

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

9 March 2017

(Withdrawal of appeal by appellant)

Case number	A-010-2016
Language of the case	English
Appellant	KTR Europe GmbH, Germany
Contested Decision	SUB-D-2114341987-35-01/F of 25 August 2016, adopted by the European Chemicals Agency (the 'Agency') pursuant to Article 20(2) 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 submitted a registration for a substance on 7 July 2016.
2. The Agency performed a completeness check of the Appellant's registration and found the registration to be incomplete. In accordance with the third subparagraph of Article 20(2) of the REACH Regulation, the Agency requested the Appellant to provide further information on the composition of the registered substance by 18 November 2016.
3. On 14 July 2016, the Appellant updated its registration with further information. The Agency considered the further information provided by the Appellant to be insufficient to complete the registration and consequently adopted the Contested Decision, rejecting the Appellant's registration, on 25 August 2016. The Appellant subsequently submitted a new registration.
4. On 22 November 2016, the Appellant filed an appeal at the Registry of the Board of Appeal against the Contested Decision, seeking the reimbursement of the registration fee it paid for the rejected registration.
5. On 17 January 2017, following a request by the Agency, and after hearing the Appellant, the Board of Appeal decided to stay the proceedings pursuant to Article 25 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, as amended by Commission Implementing Regulation (EU) 2016/823, OJ L 137, 26.5.2016, p. 4; hereinafter the 'Rules of Procedure') until 31 January 2017.

6. By letter of 26 January 2017, the Agency informed the Board of Appeal of its '*successful discussions*' with the Appellant concerning the latter's '*factual situation and the possible reimbursement of the registration fee*'.
7. On 13 February 2017, the Appellant informed the Board of Appeal that it wished to withdraw the appeal.
8. In accordance with Article 1b of the Rules of Procedure, where an appeal is withdrawn, the Chairman shall close the proceedings.
9. 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 only if the Executive Director of the Agency rectifies a decision in accordance with Article 93(1), or if the appeal is decided in favour of the appellant. Since neither of these alternatives applies in the present case, the appeal fee is not refunded.

On those grounds,

THE CHAIRMAN OF THE BOARD OF APPEAL

hereby:

- 1. Closes appeal case A-010-2016.**
- 2. Decides that the appeal fee shall not be refunded.**

Mercedes ORTUÑO
Chairman of the Board of Appeal

Alen MOČILNIKAR
Registrar of the Board of Appeal