

## Announcement of appeal<sup>1</sup>

<b>Published on</b>	18 January 2019
<b>Case</b>	A-022-2018
<b>Appellant</b>	Sustainability Support Services (Europe) AB, Lund, Sweden
<b>Appeal received on</b>	1 October 2018
<b>Subject matter</b>	A communication of the European Chemicals Agency (the 'Agency') to registrants of certain substances concerning the joint submission of data
<b>Keywords</b>	Registration – Lead registrant – Principle of 'one substance, one registration'
<b>Contested Communication</b>	Agency's communication of 3 August 2018 addressed to registrants acting as lead registrants of the substances with EC no. 202-940-9, 203-013-1, 203-273-6 and 206-559-3 in relation to the joint submission obligation
<b>Language of the case</b>	English

### Background to the dispute

The Appellant and several other registrants, including Symrise AG, registered separately the substances with EC No 202-940-9, 203-013-1, 203-273-6 and 206-559-3.

On 6 and 10 April 2017, the Agency informed all registrants of these substances that it considered them to have breached their obligations under Article 11 of the REACH Regulation by submitting separate registrations for the same substances. The Agency requested the registrants to '*remedy the situation*' by 17 October 2017. If the registrants failed to do so, their registration numbers of those registrants who failed to do so would be revoked.

On 12 March 2018, following exchanges with the Appellant and Symrise AG, the Agency took note of the fact that all registrants of the substances in question, except the Appellant, had registered the substances in question together with Symrise AG. The Agency therefore requested the Appellant to join the registrations submitted by Symrise AG by 26 March 2018.

On 13 March 2018, the Appellant requested the Agency to suspend the deadline of 26 March 2018.

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<sup>1</sup> Announcement published in accordance with Article 6(6) of Regulation (EC) No 771/2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency.

On 21 March 2018, the Agency informed the Appellant that *'the deadline of Monday 26 March 2018 has been temporarily suspended'*.

On 3 August 2018, the Agency issued the Contested Communication, requesting the Appellant to join the registrations submitted by Symrise AG by 1 October 2018.

On 1 October 2018, the Appellant filed the present appeal against the Contested Communication.

On 30 October 2018, the Agency's Executive Director rectified the Contested Communication by revoking it in its entirety, in accordance with Article 93(1) of the REACH Regulation.

On 16 November 2018, the Appellant informed the Board of Appeal that it did not wish to withdraw its appeal following the revocation of the Contested Communication.

### **Remedy sought by the appellant**

Following the revocation of the Contested Communication, the Appellant requests the Board of Appeal to:

- confirm that the Appellant is the lead registrant for the substances in question,
- order the Agency to recommend to Symrise AG that Symrise AG should accede to the registrations submitted by the Appellant, and
- *'indicate how to treat the incomplete JS (lead dossier) that was submitted by Symrise [AG] for the four substances'*.

### **Pleas in law and main arguments**

The Appellant argues, in essence, that the Contested Communication is vitiated by an error of assessment because the Appellant is the only rightful lead registrant for the substances in question.

### **Further information**

The rules for the appeal procedure and other background information are available on the 'Appeals' section of the Agency's website:

<http://echa.europa.eu/web/guest/regulations/appeals>