose, scientific, technical or medical grounds, scope and number of devices concerned,

- the opinion of the ethics committee concerned and details of the aspects covered by its opinion,

- the name of the medical practitioner or other authorized person and of the institution responsible for the investigations,

- the place, starting date and scheduled duration for the investigations,

- a statement that the device in question conforms to the essential requirements apart from the aspects covered by the investigations and that, with regard to these aspects, every precaution has been taken to protect the health and safety of the patient.

3. The manufacturer must also undertake to keep available for the competent national authorities:

3.1. for custom-made devices, documentation allowing an understanding of the design, manufacture and performances of the product, including the expected performances, so as to allow assessment of conformity with the requirements of this Schedule.

The manufacturer must take all the measures necessary to ensure that the manufacturing process produces products which are manufactured in accordance with the documentation mentioned in the first paragraph;

3.2. for devices intended for clinical investigations, the documentation must contain:

- a general description of the product,

- design drawings, methods of manufacture envisaged, in particular as regards sterilization, and diagrams of components, sub-assemblies, circuits, etc.,

- the descriptions and explanations necessary to understand the abovementioned drawings and diagrams and the operation of the product,

- the results of the risk analysis and a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to meet the essential requirements of this Schedule if the standards referred to in Article 5 have not been applied,

- the results of the design calculations, and of the inspections and technical tests carried out, etc.

The manufacturer must take all the measures necessary to ensure that the manufacturing process produces products which are manufactured in accordance with the documentation referred to in the first paragraph of this Section.

The manufacturer must authorize the assessment, or audit where necessary, of the effectiveness of these measures.

4. The information contained in the declarations concerned by this Annex should be kept for a period of time of at least five years.

ANNEX IX

CLASSIFICATION CRITERIA

I. DEFINITIONS

1. Definitions for the classification rules

1.1. Duration

Transient

Normally intended for continuous use for less than 60 minutes.

Short term

Normally intended for continuous use for not more than 30 days.

Long term

Normally intended for continuous use for more than 30 days.

1.2. Invasive devices

Invasive device

A device which, in whole or in part, penetrates inside the body, either through a body orifice or through the surface of the body.

Body orifice

Any natural opening in the body, as well as the external surface of the eyeball, or any permanent artificial opening, such as a stoma.

Surgically invasive device

An invasive device which penetrates inside the body through the surface of the body, with the aid or in the context of a surgical operation.

For the purposes of this Schedule devices other than those referred to in the previous subparagraph and which produce penetration other than through an established body orifice, shall be treated as surgically invasive devices.

Implantable device

Any device which is intended:

- to be totally introduced into the human body or,

- to replace an epithelial surface or the surface of the eye,

by surgical intervention which is intended to remain in place after the procedure.

Any device intended to be partially introduced into the human body through surgical intervention and intended to remain in place after the procedure for at least 30 days is also considered an implantable device.

1.3. Reusable surgical instrument

Instrument intended for surgical use by cutting, drilling, sawing, scratching, scraping, clamping, retracting, clipping or similar procedures, without connection to any active medical device and which can be reused after appropriate procedures have been carried out.

1.4. Active medical device

Any medical device operation of which depends on a source of electrical energy or any source of power other than that directly generated by the human

body or gravity and which acts by converting this energy. Medical devices intended to transmit energy, substances or other elements between an active medical device and the patient, without any significant change, are not considered to be active medical devices.

1.5. Active therapeutical device

Any active medical device, whether used alone or in combination with other medical devices, to support, modify, replace or restore biological functions or structures with a view to treatment or alleviation of an illness, injury or handicap.

1.6. Active device for diagnosis

Any active medical device, whether used alone or in combination with other medical devices, to supply information for detecting, diagnosing, monitoring or treating physiological conditions, states of health, illnesses or congenital deformities.

II. IMPLEMENTING RULES 2. Implementing rules

2.1. Application of the classification rules shall be governed by the intended purpose of the devices.

2.2. If the device is intended to be used in combination with another device, the classification rules shall apply separately to each of the devices. Accessories are classified in their own right separately from the device with which they are used.

2.3. Software, which drives a device or influences the use of a device, falls automatically in the same class.

2.4. If the device is not intended to be used solely or principally in a specific part of the body, it must be considered and classified on the basis of the most critical specified use.

2.5. If several rules apply to the same device, based on the performance specified for the device by the manufacturer, the strictest rules resulting in the higher classification shall apply.

III. CLASSIFICATION 1. Non-invasive devices

1.1. Rule 1

All non-invasive devices are in Class A, unless one of the rules set out hereinafter applies.

1.2. Rule 2

All non-invasive devices intended for channelling or storing blood, body liquids or tissues, liquids or gases for the purpose of eventual infusion, administration or introduction into the body are in Class B:

- if they may be connected to an active medical device in Class A or a higher class,

- if they are intended for use for storing or channelling blood or other body liquids or for storing organs, parts of organs or body tissues,

in all other cases they are in Class A.

1.3. Rule 3

All non-invasive devices intended for modifying the biological or chemical composition of blood, other body liquids or other liquids intended for infusion into the body are in Class C, unless the treatment consists of filtration, centrifugation or exchanges of gas, heat, in which case they are in Class B.

1.4. Rule 4

All non-invasive devices which come into contact with injured skin:

- are in Class A if they are intended to be used as a mechanical barrier, for compression or for absorption of exudates,

- are in Class C if they are intended to be used principally with wounds which have breached the dermis and can only heal by secondary intent,

- are in Class B in all other cases, including devices principally intended to manage the micro-environment of a wound.

2. Invasive devices

2.1. Rule 5

All invasive devices with respect to body orifices, other than surgically invasive devices and which are not intended for connection to an active medical device:

- are in Class A if they are intended for transient use,

- are in Class B if they are intended for short-term use, except if they are used in the oral cavity as far as the pharynx, in an ear canal up to the ear drum or in a nasal cavity, in which case they are in Class A,

- are in Class C if they are intended for long-term use, except if they are used in the oral cavity as far as the pharynx, in an ear canal up to the ear drum or in a nasal cavity and are not liable to be absorbed by the mucous membrane, in which case they are in Class B.

All invasive devices with respect to body orifices, other than surgically invasive devices, intended for connection to an active medical device in Class B or a higher class, are in Class B.

2.2. Rule 6

All surgically invasive devices intended for transient use are in Class B unless they are:

- intended specifically to diagnose, monitor or correct a defect of the heart or of the central circulatory system through direct contact with these parts of the body, in which case they are in Class D,

- reusable surgical instruments, in which case they are in Class A,

- intended to supply energy in the form of ionizing radiation in which case they are in Class C,

- intended to have a biological effect or to be wholly or mainly absorbed in which case they are in Class C,

- intended to administer medicines by means of a delivery system, if this is done in a manner that is potentially hazardous taking account of the mode of application, in which they are in Class C.

2.3. Rule 7

All surgically invasive devices intended for short-term use are in Class B unless they are intended:

- either specifically to diagnose, monitor or correct a defect of the heart or of the central circulatory system through direct contact with these parts of the body, in which case they are in Class D,

- or specifically for use in direct contact with the central nervous system, in which case they are in Class D,

- or to supply energy in the form of ionizing radiation in which case they are in Class C,

- or to have a biological effect or to be wholly or mainly absorbed in which case they are in Class D,

- or to undergo chemical change in the body, except if the devices are placed in the teeth, or to administer medicines, in which case they are in Class C.

2.4. Rule 8

All implantable devices and long-term surgically invasive devices are in Class C unless they are intended:

- to be placed in the teeth, in which case they are in Class B,

- to be used in direct contact with the heart, the central circulatory system or the central nervous system, in which case they are in Class D,

- to have a biological effect or to be wholly or mainly absorbed, in which case they are in Class D,

- or to undergo chemical change in the body, except if the devices are placed in the teeth, or to administer medicines, in which case they are in Class D.

3. Additional rules applicable to active devices

3.1. Rule 9

All active therapeutic devices intended to administer or exchange energy are in Class B unless their characteristics are such that they may administer or exchange energy to or from the human body in a potentially hazardous way, taking account of the nature, the density and site of application of the energy, in which case they are in Class C.

All active devices intended to control or monitor the performance of active therapeutic devices in Class C, or intended directly to influence the performance of such devices are in Class C.

3.2. Rule 10

Active devices intended for diagnosis are in Class B:

- if they are intended to supply energy which will be absorbed by the human body, except for devices used to illuminate the patient's body, in the visible spectrum,

- if they are intended to image in vivo distribution of radiopharmaceuticals,

- if they are intended to allow direct diagnosis or monitoring of vital physiological processes, unless they are specifically intended for monitoring of vital physiological parameters, where the nature of variations is such that it could

result in immediate danger to the patient, for instance variations in cardiac performance, respiration, activity of CNS in which case they are in Class C.

Active devices intended to emit ionizing radiation and intended for diagnostic and therapeutic interventional radiology including devices which control or monitor such devices, or which directly influence their performance, are in Class C.

Rule 11

All active devices intended to administer and/or remove medicines, body liquids or other substances to or from the body are in Class B, unless this is done in a manner:

- that is potentially hazardous, taking account of the nature of the substances involved, of the part of the body concerned and of the mode of application in which case they are in Class C.

3.3. Rule 12

All other active devices are in Class I.

4. Special Rules

4.1. Rule 13

All devices incorporating, as an integral part, a substance which, if used separately, can be considered to be a medicinal product, and which is liable to act on the human body with action ancillary to that of the devices, are in Class III.

4.2. Rule 14

All devices used for contraception or the prevention of the transmission of sexually transmitted diseases are in Class C, unless they are implantable or long term invasive devices, in which case they are in Class D.

4.3. Rule 15

All devices intended specifically to be used for disinfecting, cleaning, rinsing or, when appropriate, hydrating contact lenses are in Class C.

All devices intended specifically to be used for disinfecting medical devices are in Class B.

This rule does not apply to products that are intended to clean medical devices other than contact lenses by means of physical action.

4.4. Rule 16

Non-active devices specifically intended for recording of X-ray diagnostic images are in Class A.

4.5. Rule 17

All devices manufactured utilizing animal tissues or derivatives rendered non-viable are Class D except where such devices are intended to come into contact with intact skin only.

5. Rule 18

By derogation from other rules, blood bags are in Class C.

ANNEX X

CLINICAL EVALUATION

1. General provisions

1.1. As a general rule, confirmation of conformity with the requirements concerning the characteristics and performances referred to in Sections 1 and 3 of Annex I under the normal conditions of use of the device and the evaluation of the undesirable side-effects must be based on clinical data in particular in the case of implantable devices and devices in Class D. Taking account of any relevant harmonized standards, where appropriate, the adequacy of the clinical data must be based on:

1.1.1. either a compilation of the relevant scientific literature currently available on the intended purpose of the device and the techniques employed as well as, if appropriate, a written report containing a critical evaluation of this compilation;

1.1.2. or the results of all the clinical investigations made, including those carried out in conformity with Section 2.

1.2. All the data must remain confidential, in accordance with the provisions of Article 20.

2. Clinical investigations

2.1 Concepts, Clinical Investigator and Ethics Committee

A clinical investigation is a systematic investigation or study in or on one or more human subjects, undertaken to verify the safety and/or performance of a device.

Clinical investigator is an individual and/or institution responsible for the conduct of a clinical investigation who and/or which takes the clinical responsibility for the well-being of the subjects involved.

Ethics Committee is an independent and properly constituted

2.2. Objectives

The objectives of clinical investigation are:

- to verify that, under normal conditions of use, the performance of the devices conform to essential requirement referred to in Annex I, and
- to determine any undesirable side-effects, under normal conditions of use, and assess whether they constitute risks when weighed against the intended performance of the device.

2.3. Ethical considerations

The rights, safety and wellbeing of clinical investigation subjects shall be protected consistent with the ethical principles laid down in the ISO 14155 Standards and Helsinki Declaration adopted by the 18th World Medical Assembly in Helsinki, Finland, in 1964, as last amended by the 41st World Medical Assembly in Hong Kong in 1989. This shall be understood, observed and applied at every step in the clinical investigation.

2.4. Methods

2.4.1. Clinical investigations must be performed on the basis of an appropriate plan of investigation reflecting the latest scientific and technical knowledge and defined in such a way as to confirm or refute the manufacturer's claims for the device; these investigations must include an adequate number of observations to guarantee the scientific validity of the conclusions.

2.4.2. The procedures used to perform the investigations must be appropriate to the device under examination.

2.4.3. Clinical investigations must be performed in circumstances similar to the normal conditions of use of the device.

2.4.4. All the appropriate features, including those involving the safety and performances of the device, and its effect on patients must be examined.

2.4.5. All adverse incidents such as those specified in Article 10 must be fully recorded and notified to the competent authority.

2.4.6. The investigations must be performed under the responsibility of a medical practitioner or another authorized qualified person in an appropriate environment.

The medical practitioner or other authorized person must have access to the technical and clinical data regarding the device.

2.4.7. The written report, signed by the medical practitioner or other authorized person responsible, must contain a critical evaluation of all the data collected during the clinical investigation.

ANNEX XI

Crietaria to be met for the designation of Notified Bodies

The notified body, its Director and the assessment and verification staff shall not be the designer, manufacturer, supplier, installer or user of the devices which they inspect, nor the authorized representative of any of these persons. They may not be directly involved in the design, construction, marketing or maintenance of the devices, nor represent the parties engaged in these activities. This in no way precludes the possibility of exchanges of technical information between the manufacturer and the body.

The notified body and its staff must carry out the assessment and verification operations with the highest degree of professional integrity and the requisite competence in the field of medical devices and must be free from all pressures and inducements, particularly financial, which might influence their judgment or the results of the inspection, especially from persons or groups of persons with an interest in the results of the verifications. Should the notified body subcontract specific tasks connected with the establishment and verification of the facts, it must first ensure that the subcontractor meets the provisions of the Schedule.

The notified body shall keep at the disposal of the CLAA the relevant documents assessing the subcontractor's qualifications and the work carried out by the subcontractor under this Schedule.

The notified body must be able to carry out all the tasks assigned to such bodies by Schedules and for which it has been notified, whether these tasks are carried out by the body itself or on its responsibility. In particular, it must have the necessary staff and possess the facilities needed to perform properly the technical and administrative tasks entailed in assessment and verification. This presupposes the availability of sufficient scientific staff within the organization who possess experience and knowledge sufficient to assess the medical functionality and performance of devices for which it has been notified, having regard to the requirements of this Schedule and, in particular, those set out in It must also have access to the equipment necessary for the verifications required.

The notified body must have:

- sound vocational training covering all the assessment and verification operations for which the body has been designated,
- satisfactory knowledge of the rules on the inspections which they carry out and adequate experience of such inspections,
- the ability required to draw up the certificates, records and reports to demonstrate that the inspections have been carried out.

The impartiality of the notified body must be guaranteed. Their remuneration must not depend on the number of inspections carried out, nor on the results of the inspections.

The body must take out civil liability insurance, unless liability is assumed by the State under domestic legislation or the Member State itself carries out the inspections directly.

The staff of the notified body is bound to observe professional secrecy with regard to all information gained in the course of their duties (except *vis-à-vis* the competent administrative authorities of the State in which their activities are carried out) pursuant to this Schedule or any provision of national law putting it into effect.

ANNEX XII

Medical Devices Post Market Surveillance: Global Guidance for Adverse Event Reporting for Medical Devices

1. Definitions

1.1 Abnormal use: Act or omission of an act by the operator or user of a medical device as a result of conduct that is beyond any reasonable means of risk control by the manufacturer.

Note: Foreseeable misuse that is warned against in the instructions for use is considered abnormal use if all other reasonable means of risk control have been exhausted.

See Annex A for examples of potential abnormal use.

1.2 Immediate adverse event report: For purposes of adverse event reporting, immediately means as soon as possible, but not later than 10 elapsed calendar days following the date of awareness of the event.

1.3 Intended purpose: the use for which the device is intended according to the data supplied by the manufacturer on the labeling, in the instructions and/or in promotional materials.

1.4 Malfunction or deterioration: a failure of a device to perform in accordance with its intended purpose when used in accordance with the manufacturer's instructions.

1.5 Serious public health threat*:* Any event type, which results in imminent risk of death, serious injury, or serious illness that requires prompt remedial action.

1.6 Unanticipated death or unanticipated serious injury: A death or serious injury is considered unanticipated if the condition leading to the event was not considered in a risk analysis performed during the design and development phase of the device. There must be documented evidence in the design file that such analysis was used to reduce the risk to an acceptable level.

1.7 Use error: Act, or omission of an act, that has a different result to that intended by the manufacturer or expected by the operator. Use error includes slips, lapses, mistakes and reasonably foreseeable misuse. See Appendix D for examples of potential use errors.

2. Decision Process

Any event which meets all of the three basic reporting criteria listed in sections 2.1 through 2.3 below is considered as an adverse event and should be reported to the CLAA.

It is possible that the manufacturer will not have enough information to decide definitely on the reportability of an event. In such a case, the manufacturer should make reasonable efforts to obtain additional information to decide upon reportability. Where appropriate, the manufacturer should consult with the medical practitioner or the health-care professional involved, and do his utmost to retrieve the concerned device.

As a general principle, there should be a pre-disposition to report rather than not to report in case of doubt on the reportability of an event.

2.1 An event has occurred

The manufacturer becomes aware of information regarding an event which has occurred with its device.

This may include information from device testing performed by the manufacturer, user or other party.

Typical events are:

a) A malfunction or deterioration in the characteristics or performance.

b) An incorrect or out of specification test result

c) The discovery of a design flaw during design review

d) An inaccuracy in the labeling, instructions for use and/or promotional materials. Inaccuracies include omissions and deficiencies.

Omissions do not include the absence of information that should generally be known by the intended users.

e) The discovery of a serious public health threat.

This can include an event that is of significant and unexpected nature such that it becomes alarming as a potential public health hazard

f) Use Error (for details see section 5)

g) Any other information that becomes available.

This can include information from the literature, other scientific documentation or increase in trend (see appendix C).

2.2 The Manufacturer's Device is Associated with the Event.

In assessing the link between the device and the event, the manufacturer should take into account:

- The opinion, based on available information, from a healthcare professional;

- Information concerning previous, similar events;

- Complaint trends

- Other information held by the manufacturer.

This judgment may be difficult when there are multiple devices and drugs involved. In complex situations, it should be assumed that the device was associated with the event.

2.3 The Event Led to One of the Following Outcomes:

2.3.1 Death of a Patient, User or Other Person.

2.3.2 Serious Injury of a Patient, User or Other Person.

Serious injury (also known as serious deterioration in state of health) is either:

-Life threatening illness or injury.

-Permanent impairment of a body function or permanent damage to a body structure.

-A condition necessitating medical or surgical intervention to prevent permanent impairment of a body function or permanent damage to a body structure.

The interpretation of the term "serious" is not easy, and should be made in consultation with a medical practitioner when appropriate.

The term "permanent" means irreversible impairment or damage to a body structure or function, excluding minor impairment or damage.

Medical intervention is not in itself a serious injury. It is the reason that motivated the medical intervention that should be used to assess the reportability of an event.

2.3.3 No Death or Serious Injury Occurred but the Event Might Lead to Death or Serious Injury of a Patient, User or Other Person if the Event Recurs.

Some jurisdictions refer to these events as near incidents.

All events do not lead to a death or serious injury. The non-occurrence of such a result might have been due to circumstances or to the timely intervention of health care personnel.

The event is considered "adverse" if in the case of reoccurrence, it could lead to death or serious injury.

This applies also if the examination of the device or a deficiency in the information supplied with the device, or any information associated with the device, indicates some factor which could lead to an event involving death or serious injury.

Include relevant information that might impact the understanding or evaluation of the adverse event AND that is not included elsewhere in this report.

3. Examples of Reportable Adverse Events

* Loss of sensing after a pacemaker has reached end of life. Elective replacement indicator did not show up in due time, although it should have according to device specification.

* On an X-ray vascular system during patient examination, the C arm had uncontrolled motion. The patient was hit by the image intensifier and his nose was broken. The system was installed, maintained, and used according to manufacturer's instructions.

* It was reported that a monitor suspension system fell from the ceiling when the bolts holding the swivel joint broke off. Nobody was injured in the surgical theater at that time but a report is necessary (near incident). The system was installed, maintained, and used according to manufacturer's instructions.

* Sterile single use device packaging is labelled with the caution *'do not use if package is opened or damaged'.* The label is placed by incorrect design on inner packaging. Outer package is removed but device is not used during procedure. Device is stored with inner packaging only which does not offer a sufficient sterile barrier.

* A batch of out-of-specification blood glucose test strips is released by manufacturer. Patient uses strips according to instructions, but readings provide incorrect values leading to incorrect insulin dosage, resulting in hypoglycemic shock and hospitalization.

* Premature revision of an orthopedic implant due to loosening. No cause yet determined.

* An infusion pump stops, due to a malfunction, but fails to give an alarm. Patient receives under-infusion of needed fluids and requires extra days in hospital to correct.

* Manufacturer of a pacemaker released on the market identified a software bug. Initial risk assessment determined risk of serious injury as remote. Subsequent failure results in new risk assessment by manufacturer and the determination that the likelihood of occurrence of a serious injury is not remote.

* Patients undergoing endometrial ablation of the uterus suffered burns to adjacent organs. Burns of adjacent organs due to thin uterine walls were an unanticipated side effect of ablation.

* Manufacturer does not change ablation device label and fails to warn of this side effect which may be produced when the device is working within specification.

* Healthcare professional reported that during implant of a heart valve, the sewing cuff is discovered to be defective. The valve was abandoned and a new valve was implanted and pumping time during surgery was extended.

* During the use of an external defibrillator on a patient, the defibrillator failed to deliver the programmed level of energy due to malfunction. Patient died.

* An intravenous set separates, the comatose patient's blood leaks onto the floor, the patient bleeds to death.

* Unprotected ECG cable plugged into the main electricity supply – patient died.

* Fatigue testing performed on a commercialized heart valve bioprosthesis demonstrates premature failure, which resulted in risk to public health.

* After delivery of an orthopedic implant, errors were discovered in heat treatment records leading to non-conforming material properties, which resulted in risk to public health.

* Testing of retained samples identified inadequate manufacturing process, which may lead to detachment of tip electrode of a pacemaker lead, which resulted in risk to public health.

* Manufacturer provides insufficient details on cleaning methods for reusable surgical instruments used in brain surgery, despite obvious risk of transmission of CJD.

4. Periodic Safety Update Reporting:

(i) Subsequent to the approval of devices should be closely monitored once they are marketed. The applicant shall furnish Periodic Safety Update Report in order to:

a) Report all the relevant new information from all appropriate sources;
b) Relate these data to patient exposure;
c) Summarize the market authorization status in different countries and any significant variation related to safety;
d) Indicate whether changes should be made to product information in order to optimize the use of the product.

(ii) All relevant clinical and non-clinical safety data should cover only the period of the report (interval data). The PSURs shall be submitted every six months for the first two years after approval of the device is granted to the applicant. For subsequent years- the PSURs need to be submitted annually. PSURs due for a period must be submitted within 30 calendar days of the last day of the reporting period. However, all cases involving serious unexpected adverse reactions must be reported to the Licensing Authority within 30 days of initial receipt of the information by the applicant. If marketing of the new device is delayed by the applicant after obtaining approval to market, such data will have to be provided on the deferred basis beginning from the time the new drug is marketed.

(iii) New studies specifically planned or conducted to examine a safety issue should be described in the PSURs.

(iv) A PSUR should be structured as follows:

(a) A title page stating: Periodic safety update report for the product, applicant's name, period covered by the report , date of approval of new drug, date of marketing of new drug and date of reporting,
(b) Introduction,
(c) Current worldwide market authorization status,
(d) Update of actions taken for safety reasons,

(e) Changes to reference safety information,
(f) Estimated patient exposure,
(g) Presentation of individual case histories,
(h) Studies,
(i) Other information,
(j) Overall safety evaluation,
(k) Conclusion,
(l) Appendix providing material relating to indications, dosing, pharmacology and other related information.

5. Reporting Exemptions Granted by a CLAA.

Upon request by the manufacturer, and agreement by an CLAA, common and well-documented events may be:

(a) Exempted from reporting or

(b) Changed to periodic or summary reporting.

6. Use Error

6.1 Reporting of Use Error

As with all reported device complaints, all potential use error events and potential abnormal use events should be evaluated by the manufacturer (see Appendix D for examples). The evaluation is governed by risk management, usability engineering, design validation, and corrective and preventive action processes. Results should be available, upon request, to regulatory authorities and conformity assessment bodies.

6.1.1 Use Error resulting in Death or Serious Injury/ Serious Public Health Threat:

Use error related to medical devices, which did result in death or serious injury or serious public health threat, should be reported by the manufacturer to the national competent authority.

6.1.2 Use Error not resulting in Death or Serious Injury / Serious Public Health Threat:

Use error related to medical devices, which did not result in death or serious injury or serious public health threat, need not be reported by the manufacturer to the national competent authority. Such events should be handled within the manufacturer's quality and risk management system, as described in Appendix D Section 6.0. A decision to not report must be justified and documented.

6.1.3 Use Errors Becoming Reportable:

Use errors become reportable by the manufacturer to the national competent authority when a manufacturer:

- notes a change in trend (usually an increase in frequency), or a change in pattern of an issue that can potentially lead to death or serious injury or public health concern.); or
- initiates corrective action to prevent death or serious injury or serious public health threat.

6.2 Consideration for handling abnormal use

Abnormal use need not be reported by the manufacturer to the CLA under adverse event reporting procedures. Abnormal use should be handled by the health care facility and appropriate regulatory authorities under specific appropriate schemes not covered by this document (see Appendix D: Annex B).

If manufacturers become aware of instances of abnormal use, they may bring this to the attention of other appropriate organizations and healthcare facility personnel.

7. To Whom to Report

Adverse Events must be reported to a Central Licensing Authority (CLAA) according to applicable requirements in each jurisdiction.

8. Timing for Reporting

Upon becoming aware that an event has occurred and is associated with one of its devices, the medical device manufacturer must determine whether it is an adverse event.

Adverse events that result in unanticipated death or unanticipated serious injury or represent a serious public health threat must be reported by the manufacturer within 48 hours.

All other reportable events must be reported as soon as possible by the manufacturer, but not later than 30-elapsed calendar days following the date of awareness of the event.

If after becoming aware of a potentially reportable adverse event, there is still uncertainty about whether the event is reportable, the manufacturer must submit a report within the timeframe required for that type of event.

All report times refer to when the CLAA must first be notified. This notification may be in the form of an initial report, final report or trend report as defined in Appendix A Section B. The choice of report type depends on whether all the applicable data specified in Appendix A is available within the appropriate report time. If additional information is required, the manufacturer should provide a follow-up or final report as soon as the information is available or as requested by the CLAA.

9. Content of Adverse Event Reports

Reports on Adverse events should include all available information in the Universal Dataset for Adverse Event Reporting provided in Appendix A.

CLAA s may require certain adverse events to be reported as soon as possible for public health reasons. In such cases, the report may not contain complete information and should be followed up with a complete report.

The act of reporting an event to a CLAA is not to be construed as an admission of manufacturer, user, or patient liability for the event and its consequences. Submission of an adverse event report does not, in itself, represent a conclusion by the manufacturer that the content of this report is complete or confirmed, that the device(s) listed failed in any manner. It is also not a conclusion that the device caused or contributed to the adverse event. It is recommended that reports carry a disclaimer to this effect.

ANNEX XIII

LABELING REQUIREMENTS

As far as it is practical and appropriate, the information needed to identify and use the device safely should be provided on the device itself, and /or on the packaging for each unit, and / or on the packaging of multiple devices. If individual packaging of each unit is not practicable, the information should be set out in the leaflet, packaging insert or other media supplied with, or applicable to, one or multiple devices.

· Where the manufacturer supplies multiple devices to a single user and/or location, it may be sufficient and appropriate to provide with them only a single copy of the instructions for use. In these circumstances the device user should have access to further copies upon request.

· The medium, format, content, readability and location of labeling should be appropriate to the particular device, its intended purpose and the technical knowledge, experience, education or training of the intended user(s). In particular, instructions for use should be written in terms readily understood by the intended user and, where appropriate, supplemented with drawings and diagrams. Some devices may require separate information for the healthcare professional and the lay user.

· Instructions may not be needed or may be abbreviated for devices of low or moderate risk if they can be used safely and as intended by the manufacturer without any such instructions.

· Labeling may be provided to the user in various media and by several means such as printed documents, through a display screen incorporated into the device, downloaded from the manufacturer's Web Site using the Internet, magnetic or optical media. Whatever the media or the means, information should be targeted to the anticipated user population.

Note: Some jurisdictions may provide conditions for the provision of electronic labeling, e.g. paper versions must be available to users as well as electronic ones.

· Any residual risk identified in the risk analysis should be reflected as contraindications or warnings within the labeling.

· Country-specific requirements for labeling should be kept to the minimum and, where they currently exist, eliminated as the opportunity arises.

· The use of internationally recognized (i.e. standardized) symbols should be encouraged provided that device safety is not compromised by a lack of understanding on the part of the patient or user. Where the meaning of the symbol is not obvious to the device user, e.g. for a lay-user or for a newly introduced symbol, an explanation should be provided.

Provided that safe and correct use of the device is ensured, a Regulatory Authority may authorize labeling to be in one or more language(s) other than its national language(s).

Content of Labelling

The labelling should bear the following particulars.

a) The name or trade name and address of the manufacturer and, if appropriate, a phone

number and/or fax number and/or website address to obtain technical assistance.

For imported devices, information may be required to contain in addition, the name and address of either the importer established within the importing country/region or of an authorized representative of the manufacturer established within the importing country/region.

b) Sufficient details for the user to identify the device and, where these are not obvious, its intended purpose, user and patient population of the device; also, where relevant, the contents of any packaging.

c) An indication of either the batch code/lot number (e.g. on single-use disposable devices or reagents) or the serial number (e.g. on electrically-powered medical devices), where relevant, to allow appropriate actions to trace and recall the devices.

d) An unambiguous indication of the date until when the device may be used safely, expressed at least as the year and month (e.g. on devices supplied sterile, single-use disposable devices or reagents), where this is relevant. Where relevant, the storage conditions and shelf life following the first opening of the primary container, together with the storage conditions and stability of working solutions.

e) For devices other than those covered by (d) above, and as appropriate to the type of device, an indication of the date of manufacture. This indication may be included in the batch code/lot number or serial number.

f) The information needed to verify whether the device is properly installed and can operate correctly and safely, plus details of the nature, and frequency of preventative and regular maintenance, where relevant any quality control, replacement of consumable components, and calibration needed to ensure that the device operates properly and safely during its intended life**.**

g) Any warnings, precautions, limitations or contra-indications.

h) The performance intended by the manufacturer and, where relevant, any undesirable side effects.

i) An indication on the external packaging of any special storage and /or handling conditions that apply.

j) Details of any further treatment or handling needed before the device can be used (e.g. sterilization, final assembly, calibration, preparation of reagents and/or control materials, etc.) where relevant.

k) If the device is sterile, an indication of that condition and necessary instructions in the event of damage to sterile packaging and, where appropriate, description of methods of re-sterilization.

l) If the device has been specified by the manufacturer as intended for single-use only, an indication of that state.

m) If the device is for use by a single individual and has been manufactured according to a written prescription or pattern (i.e. it is custom-made), an indication of that state.

If the device is intended for premarket clinical investigation or, for *in vitro* diagnostic medical devices, performance evaluation, only, an indication of that situation.

o) If the device is intended for presentation or demonstration purposes only, an indication of that situation.

p) If the device is to be installed with or connected to other medical devices or equipment, or with dedicated software, in order to operate as required for its intended use, sufficient details of its characteristics to identify the correct devices or equipment to use in order to obtain a safe combination.

q) If the device is implantable, information regarding any particular risks in connection with its implantation.

r) Information regarding the risks of reciprocal interference posed by the reasonably foreseeable presence of the device during specific investigations, evaluations, treatment or use (e.g. electromagnetic interference from other equipment).

s) If the device is reusable, information on the appropriate processes to allow reuse, including cleaning, disinfection, packaging and, where appropriate, the method of resterilization and any restriction on the number of reuses. Where a device is supplied with the intention that it is sterilized before use, the instructions for cleaning and sterilization should be such that, if correctly followed, the device will still perform as intended by the manufacturer and comply with the *Essential Principles of Safety and Performance of Medical Devices.*

t) If the device is a reprocessed device, additionally the name of the reprocessor, and identification of the device as a reprocessed device.

u) If the device emits radiation for medical purposes, details of the nature, type and where appropriate, the intensity and distribution of this radiation.

v) Date of issue or latest revision of the instructions for use and, where appropriate, an identification number.

The instructions for use should also include, where appropriate, details informing the users and/or patient and allowing the medical staff to brief the patient on any contra-indications, warnings and any precautions to be taken. These details should cover in particular:

w) Precautions and/or measures to be taken in the event of changes in the performance, or malfunction, of the device including a contact telephone number, if appropriate.

x) Precautions and/or measures to be taken as regards exposure, in reasonably foreseeable environmental conditions, to magnetic fields, external electrical influences, electrostatic discharge, pressure or variations in pressure, temperature, humidity, acceleration, thermal ignition sources, proximity to other devices, etc.

y) If the device administers medicinal products, adequate information regarding any medicinal product(s) which the device in question is designed to administer, including any limitations in the choice of substances to be delivered.

Any medicinal substances or biological material incorporated into the device as an integral part of the device.

aa) If the device has a measuring function, the degree of accuracy claimed for it.

bb) Any requirement for special facilities, or special training, or particular qualifications of the device user and/or third parties

cc) Any precautions to be taken related to the disposal of the device and/or its accessories (e.g. lancets), to any consumables used with it (e.g. batteries or reagents) or to any potentially infectious substances of human or animal origin.

dd) Where relevant, for devices intended for lay persons a statement clearly directing the user not to make any decision of medical relevance without first consulting his or her health care provider.

.

And for in vitro diagnostic medical devices, in addition to the information required above, directions/instructions for the proper use of in vitro diagnostic medical devices which may include:

ee) Intended use / purpose (e.g. monitoring, screening or diagnostic) including an indication that it is for *in vitro* diagnostic use.

ff) Test principle.

gg) Specimen type.

hh) Conditions for collection, handling and preparation of the specimen.

ii) Reagent description and any limitation (e.g. use with a dedicated instrument only).

jj) The metrological traceability of values assigned to calibrators and trueness-control materials, including identification of applicable reference materials and/or reference measurement procedures of higher order.

kk) Assay procedure including calculations and interpretation of results.

ll) Information on interfering substances that may affect the performance of the assay.

mm) Analytical performance characteristics, such as sensitivity, specificity, accuracy (which is a combination of trueness and precision).

nn) Diagnostic performance characteristics, such as sensitivity and specificity.

oo) Reference intervals.

.