

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

6 May 2021

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

Case number	A-003-2021
Language of the case	English
Appellant	SwissInno Solutions AG, Switzerland
Representatives	Bobby Arash and Anton Karlsson Ramberg Advokater KB, Sweden
Contested Decision	NOT-D-1475099-81-00/F of 17 December 2020, adopted by the European Chemicals Agency pursuant to 17(5) of Commission Delegated Regulation (EU) No 1062/2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1; the 'Review Programme Regulation')

THE CHAIRMAN OF THE BOARD OF APPEAL

gives the following

Decision

1. In case A-014-2017, on 4 April 2019, the Board of Appeal annulled the Agency's decision rejecting a notification submitted by the Appellant under Article 17(1) of the Review Programme Regulation in order to include brandy in the work programme for the systemic examination of all existing active substances contained in biocidal products. The Board of Appeal remitted the case to the competent body of the Agency for re-examination.
2. On 17 December 2020, following a re-examination of the case, the Agency adopted the Contested Decision rejecting the notification as updated by the Appellant.
3. On 17 March 2021, the Appellant filed the present appeal seeking the annulment of the Contested Decision.
4. On 16 April 2021, the Agency informed the Board of Appeal that the Executive Director of the Agency had found the Appellant's right to be heard was not sufficiently respected in the decision-making process leading to the Contested Decision and the reasoning provided in the Contested Decision was insufficient. Therefore, the Executive Director had decided to rectify the Contested Decision by withdrawing it in its entirety pursuant to Article 77(1) of 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, 27.6.2012, p. 1) and 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).
5. On 27 April 2021, the Appellant withdrew its appeal.
6. Pursuant to Article 1b 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), if an appeal is withdrawn the Chairman shall close the proceedings.
7. Pursuant to 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), the appeal fee is to be refunded if a contested decision is rectified.

On those grounds,

THE CHAIRMAN OF THE BOARD OF APPEAL

hereby:

- 1. Closes Case A-003-2021.**
- 2. Decides that the appeal fee is refunded.**

Antoine BUCHET
Chairman of the Board of Appeal

Alen MOČILNIKAR
Registrar of the Board of Appeal