

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

22 May 2017

(Withdrawal of appeal by appellant)

Case number	A-002-2017
Language of the case	English
Appellant	Cardolite Specialty Chemicals Europe NV, Belgium
Contested Decision	TPE-D-2114350342-60-01/F of 20 December 2016, adopted by the European Chemicals Agency (the 'Agency') pursuant to Article 40 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (OJ L 396, 30.12.2006, p. 1; corrected by OJ L 136, 29.5.2007, p. 3; hereinafter the 'REACH Regulation')

THE CHAIRMAN OF THE BOARD OF APPEAL

gives the following

Decision

1. The Appellant put forward several testing proposals for its registration of the substance Cashew (*Anacardium occidentale*) Nutshell Extract, Decarboxylated (List No. 941-216-3; hereinafter the 'Substance').
2. The Appellant proposed to perform some of the required tests on another substance, namely Cashew (*Anacardium occidentale*) Nutshell Extract, Decarboxylated, Distilled (List No. 700-991-6; hereinafter the 'other Substance'). The Appellant's testing proposals were based on a read-across between a group consisting of three 'grades' of cashew nutshell extract. Two of these 'grades' are the Substance and the other Substance.
3. On 20 December 2016, the Agency adopted the Contested Decision. It rejected the proposed read-across and required the Appellant to perform the tests at issue on the Substance itself.
4. On 20 March 2017, the Appellant lodged the present appeal at the Registry of the Board of Appeal against the Contested Decision.
5. On 19 April 2017, the Agency informed the Board of Appeal that the Executive Director of the Agency had decided to rectify the Contested Decision in accordance with Article

93(1) of the REACH Regulation by withdrawing it in its entirety. The Executive Director acknowledged that the Contested Decision failed to address some of the comments made by the Appellant during the course of the decision-making procedure.

6. On 12 May 2017, the Appellant stated that it wished to withdraw the present appeal.
7. In accordance with Article 1b of Commission Regulation (EC) No 771/2001 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency (OJ L 206, 2.8.2008, p. 5), as amended by Commission Implementing Regulation (EU) 2016/823 (OJ L 137, 26.5.2016, p. 4), where an appeal is withdrawn, the Chairman shall close the proceedings.
8. Pursuant to Article 10(4) of Commission Regulation (EC) No 340/2008 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 (REACH) (OJ L 107, 17.4.2008, p. 6) the fee levied for submission of an appeal shall be refunded if the Executive Director of the Agency rectifies a decision in accordance with Article 93(1) of the REACH Regulation.

On those grounds,

THE CHAIRMAN OF THE BOARD OF APPEAL

hereby:

- 1. Closes appeal case A-002-2017.**
- 2. Decides that the appeal fee shall be refunded.**

Mercedes ORTUÑO
Chairman of the Board of Appeal

Alen MOČILNIKAR
Registrar of the Board of Appeal