

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

28 July 2017

(Withdrawal of appeal by appellant)

Case number	A-004-2016
Language of the case	English
Appellant	Huntsman P&A UK Limited, United Kingdom
Representative	Ruxandra Cana, Anna Gergely, Indiana De Seze Steptoe & Johnson LLP, Belgium
Contested Decision	CCH-D2114321780-57-01/F of 4 March 2016 adopted by the European Chemicals Agency (hereinafter the 'Agency') pursuant to Article 41(3) 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), Andrew Fasey (Technically Qualified Member and Rapporteur) and Sari Haukka (Legally Qualified Member)

Registrar: Alen Močilnikar

gives the following

Decision

1. On 16 September 2014, the Appellant filed an appeal, registered as Case A-011-2014, against a compliance check decision for its registration of titanium dioxide (CAS No 13463-67-7, EC No 236-675-5). The decision contested in that case required the Appellant, as lead registrant for the substance, to submit information related to phases, nanoforms and surface treatment of nanoforms of titanium dioxide, including information on the identity of the substance as covered by the joint submission.
2. On 4 March 2016, the Executive Director of the Agency '*partially rectified*' the decision contested in Case A-011-2014 by removing the requirement to submit information relating to the joint submission.
3. On 28 April 2016, the Appellant filed the present appeal, seeking annulment of the '*rectified*' version of the Contested Decision.
4. On 2 November 2016, having heard the Parties, the Board of Appeal decided to stay the present case until the adoption of a final decision in Case A-011-2014, in accordance with Article 25 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) No 2016/823 of 25 May 2016 (OJ L 137, 26.5.2016, p. 4; hereinafter the 'Rules of Procedure').
5. By decision of 2 March 2017, the Board of Appeal upheld the appeal in Case A-011-2014, *Huntsman P&A UK and Others*, and annulled the decision contested in that case.
6. On 25 April 2017, the Appellant stated that it wished to withdraw this appeal.
7. In accordance with Article 1b of the Rules of Procedure, where an appeal is withdrawn, the Chairman shall close the proceedings.
8. Moreover, according 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) an appeal fee is to be refunded if the decision contested in that case is annulled. As the decision contested in the present case has been annulled, the appeal fee should be refunded.

On those grounds,

THE CHAIRMAN OF THE BOARD OF APPEAL

hereby:

- 1. Closes appeal case A-004-2016.**
- 2. Decides that the appeal fee should be refunded.**

Mercedes ORTUÑO
Chairman of the Board of Appeal

Alen MOČILNIKAR
Registrar of the Board of Appeal