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# Rules of the Joint Appeals Service

## 01 Basic principles

These Rules govern the organization and activity of the joint Appeals Service of b.i. and BTA. The joint Appeals Service of b.i. and BTA deals with appeals on certification decisions concerning a wide range of labels and standards.

These Rules form part of b.i.'s statutes of 6 June 2008. They are also part of the inspection and certification contract between b.i. and its clients and between BTA and its clients. Further details concerning the joint Appeals Service of b.i. and BTA are laid down in the cooperation agreement between b.i. and BTA.

## 02 Founders

The joint Appeals Service is founded by the two inspection and certification bodies:

### ■ Bio Test Agro AG

Schwand  
3110 Münsingen  
Switzerland  
(hereinafter referred to as BTA)

### ■ bio.inspecta AG

Ackerstrasse 117  
5070 Frick  
Switzerland  
(hereinafter referred to as b.i.)

The founders superintend the joint Appeals Service. They define its rules, constitution and all financial aspects. Other inspection and certification bodies may submit appeals to the joint Appeals Service. In this event a usage agreement is drawn up between the certification body making the request and the Appeals Service.

## 03 Appointment, constitution of the panel

Incoming appeals are dealt with by an independent panel of up to seven members, who form the Appeals Commission. Five members of the Appeals Commission are appointed by the administrative board and general assembly of bio.inspecta AG. Two members of the Appeals Commission are appointed by the administrative board of Bio Test Agro AG. The responsible bodies appoint a Chairperson from the panel members. If the Chairperson is a representative of b.i., the Deputy Chair must be a representative of BTA and vice versa. The appointment is made for a period of three years. The term of office of the b.i. members of the Appeals Commission ends on the day of the next regular general assembly. The term of office of the BTA members of the Appeals Commission ends when the administrative board of BTA holds a new election. Members may resign or be removed from office before their term of office expires. Elections during a term of office are valid until the end of that term. b.i. holds the secretariat of the Appeals Service.

## 04 Eligibility and independence

Appointment of members of the Appeals Service must comply with the principles of independence laid down in EN 45011.

### 04.1 Independence from inspection and certification businesses

The members of the Appeals Commission may be shareholders of b.i. or BTA but they may not be members of the administrative board or employees of the company. They may not carry out any work for these

companies that is not compatible with the activities of the Appeals Commission. They must be independent of the management and steering bodies and of shareholders who control the majority of votes.

## **04.2 Independence from label issuers**

The members of the Appeals Commission must not be members of the management of an association or organization that issues labels or standards.

## **04.3 Independence from inspected / certified businesses**

The members of the Appeals Commission must not be board members, associates or employees of an association or organization whose appeals are judged by the Appeals Commission.

## **04.4 Competence**

The members of the Appeals Commission must be professionally capable of carrying out their duties.

# **05 Tasks and competencies**

## **05.1 Tasks**

### **05.1.1**

The Appeals Commission deals with disputes between producers, processors, traders and their inspection and/or certification company in particular in connection with adherence to laws, statutes, rules and directives and the application of the principle of equal treatment and of market neutrality. In the context of an appeal it reviews the decisions of the certification body. Appeals concerning inspection and certification companies that are not members of the joint Appeals Service can also be considered at any time by the joint Appeals Service.

### **05.1.2**

Where an appeal is lodged on foot of the withdrawal of certification from an operation, the affected party must be granted the right to a hearing. The antecedents as well as the attendant circumstances leading to the withdrawal of certification must be given due consideration in determining the ultimate outcome of the appeal. This is to ensure that proportionality is maintained and damages are appropriate.

### **05.1.3**

Where there are omissions in statutes and standards, the Appeals Commission makes a decision on the basis of its own expertise after discussion with the statute-issuing organization or label issuer. It reports this decision to the organization or label issuer and makes a request for the statutes or standards to be made more precise.

### **05.1.4**

The Appeals Commission promotes transparency by providing regular and accurate information to participating organizations and bodies.

### **05.1.5**

In the event of lack of clarity with regard to the interpretation of BIO SUISSE standards an application can be made to the Label Commission ("Markenkommission"). The right to make such an application is granted by BIO SUISSE.

### **05.1.6**

In the case of decisions in accordance with Demeter standards, the Appeals Commission will first obtain a report from the management of the Verein für Biologisch-dynamische Landwirtschaft (Demeter). The basis of this report is the agreement between the Verein für Biologisch-dynamische Landwirtschaft and bio.inspecta AG.

### **05.1.7**

Once a decision has been made the Appeals Commission authorizes the certification body to carry out the necessary tasks to conclude the appeal (new certificate; notification of label issuers, official bodies etc.).

### **05.1.8**

If a member resigns the Appeals Commission proposes a successor.

## **05.2 Competencies**

### **05.2.1**

For the purpose of assessing the facts of the case the Appeals Commission is empowered to view the inspection and certification documents issued by the certification bodies. The Appeals Commission can order further tests, inspections etc. or arrange for them to be carried out by independent third parties. It can also conduct an unannounced inspection itself. Its measures should be proportionate to the significance of the decision and to the associated costs.

#### 05.2.2

The Appeals Commission has the right to apply to the administrative board of BTA and to the administrative board and general assembly of b.i.

#### 05.2.3

The Appeals Commission can enact additional rules and directives relating to its task areas. Its competencies may not be delegated.

### 05.3 Submission/processing

#### 05.3.1 Submission of appeals to the certification body

The submission deadline, the form in which appeals are to be submitted by appellants and the place to which they should be submitted are laid down between the certification body and its clients.

#### 05.3.2 Processing of appeals by the Appeals Service

Appeals should be dealt with as quickly as possible. The certification bodies are first authorized to reconsider their decision in the light of the arguments contained in the appeal. The Appeals Service should be kept adequately informed of the reconsideration process. Appeals submitted to the Appeals Service should if possible be processed within 60 days.

### 05.4 Decision

The Appeals Commission is independent. It makes its decisions on the basis of the available facts and the applicable statutes/standards in force.

The decision is final. Individual decisions do not bind the Appeals Service in principle.

The right of appeal to an ordinary court or the responsible administrative authority is retained.

### 05.5 Communication of the appeal decision

Reasons for the appeal decision must be stated. The decision will be notified in writing (by registered post) to the appellant. The certification body is authorized to carry out the necessary tasks to conclude the appeal.

### 05.6 Reporting

The Appeals Commission provides the general assembly of b.i., the administrative board of BTA and

upon request the norm-issuing organizations and label issuers with an annual report on its activity.

## 06 Procedure, sessions

### 06.1 Sessions

The Appeals Commission holds sessions depending on the tasks to be dealt with.

### 06.2 Convening, chair, participants

The Commission is convened by the secretariat of the Appeals Service. Any member of the Appeals Service or the Appeals Commission or the president of the administrative board can call for the Commission to be convened, stating the reason for this. At least ten days' notice must be given of a session; this notice is to be given in writing, stating the agenda items. The session is chaired by the chairperson. Representatives of b.i., BTA, the certification bodies, the appellant and the label issuer can if necessary be invited to the session.

### 06.3 Quorum, voting

The Appeals Commission is quorate if four of the seven members are present. Decisions are adopted if they receive a majority of the votes cast. If votes on each side are equal the chairperson has a casting vote. Decisions can also be made by circular vote or by telephone, provided that within ten days of receipt of the relevant application no member has called for the matter to be debated at a session.

### 06.4 Minutes

The minutes kept should provide adequate information on the persons present, the discussion that took place and the decisions reached. In particular the minutes should record the reasons for a decision, the arguments put forward and the numbers of votes for and against; if necessary, working documents can be appended. Decisions by circular vote should be recorded in the next minutes after the decision. The minutes should be signed by the chairperson and by the minutes secretary; they should be presented for approval at the next session. The secretariat of the Appeals Service is in charge of taking the minutes.

## **06.5 Information**

Any member of the Appeals Commission can request information on any matters concerning b.i. or BTA provided that this information has a direct bearing on an appeal case.

## **06.6 Obligation to abstain**

In the event of possible conflicts of interest, members of the Appeals Commission must refrain from taking part in the proceedings. Possible conflicts of interest are matters affecting the member him/herself or natural or legal persons – such as direct relatives, relatives by marriage<sup>1)</sup> or business partners – with whom s/he has a direct relationship. This applies also to appeals against decisions in which the member has in any way played a direct part.

## **06.7 Confidentiality, return of documents**

The members of the Appeals Service, the Appeals Commission and the secretariat must maintain confidentiality in dealings with third parties in respect of information to which they have access in the course of their duties. Business documents must be returned no later than at the end of their period of office.

## **07 Compensation – apportionment of costs**

The level of compensation for the Appeals Commission must be approved by the management of b.i. and BTA. The details of compensation are laid down in the cooperation agreement between b.i. and BTA.

The method of apportioning the costs of the Appeals Commission and the Appeals Service secretariat is also laid down in the cooperation agreement between b.i. and BTA.

## **08 Concluding provisions**

### **08.1 Revision and amendment**

These rules are to be reviewed and if necessary amended at the commencement of every term of office. The term of office is three years.

### **08.2 Entry into force**

These rules enter into force after approval by the administrative board of BTA, the administrative board of b.i. and the general assembly of bio.inspecta AG of 6 June 2008.

The joint Appeals Service commences its activity as of 9 June 2008.

<sup>1)</sup> Relatives and relatives by marriage are defined in the Swiss Civil Code (ZGB), articles 20 and 21