PAN AMERICAN NETWORK FOR DRUG REGULATORY HARMONIZATION (PANDRH)

GUIDELINES TO BE CONSIDERED BY HEALTH AUTHORITIES IN CASES OF SUSPECTED MEDICINE COUNTERFEITING

WORKING GROUP TO PREVENT AND COMBAT COUNTERFEIT MEDICINES — WG/CCD

1. INTRODUCTION

Counterfeit medicines[1] are a public health problem at the global level, one that causes death, disease, and overall harm affecting the entire population, with no distinction as to sex or age. No country is immune to this problem: it affects both developed and developing countries.

It has become necessary for health authorities to formulate proactive strategies to effectively prevent and fight this problem. In view of this challenge, it is essential that any measures developed by the health authorities be previously defined and ready for immediate action in cases of suspected medicine counterfeiting.

The purpose of this document is not to establish rigid working procedures but rather to provide guidelines for common action, based on the experiences observed in countries of the Americas. These guidelines can be considered by health authorities when defining and implementing what actions to take when dealing with suspected medicine counterfeiting within national distribution channels.

These guidelines are not meant to exhaust discussions on the subject but do represent an important step in the process of strengthening the health authorities' capacities. This will make them more effective in meeting their primary objective of protecting public health in the Americas. The activities described in this guide can be taken under advisement and adapted by national health authorities, in accordance with the legal, regulatory, and operational structure of each country.

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[1] *Translator's note: For* the purposes of this document, the terms **medicine**, **medicine**, **pharmaceutical product**, and **pharmaceutical** are used interchangeably to refer to medicinal products intended for prophylactic, diagnostic, or therapeutic use, as stated on page 10 of the WHO document *Counterfeit Medicines: Guidelines for the development of measures to combat counterfeit medicines*. Department of Essential Medicines and Other Medicines, World Health Organization, Geneva, 1999. Available online at http://whqlibdoc.who.int/hq/1999/WHO_EDM_QSM_99.1.pdf.

2. SOURCE OF A SUSPECTED CASE

This refers to information in the hands of the health authority that forms the basis for a suspicion of counterfeiting. Information on suspected counterfeiting can arise mainly as a consequence of either of the following:

- ***Control tasks*** developed by the health authority in pharmaceutical distribution channels, in which inspectors identify a suspected anomaly in a medicine leading them to presume that the item is counterfeit

- ***A report or complaint*** received from any of the following: a patient, the pharmaceutical industry, professional associations, the national pharmacovigilance system, judicial agencies, healthcare facilities, or others

2.1. Suspicions Based on Routine Control Procedures

It is advisable to set guidelines beforehand to effectively control the various links that make up the medicine marketing chain, with the goal of preventing and taking specific action against the flow through which such products are illicitly introduced into the market. The end goal is to provide patients with a guarantee that the products are genuine.

In this regard, it is considered advisable for control activities to be carried out according to previously established procedures that have been defined on the basis of public health risk analysis, giving due consideration to any weaknesses in the pharmaceutical supply chain and to other information obtained beforehand. Actions should be based on model inspection guides specifically conceived for these purposes.

The area within the health authority that takes action to control the pharmaceutical supply chain should have a working structure, trained professionals, and an organized information system that makes it possible to identify situations involving increased health risk. All of these will enable the authorities to streamline their efforts and resources into the most critical and relevant activities.

The team of inspectors should undergo continual training to enable them to identify counterfeit medicines and thus know which measures to adopt. For this purpose, it is advisable to identify the current profiles of counterfeit medicines, both within the country and at the international level, so that professional training can be properly focused. In this sense, holders of registered companies can collaborate by reporting the principal characteristics of their products and how to recognize them.

Control activities must be supported by the following fundamental pillars:

a) Searching for counterfeit medicines and subsequently withdrawing them from the market. Once this task has been completed, other products showing anomalies can also be detected, such as adulterated or stolen pharmaceuticals, among others
b) Recalling stock and/or withholding or quarantining suspect products that have been detected
c) Verifying the pharmaceutical distribution chain
d) Taking samples for later verification or analysis

Controls procedures should be carried out following the guidelines listed below:

The team of inspectors will arrive at the facility to be inspected with a document and/or inspection order issued by the health authority. They will then proceed to go through the premises thoroughly, placing special emphasis on minutely scrutinizing the medicines in stock. The objective is to confirm whether they find among them any item(s) appearing suspect or in any way abnormal.

In cases where any suspect pharmaceuticals are found, samples should be taken of the items detected. Furthermore, regardless of whether any suspect counterfeit medicines are detected, all commercial documentation involving purchase, sale, or other relevant processes will need to be verified.-

Once the inspection has been completed, the commission will then prepare a report, to contain detailed information on the premises, people in charge, measures taken, subsequent results, and any other relevant points—no matter how minor—concerning compliance with the respective procedure. The report will be signed by the person in charge of the facility or whoever represented him/her at the time of the inspection, in due compliance.

2.2 Suspicions on the Basis of Having Received Reports or Complaints

Receiving reports or complaints from patients, institutions, or the general public represents—along with control activities—one of the intelligence-collecting tools that make it possible to identify counterfeit medicines on the market. For such purposes, the health authority should maintain open channels of communication with the public and be prepared to receive and deal with complaints or reports.

It is advisable, with no detriment to the channels specifically trained to take these types of reports, that the report-taking system for counterfeit pharmaceuticals be linked to the systems for pharmacovigilance or pharmaceutical quality control investigation. Often, a patient will report a problem related to quality or lack of

therapeutic effect. Following an investigation, the health authority may determine that the product is a fake; or, to the contrary, the report may mention a suspicion of counterfeiting when the matter really concerns bypassing quality control.

It is considered advisable that staff who take down reports be properly trained. There are different ways to go about this: one-on-one, mailing the materials, teleconferences, e-mail, or sending them some type of electronic report (for example, a form specifically designed for what they are doing). Complaints should be registered, documented, and organized systematically. All reports should be scrutinized and evaluated, regardless of whether they are made anonymously or by someone who identifies him/herself with proof of identity.

Reports can come from patients who have been using the medicines continuously over a long period. They can also come from health professionals who are in constant contact with the medicines. In addition, they can come from law enforcement or judicial authorities. In each of these different cases, the individual situation needs to be taken into account at the time the report is assessed.

It is deemed advisable to continually promote consciousness-raising activities and training for health professionals. The objective is not only to increase the number of reports received, but also to improve the quality of the data received.

The health authority should obtain the greatest amount of information possible. Personal data on the person who ‘blew the whistle’ and on any patients involved should be treated with the utmost confidentiality and in complete compliance with the country’s statutes for protection of information. It is fundamental to ensure respect for confidentiality.

Reports with incomplete or incorrect data could hinder the health authority’s operations. For this reason, it becomes necessary to take into account the different

core data, in order to take definitive action against any potential counterfeit pharmaceuticals. Just as with cases of identifying dubious medicines during routine inspections, it is crucial to obtain such data at the time the report is made. Among these types of data are the following:

- ***Detailed Description of the Suspicion****:* This should clearly present the facts, circumstances—time, place, and information to back up the suspicion— and information on the suspected perpetrators, accomplices, and victims; evidence or a description thereof so that the administration can proceed on to the location, as well as anything else that would aid in proving the allegations.

- ***Existence of an Allegedly Counterfeit Sample***: This is a main element in getting the investigation started.

- ***Information on the Source on the Allegedly Fake Sample:*** This can include documentation on procurement or possession as well as information on the supplier (physical data, mobility, home address, telephone numbers/contact information, etc.).

- ***Existence of Adverse Effects or Lack of Effectiveness:*** This refers to what has occurred following the use or application of the presumably fake product.

- ***Data on the Person Making the Complaint:*** Get the person's name, address, telephone, and e-mail, in case additional information is required and authorities need to contact the person at a later stage.

3. MAIN ELEMENTS TO CONSIDER IN CASES OF SUSPECTED MEDICINE COUNTERFEITING

The procedure to be followed if there be any suspicion of medicine counterfeiting encompasses a series of specific and complementary actions, of a systematic nature. Previously established procedures should be followed so that adequate containment measures can be taken in a timely and effective manner.

Each action taken should be registered in the health authority's information systems, preferably in computerized form. A file should be opened for the investigation that contains copies, in chronological order, of actions taken, inspection procedures carried out, information obtained, and the report once the case is closed.

Whenever there is suspicion of counterfeiting, it is advisable to confirm certain data on the products and companies involved, in order to better target the activities to be carried out. Among them are the following:

Consulting Registry Data and Authorizations: Check the companies' operating licenses and authorizations, their pharmaceutical product registrations, and their certificates of Good Manufacturing Practices (if applicable), among others.

Previous Product Reports: It is a good idea to keep all records of reports received in good order, preferably in a computerized system, in such a way that the number of complaints involving a given company, product, and/or batch or lot[2] can be verified, along with the reasons for the reports, actions taken, and the conclusions of all closed cases.

[2] The terms **batch** and **lot** are used interchangeably in this document, as appears to be the case in the pharmaceutical industry.

Sanitary Measures Previously Taken: Verify prohibition guidelines on products that have been sampled or confiscated; where their marketing has been prohibited or suspended; or that are fake, stolen, and withdrawn or recalled from the market.

Company Inspection History: The health authority should maintain updated and organized records—preferably electronically—of all reports of inspections carried out at each company, as well as any record of corrective measures taken as a result of the inspections.

International Alerts on Counterfeit Pharmaceutical Products: International reports can help with investigations, given that counterfeit medicines recognize no borders and are usually marketed in different countries.

3.1 ESTABLISHING AN ACTION PLAN TO IMPLEMENT IN SUSPECTED CASES

The development of the action plan should focus on rapid, effective containment of any harmful effects of counterfeit medicines as well as on the search for evidence to enable authorities to locate where they are coming from. Such elements will provide technical and legal baking for any administrative and legal measures taken.

In general, pursuant to national legislation, the following are considered valid as proof or evidence: samples of counterfeit medicines, packaging, labeling materials, promotional materials, invoices, annotations made in notebooks, or stock control or inventory tracking systems. Photographs and video recordings are important tools for describing a situation observed during an inspection. In the meantime, national legislation should be consulted in order to evaluate the

necessary requirements to ensure that evidence be considered valid, concrete proof that a crime has been committed.

In order to take action rapidly and effectively, and obtain better results, it is fundamental that health authorities prepare an action plan based on the elements and data collected in every case.

In general, whatever action the health authority takes when faced with suspected medicine counterfeiting should be guided by the following objectives:

1. **Confirm that the medicine is counterfeit and characterize it.**
2. **Limit and interrupt any harmful effects of the counterfeit medicine.**
3. **Communicate information on the situation and spread the word.**
4. **Identify the perpetrators behind the manufacture and distribution of the counterfeit product.**

As a result, at the planning stage, health authorities need to consider what measures they will take to meet all these objectives, taking into account factors that can affect or help with their work, the resources available, and the need for joint action with other public stakeholders, such as the police, customs, or the court system.

Interaction and the collaboration with the different agencies involved in this area are fundamental in bringing about better results. For such purposes, a dynamic system of interinstitutional collaboration should be set up beforehand.

Among the aspects that need to be considered during the preparation phase of the action plan are the following:

- Search for the sample of the suspect pharmaceutical.
- Carry out an inspection on the premises of the company of registry.

- Carry out field control operations.
- Consult with other institutions.
- Put into place logistics and operational aspects.
- Ensure that resources are available to carry out the activities foreseen in the action plan.
- Adopt a strategy on how to inform the public of what has transpired in the case.
- Coordinate with health authorities from other countries in the Americas.

The action plan should be dynamic, subject to periodic review and updated on the basis of the results obtained in each instance. In accordance with the needs of each case, different activities can be adopted to be carried out at different times. For teaching purposes, they can be grouped as follows:

A. IMMEDIATE ACTIONS: These carried out within 24 hours after having received a report or removed a presumably fake sample from the medicine distributions channels.

B. INTERMEDIATE ACTIONS: These are carried out within 48 hours after confirmation of the counterfeiting.

C. SCHEDULED ACTIONS: These are carried out more than 48 hours after confirmation of the counterfeiting.

3.1.1 IMMEDIATE ACTIONS

3.1.1.1 Confirm that the Medicine is Counterfeit and Characterize It

The first objective of an action plan to deal with suspected medicine counterfeiting is to confirm that the medicine is counterfeit and then characterize it. To do this, it is indispensable that the health authority have in its possession the

presumably fake sample or at least its packaging, for purposes of carrying out a careful visual comparison of the physical and/or organoleptic characteristics of the genuine article and the fake.

This being said, what if no sample was received with the report or complaint? After having examined the information obtained up to that time, the first thing to do is search for a sample, whether it be with the patient or on the premises of the facility/facilities where there is intelligence that the fake product is being sold.

To confirm that the medicine is counterfeit, the collaboration of laboratory at the company of registry is crucial, for it is this laboratory that knows best what technologies have been used in packaging and labeling. This in turn makes it possible to evaluate the genuineness of the suspect pharmaceutical. For this reason, it is advisable for the health authority to have at its fingertips all contact information for the people in charge at registered pharmaceutical companies, mainly those whose pharmaceuticals have been counterfeited the most assiduously.

For reasons of expediency, preliminary confirmation of the medicine as counterfeit can be made with the company laboratory in written or electronic form. This will have no negative bearing on any inspection carried out later on the premises of the company of registry to verify whether the medicine is genuine, at which point any quality defects that could be attributed to the company might also be ruled out.

3.1.1.2. Inspection Procedure to Verify That the Medicine is Genuine

Inspections of the suspect product should be carried out at the company laboratory, with the objectives of comparing the presumably fake sample with the genuine article. It can also be determined whether any violation of Good

Manufacturing Practices has taken place, with the objective of investigating or ruling out any quality issues with the genuine article at the company of registry—mainly when no noticeable physical and/or organoleptic differences exist between the genuine article and the presumably fake sample.

Below, a few steps are defined that should be taken into consideration when carrying out an inspection to determine whether a pharmaceutical is genuine:

I. Checking the Product for Confirmation

Check that all necessary data on the batch/lot to be examined has been collected (number of the inspection report on the basis of which the product was withdrawn, date, city and province/state), to ensure that the inspection will be legally recognized.

II. Accreditation of Inspectors

All inspectors should show their credentials (professional identification or badge) allowing them to enter the premises for inspection purposes. In the absence of the above, the inspectors may show the official order authorizing the inspection accompanied by some form of legally recognized identification.

III. Verification

The [confiscated] product should be shown to the technician in charge of the company laboratory and a request should be made to produce counter-samples of the genuine medicine kept at the laboratory for reference that correspond to the medicine brought in. Confirmation should be made of the conditions under which the genuine medicine should be stored. All this will then be put on record in the report that is being prepared.

After this, both samples should be compared in order to establish existing differences and similarities between the sample confiscated by the inspector and the counter-sample kept for reference at the laboratory.

In this way, any differences between the two can be scrutinized, such as containers, labels, physical appearance of the dosage form (shape, color, odor, etc.), general printing features, typesetting, editing, inserts and how they have been folded, how the batch or lot has been coded, date of preparation, and expiration date, among others. If additional information is necessary, those examining the samples can consult the batch/lot records for other relevant data.

Differences in any of these characteristics indicate the possibility of a counterfeit medicine, a situation calling for the application of more exacting analytical techniques (see the section on Analysis in Official Control Laboratories). To do this, any taking of samples should be documented, following national regulations and in accordance with pre-established product requirements.

During inspections to verify whether a medicine is genuine, data should be obtained whenever necessary on the distribution and primary marketing of the product, which will allow for comparison with the information provided on the source of the suspect pharmaceuticals.

IV. Writing the Report

For all actions that take place, there should be a complete description of the product being examined, indicating brand name, presentation, batch/lot number, expiration date, company of registry, reason for the sampling, number of the inspection during which the sample was taken, date, and city. Every distinctive characteristic of the product should also be made clear, such as the absence of a stamped impression, the presence of labels, or any spots on the containers, etc.

Next, the report should contain a detailed comparison of the suspect pharmaceutical with the counter-sample kept for reference, clearly explaining the results that verify whether the product is genuine. The following situations can arise as a result:

- A determination that the product DID NOT ORIGINATE from the laboratory:
  a) If it has been determined that the product is *COUNTERFEIT*, the differences and similarities that it presents when compared with the counter-sample should be described.
  b) If it has been determined that the medicine is *CONTRABAND*, it should be put on record whether the laboratory is the importer of said product; and it will need to be determined from the headquarters of the parent company to which countries the batch or lot has been exported.
- A determination that the pharmaceutical DID ORGINATE from the laboratory:
  a) If it has been determined that the product has been *ADULTERATED* or that there are *QUALITY-RELATED PROBLEMS*, a detailed description of the type of anomaly that it presents needs to be provided.

In all of the above cases, a detailed description should be provided of the samples, counter-samples, molds, and documentation removed from the facility. The report should then be signed by the inspectors as well as by the technical director and the legal representative of the company of registry and carry the company seal from the sanitary registry.

3.1.1.3. Analysis in Official Control Laboratories

The utilization of basic or complete analytical testing based on methodologies that are coded in either pharmacopeias or compendia or are legally accepted (based on the quantity of sampling material obtained) will be useful to reinforce any basic testing done on the suspect sample. The main interest here would be in situations where the comparative physical and/or organoleptic examination between the presumably fake product and the genuine one has not produced any definitive proof.

The chemical characterization of a counterfeit pharmaceutical product can mean an effort to determine its composition and evaluate its effectiveness and possible toxicity. Nevertheless, the results of laboratory analysis do not presuppose taking health measures: a sample taken from one counterfeit medicine can have a totally different chemical composition from another, even if it has the same packaging and batch/lot number, since counterfeit products by their very definition present neither uniform dosages nor homogeneous batches or lots.

All cases of counterfeit medicines should be considered high-risk, independently of the analytical results. Although the results of the analyses might turn out to be satisfactory for a particular sample, it must be taken into account that the health authority has no knowledge of the counterfeiter's operations, either of the manufacturing process used to make the product or of the quality system adopted, since there are no guarantees of homogeneity within the batch or lot.

3.1.2 INTERMEDIATE ACTIONS

These actions have a dual objective: that of informing the general public of the situation and its health risks, and that of identifying the perpetrators behind the

manufacture and distribution of the counterfeit medicine. In this regard, all available information should be considered when defining the set of actions to be taken.

With a view to keeping patients from taking the fake medicines or being exposed to them, informing the public of what is happening is always a priority for the health authority. At the same time, in certain cases, informing the public might impair the legal investigation aimed at identifying the perpetrators and any others responsible for having manufactured and marketed the counterfeit products.

The authorities need to bear in mind that marketing a counterfeit medicine gives rise to a situation involving a balance between the need to prosecute the matter through criminal proceedings and the need to protect the community, which can be affected by its use. In both cases, there are functional obligations involving the agencies dealing with the problem, which constitutes perhaps the most important aspect when promoting coordinated action between them. This will allow for prioritizing health protection without disregarding the need to advance the investigation into the root source of the counterfeit products. In this sense, it is advisable to evaluate the expected results of planned actions, so that coordinated and reasonable measures can be taken that will guarantee society its right to know the problem and also make it feasible to investigate the perpetrators and make them accountable for their crime.

3.1.2.1 Limit and Interrupt Any Harmful Effects of the Counterfeit Medicine

- *Prohibition Guidelines*

To protect the public from counterfeit medicines that have infiltrated medicine distribution channels, the health authority should evaluate the need to implement guidelines to prohibit the distribution and use of any items that have been detected and found to be counterfeit.

At this point, it is necessary to take into account that prohibition guidelines should be extended to any batch or batches determined to be counterfeit: should the number of batches or lots of the fake medicine turn out to be high, chances are that there will be an extensive impact on the overall product.

- *Market Recall*

Should any counterfeit lots detected on the market end up on the shelves next to lots that have been legitimately produced by in the laboratory of the company of registry, the health authority should evaluate the need to order the laboratory to recall all the medicine(s) in question from distribution channels, given the public health risk. This measure will complement the guidelines in the prohibition act outlined in the previous section.

The laboratory at the company of registry should audit and assess the medicines that have been removed from distribution channels, with the obligation of notifying the health authority of the results obtained.

Once all items have been recalled from the market, it could well happen that genuine medicines have been mixed in with counterfeit medicines. In such cases, it is of primary interest to evaluate any accrediting documentation stating their source, so that it can be sent immediately to the health and/or judicial authority to allow them to take subsequent action.

3.1.2.2. Communicate Information on the Situation and Spread the Word

- *Dissemination of Information*

Information about the counterfeiting situation should be communicated to different agencies and organizations at national level in such a way that complements measures taken by the health authority. The main purpose of disseminating information on instances of medicine counterfeiting will be to prevent or decrease to the utmost degree patient exposure to the fake medicines detected in the pharmaceutical distribution channels.

The different aspects of the information to be communicated will be addressed and duly tailored to the target agency and/or organization. Examples of those who will be informed are the country's regional/departmental health authorities, professional associations (pharmacists, physicians, nurses, etc.), customs, law enforcement, the press and media, etc.

In turn, information on the counterfeit medicine can be published on the health authority's official website, differentiated from the rest of the information available on the site in such a way as to make it easy for users to immediately access its content.

The contents of this information can contain such elements as:

- General information on the situation
- Comparative photos showing the difference between the genuine and counterfeit items
- Prohibition guidelines issued by the health authority
- Procedures to follow when possessing any counterfeit items

- Information on the judicial agency handling the investigation
- Regions of the country where the counterfeit items have been detected
- Medical information linked to the consumption of these counterfeit items

- *Setting up a Contingency Plan to Care for Patients and Family Members*

In order to be able to respond efficiently to any potential consultations that may occur related to the counterfeiting, the health authority should set up an emergency system, whose main pillars should be the following:

- A telephone hotline
- Personalized consultations and care
- A depot where samples can be turned in for analysis
- Medical advice and referral to specialized healthcare and/or toxicological centers

- *Reporting the Event at International Level*

The health authority should report any instance(s) of counterfeiting that have been detected to the competent international organizations (for example, PAHO/WHO), preferably using the system or mechanism suggested by the body in question, as well as to those countries that could be affected by the consequences of the medicine counterfeiting. In the Americas, the Network of Focal Points to Fight Counterfeit Medicines, implemented by PAHO/WHO's PANDRH network, represents the rapid communication mechanism for such cases and for sharing experiences

among countries. The network's reference document can be found on the website of the PAHO/WHO Working Group to Prevent and Combat Counterfeit Medicines.

3.1.2.3. Identify the Perpetrators behind the Manufacture and Distribution of the Counterfeit Product

- *Denunciation to Judicial Authorities*

The health authority should report the counterfeiting case to the judicial authorities (for example, the state District Attorney's Office), turning over all tests or evidence that they have in their possession. To help streamline the investigation, it is advisable for ties to be strengthened between the health, judicial, and law enforcement authorities as well as with those parts of the private sector that have been affected, in such a way as to maintain dynamic and continuous contact and, if possible, to establish protocols for joint action. Every item of information obtained during the investigation that has any bearing on the counterfeiting operation should be actively turned over to the judicial authorities in charge of investigating the case.

- *Establishing a Specific Control Program*

Field operations provide an opportunity to collect concrete proof or evidence of counterfeiting or of marketing counterfeit pharmaceutical products. This is why it is important to establish a specific program to control the distribution chain. The goal is to stop the flow of counterfeit medicines currently in circulation and evaluate any documentation on procurement or possession in facilities located in the field.

In addition to identifying the products themselves and locating the counterfeit medicines, it is important to work on the traceability of the counterfeit items detected, in order to be able to obtain information concerning their source or the possible existence of other batches and/or counterfeit pharmaceuticals as yet undetected. To achieve this, the time set for carrying out field operations is a fundamental factor for their success: the more time elapses between the identification of a suspect product and the start of field operations, the smaller the probability of finding the necessary pieces of evidence. Planning ahead of time reduces the chances of overly hasty actions, thus limiting the possibility of undermining the objectives as well as the opportunity for the health authority to intervene.

Thus, vigorous communication between the health authority and law enforcement or the courts is of great importance when it comes to adopting a more suitable action strategy and optimizing the time taken to obtain evidence of the crime. It is also extremely important to consider collaborating with the private sector affected by the counterfeiting.

In addition, it bears mentioning that the ministry of justice (courts) and the police (law enforcement) are the agencies with the competent jurisdiction to conduct criminal investigations. The role of the health authority is limited to adopting sanitary measures and providing technical support to the other agencies.

- *Planning Field Operations*

Thus, at the time of planning a field operation, it is necessary to take into account some important elements and stages that are decisive for the success of the operation:

– **DEFINING THE OBJECTIVE FOR THE OPERATION**

- Based on the available information, the facilities and sites to be inspected should be identified, with inspection objectives set for each of them. This way, planning the strategy for inspection operations will be possible, by defining all steps from how to approach the areas to be inspected to what documents to request.

– **EVALUATING THE NEED FOR POLICE BACK-UP**

- The presence of police officers can be necessary or even advisable during inspections, in order to guarantee the safety of the health workers. To carry out a joint inspection between the health and law enforcement authorities, clear communication between both is needed. It is a good idea to set up interinstitutional cooperation mechanisms beforehand, as well as operational procedures, to facilitate the planning, organization, and coordination of joint operations.

– **DESIGNATING THE INSPECTION TEAMS AND DEFINING THEIR RESPONSIBILITIES**

- The inspectors should be nominated on the basis of their experience and specific knowledge, according to each case and the operation to be undertaken. It is advisable that each team consist of a minimum of two inspectors from the health authority.

- The inspectors should be trained in those aspects that are important for carrying out inspections, such as legal ramifications, how the health authority should behave in different situations, knowledge of important elements to bear in mind when sampling or testing suspect items or when having to act in situations involving health risk,

identifying counterfeit products, writing inspection reports, and putting together legal documents, among others.

- As a part of their training program, it is advisable for the new inspectors to participate in inspections with those who have more experience, which will make it possible to conduct field training. It should be kept in mind that the different situations observed in field operations provide an opportunity for learning and reviewing the procedures followed.

– **LOGISTICAL ASPECTS:** Certain logistical aspects are determining factors in facilitating the operations being carried out. Among them are the following, on which all parties should agree:

- Transporting the Inspectors: The time it takes to arrive at the inspection site should be assessed with a view to the best way to get there. According to each situation, it could be a good idea to have vehicles remain available to the inspectors at the premises being inspected during the entire operation.

- Communications Media: It is advisable that the inspection team be given cell phones in order to facilitate communication should the need arise.

- Transport to and Determination of Warehouse for Storing Confiscated Pharmaceutical Products: Based on the preliminary information and the nature of the premises being inspected, responsibility for transport and proper storage for the seized medicines needs to be defined.

  In the event that the authorities engaged in the operation do not have an adequate site to safely store the confiscated goods, it is

advisable to confirm beforehand whether there is any legal possibility to arrange for the authority that has seized the product to be responsible for guarding it. In these situations, it should always be ensured that any documentation drawn up for this purpose contain a detailed description of all the confiscated materials, their condition, who is in charge of them, and who has actual custody of them.

— **Operational Aspects:** It is appropriate to carry out certain important activities:

- Hold a Meeting to Pass on Information to the Inspectors: The objectives of the operation should be clearly defined, along with the premises that are to be inspected. Such data should be reviewed by the inspection team prior to the inspection. The role of each inspector should be clarified. If professionals from other institutions will be participating, such as officers from law enforcement, it is important that all of them know the responsibilities and powers of each institution involved in the case.

  Ensuring the confidentiality of the information is fundamental. To achieve this, the least possible number of people should be informed of the field operation that will be taking place. It is advisable to adopt procedures to keep cases from being discussed in areas where there are people who are not involved in the investigation.

- Preparing Materials: it is advisable for the inspectors to have on hand previously elaborated kits containing relevant legislation, materials necessary for preparing administrative documents, a camera, and a video recorder, among others.

- Designating the Support Team: An important measure that facilitates communication among inspectors in the field and their

superiors at the health authority's headquarters is to nominate one person familiar with the case to be responsible for support, giving her/him available telephones to help facilitate any type of support that may be necessary.

- *Carrying Out the Inspection*

  – **INITIAL PRESENTATION**

    - In the majority of cases, it has been advisable for the inspection team, upon their arrival at the premises to be inspected, to request the presence of the technical and/or executive director, or whoever is in charge, to whom the team will show its credentials and/or identification and to whom they will explain the scope of the inspection.

    - In some cases, it is advisable not to initially communicate the specific suspicion, to avoid offering the parties subject to the inspection any elements that might be used to hinder the scope of the inspection objectives.

    - In the event that the technical director or owner of the premises is not to be found, the inspection team can demand his or her presence, without keeping the inspection from starting in his/her absence, all of which should be duly documented in ensuing reports.

    - It is advisable that law enforcement authorities be responsible for making the initial approach in cases of inspections in clandestine

facilities or in those that are located in places with a history of public safety problems.

- **TOURING THE PREMISES:** In accordance with the information obtained during the case, the inspection strategy should be conscious of the order of activities within the operation, with the goal of obtaining evidence to prove the existence of criminal activity. Below are some noteworthy examples of activities that can be considered under normal circumstances:

  - *VERIFICATION OF STOCK ON HAND AND IN COMPUTERIZED SYSTEMS*

    - The commission will proceed with a walk-through of the various parts of the premises, examining the medicines in stock in order to confirm whether any of the items on hand appear in any way to be suspect because of any type of irregularity.

    - According to what is necessary for each case, the existing amount of a given product in stock should be verified, for purposes of comparing it with the amount obtained from data in the computerized stock control / inventory tracking system or from any invoices presented. Any discrepancies should be documented and investigated.

    - Verification by the computerized stock control or inventory tracking system can be very useful for obtaining data that allow for identifying the marketing or storage of a counterfeit or suspect product.

- In some investigations, it is advisable to first evaluate the system used on the premises for pharmaceutical tracing, from receiving the products, organizing their storage, to sending them out, taking into consideration the safety aspects of these operations. Thus, when the data on the suspect product is analyzed, these elements can be considered in view of the justifications for the discrepancies observed.

- *VERIFYING THE MARKETING CHAIN*

  - With no impediment to detecting suspect pharmaceuticals, the commission can verify the commercial purchasing and sales documentation used at the facility (remittances, invoices, etc.), in order to confirm the source of the counterfeit or suspect product and whether any there are any unaccredited facilities involved in the commercial transactions that have taken place.

  - If the commission sees any evidence of pharmaceuticals being procured from facilities unaccredited for such activities, those in charge of the facility being inspected will be required to isolate the individual products in stock that were acquired from the supplier cited. These having been identified, the inspectors should then confirm whether the pharmaceuticals observed present any sign that indicates the suspicion of any other type of irregularity over and above its illegitimate origin.

– **SAMPLING AND SEIZURE:** Should any suspect pharmaceuticals be found, it is advisable to proceed as follows:

a) Samples will be taken of the items detected, which will be removed by the inspectors for later verification. If considered appropriate, the commission can remove all items on hand.

b) Should any items remain, these will be left quarantined at the facility, placed in a closed container, identified, sealed, and signed by the officials engaged in the operation.

c) In the case of sampling or quarantining products that require the cold chain, the necessary precautions should be taken for transferring the items to be removed and due measures taken to preserve those that will remain quarantined on the premises.

d) Those responsible for the facility will be required to show the commercial documentation accrediting the procurement or possession of the items that are being seized, with a copy of the same signed by those involved in the operation.

In the event that those being inspected refuse to allow the samples to be removed, for whatever reason, given that this situation has been foreseen in national legislation, this incident should be documented in any ensuing reports, with full details on the data existing on the labels of the products intended for removal.

– **WRITING THE REPORT AND SIGNING OFF**

- Once the inspection has been completed, the commission will proceed to write its report, which will provide detailed data on the facility, who is in charge, measures taken, their results, and any other item of interest, in accordance with the procedure described in the previous sections.

- In cases where the people who have been inspected wished to show their disagreement with the procedure that was followed, they are entitled to make a request to have it put on record at the end of the report prepared by the inspectors, noting the corresponding reasons. If instead of this, those who have been inspected refuse to sign off on the operations, the inspectors should leave express proof of this in their report, stating the alleged reasons for this and seeking whenever possible the presence of at least one witness, who will then sign off on the report.

- All testing or evidence-taking should be carried out formally, with supporting documents and following the requirements of national legislation. It is appropriate that reports be made in triplicate, leaving one of the originals in the hands of those responsible for the facility that was inspected and the remaining two in the hands of the health authority, one of them to be incorporated into the administrative or judicial actions that may be initiated as a result of the inspection and the other for to be filed at the headquarters of the health authority.

3.1.3 PROGRAMMED ACTIONS

3.1.3.1 Maintaining a State of Alert

Maintaining a state of alert represents a series of activities aimed at detecting new counterfeit products, evaluating the effectiveness of the measures adopted and making an effort to watch over patients and their families. In this regard, the following programmed activities should be considered:

- *Continuity of the Control Program:* The control program for the pharmaceutical distribution chain should be continued, with the following objectives:

  - Eliminating from pharmaceutical distribution channels those medicines that fall within the scope of the prohibition guidelines issued by the health authority;
  - Obtaining any type of information on the source of the counterfeit products;
  - Verifying new lines of infiltration of counterfeit pharmaceuticals into distribution channels;
  - Verifying the existence of new batches and/or counterfeit products.

- *Continuity of the Contingency Plan to Care of Patients and/or Family Members:* The Contingency Plan for Care for Patients and Family Members should be continued.

- *Evaluation of the Possible Existence of Other Batches/Lots and/or Products into Pharmaceutical Distribution Channels:* The possibility should be considered of the existence of other batches and/or counterfeit products flowing into pharmaceutical distribution channels; hence, particular interest will be paid to information obtained from the following:

  - Telephone calls or personal reports made to the health authority or to the laboratory of the company of registry for the product;
  - Samples received for later analysis at the health authority headquarters or at the laboratory of the company of registry for the product ;
  - Inspections to control the pharmaceutical distribution channels;
  - Reports received in the national pharmacovigilance system.

3.1.3.2. Continuity of Collaboration

In this regard, the following actions should be kept in mind:

— **Continuous Input of Information to the Judicial Authority:** Any and all information referring to the current counterfeiting case that is in the hands of the health authority should be sent immediately to the judicial authorities in charge of investigating the case.

— **Permanent Technical Collaboration:** At the request of the judicial and/or law enforcement authority, the health authority should provide permanent technical collaboration for the different measures being taken over the course of the investigation. In order to do this, it should rely on trained technical personnel duly informed of the case.