

**DECISION OF THE CHAIRMAN OF THE BOARD OF APPEAL  
OF THE EUROPEAN CHEMICALS AGENCY**

**21 June 2023**

*(Rectification of the contested decision – Withdrawal of the appeal by the Appellant –  
Closure of the proceedings)*

<b>Case number</b>	A-006-2023
<b>Language of the case</b>	English
<b>Appellant</b>	BASF SE, Germany Represented by Thomas Delille, Pavlina Chopova-Leprêtre and Maximilien Pallu Mayer Brown Europe-Brussels LLP, Belgium
<b>Contested Decision</b>	Decision of 9 February 2023 on a testing proposal for the substance o-xylene, adopted by the European Chemicals Agency under Article 40 of the REACH Regulation The Contested Decision was notified to the Appellant under annotation number TPE-D-2114627912-55-01/F

**THE CHAIRMAN OF THE BOARD OF APPEAL**

gives the following

### Decision

1. On 9 February 2023, the Agency adopted a decision under Article 40 of the REACH Regulation<sup>1</sup> following the examination of a testing proposal submitted by the Appellant for the substance o-xylene<sup>2</sup>. By that decision, the Agency required the Appellant to submit information on:  
An extended one-generation reproductive toxicity study (EOGRTS; Section 8.7.3. of Annex X; test method: EU B.56./OECD TG 443) by oral route, in rats, specified as follows:
  - Ten weeks pre-mating exposure duration for the parental (P0) generation;
  - The highest dose level in P0 animals must be determined based on clear evidence of an adverse effect on sexual function and fertility without severe suffering or deaths in P0 animals, or follow the limit dose concept;
  - Cohort 1A and 1B (reproductive toxicity);
  - Cohorts 2A and 2B (developmental neurotoxicity); and
  - Investigations on learning and memory function.
2. On 9 May 2023, the Appellant filed the present appeal seeking the annulment of the Contested Decision.
3. On 8 June 2023, the Agency informed the Board of Appeal that the Executive Director of the Agency had decided to rectify the Contested Decision under Article 93(1) by withdrawing it in its entirety. The Executive Director stated that, following a re-examination of the case, procedural deficiencies had been found in the Contested Decision pertaining to its statement of reasons.
4. On 20 June 2023, the Appellant withdrew its appeal.
5. Under Article 1b of the Rules of Procedure<sup>3</sup>, the Chairman closes the proceedings if an appeal is withdrawn. Under Article 10(4) of the Fee Regulation<sup>4</sup>, the appeal fee is refunded if the Executive Director rectifies a decision in accordance with Article 93(1) of the REACH Regulation.

On those grounds,

THE CHAIRMAN OF THE BOARD OF APPEAL

hereby:

- 1. Closes Case A-006-2023.**
- 2. Decides that the appeal fee is refunded.**

Antoine BUCHET  
Chairman of the Board of Appeal

Alen MOČILNIKAR  
Registrar of the Board of Appeal

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<sup>1</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (OJ L 396, 30.12.2006, p. 1). All references to Articles or Annexes hereinafter concern the REACH Regulation unless stated otherwise.

<sup>2</sup> EC no 202-422-2; CAS no 95-47-6 (the **Substance**).

<sup>3</sup> Commission Regulation (EC) No 771/2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency (OJ L 206, 2.8.2008, p. 5).

<sup>4</sup> Commission Regulation (EC) No 340/2008 on the fees and charges payable to the European Chemicals Agency pursuant to the REACH Regulation (OJ L 107, 17.4.2008, p. 6).