

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

23 May 2018

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

Case number	A-012-2017
Language of the case	English
Appellant	TÜV SÜD Iberia S.A.U., Spain
Representative	Marcus Navin-Jones Keller and Heckmann LLP, Belgium
Contested Decision	Decision of 10 August 2017 on the substance evaluation of benzene, mono-C ₁₁ -C ₁₃ -branched alkyl derivatives (BAB) adopted by the European Chemicals Agency pursuant to Article 46 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 Decision was notified to the Appellant through the following annotation number: SEV-D-2114369504-45-01/F

THE CHAIRMAN OF THE BOARD OF APPEAL

gives the following

Decision

1. On 5 November 2017, the Appellant lodged the present appeal requesting the Board of Appeal to annul the Contested Decision, in full or in part. The Contested Decision was adopted by the European Chemicals Agency (the 'Agency') on 10 August 2017 following a substance evaluation of benzene, mono-C₁₁-C₁₃-branched alkyl derivatives (BAB) (the 'Substance'). The Contested Decision requests the Appellant to update its registration dossier with information on an extended one-generation reproductive toxicity study ('EOGRTS') and information relating to a potential concern regarding the persistent, bioaccumulative and toxic ('PBT') properties of the Substance.
2. Between 15 December 2017 and 2 May 2018, the proceedings were stayed by the Board of Appeal following the Agency's requests to that effect.
3. On 9 May 2018, the Agency informed the Board of Appeal that the Executive Director of the Agency had decided to rectify the Contested Decision by withdrawing it in its entirety. In particular, the Executive Director acknowledged that the Contested Decision failed to address some of information provided by the Appellant during the decision-making process.
4. On 17 May 2018, the Appellant stated that it wished to withdraw the present appeal.
5. In accordance with Article 1b 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) 2016/823 (OJ L 137, 26.5.2016, p. 4), 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 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 if the Executive Director of the Agency rectifies a decision in accordance with Article 93(1) of the REACH Regulation.

On those grounds,

THE CHAIRMAN OF THE BOARD OF APPEAL

hereby:

- 1. Closes appeal case A-012-2017.**
- 2. Decides that the appeal fee must be refunded.**

Mercedes ORTUÑO
Chairman of the Board of Appeal

Alen MOČILNIKAR
Registrar of the Board of Appeal