

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

24 October 2019

(Withdrawal of appeal by appellant)

Case number	A-016-2017
Language of the case	English
Appellants	BASF SE, Germany REACH & Colours Kft, Hungary
Contested Decision	DSH-30-3-D-0123-2017 of 2 October 2017 adopted by the European Chemicals Agency (the 'Agency') pursuant to Article 11 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; the 'REACH Regulation') and Article 3 of Commission Implementing Regulation (EU) 2016/9 on joint submission and data-sharing in accordance with the REACH Regulation (OJ L 3, 6.1.2016, p. 41)

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gives the following

1. On 20 December 2017, the Appellants filed an appeal at the Registry of the Board of Appeal seeking annulment of the Contested Decision. Earlier, on 11 December 2017, the Appellants also brought an action for the annulment of the Contested Decision before the General Court (Case T-806/17).
2. On 20 April 2018, following a request by the Agency, and after hearing the Appellants, 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; the 'Rules of Procedure') pending the conclusion of case T-806/17 before the General Court.
3. By judgment of 3 October 2019 in Case T-806/17, *BASF SE and REACH & colours Kft. v ECHA*, EU:T:2019:724, the General Court dismissed the action for annulment brought by the Appellants.
4. By letter received at the Registry of the Board of Appeal on 15 October 2019, the Appellants informed the Board of Appeal that it had decided to withdraw the appeal.
5. In accordance with Article 1b of the Rules of Procedure, where an appeal is withdrawn, the Chairman shall close the proceedings.
6. 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 REACH (OJ L 107, 17.4.2008, p. 6), a refund for the fee levied for submission of an appeal only occurs if the Executive Director of the Agency rectifies the contested decision or if the appeal is decided in favour of the appellant. Since neither of these alternatives apply in the present case the appeal fee should not be refunded.

On those grounds,

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hereby:

- 1. Closes appeal case A-016-2017.**
- 2. Decides that the appeal fee will not be refunded.**

Antoine BUCHET
Chairman of the Board of Appeal

Alen MOČILNIKAR
Registrar of the Board of Appeal