

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

**4 February 2016**

*(Withdrawal of appeal by appellant)*

<b>Case number</b>	A-007-2015
<b>Language of the case</b>	English
<b>Appellant</b>	Celanese Chemicals Europe GmbH, Germany
<b>Representatives</b>	Scott Megregian, Vanessa Edwards and Raminta Dereskeviciute, K&L Gates LLP, the United Kingdom
<b>Contested Decision</b>	CCH-D-2114288751-40-01/F adopted by the European Chemicals Agency (hereinafter the 'Agency') pursuant to Article 41 of 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; corrected by OJ L 136, 29.5.2007, p. 3; hereinafter the 'REACH Regulation')

**THE BOARD OF APPEAL**

composed of Mercedes Ortuño (Chairman), Sari Haukka (Legally Qualified Member and Rapporteur) and Andrew Fasey (Technically Qualified Member)

Registrar: Alen Močilnikar

gives the following

### Decision

1. On 12 March 2015, the Appellant filed an appeal at the Registry of the Board of Appeal requesting the Board of Appeal to annul the Contested Decision. The Contested Decision was adopted on 12 December 2014 following a compliance check under the dossier evaluation procedure of the registration submitted by the Appellant for dibutyl maleate. The Contested Decision requested the Appellant to provide information on a pre-natal development toxicity study (test method: EU B. 31/OECD 414) in rats or rabbits by the oral route for the purposes of Section 8.7.2 of Annex IX to the REACH Regulation.
2. On 21 May 2015, the Appellant and the Agency were informed of the Board of Appeal's intention to stay, of its own motion, pursuant to the first paragraph of Article 25 of 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), the present appeal proceedings until 1 September 2015. On 22 May 2015, the Agency informed the Board of Appeal that it had no observations on the proposed stay. On 29 May 2015, the Appellant informed the Board of Appeal that it did not object to the stay of proceedings and requested that the proceedings be stayed until 21 December 2015, the deadline set in the Contested Decision for the Appellant to provide the information requested therein. The Appellant stated that it intended to submit a registration dossier update which it believed would be acceptable to the Agency. The Agency was informed of the Appellant's request as regards the length of the stay. On 22 June 2015, the Agency informed the Board of Appeal that it had no observations on the length of the stay as proposed by the Appellant.
3. On 16 June 2015, an application to intervene in support of the remedy sought by the Appellant was received at the Registry of the Board of Appeal.
4. On 1 July 2015, the Board of Appeal decided to stay the proceedings until 21 December 2015 and informed the Parties and the applicant to intervene thereof.
5. On 25 January 2016, the Appellant informed the Board of Appeal that, following discussions with the Agency, the Appellant had agreed to settle the present appeal with the Agency. The Appellant stated that it was therefore withdrawing its appeal.
6. In view of the Appellant's decision to withdraw the appeal, the present appeal case should be closed. In these circumstances, there is no need to decide on the application to intervene.
7. Pursuant to Article 10(4) of Commission Regulation (EC) No 340/2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (OJ L 107, 17.4.2008, p. 6) a refund of the fee levied for submission of an appeal only occurs if the Executive Director of the Agency rectifies the contested decision or if the appeal is decided in favour of the appellant. Since neither of these situations applies in the present case the appeal fee is not refunded.

On those grounds,

THE BOARD OF APPEAL

hereby:

**Closes appeal case A-007-2015.**

Mercedes Ortuño  
Chairman of the Board of Appeal

Alen Močilnikar  
Registrar of the Board of Appeal