

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

**22 August 2022**

*(Closure of the proceedings – Withdrawal of the Contested Decision by the Executive Director  
– Withdrawal of the appeal by the Appellant)*

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| <b>Case number</b>          | A-005-2022   |
| <b>Language of the case</b> | English  |
| <b>Appellant</b>            | Arkema France S.A., France   |
| <b>Representatives</b>      | Eric Barbier de La Serre and Elodie Simon<br>Jones Day, France   |
| <b>Contested Decision</b>   | CCH-D-2114582354-45-01/F of 9 March 2022, adopted by the European Chemicals Agency (the 'Agency') under Article 42(1) 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; the 'REACH Regulation') |

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gives the following

### Decision

1. On 24 October 2017, the Agency adopted a decision (the 'Initial Decision') following a compliance check of the Appellant's registration for the substance 4,4'-Isopropylidenediphenol, oligomeric reaction products with 1-chloro-2,3-epoxypropane, esters with acrylic acid (EC No 500-130-2; CAS No 55818-57-0).
2. The Initial Decision required the Appellant to submit information on several studies, including an extended one-generation reproductive toxicity study ('EOGRTS') under Section 8.7.3. of Annex X to the REACH Regulation.
3. On 9 March 2022, the Agency adopted the Contested Decision following the examination of the information submitted by the Appellant in consequence of the Initial Decision. The Agency concluded that the Appellant was still required to provide information on the EOGRTS by repeating the study at the highest dose level.
4. On 7 June 2022, the Appellant filed the present appeal seeking the annulment of the Contested Decision.
5. In its appeal, the Appellant states that it conducted the EOGRTS required in the Initial Decision in compliance with the guidelines applicable at the time of the Initial Decision. However, the Contested Decision rejected the EOGRTS as the dose levels selected by the Appellant to detect reproductive toxicants and developmental immunotoxicants were too low. The Appellant argues that the Agency based its conclusions on guidelines that were not applicable, since they were published only after the EOGRTS was conducted following on the Initial Decision.
6. On 5 July 2022, the Agency informed the Board of Appeal that the Acting Executive Director of the Agency had decided to rectify the Contested Decision under Article 93(1) of the REACH Regulation. According to this decision, the reasoning provided in the Contested Decision may have failed to clarify the main issue leading to the rejection of the information submitted by the Appellant in consequence of the Initial Decision. In view of this procedural error, the Acting Executive Director decided to withdraw the Contested Decision in its entirety.
7. On 19 July 2022, the Appellant withdrew its appeal.
8. Under Article 1b of Commission 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 206, 2.8.2008, p. 5), if an appeal is withdrawn the Chairman closes the proceedings.
9. Under Article 10(4) of Commission Regulation (EC) No 340/2008 on the fees and charges payable to the European Chemicals Agency pursuant to the REACH Regulation (OJ L 107, 17.4.2008, p. 6), the appeal fee is refunded if the Executive Director of the Agency rectifies a decision in accordance with Article 93(1) of the REACH Regulation or if the appeal is decided in favour of the appellant.
10. Through its appeal, the Appellant sought the annulment of the Contested Decision. As the Contested Decision has been withdrawn by the Acting Executive Director in its entirety, the appeal has been resolved in favour of the Appellant and the appeal fee must be refunded (see Case A-001-2017, *Cardolite Specialty Chemicals*, decision of the Chairman of the Board of Appeal of 24 May 2018, paragraph 26).

On those grounds,  
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hereby:

- 1. Closes Case A-005-2022.**
- 2. Decides that the appeal fee is refunded.**

Antoine BUCHET  
Chairman of the Board of Appeal

Alen MOČILNIKAR  
Registrar of the Board of Appeal