Informative update from the Chairman of the Board of Appeal

(Document submitted to the Management Board)
Informative update on the Board of Appeal

Agenda point 13

20th Management Board meeting
16-17 December 2010, Helsinki

Mercedes Ortúño
ECHA – Board of Appeal

Outline of the Presentation

• Introduction
• The work of the BoA since its full constitution
• Building up the framework for working together with the Alternate and Additional Members
• Networking with other European Boards
• Communication with Stakeholders
• Some Personal Reflections
Introduction

• MB/BoA interact regularly via the Working Group for the Board of Appeal (consultations, regular information, annual progress report, appraisal etc)
• Interventions of BoA at MB meetings: June 2009 (readiness of the BoA); June 2010 (Code of Conduct)
• Need to update some information about BoA
• Need to share directly some reflections on appeal related matters with the MB

The Work of the BoA since its full Constitution

• The first Appeal:
  – The case: Rejection of registration based on incomplete dossier considerations. The Chairman decided on confidentiality issues admitting partially the appellant’s request.
  – Appealed decision rectified by ED ⇒ registration was admitted
  – Elements to reflect:
    ✓ Consultation of ED was an effective tool for prompt rectification
    ✓ Need for careful examination of confidentiality issues
    ✓ Registry interacted smoothly with the parties
    ✓ BoA is not aware that similar rejections occurred after this case
The Work of the BoA since its full Constitution

• Generic (or implementing) decisions of the BoA:
  – Practice Directions to the parties (information available online in 22 languages)
  – Announcement of Appeal
  – Cost and payments for taking evidence
  – Code of Conduct
  – Designation of Alternate and Additional Members (AAM)
  – Instructions to the Registrar
  – AAM framework

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Building up the framework for working together with the Alternate and Additional Members

- Regular communication and meetings
- Implementation of the Code of Conduct (new declarations received)
- Exchange of information and cooperation via CIRCA: New BoA Interest Group
- Recent changes in the team

Networking with other European Boards

- Office for Harmonization of the Internal Market (OHIM) BoA (Seminar together and access to its databases)
- European Patents Office (EPO) cooperation in order to receive ideas for our Code of Conduct and to adopt criteria for the designation of AAMs.
- Contacts also with EMA (legal unit) and CPVO Board of Appeal
Communication with Stakeholders

• Information online
• Participation in conferences organized by stakeholders;
• Planned participation at the next ECHA S-Day
• Registry advice to the public
• The BoA and the media

Some Personal Reflections

• After two years of REACH life, less appeals than initially estimated
• Some initiatives of ECHA could diminish the risk of disputes:
  – Improvement of TCC tool
  – Practical guidance and help from ECHA (webinars)
  – DCG
Some Personal Reflections

• Persistent challenges to bear in mind:
  – Disputes on data sharing (new deadline will affect more SMEs with specific problems associated with greater information gaps)

• New challenges
  – Rising number of decisions on evaluation of dossiers and substances. Scientific complexity of possible appeal cases
  – Future regulation on Biocides which confers new competences on BoA
  – Reinforce efforts to provide a better understanding of the appeal system

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Thank you!