



# Disputes Procedure

GMP+ A 4

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**GMP+ Feed Certification scheme**



## History of the document

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# 1. Introduction

## 1.1. General

The GMP+ Feed Certification scheme was initiated and developed in 1992 by the Dutch feed industry in response to various more or less serious incidents involving contamination in feed materials. Although it started as a national scheme, it has developed to become an international scheme that is managed by GMP+ International in collaboration with various international stakeholders.

Even though the GMP+ Feed Certification scheme originated from a feed safety perspective, in 2013 the first feed responsibility standard has been published. For this purpose, two modules are created: GMP+ Feed Safety Assurance (focussed on feed safety) and GMP+ Feed Responsibility Assurance (focussed on responsible feed).

GMP+ Feed Safety Assurance is a complete module with standards for the assurance of feed safety in all the links of the feed chain. Demonstrable assurance of feed safety is a 'license to sell' in many countries and markets and participation in the GMP+ FSA module can facilitate this excellently. Based on needs in practice, multiple components have been integrated into the GMP+ FSA standards, such as requirements for a feed safety management system, for application of HACCP principles, for traceability, monitoring, prerequisites programmes, chain approach and the Early Warning System.

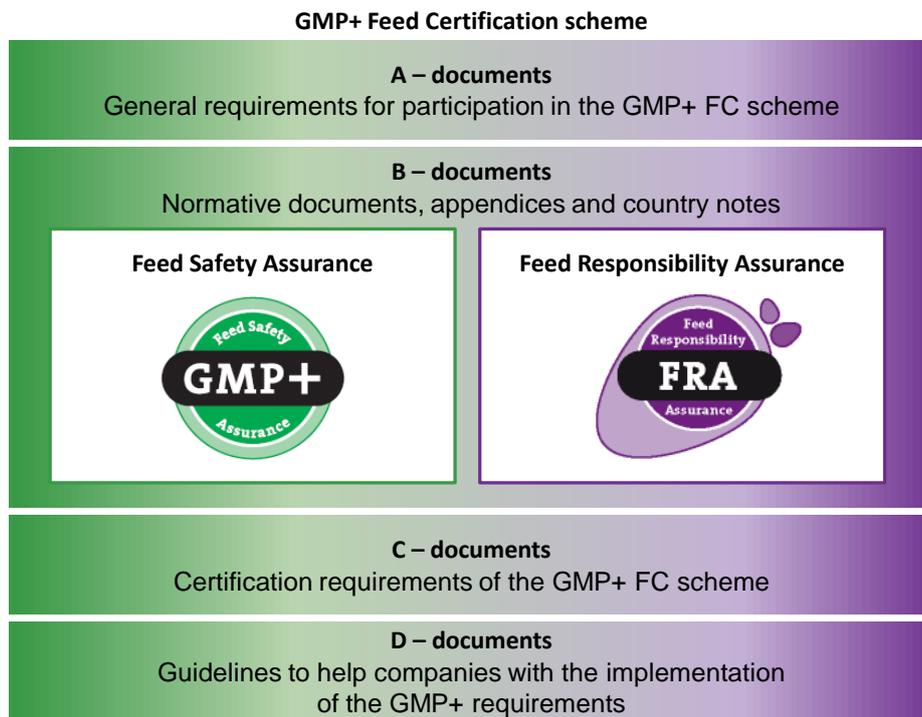
With the development of the GMP+ Feed Responsibility Assurance module, GMP+ International is responding to requests from GMP+ participants. The animal feed sector is confronted with requests to operate more responsible. This includes, for example, the sourcing of soy and fishmeal which are produced and traded with respect for humans, animals and the environment. In order to demonstrate responsible production and trade, a company can get certified for the GMP+ Feed Responsibility Assurance. GMP+ International facilitates via independent certification the demands from the market.

Together with the GMP+ partners, GMP+ International transparently lays down clear requirements in the Feed Certification scheme. Certification bodies are able to carry out GMP+ certification independently.

GMP+ International supports the GMP+ participants with useful and practical information by way of a number of guidance documents, databases, newsletters, Q&A lists and seminars.

## 1.2. Structure of the GMP+ Feed Certification scheme

The documents within the GMP+ Feed Certification scheme are subdivided into a number of series. The next page shows a schematic representation of the content of the GMP+ Feed Certification scheme:



All these documents are available via the website of GMP+ International ([www.gmpplus.org](http://www.gmpplus.org)).

This document is referred to as GMP+ A4 *Disputes Procedure* and is part of the GMP+ FC scheme.

## 2. Definitions

2.1 In addition to the definitions and abbreviations mentioned in GMP+ A1 *General Regulations* and GMP+ A2 *Definitions and Abbreviations*, the following are applicable too:

- a. Applicant : A Participant or Certification Body who initiates the Disputes Procedure.
- b. Application : An application as set out in section 5 of the Rules.
- c. Binding Advice : The binding decision by the Disputes Committee.
- d. Chairman : The Chairman of the DRC.
- e. GMP+ International : GMP+ International B.V.
- f. DRC : The GMP+ International disputes resolution committee as set out in section 3 of the Rules.
- g. Disputes Committee : The committee appointed in each dispute between a Participant and a certification Body as set out in section 3 of the Rules.
- h. Disputes Procedure : A disputes procedure initiated under these Rules.
- i. Party(ies) : The Participant and the Certification Body involved in the Disputes Procedure
- j. Respondent : A Participant or Certification Body against whom an Application is instigated.
- k. Rules : The rules of the DRC contained in this document GMP+ A4 *Disputes Procedure* forming part of the GMP+ FC scheme.
- l. Secretary : The secretary of the DRC.

### 3. DRC and Disputes Committee; Composition and Challenge

- 3.1 There is a DRC, having its seat at the office of GMP+ International.
- 3.2 The DRC consists of at minimum seven independent members who are appointed by GMP+ International. GMP+ International will appoint a Chairman and at least one Deputy Chairman both of whom must have a Master of Laws degree. The honorarium of the members, Chairman and Deputy Chairman will be decided by GMP+ International.
- 3.3 Each dispute between a Participant and a Certification Body referred to the DRC will be handled by a Disputes Committee consisting of three members of the DRC (including the Chairman (or the Deputy Chairman)) appointed by the Chairman (or the Deputy Chairman).
- 3.4 GMP+ International appoints a Secretary, who must have a Master of Laws degree. The Secretary advises and assists the DRC and the Disputes Committee and attends all meetings and hearings. The Secretary has no voting rights. The honorarium of the Secretary will be decided by GMP+ International.
- 3.5 Either Party may challenge the membership of one or more of members of the Disputes Committee, in the event of facts or circumstances in relation to such member or members which could hamper an impartial decision in the dispute.
- 3.6 The challenging Party must file its challenge, stating the facts and circumstances, to the Disputes Committee in writing, with a copy to the other Party, within 14 days after becoming aware of such facts or circumstances.
- 3.7 The Disputes Committee may decide to suspend the Dispute Procedure as from the day of receipt of challenge.
- 3.8 In the event the challenged member of the Disputes Committee has not withdrawn himself within 14 days after having received the challenge, the challenge shall be decided upon by a committee consisting of at least three remaining members of the DRC. The committee deciding upon the challenge shall decide within 14 days after having received the challenge. The decision in writing shall be send to the Parties and the challenged member by the Secretary.
- 3.9 In the event of a successful challenge, the challenged member(s) shall be replaced by another member from the DRC. In the event a member is successfully challenged after the hearing as set out in section 7.3 of the Rules, the Disputes Procedure shall be started de novo to the extent that a new hearing as set out in section 7.3 of the Rules shall be scheduled.

## 4. Scope and Admissibility

- 4.1 Subject to the terms and conditions as set out in these Rules, these Rules apply to disputes between a Participant and a Certification Body.
- 4.2 The DRC has jurisdiction to resolve a dispute between a Participant and a Certification Body by means of Binding Advice.
- 4.3 An Application will be deemed inadmissible by the Disputes Committee if one or more of the following conditions apply:
- i) if prior or pending the Disputes Procedure the dispute has been or is referred to a court;
  - ii) if prior to the Application the dispute has not been referred to the disputes committee of the Certification Body not having resulted in a written decision by the disputes committee of the Certification Body;
  - iii) if the dispute does not arise out or is not in connection with the interpretation of the GMP+ scheme;
  - iv) if the Application has not been filed to the Secretary within 6 weeks following the date of the disputed decision, or, in the event the dispute concerns a request or demand for an action to be taken, if the Application has not been filed to the Disputes Committee within 3 months following the date of such request or demand, except in the event the Applicant sufficiently demonstrates that not meeting such deadlines was not his fault;
  - v) if the Applicant has not paid the Deposit within 21 days following the date of the Application, as further set out in section 5 of the Rules.

## 5. Initiating the Dispute Procedure

- 5.1 A dispute is initiated by submitting the Application in sixfold by registered mail to the Secretary. The address details of the Secretary are published on the website of GMP+ International ([www.gmpplus.org](http://www.gmpplus.org)).
- 5.2 An Application should be in writing and at minimum include the following information:
- i) the names and address (including e-mail) details of the Parties in the dispute;
  - ii) a clear description of the facts and circumstances of the dispute;
  - iii) reference to and attaching the written decision by the disputes committee of the Certification Body;
  - iv) a clear description of the claim including the remedy sought.
- 5.3 If applicable the Application should include copies of relevant documentation, clearly attached and numbered as annexes to the Application.
- 5.4 In the event the Disputes Committee deems the Application incomplete, the Disputes Committee will grant the Applicant a period as determined by the Disputes Committee to correct such incompleteness. In the event the Applicant fails to correct such incompleteness within such period the Disputes Committee will deem the Application inadmissible.
- 5.5 An Application deemed incomplete by the Disputes Committee will not be deemed admissible by the Disputes Committee.

## 6. Deposit

- 6.1 The Applicant must within 21 days following the date of the Application pay to GMP+ International a Deposit of EUR 3,000 (three thousand Euro) or an amount to be determined by the DRC in a given case given the complexity of the dispute. In addition to the Deposit, the Disputes Committee can request the Applicant to pay additional deposit(s) pending the Disputes Procedure. The details of GMP+ International's bank account are published on GMP+ International's website ([www.gmpplus.org](http://www.gmpplus.org)).
- 6.2 In the event the Applicant fails to pay the Deposit or the additional deposit within 21 days following the date of the Application or the request of the Disputes Committee respectively, the Disputes Committee will deem the Application inadmissible.
- 6.3 Depending on the outcome of the Disputes Procedure, the Deposit and the additional deposit shall either be off set against the costs of the Disputes Committee as set out in section 8.4 of the Rules, or refunded by GMP+ International to the Applicant within 4 weeks following the date of the Binding Advice.

## 7. Procedure

- 7.1 The Secretary shall inform the Parties of receipt of the Application, shall provide the Respondent with a copy of the application and shall inform Parties of the members of the Disputes Committee handling the dispute.
- 7.2 The Respondent must within 4 weeks following the date of the Secretary's letter as set out in section 7.1 of the Rules file a written statement of defence in fivefold to the Secretary. The Respondent must simultaneously send a copy of its statement of defence to the Applicant.
- 7.3 Upon receipt of the Respondent's statement of defence, the Secretary will inform the Parties of the date and time for a hearing during which the Parties may explain their positions verbally and the Disputes Committee may ask the Parties to further clarify their positions. The hearing will be held behind closed doors.
- 7.4 The Disputes Committee is entitled to, at its own initiative or at the Parties' request, decide to call witnesses or expert witnesses. The Disputes Committee shall notify Parties if it decides to call witnesses or expert witnesses. Parties are allowed to be present when the witnesses or expert witnesses are examined by the Disputes Committee. Parties can cross-examine the witness or expert witness. The Disputes Committee will provide a copy of the witness report to the Parties.
- 7.5 Parties may be represented in the dispute by a representative or lawyer. Parties shall notify the Disputes Committee as soon as possible of the appointment of such representative by providing a duly signed power of attorney or letter of engagement to this extent to the Disputes Committee.

## 8. Binding Advice and Allocation of Costs

- 8.1 The Disputes Committee will resolve the dispute by issuing a Binding Advice. The Secretary will send the Binding Advice to the Parties as soon as possible.
- 8.2 The Binding Advice will include in addition to the binding decision itself:
- a. the names and domicile of the members of the Disputes Committee handling the dispute;
  - b. the names and address details of the Parties;
  - c. the date of the Binding Advice;
  - d. the jurisdiction of the Disputes Committee;
  - e. the admissibility of the Application;
  - f. the grounds for the decision; and
  - g. a decision on the costs of the Disputes Procedure.
- 8.3 Each Party bears its own costs including costs in relation to representation and/or other advice in relation to the dispute.
- 8.4 The unsuccessful Party will bear the costs of the Disputes Committee in the Disputes Procedure, except in special events at the Disputes Committee's discretion. If each of the Parties is partially unsuccessful, the Disputes Committee may divide all or part of the costs of the Disputes Procedure pro rata at the Disputes Committee's discretion.
- 8.5 The costs of the Disputes Committee in the Disputes Procedure shall include the honorarium and expenses of the Disputes Committee's members, (Deputy) Chairman and the Secretary and expenses of their meetings. A Party bearing the costs of the Disputes Committee in the Disputes Procedure in part or in full is required to pay such costs to GMP+ International, if applicable off set against the Deposit and additional deposit, within 30 days upon receipt of the invoice the full amount of the invoice to GMP+ International.

## 9. Correction of the Binding Advice

- 9.1 In the event of a manifest error in writing in the Binding Advice,
- a. A Party may within two months of the date of issuance of the Binding Advice, request the Disputes Committee to correct such error. Such request should be in writing and directed to the Secretary. Upon receipt of such receipt the Secretary will send a copy of such request to the other Party.
  - b. The Disputes Committee may within two months of the date of issuance of the Binding Advice, at its own initiative proceed with correcting such error.
  - c. Before the Disputes Committee decides on a request as set out in section 9.1 a) of the Rules, or proceeds with correcting as set out in section 9.1 b) of the Rules, Parties may express their opinion thereon.
  - d. In the event the Disputes Committee proceeds with correcting such error, it will issue a separate document detailing (i) the Binding Advice which is corrected, (ii) the correction, and (iii) the date of correction. The separate document is deemed to form an integral part of the Binding Advice.
  - e. The Secretary shall send a copy of the document as set out in section 9.1 d) of these Rules to the Parties as soon as practically possible.
  - f. In the event the Disputes Committee rejects the request to correct the Binding Advice, the Secretary will inform Parties in writing of such decision.

## 10. Miscellaneous

- 10.1 All documents and information in relation to the dispute, including the hearing, shall be in the English language, unless the Disputes Committee decides otherwise.
- 10.2 The Disputes Committee's members are required to observe confidentiality and shall not make available to third parties any information in relation to the dispute.
- 10.3 GMP+ International shall be allowed to at its discretion make public an anonymous version of the Binding Advice
- 10.4 To the fullest extent permitted under Dutch law, neither GMP+ International, its employees and officers, the DRC and its members, the Secretary, nor any third parties, agents and individuals engaged by any of them, will be liable towards the Parties, or any third parties, for any claims, losses, costs, or damages whatsoever, whether direct or indirect, arising out or in connection with a Disputes Procedure under these Rules.
- 10.5 Any events or decisions not covered by these Rules will be decided upon by the Disputes Committee taking into account the principles of fairness and reasonableness.

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