

Announcement of appeal¹

Case	A-001-2009
Appellant	Specialty Chemicals Coordination Center sa/nv, Loncin, Belgium
Appeal received on	16/09/2009
Subject matter	Decision taken pursuant to Article 20 of the REACH Regulation
Contested decision	[‘Confidential’]
Language of the case	English

Form of order sought

The appellant contends that, if the Executive Director does not rectify the contested decision, the Board of Appeal should:

- annul the contested decision and decide that the registration of the substance is complete and issue a registration number or, in the alternative, order the Agency to act to that effect,
- order the Agency to refund the fees,
- order the Agency to bear the cost of the proceedings, and
- take such other or further measures as justice may require.

Pleas in law and main arguments

The appellant argues that the Agency’s decision to reject its registration dossier on the grounds of its incompleteness is unlawful, in particular for reasons of the Agency’s failure to correctly apply Articles 10 and 20(2) of the REACH Regulation, as well as Annex VII thereto.

Firstly, the appellant claims that the Agency’s decision to reject its registration was based on a false premise, that premise being that the appellant submitted a full study report from which a measured parameter, value and unit can be drawn for certain of the properties of the substance, while the information relied upon was not a full study

¹ Announcement published in accordance with Article 6(6) of Regulation (EC) No 771/2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency.

report but a public literature report from which the required information cannot be drawn.

Secondly, the appellant states that there was no legal obligation to insert the valid justification for not providing information on the measured parameter and value in a specific field of the IUCLID dossier as indicated by the Agency in the contested decision.

Thirdly, the appellant submits that it was entitled to rely upon a public record report instead of a full study report for certain properties of the substance and that accordingly relevant information and justifications were submitted.

Consequently, the appellant claims that, contrary to the decision of the Agency, it had provided all the elements required under Article 10 of the REACH Regulation and, in accordance with Article 111 of that Regulation, in the format of a IUCLID dossier.

In subsidiary order the appellant submits that the decision to reject the registration on the ground that some of the information required was included in a different field of the IUCLID file than that indicated in what the appellant considers non-legally binding guidance infringes the principle of proportionality and should therefore be set aside.

Other information:

The Executive Director of the European Chemicals Agency rectified the contested decision on 14/10/2009.

On 15/10/2009 the Chairman of the Board of Appeal decided on the appellant's request to treat certain information as confidential.

Further information

The rules for the appeal procedure and other background information are available on the "Appeals" section of ECHA's website.

http://echa.europa.eu/appeals/app_procedure_en.asp