

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

7 March 2016

(Rectification of contested decision – Withdrawal of appeal by appellant)

Case number	A-025-2015
Language of the case	English
Appellant	Rütgers Novares GmbH, Germany
Representative	Jean-Philippe Montfort Mayer Brown Europe-Brussels LLP, Belgium
Contested Decision	Decision of 1 October 2015 on the substance evaluation of biphenyl adopted by the European Chemicals Agency pursuant to Article 46(1), and in accordance with the procedure laid down in Articles 50 and 52, 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 BOARD OF APPEAL

composed of Mercedes Ortuño (Chairman and Rapporteur), Andrew Fasey (Technically Qualified Member) and Sari Haukka (Legally Qualified Member)

Registrar: Alen Močilnikar

gives the following

Decision

1. On 18 December 2015, the Appellant filed an appeal at the Registry of the Board of Appeal requesting the Board of Appeal to annul the Contested Decision. The Contested Decision was adopted by the European Chemicals Agency (hereinafter the 'Agency') on 1 October 2015 following a substance evaluation of biphenyl (hereinafter the 'Substance') carried out by the Competent Authority of Portugal. The Contested Decision, which is addressed to four registrants of the Substance, requests the addressees to update their registration dossiers with certain information by 8 April 2018.
2. On 18 January 2016, the Agency informed the Board of Appeal that, pursuant to Article 93(1) of the REACH Regulation, the Executive Director of the Agency had decided to rectify the Contested Decision by removing the Appellant as an addressee of the Contested Decision. The Agency added that it would inform the Board of Appeal '[o]nce the decision of the Executive Director has been implemented towards the Appellant...'.
3. On 15 February 2016, the Agency provided the Board of Appeal with the Decision of 11 February 2016 rectifying the Contested Decision (hereinafter the 'rectification') and stating that the Contested Decision shall no longer have legal effects on the Appellant.
4. On 17 February 2016, the Appellant was requested to inform the Board of Appeal whether or not it intends to continue with its appeal following the rectification.
5. On 25 February 2016, the Appellant informed the Board of Appeal that it had decided to withdraw the appeal.
6. As the Appellant has decided to withdraw the appeal the present case should be closed.
7. 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), where the Executive Director of the Agency rectifies a contested decision, the Agency shall refund the appeal fee. Consequently, the Agency should be ordered to refund the appeal fee to the Appellant.

On those grounds,

THE BOARD OF APPEAL

hereby:

1. **Closes appeal case A-025-2015.**
2. **Orders the refund of the appeal fee.**

Mercedes Ortuño
Chairman of the Board of Appeal

Alen Močilnikar
Registrar of the Board of Appeal