

**SUMMARY OF DECISION OF 15 March 2016 OF THE BOARD OF APPEAL  
OF THE EUROPEAN CHEMICALS AGENCY**

**Case number: A-022-2013**

*(Registration – Individual submission of a registration dossier – Complaint of a lead registrant for a joint submission – Admissibility – Direct and individual concern – Completeness check – Principle of ‘one substance, one registration’)*

*Factual background*

The Appellant, REACheck Solutions GmbH, is the lead registrant for the phase-in substance charcoal (hereinafter the ‘Substance’). It requested the Board of Appeal to annul a decision adopted under Article 20(3) of the REACH Regulation by which the Agency found an individual registration for the Substance submitted by another registrant outside the joint submission to be complete and assigned a registration number for that individual registration (hereinafter the ‘Contested Decision’).

The Appellant argued, in essence, that the individual registration did not contain the information required under Articles 10 and 12, such as physico-chemical and toxicological data. It also argued that no individual submission can be accepted by the Agency if there is already an existing joint submission for the same substance.

*Main findings of the Board of Appeal*

In its Decision of 15 March 2016, the Board of Appeal extensively examined the admissibility of the appeal. It found the appeal to be admissible.

The Board of Appeal observed that Article 11 gives effect to one of the fundamental pillars of the REACH Regulation, namely that for each substance there should be only one joint submission (the principle of ‘one substance, one registration’). This means that, if there is more than one registrant for a phase-in substance, the registrants should form a joint submission for the registration of that substance. Equally, if a subsequent registrant intends to register a substance for which there is already a joint submission, that registrant is required to join the existing joint submission for the substance. A registrant cannot ‘opt out’ from a joint submission in its entirety by submitting a wholly separate registration for the same substance. A registrant may however submit the information for certain endpoints separately for the reasons listed in Article 11(3)(a) to (c), for example if it would be disproportionately costly for it to submit information jointly, or if it disagrees on the selection of that information. It must, however, provide an explanation as to why it submits certain information separately.

The Board of Appeal further found that, if there is an existing joint submission, the Agency is required to verify during the course of the completeness check under Article 20 whether a registrant is submitting its dossier as part of the joint submission. If that is not the case, it must request the registrant in question to correct its registration within a reasonable deadline under Article 20(2), and can ultimately reject the registration.

This case regarded a registration submitted by an individual registrant outside the existing joint submission for the Substance. The Agency had found that individual registration to be complete despite the fact that it was not part of the existing joint submission. The Board of Appeal therefore found that the Contested Decision was adopted in breach of completeness check provision (Article 20), read together with the obligation to register a substance jointly (Article 11).

The Board of Appeal also considered whether the individual registration dossier at issue was in fact incomplete, as alleged by the Appellant. The Board of Appeal noted that the Agency had admitted during the appeal procedure that some of the information contained in the individual dossier clearly did not satisfy the relevant information requirements. It therefore considered that the Agency should not have found the individual registration to be complete, when it was not.

The Board of Appeal therefore annulled the Contested Decision and remitted the case to the competent body of the Agency for further examination.

It also noted that the annulment of the Contested Decision does not automatically mean that the individual registration is rejected, but rather that the Agency needs to prescribe a reasonable period of time under Article 20(2) to allow the individual registrant in question to complete its registration and join the joint submission for the Substance.

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**NOTE:** The Board of Appeal of ECHA is responsible for deciding on appeals lodged against certain ECHA decisions. The ECHA decisions that can be appealed to the Board of Appeal are listed in Article 91(1) of the REACH Regulation. Although the Board of Appeal is part of ECHA, it makes its decisions independently and impartially. Decisions taken by the Board of Appeal may be contested before the General Court of the European Union.

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*Unofficial document, not binding on the Board of Appeal*

*The full text of the decision is available on the Board of Appeal's section of ECHA's website:  
<http://echa.europa.eu/about-us/who-we-are/board-of-appeal>*