

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

12 May 2016

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

Case number	A-002-2016
Language of the case	English
Appellant	Bolton Manitoba S.p.A., Italy
Representative	Avvocato Giovanna Landi, Italy
Contested Decision	Decision of 27 November 2015 adopted by the European Chemicals Agency pursuant to Article 63(3) of the Regulation 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1) (hereinafter the 'BPR')

THE BOARD OF APPEAL

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

Registrar: Alen Močilnikar

gives the following

Decision

1. On 2 February 2016, the Appellant filed an appeal at the Registry of the Board of Appeal against the Contested Decision.
2. By the Contested Decision, the European Chemicals Agency (hereinafter the 'Agency') decided not to grant the Appellant permission to refer to the studies owned by another company (hereinafter 'the Data Owner'). The Contested Decision was adopted pursuant to Article 63(3) of the BPR following a notification from the Appellant that it had failed to reach an agreement on data sharing with the Data Owner. Data sharing had been sought for an application to be included on the Article 95 list.
3. On 3 March 2016, the Agency addressed a letter to the Registry of the Board of Appeal informing it that, in accordance with Article 93(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; corrected by OJ L 136, 29.5.2007, p. 3), applicable to the present appeal pursuant to Article 77(1), second subparagraph, of the BPR, the Executive Director of the Agency had decided to rectify the Contested Decision by revoking it.
4. On 14 April 2016, the Agency submitted to the Registry of the Board of Appeal a copy of the revocation decision.
5. On 20 April 2016, the Registry of the Board of Appeal invited the Appellant to inform the Board of Appeal whether or not it intended to continue its case before the Board of Appeal.
6. By an email received at the Registry on 2 May 2016, the Appellant informed the Board of Appeal that it had decided to withdraw the appeal.
7. As the Appellant has decided to withdraw the appeal, the present appeal case should be closed.
8. In accordance with Article 4(4) of Commission Implementing Regulation (EU) No 564/2013 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EU) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products (OJ L 167, 19.6.2013, p. 17), 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-002-2016.**
- 2. Orders the refund of the appeal fee.**

Mercedes ORTUÑO
Chairman of the Board of Appeal

Alen MOČILNIKAR
Registrar of the Board of Appeal