

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

**05 November 2015**

*(Withdrawal of appeal by appellant)*

<b>Case number</b>	A-012-2015
<b>Language of the case</b>	English
<b>Appellant</b>	Sharda Europe b.v.b.a, Belgium
<b>Representative</b>	Claudio Mereu, Field Fisher Waterhouse LLP, Belgium
<b>Contested decision</b>	[CONFIDENTIAL] adopted by the European Chemicals Agency pursuant to Article 63(3) of the Regulation 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1) (hereinafter the 'BPR')

**THE BOARD OF APPEAL**

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

Registrar: Alen Močilnikar

gives the following

### Decision

1. On 18 March 2015, the Appellant filed an appeal at the Registry of the Board of Appeal against the Contested Decision which was adopted on 18 December 2014 pursuant to Article 63(3) of the BPR.
2. By the Contested Decision, the European Chemicals Agency (hereinafter 'the Agency') decided not to grant the Appellant permission to refer to the studies owned by another company (hereinafter 'the Data Owner'). The Contested Decision was adopted pursuant to Article 63(3) of the BPR following a notification from the Appellant that it had failed to reach an agreement on data sharing with the Data Owner.
3. On 26 May 2015, the Agency lodged its Defence and the Appellant was requested to provide its comments thereon by 15 October 2015.
4. On 15 October 2015, the Appellant informed the Board of Appeal that for the best application of its resources and as a letter of access to the requested studies had in the meanwhile been granted to it, it had decided to withdraw the appeal.
5. The case should therefore be closed.
6. Pursuant to Article 4(4) of Commission Implementing Regulation (EC) No 564/2013 of 18 June 2013 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EU) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products (OJ L 167, 19.6.2013, p. 17), a refund for 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 alternatives apply in the current case the Agency should not be ordered to refund the appeal fee.

On those grounds,

THE BOARD OF APPEAL

hereby:

**Closes appeal case A-012-2015.**

Mercedes Ortuño  
Chairman of the Board of Appeal

Alen Močilnikar  
Registrar of the Board of Appeal