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**BIO TEST AGRO AG**

# 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

Erlenauweg 17  
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

An independent expert committee of a maximum of nine members (including three for the international area), the Appeals Commission, handles the incoming appeal cases. The members can be appointed depending on the focus of the topic to be dealt with. The International b.i. departement requires people with different competences than in Switzerland. Accordingly, the committee can meet in different compositions. Four members of the Appeals Committee for the national sector and three members for the international sector are elected by the b.i. management. Two members of the Appeals Committee are elected by the Board of Directors 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 members can be re-elected. There is no limit to the number of re-elections. 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.

If a member resigns the Appeals Commission proposes a successor.

## 04 Eligibility and independence

When selecting the members of the Appeals Committee, care must be taken to ensure independence and impartiality in accordance with ISO 17065.

### 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 Committee must be professionally qualified to fulfil their task. Accordingly, members of the committee with experience in the relevant standards are consulted.

## 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.).

## 05.2 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 the management boards of b.i. and BTA respectively. Its competencies may not be delegated.

### 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 of the certification body is final for customers in Switzerland. For clients of b.i. International, the final decision is made by the management of b.i. The right to appeal to an ordinary court or the competent administrative authorities remains reserved.

## 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 Committee forwards the decisions to the bodies involved promptly after the decision has been made.

# 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 Committee, the Chairman of the Board of Directors or the Management may request that a meeting be convened, stating the purpose of the meeting. 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. However, this can also be delegated. 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 Committee is quorate if at least a quorum of the members for the national/international area is 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. The Swiss Federal Act on Data Protection (FADP) and, where relevant, the EU General Data Protection Regulation (GDPR) must be complied with by members at all times.

## 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 and the administrative board of b.i. of 29 February 2024.

The joint Appeals Service began 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