

the market in Member States and either prepared industrially or manufactured by a method involving an industrial process.

2. In cases of doubt, where, taking into account all its characteristics, a product may fall within the definition of a “medicinal product” and within the definition of a product covered by other Community legislation the provisions of this Directive shall apply.

3. Notwithstanding paragraph 1 and Article 3(4), Title IV of this Directive shall apply to medicinal products intended only for export and to intermediate products.

#### *Article 3*

This Directive shall not apply to:

1. Any medicinal product prepared in a pharmacy in accordance with a medical prescription for an individual patient (commonly known as the magistral formula).

2. Any medicinal product which is prepared in a pharmacy in accordance with the prescriptions of a pharmacopoeia and is intended to be supplied directly to the patients served by the pharmacy in question (commonly known as the officinal formula).

3. Medicinal products intended for research and development trials, but without prejudice to the provisions of Directive 2001/20/EC of the European Parliament and of the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use<sup>25</sup>.

4. Intermediate products intended for further processing by an authorized manufacturer.

5. Any radionuclides in the form of sealed sources.

6. Whole blood, plasma or blood cells of human origin, except for plasma which is prepared by a method involving an industrial process.

#### *Article 4*

1. Nothing in this Directive shall in any way derogate from the Community rules for the radiation protection of persons undergoing medical examination or treatment, or from the Community rules laying down the basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation.

2. This Directive shall be without prejudice to Council Decision 86/346/EEC of 25 June 1986 accepting on behalf of the Community the European Agreement on the Exchange of Therapeutic Substances of Human Origin<sup>26</sup>.

3. The provisions of this Directive shall not affect the powers of the Member States' authorities either as regards the setting of prices for medicinal products or their inclusion in the scope of national health insurance schemes, on the basis of health, economic and social conditions.

4. This Directive shall not affect the application of national legislation prohibiting or restricting the sale, supply or use of medicinal products as contraceptives or abortifacients. The Member States shall communicate the national legislation concerned to the Commission.

#### *Article 5*

1. A Member State may, in accordance with legislation in force and to fulfil special needs, exclude from the provisions of this Directive medicinal products supplied in response to a bona fide unsolicited order, formulated in accordance with the specifications of an authorised health-care professional and for use by an individual patient under his direct personal responsibility.

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<sup>25</sup> OJ L 121, 1.5.2001, p. 34.

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<sup>26</sup> OJ L 207, 30.7.1986, p. 1.