

## Announcement of appeal<sup>1</sup>

<b>Case</b>	A-006-2018
<b>Appellants</b>	Emerald Kalama Chemical B.V., the Netherlands Lanxess Deutschland GmbH, Germany Ineos Chloro Toluenes Belgium NV, Belgium
<b>Appeal received on</b>	19 March 2018
<b>Subject matter</b>	A decision taken by the European Chemicals Agency (the 'Agency') pursuant to Article 41(3) of the REACH Regulation, in accordance with the procedure laid down in Articles 50 and 51 of the REACH Regulation
<b>Keywords</b>	<i>Dossier evaluation – Compliance check – Read-across – Error of assessment – Legal certainty – Proportionality</i>
<b>Contested Decision</b>	CCH-D-2114378524-42-01/F
<b>Language of the case</b>	English

### Remedy sought by the Appellants

The Appellants request the Board of Appeal to:

- annul the Contested Decision,
- remit the case to the Agency for re-evaluation of the registration dossier as updated by the lead registrant, and
- order the refund of the appeal fee.

In the alternative, the Appellants request the Board of Appeal to extend the deadline for the submission of the information required by the Contested Decision.

### Pleas in law and main arguments

The Contested Decision was adopted on 18 December 2017 following a compliance check of the registration submitted by Emerald Kalama Chemical B.V., which is the lead registrant for benzaldehyde.

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<sup>1</sup> Announcement published in accordance with Article 6(6) of Regulation (EC) No 771/2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency, as amended by Commission Implementing Regulation (EU) 2016/823.

The Contested Decision rejects a read-across approach proposed by Emerald Kalama Chemical B.V. and requires it to provide, amongst other information, first and second species pre-natal developmental toxicity ('PNDT') studies and an extended one generation toxicity study ('EOGRTS').

The Appellants claim that the Agency committed an error of assessment when it rejected the read-across approach proposed by the Appellants.

The Appellants further claim that as the Contested Decision does not adequately consider the proposed read-across approach it breaches the Agency's obligations to avoid conflicts of opinion with other EU bodies and the requirement of coherence between substance evaluation and Agency's other activities.

The Appellants further claim that the Agency committed an error of assessment as it failed to take all relevant data into consideration and therefore infringed the Appellants' right to good administration.

The Appellants further claim that the Contested Decision breaches the principle of proportionality, infringes the Appellants' rights to legal certainty and is contrary to the letter and spirit of the REACH Regulation with regard to animal welfare.

The Appellants further claim that the Contested Decision imposes an unreasonable deadline to provide the requested information.

### **Further information**

The rules for the appeal procedure and other background information are available on the 'Appeals' section of the Agency's website:

<http://echa.europa.eu/web/guest/regulations/appeals>