

Practice directions to parties to appeal proceedings before the Board of Appeal of the European Chemicals Agency

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A. INTRODUCTION

1. The following Practice directions to parties to appeal proceedings before the Board of Appeal of the European Chemicals Agency (hereinafter the 'Practice Directions') replace the previous version of the Practice Directions adopted on 8 March 2010 by the Board of Appeal of the European Chemicals Agency (hereinafter 'the BoA').

These Practice Directions have been adopted in accordance with Article 27(2) of the Rules of Procedure.

2. The Practice Directions have been updated to take into account the amendments to Commission Regulation (EC) No 771/2008 of 1 August 2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency¹ (hereinafter the 'Rules of Procedure') introduced by Commission Implementing Regulation (EU) 2016/823². The current version of the Practice Directions also takes into account the experience gained by the BoA and its Registry since the first appeal was received in 2009.
3. The Practice Directions cover the main elements of proceedings before the BoA and advise parties on the practical aspects of appeal proceedings. The Practice Directions complement the Rules of Procedure and are not intended to substitute them.
4. In order to ensure the smooth, reliable and cost effective running of proceedings, parties are requested to follow these Practice Directions carefully. The latest version of these Practice Directions is available on the BoA's section of the website of the European Chemicals Agency (hereinafter 'ECHA').

B. COMMUNICATION WITH THE BOA

5. All procedural documents, such as the notice of appeal, the defence and applications to intervene, as well as any other correspondence sent to the BoA, must be lodged at the Registry of the BoA (hereinafter 'the Registry').

Means of communication

6. Procedural documents may be lodged by mail, by email, by telefax or in person.

It is the sender's responsibility to ensure that documents reach the Registry in their entirety within the time limit set. This requires particular attention when documents are sent by electronic means of communication.

7. The address for submitting documents by mail is:

European Chemicals Agency
Registry of the Board of Appeal
P.O. Box 400
00121 Helsinki
Finland

¹ OJ L 206, 2.8.2008, p. 5.

² Commission Implementing Regulation (EU) 2016/823 of 25 May 2016 amending 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 137, 26.5.2016, p. 4).

8. Documents may also be lodged by hand at ECHA's reception during its opening hours³:

Annankatu 18
00120 Helsinki
Finland

9. Procedural documents may also be transmitted to the Registry by:

- (a) telefax: +358 9 68 61 89 30; or
- (b) email: appeal@echa.europa.eu.

Special requirements for communication via email or telefax

10. When sending procedural documents by email or telefax the following additional requirements shall be taken into account:

- (a) in order to ensure the integrity of the document, only a copy of the signed original will be accepted. Documents sent by email shall be sent as scanned documents in PDF format (images and text) using Adobe Acrobat Reader[®] software;
- (b) in order for a message, including its attachments, to be received by the Registry it must be less than 10 MB in size. Any message above that size must be split and sent in several parts. In the case of such split transmissions, each individual transmission should include in the cover message:
 - the appeal number, if available, or an indication of the contested decision,
 - the title of the submission (e.g. notice of appeal, defence, observations on the defence, application to intervene),
 - the total number of emails, their sequential number and the page numbers of the submitted sheets (e.g. email no. 1 (of 5) containing pages 1-25 of the notice of appeal or containing Annex A and B).

11. In its first submission to the BoA the party concerned is requested to:

- (a) state whether it agrees that documents related to appeal proceedings are served on it or, where appropriate, its representative by email, telefax, or other technical means of communication (Articles 6(1)(h), 7(2)(e) and 8(4)(h) of the Rules of Procedure);
- (b) specify the email address and/or a single fax number that the Registry may use for that purpose.

Please note that for service by email communications from the Registry will be transmitted in PDF format. The recipient's device must therefore be equipped with software that is able to read that format.

³ The reception's opening hours, including a list of public holidays, can be found on ECHA's website.

12. Where a party has indicated that it agrees to procedural documents being served on it or its representative by email, telefax or other technical means of communication, the Registry shall, if feasible, notify the procedural documents to that party by the accepted technical means of communication.

Where the Registry sends documents by email, recipients are requested to immediately acknowledge receipt of those documents.

Copies of procedural documents

13. Where a procedural document consists of five pages or more (including annexes) the party submitting the document must provide the Registry with copies of that document in accordance with the instructions set out in paragraphs 14 and 15 below.

The parties may provide the Registry with copies that are printed recto-verso. However, the text of the original should appear on one side of the page only (see also paragraph 50(c) below).

14. Where the submission is lodged by conventional mail or by hand the signed original shall be accompanied by four paper copies.
15. Where the procedural document was previously submitted by email or fax the signed original used to create the version sent electronically as well as four paper copies must be sent by conventional mail or lodged by hand at the Registry.

Where the procedural document was previously submitted by electronic means the copies shall be sent immediately, and at the latest within 24 hours, following the despatch of the electronic copy without any corrections or amendments, even of a minor nature, being made thereto.

In the event of any discrepancies between the version sent by email or fax and the versions sent later by conventional mail or delivered by hand, the date on which the latter documents are lodged shall be deemed to be the date of receipt.

C. APPEAL FEE

Payment of the appeal fee

16. The rules applicable to the payment of the appeal fee are set out in the Fee Regulations applicable to the REACH Regulation⁴ and the Biocidal Products Regulation⁵ respectively⁶.

4 Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (OJ L 396, 30.12.2006, p. 1).

5 Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

6 For appeals against decisions adopted under the REACH Regulation, see Commission Regulation (EC) No 340/2008 of 16 April 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 (OJ L 107, 17.4.2008, p. 6, as last amended; hereinafter the 'REACH Fee Regulation').

For appeals against decisions adopted under the Biocidal Products Regulation, see Commission Implementing Regulation (EU) 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, hereinafter the 'BPR Fee Regulation').

Appellants are responsible for ensuring that the correct appeal fee is paid as set out in the most recently amended version of the respective Fee Regulation which can be found in the *Official Journal of the European Union*.

17. An appeal shall not be considered to be received by the BoA until the relevant appeal fee has been received by ECHA (Article 10(5) of the REACH Fee Regulation and Article 4(2) of the BPR Fee Regulation). The appellant shall therefore pay the appeal fee before submitting the notice of appeal. The Registry will not send an invoice.
18. The appellant shall pay the relevant amount in euro (EUR) by bank transfer to the following bank account:

Bank: Pohjola Bank Plc, Box 308, FI-00013 POHJOLA, Finland

Account number: FI36 5000 0120 2470 84

BIC/SWIFT Code: OKOYFIHH

ECHA will not accept cash payments or cheques.

All bank charges related to the payment of an appeal fee made to ECHA shall be paid by the appellant. The appellant's bank should therefore be instructed accordingly. Within the Single Euro Payments Area (SEPA) it is obligatory to use the IBAN and BIC/SWIFT codes.

Each payment of the appeal fee shall indicate in the reference field the identity of the appellant(s) and, if available, the identification number(s) of the contested decision and the date of that decision.

19. A proof of payment shall be attached to the notice of appeal (Article 6(2) of the Rules of Procedure).

Reduction of the appeal fee

20. For appeals lodged against ECHA decisions adopted under the REACH Regulation, appellants may be entitled to a reduced fee if they are a micro, small or medium-sized enterprise ('SME') as defined in Article 2 of the REACH Fee Regulation.

If an appellant is entitled to a reduced appeal fee (i.e. where the appellant is an SME), it shall inform the BoA thereof at the time the notice of appeal is lodged (Article 13(1) of the REACH Fee Regulation).

For appeals lodged against ECHA decisions adopted under the Biocidal Products Regulation, there is a single appeal fee applicable to all appellants (see Annex III to the BPR Fee Regulation).

Refund of the appeal fee

21. The appeal fee will be refunded if the Executive Director of ECHA rectifies the contested decision or if the appeal is decided in favour of the appellant (Article 10(4) of the REACH Fee Regulation and Article 4(4) of the BPR Fee Regulation).
22. In the event that a refund of the appeal fee is necessary the appellant will receive further instructions from the Registry. In particular, if the appeal fee is to be refunded, the appellant will be requested to complete and submit a Legal Entities Form (LEF) and a Financial Identification Form (BAF) together with the necessary supporting documents.

D. WRITTEN SUBMISSIONS

Notice of appeal

23. Appeals shall be lodged within three months of the notification of the decision to the person concerned, or in the absence thereof, of the day it became known to the latter (see Article 92(2) of REACH Regulation).
24. An appeal shall be lodged with the BoA in writing in the form of a notice of appeal containing inter alia the remedies (form of order) sought, the pleas in law and the main arguments.

The information to be included in the notice of appeal and the documents that must be annexed to it are listed in Article 6(1) and (2) and Article 9 of the Rules of Procedure.

A check list supporting the filing of an appeal is provided on the BoA's section of ECHA's website.

25. Whilst there is no required form for the notice of appeal, it is recommendable, for the sake of procedural economy and to avoid requests for further clarification, that the appellant takes into account the following:
 - the precise wording of the remedies (form of order) sought by the appellant must be stated either at the beginning or at the end of the notice of appeal. The appellant shall specify whether the decision is contested in its entirety or only partially. In the latter case, the contested part shall be clearly specified,
 - the notice of appeal shall contain a brief account of the facts giving rise to the dispute,
 - the pleas in law on which the appeal is based must be clearly set out. The notice of appeal shall contain not only the pleas in law on which the appellant relies in support of the appeal, but also a succinct presentation of each of the arguments supporting those grounds. Legal arguments should be set out and grouped by reference to the particular pleas in law to which they relate.

Clarity and precision in the presentation of the pleas and arguments will allow the claims made to be better understood and avoid further questions for clarification. Reference can be made to evidence included in annexes as long as there is a clear reference to the location of the evidence in the annexes and the plea in law and particular argument to which it relates. Furthermore, it must be made clear in the section on pleas in law relied on how the evidence referred to supports the argument in question.

26. For the sake of the administrative efficiency it is recommended that the notice of appeal does not exceed 30 pages (excluding annexes). All legal arguments must be included in the body of the notice of appeal.

Single appeal by several appellants

27. In certain circumstances the BoA may accept an appeal by more than one appellant against the same ECHA decision. In deciding whether to submit an appeal jointly the following should be taken into consideration:
 - (a) the appeal must be against the same ECHA decision;

- (b) all appellants to the appeal must present identical pleas in law and rely on identical facts and evidence;
 - (c) all the appellants must explicitly agree to be represented by one representative for the purpose of the proceedings; and
 - (d) there should be no issues of confidentiality between the appellants. If, however, such issues of confidentiality arise during the proceedings it shall be for the representative appointed jointly by the appellants to ensure that confidential information is not disclosed amongst the appellants.
28. If an appeal is submitted jointly, a single notice of appeal can be submitted collectively and only one appeal fee is required.

Defence

29. The information to be included in the defence is listed in Article 7(2) of the Rules of Procedure.
30. The precise wording of the remedies (form of order) sought by ECHA must be stated either at the beginning or at the end of the defence.
31. Any fact alleged in the notice of appeal which is contested must be specified and the basis on which it is contested expressly stated.
32. Since the legal framework of the proceedings is fixed by the notice of appeal, the legal arguments developed in the defence must, so far as is possible, be set out and grouped by reference to the pleas in law as put forward in the notice of appeal.
33. The possibility of raising a plea of inadmissibility in relation to the proceedings by a separate submission is not provided for in the Rules of Procedure. As a result, any challenge to the admissibility, in whole or in part, of an appeal must be included in the actual body of the defence together with arguments related to the merits of the appeal.
34. For the sake of the administrative efficiency it is recommended that the defence does not exceed 30 pages (excluding annexes). All legal arguments must be included in the body of the defence.

Subsequent submissions

35. Only where invited to do so by the BoA may the parties provide further observations on the submissions of the other party.
36. The framework and the pleas in law central to an appeal should have been set out, and if necessary disputed, in the notice of appeal and the defence. The purpose of subsequent submissions is to allow the appellant and ECHA to make clear their position or to refine their arguments on important issues, and to respond to new matters raised in the defence and in other subsequent submissions. The BoA may specify the matters to which those procedural documents should relate.
37. Any fact alleged in a submission of the other party which is contested must be specified and the basis on which it is contested expressly stated.

38. Parties are advised that no new plea in law may be introduced after the first exchange of written pleadings unless the BoA decides that it is based on new matters of law or of fact that have come to light in the course of the proceedings (Article 12(2) of the Rules of Procedure).
39. For the sake of administrative efficiency, it is recommended that the subsequent submissions referred to in this section do not exceed 20 pages (excluding annexes). All legal arguments must be included in the body of the subsequent submission.

Calculating time limits and extension

40. For the purposes of calculating time limits, a document shall not be considered to have been lodged until it is received at the Registry (Article 10(2) of the Rules of Procedure).
41. Rules for calculating time limits are defined in detail in Article 23 of the Rules of Procedure.
42. Time limits prescribed by the BoA or by the Registrar during the proceedings may be extended on a reasoned application. Applications for an extension of a time limit may be granted only in exceptional circumstances.
43. Applications for an extension of a time limit must be submitted in sufficient time before the expiry of the prescribed period. Parties must allow for sufficient time for the preparation of their submission in the event that their request for an extension is rejected.
44. The time limit for lodging the notice of appeal and an application to intervene cannot be extended.

Language

45. The language of the notice of appeal shall be the language of the case. The language of the case shall be used in written and oral proceedings unless the BoA has authorised the use of another official language following the reasoned request of a party. This applies also to all annexes (with the exception of supporting documents; see paragraph 51 below) which shall be accompanied by a translation into the language of the case, where needed (Article 14(2) of the Rules of Procedure).
46. If the appellant is the addressee of the decision against which the appeal is brought and the appeal is not lodged in the language of that decision, the appellant should provide information and evidence that the language of the appeal has been used in earlier submissions giving rise to the decision (second subparagraph of Article 14(1) of the Rules of Procedure).
47. When drafting submissions parties are advised to take into account the fact that all documents submitted will be translated into English since this is the working language of ECHA and is used by the members of the BoA and the Registry for day-to-day internal communication and working documents.

Form of all submissions

48. All submissions shall bear a signature and a date.
49. The following information should appear on the first page of any submission submitted to the BoA:
 - (a) the title of the submission (notice of appeal, defence, application to intervene, statement in intervention, replies to questions, etc.);
 - (b) the appeal number (A-...-...) where this has already been notified by the Registry, or, where this has not yet been notified, the number and date of the contested ECHA decision;
 - (c) the name and address of the party lodging the submission;
 - (d) if the party has appointed a representative, the name and business address of that representative;
 - (e) the date of the submission;
 - (f) in order to enable verification that documents (original, annexes and their copies) submitted to the BoA have been received in their entirety, the total number of submitted pages should be indicated on the first page of every submission (e.g. '1 of 20');
 - (g) where appropriate, a clear indication of any confidentiality request applicable to that specific submission and which is further specified and justified within a separate document attached thereto (see Section E below); and
 - (h) the address for service and, where applicable, agreement to service being effected by email and/or telefax (see also paragraph 11(a) above).

It is recommended that the information listed above is provided using the *Cover Form* which can be found on the BoA's section of ECHA's website.

50. In particular since all submissions will be processed electronically by the Registry, parties should take into account the following requirements:
 - (a) each paragraph of the submission should be numbered consecutively;
 - (b) each page of the submission and annexes (including page dividers) should be numbered consecutively. Page numbers should preferably appear in the top right-hand corner of each page;
 - (c) the text should appear on one side of the page only (i.e. not 'recto verso'). However, copies may be printed 'recto-verso' (see paragraph 13 above);
 - (d) the text should be easily legible (e.g. font Verdana 10 or Times New Roman 12), and drafted with sufficient line spacing and margins; and
 - (e) documents should not be bound together or joined, for example, with glue or staples.
51. Supporting documents such as the proof of payment of the appeal fee, the proof of existence in law, the authority to act and the summary of the appeal should be grouped together and numbered separately. These documents will not be served on any interveners subsequently accepted into the case.

Annexes and Evidence

52. Parties should submit all documents that they wish to be taken into consideration as part of the proceedings. The BoA does not have access to any documents submitted to ECHA prior to the appeal proceedings.
53. Only documents which are mentioned in the actual text of a written submission, such as the notice of appeal or the defence, and which are necessary to prove or illustrate the arguments therein should be submitted as annexes.
54. The parties and interveners shall ensure that the evidence relied on to support an argument is clearly indicated both in the relevant submission and in any relevant annexes. Extracts from voluminous documents are acceptable provided that the extract is not taken out of context. If necessary, upon request of the BoA, the entire text from which an extract is taken shall be provided.
55. With the exception of supporting documents submitted with a notice of appeal (see paragraph 51 above), annexes to procedural documents shall be drawn up in the language of the case or be accompanied by a translation into that language. In the case of lengthy documents, translations may be confined to relevant extracts. However, the BoA may at any time require a more extensive or complete translation (third subparagraph of Article 14(2) of the Rules of Procedure).
56. When submitting annexes the following formal requirements shall be complied with:
 - (a) annexes shall be easily legible. An annex will not be accepted if the print quality is inadequate;
 - (b) annexes shall be numbered (e.g. Annex 1, 2, 3, 4, etc.);
 - (c) any evidence (documents or other type of evidence) relied on should be indicated, listed and annexed to the submissions. A *Table of Annexes* shall be provided for each submission (notice of appeal, defence etc). The table of annexes should include a description of the content of each annex sufficient to distinguish one from another; and
 - (d) the party must clearly indicate the parts of the annex considered relevant. The parties can use the Evidence Sheets prepared by the Registry for this purpose. The evidence sheet should:
 - identify the facts or claims which each piece of evidence is intended to support, with reference to the relevant passage in the submission,
 - provide an explanation as to how that evidence supports the plea and argument presented, and
 - indicate the exact location of the passage(s) within the evidence intended to support the relevant fact or plea. For this purpose the parties may highlight or mark the relevant passage(s) of the evidence offered.

Parties can find the abovementioned forms (*Table of Annexes* and *Evidence sheet*) on the BoA's section of ECHA's website.

57. Parties should avoid submitting documents that were already submitted as part of earlier submissions in the same appeal. Any references to these earlier submissions must make it clear exactly which part of these earlier submissions is being referred to and how and what it is intended to support.
58. Where evidence is introduced after the first exchange of written pleadings a justification must be provided for the delay in offering it (Article 12(1) of the Rules of Procedure). Evidence that could have been submitted in the first submission of the respective party will usually not be accepted.

Representative

59. Where a party or an intervener has appointed an external representative, that representative shall provide an authority to act issued by the represented party or intervener (Article 9 of the Rules of Procedure). Any change in representation must be notified to the Registry in writing without delay.

For the purposes of appeal proceedings, a 'representative' is understood to mean somebody who is acting on behalf of an appellant or intervener but is not an employee of that appellant or intervener.

Announcement of the notice of appeal

60. An announcement of each notice of appeal lodged will be published on the BoA's section of ECHA's website (Article 6(6) of the Rules of Procedure).
61. The appellant should attach to the notice of appeal a summary of the dispute. The summary prepared by the appellant may be used by the Registry in the preparation of the appeal announcement to be published.

The summary should not exceed one page and shall include:

- (a) the name of the appellant;
 - (b) the contested decision;
 - (c) the remedy sought by the appellant; and
 - (d) a summary of the principal grounds relied on.
62. The appellant must not include confidential information in the summary. The announcement, prepared by the Registry, will be published after any confidentiality request related to the content of the announcement has been dealt with and only after the 30 days for possible rectification by the Executive Director of ECHA, foreseen in Article 93(1) of the REACH Regulation, has expired.
 63. In particular, the announcement shall provide enough information on the case to allow potential interested parties to apply to intervene in the proceedings. Within three weeks of the publication of the announcement, persons considering that they have sufficient interest may apply to intervene in the proceedings (Article 8 of the Rules of Procedure; see also Section F below).

Regularisation of the notice of appeal and other submissions

64. If a notice of appeal does not comply with the requirements set out in Article 6(1)(a) to (d) and (2) of the Rules of Procedure, the Registrar shall prescribe a reasonable period to put the notice of appeal in order. The Registrar may prescribe such a period only once (Article 6(3) of the Rules of Procedure).

65. Not all the formal requirements of the notice of appeal can be corrected later, for example, failure to pay the appeal fee. Appellants should therefore pay particular attention that their submissions fulfil the requirements of the REACH Regulation, the Rules of Procedure and these Practice Directions.
66. If the appellant fails to put the notice of appeal in order, the Registrar shall refer the matter to the Chairman of the BoA for a decision on the admissibility of the appeal (Article 6(4) of the Rules of Procedure).
67. The Registrar may also request that a notice of appeal or other submission be corrected where it is not in conformity with these Practice Directions.

E. CONFIDENTIALITY REQUESTS

Considerations before submitting a confidentiality claim

68. Parties should bear in mind that confidentiality requests create considerable additional work for all parties concerned, including the requesting party. With this in mind, wherever possible, the parties should avoid using confidential information when preparing their submissions.
69. In the interests of procedural economy, and in order to avoid unnecessary confidentiality claims, the parties should be aware that:
 - (a) only the appeal announcement, the final decision and certain procedural decisions are published on ECHA's website (see Section I below). Other documents contained in the appeal file are not made publicly available;
 - (b) a Chairman decision taken pursuant to Articles 6(6) and 21(5) and (6) of the Rules of Procedure is distinct from the general right to access documents pursuant to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents⁷. In particular, the assessment of confidentiality requests pursuant to Articles 6(6) and 21(5) and (6) of the Rules of Procedure pursues a different objective as it is conducted in the context of specific appeal proceedings before the BoA. Therefore, the interests to be considered, including the manner in which they are balanced, may be different from any assessment pursuant to Regulation (EC) No 1049/2001;
 - (c) since the BoA cannot rely on any matters which have not been the subject of disclosure between the principal parties to the proceedings, in general, confidential treatment vis-à-vis ECHA or the appellant are not allowed;
 - (d) the information listed in Article 6(6) of the Rules of Procedure will be always published in the announcement of the appeal (second subparagraph of Article 6(6) of the Rules of Procedure); and
 - (e) personal data submitted during appeal proceedings will be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁸.

⁷ OJ L 145, 31.5.2001, p. 43

⁸ OJ L 8, 12.1.2001, p. 1

70. In the light of the above, requests for confidential treatment of information must be limited to what is strictly necessary.

How to submit a confidentiality claim

71. A specific and justified request for the confidential treatment of any information contained in a document filed in connection with proceedings before the BoA shall be made in writing at the time the document is lodged (Article 6(1)(g) and Article 7(2)(d) of the Rules of Procedure).

However, where interveners are accepted into the case the parties will at that stage be given the opportunity to request confidentiality regarding those interveners.

72. Requests for confidentiality must be submitted by way of a separate application lodged together with the principal submission. The existence of the request should also be clearly indicated on the first page of the submission (see also paragraph 49(g) above).

73. The request for confidential treatment of information shall include the following:

- (a) an indication of the information for which confidentiality is claimed and where it is located in the submission (e.g. page and paragraph number);
- (b) an indication concerning to whom and what the request relates (e.g. the announcement or the final decision);
- (c) a detailed justification as to why such confidential treatment is necessary.

Applications for confidential treatment must not however include any confidential information, as the requests may also be notified to any intervener accepted into the case. The relevant information should therefore be referred to by means of a generic description.

74. Whether particular information is to be regarded as confidential will be decided by the Chairman, having regard to all the circumstances of the individual case (Article 6(6) and Article 21(5) and (6) of the Rules of Procedure)⁹.

The Chairman will only adopt a reasoned decision on the confidentiality request where it is necessary for the processing of the case, in particular when the requested information is necessary for the announcement and/or for the final decision.

Non-confidential versions of submissions

75. The parties are not required to submit non-confidential versions unless interveners are admitted to the case. The parties will receive instructions from the Registry on how to prepare and submit non-confidential versions, where necessary.

⁹ Certain decisions of the Chairman on requests for confidentiality are available on the BoA's section of ECHA's website. These decisions can be used as guidance when considering requests for confidentiality.

76. The Registry will not verify the non-confidential versions submitted by the parties. With this in mind, in order to ensure that the non-confidential versions submitted do not contain confidential information, the parties are requested to co-ordinate between themselves which information should be deleted from their submissions before they submit their non-confidential versions to the Registry.

F. INTERVENTION PROCEDURE

77. Persons wishing to intervene in the appeal proceedings and who have an interest in the result of the case have three weeks from the date of the announcement of the notice of appeal in which to make an application to the BoA for leave to intervene (Article 8 of the Rules of Procedure).
78. The application for leave to intervene shall contain the information set out in Article 8(4) and Article 9 of the Rules of Procedure and shall, in particular, demonstrate the 'interest in the result of the case'.

However, in relation to appeals against decisions on substance evaluation the Member State whose competent authority has carried out the substance evaluation may intervene without having to establish an interest in the result of the case (second subparagraph of Article 8(1) of the Rules of Procedure). It shall, however, comply with the other requirements of Article 8 of the Rules of Procedure.

79. Interveners should take into account the instructions for communications and submissions provided above (see in particular Sections B and D).
80. The application for leave to intervene will be served by the Registry on the parties who will be invited to submit any observations they may wish to make on that application before the BoA decides on it (second subparagraph of Article 8(4) of the Rules of Procedure).
81. If the BoA allows the intervention, the intervener will receive a copy of every procedural document served on the parties provided for that purpose to the Board of Appeal by the parties. Confidential items or documents will be excluded from such communication (Article 8(5) of the Rules of Procedure).
82. Interveners shall note that information they receive during the appeal proceedings shall be used by them only in the context of those proceedings and must not be made public by them.
83. The Chairman will prescribe a period within which the intervener may provide a statement in intervention. The statement in intervention should include the information set out in Article 8(6) of the Rules of Procedure.
84. The Chairman may invite the parties to provide observations on any statement in intervention submitted (Article 8(6) of the Rules of Procedure).
85. Interveners should note that, as the appellant and ECHA are the principal parties in the proceedings, the role of the intervener is by its nature an ancillary one (second subparagraph of Article 8(3) of the Rules of Procedure). Interveners do not have the same procedural rights as the main parties and, in particular, they will not necessarily be requested to comment on all procedural documents and do not have the right to request that a hearing be held.

Furthermore, interveners may not submit new pleas of law which would modify the subject matter of the case. The intervention shall also be limited to supporting or opposing the remedy sought by one of the parties (first subparagraph of Article 8(3) of the Rules of Procedure).

G. ORAL PROCEDURE

Request for a hearing

86. The BoA shall notify the parties of the closure of the written procedure (Article 12(4) of the Rules of Procedure).
87. If a party considers that an oral hearing is necessary, it shall submit a request, together with any special requirement if already known (e.g. availability or the use of teleconferencing), not later than two weeks from the date of notification of the closure of the written part of the proceedings (Article 13(1) of the Rules of Procedure). Where the above two weeks time limit has expired without any request for a hearing being received, the BoA may nonetheless consider that a hearing is necessary. In that case, the parties shall be notified accordingly.
88. Where a party requests a hearing to be held, the request should also indicate the aspects of the case which it considers should be clarified at the hearing.

Language used in oral proceedings

89. The hearing shall be conducted in the language of the case (Article 14(2) of the Rules of Procedure).
90. A request to use an official language of the European Union other than the language of the case should, where possible, be submitted together with the request for the hearing. Any requests to use an official language of the European Union other than the language of the case shall be reasoned. The BoA will decide on the request after consulting the parties to the proceedings (Article 14(3) of the Rules of Procedure).

Summons

91. The Registrar will notify the parties, any interveners admitted into the case, and any other person invited to attend the hearing, in writing. The summons to a hearing shall contain the time, date and place of the hearing as well as further information related to the conduct of the hearing, in particular information on the parties' specific requests regarding the conduct of the hearing.
92. An announcement of the hearing will be published on the BoA's section of ECHA's website.

Place of the hearing

93. Hearings shall normally take place at ECHA's premises in Helsinki, Finland. However, the parties can also request that the hearing is held via video-conference or similar technology (Article 13(7) of the Rules of Procedure).

The BoA recommends that the parties and interveners should bear in mind that the use of video-conferencing or similar technology can reduce the cost of proceedings and facilitate the finding of a suitable date for a hearing. However, the number of parties that can be connected remotely may be limited. Where several requests to use video-conferencing or similar technology are received, preference will be given to the main parties. Parties and interveners should be aware however that the use of video-conferencing may entail technical difficulties.

Attendance at the hearing

94. The hearing is held in public, except for any of parts where the BoA is considering confidential information or where the BoA has decided that the hearing shall be closed.
95. In light of the resources and costs involved in organising a hearing, the date set for the hearing can be changed only in exceptional circumstances. Such requests must be duly reasoned, accompanied by appropriate supporting documents, and submitted to the BoA within seven days of the date of the confirmation of the date of the hearing.
96. The working language of the BoA is English, however the language of the case can be also another official language of the European Union. When a hearing requires the use of interpretation services, the parties will be given notice to attend the hearing by the Registry at least two months before it takes place. Due to constraints related to the organisation of interpretation services, requests to change the date of a hearing cannot normally be granted. If the language of the case is not English the Appellant may nonetheless request the hearing to be held in English only.
97. If a party intends not to be present or represented at the hearing, it is requested to notify the BoA within ten days of the notification of the date of a hearing. In those circumstances, the hearing will take place in its absence. Absence will not imply silent agreement with any of the arguments brought forward during the hearing. This will also apply should the BoA find that a party is absent from the hearing without due notification after it has been duly summoned to the hearing.
98. Instructions to members of the public wanting to attend the hearing are published on the BoA's section of ECHA's website.

H. STAY OF PROCEEDINGS

99. At the request of a party or of its own motion, the BoA may, after hearing the parties, stay the proceedings (Article 25 Rules of Procedure).
100. A decision ordering that the proceedings be resumed before the end of the stay shall be taken by the BoA after the parties have been heard.
101. The stay of proceedings shall take effect on the date indicated in the decision to stay or, in the absence of such an indication, on the date of that decision.
102. During the period in which proceedings are stayed all procedural time limits shall be suspended except for the time limit prescribed Article 8(2) of the Rules of Procedure for an application to intervene.
103. Where the decision to stay the proceedings does not set the length of stay, it shall end on the date indicated in the decision to resume the proceedings or, in the absence of such an indication, on the date of the latter decision.
104. From the date of the resumption of proceedings following a stay, any suspended procedural time limits shall be replaced by new time limits and they shall begin to run from the date of that resumption.

I. PUBLICATION OF DECISIONS

105. Final decisions of the BoA will be published on the BoA's section of ECHA's website as soon as the main parties to the proceedings have been notified (Article 21(5) of the Rules of Procedure).

Publication of a final decision may be delayed by technical issues or unresolved issues of confidentiality. The BoA's section of ECHA's website contains a section in which the full text of all final decisions of the BoA can be found, subject to appropriate redactions for reasons of confidentiality.

106. The BoA may also decide to publish on its section of ECHA's website certain other procedural decisions adopted during an appeal proceedings (e.g. intervention or confidentiality decisions), as well summaries of final decisions.

J. ENTRY INTO FORCE OF THESE PRACTICE DIRECTIONS

107. These Practice Directions shall be published on the BoA's section of ECHA's website. They shall enter into force on the day following their adoption.
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