

ANNEX E

Seeds (Art. 11)

ARTICLE 1

Scope

This Annex applies to seeds of agricultural species covered by the legal acts listed in Appendix 1.

ARTICLE 2

Recognition of conformity of laws and regulations

1. The Member States hereby recognise that the requirements laid down in the legal acts referred to in Section 1 of Appendix 1 hereto have the same effects.
2. Seeds of the species defined in the legal acts referred to in paragraph 1 may be traded between the Member States and freely marketed in the territory of the Member States, without prejudice to Articles 6 and 7. The only document required as certification of compliance with the respective laws and regulations of the Member States shall be the label or any other document required for marketing under the said laws and regulations.
3. The bodies responsible for conformity checks shall be listed in Appendix 2.

ARTICLE 3

Mutual recognition of certificates

1. The Member States shall recognise, as regards seeds of the species covered by the legal acts referred to in Section 2 of Appendix 1, certificates as defined in paragraph 2 that have been drawn up in accordance with the laws and regulations of the other Member States by the bodies listed in Appendix 2.
2. For the purposes of paragraph 1, “certificate” means the documents required under the respective laws and regulations of the Member States applicable to imports of seeds covered by the legal acts listed in Section 2 of Appendix 1.

ARTICLE 4

Approximation of laws

1. The Member States shall endeavor to approximate their laws and regulations on the marketing of seeds of the species covered by the legal acts listed in Section 2 of Appendix 1 and of species that are not covered by the legal acts listed in Sections 1 and 2 of Appendix 1.
2. Where any Member State adopts new legislative provisions, the Member States undertake to assess the possibility of extending the scope of this Annex to include the new sector.
3. Where any Member State amends legislative provisions concerning a sector covered by this Annex, the Member States undertake to assess the consequences of such amendment.

ARTICLE 5

Committee on seeds

1. The Council shall establish a Committee on seeds (hereinafter the "Committee") which shall consider any matter which may arise in connection with this Annex.
2. The Committee shall periodically consider the state of the laws and regulations of the Member States in the fields covered by this Annex.
3. The Committee may in particular recommend to the Council to amend the provisions of the Appendices.

ARTICLE 6

Varieties

1. The Member States shall permit in their territory the marketing of seeds of the varieties listed in the common catalogue of the European Community provided they are covered by the legal acts listed in section 1 of Appendix 1.
2. Paragraph 1 shall not apply to genetically modified varieties.
3. The Member States shall inform each other of applications, and withdrawals of applications, for acceptance, and of the registration of new varieties in a national catalogue and any amendments thereto. They shall provide each other on request with a brief description of the chief characteristics relating to the use of each new variety and the characteristics by which a variety can be distinguished from other known varieties.

Each Member State shall keep files at the disposal of the other Member States containing a description of each accepted variety and a clear summary of all the grounds on which such acceptance is based. In the case of genetically modified varieties, the Member States shall inform each other of the results of risk assessments for the release of such varieties into the environment.

4. The Member States may hold technical consultations with a view to assessing the data on which acceptance of a given variety is based in any Member State. Where appropriate, the Committee shall be kept informed of the results of such consultations.

5. The Member States shall use existing computerised information exchange systems or such systems to be developed to facilitate the exchange of information as referred to in paragraph 3.

ARTICLE 7

Derogations

1. The Member States shall inform each other of any derogations on the marketing of seeds that they intend to implement in their territory or in part thereof. In the case of derogations of short duration or which must enter into force immediately, ex-post notification shall suffice.

2. Without prejudice to Paragraph 1 of Article 6, a Member State may decide to prohibit in its territory the marketing of seeds of accepted varieties in the common catalogue of the European Community.

3. Paragraph 2 shall apply in cases provided for in the legal acts referred to in Section 1 of Appendix 1.

4. Any Member State may have recourse to paragraph 2:

- (a) within three years following the entry into force of this Annex, in the case of varieties listed in the common catalogue of the European Community prior to the entry into force of this Annex;
- (b) within three years following the receipt of the information referred to in paragraph 3 of Article 6, in the case of varieties entered in the common catalogue of the European Community after the entry into force of this Annex.

5. Paragraph 4 shall apply by analogy to varieties of the species covered by legal acts added, pursuant to Article 4, to the list in Section 1 of Appendix 1 after the entry into force of this Annex.

6. The Member States may hold technical consultations with a view to assessing the implications for this Annex of derogations referred to in paragraphs 1 to 3.

ARTICLE 8

Third States

1. Without prejudice to Article 10, this Annex shall also apply to seeds marketed in a Member State and originating in a State other than a Member State and recognised by all the Member States.
2. The list of third States referred to in paragraph 1, the species concerned and the scope of such recognition are set out in Appendix 3.

ARTICLE 9

Comparative trials

1. Comparative trials can be held with a view to ex-post checks of samples of seeds taken from batches marketed in the Member States.
2. The Committee shall assess the organisation of comparative trials in the Member States.

ARTICLE 10

Agreements with third States

The Member States agree that agreements on mutual recognition concluded by any Member State with any third State may under no circumstances give rise to any obligation on the other Member States to accept reports, certificates, authorisations or marks issued by the conformity assessment bodies of such third States, except where the Member States have agreed thereto.

APPENDIX 1

Legislation

Section 1 (recognition of conformity of legislation)

A. LEGAL ACTS APPLICABLE TO THE EEA EFTA STATES:

National regulations introduced pursuant to the following acts, as incorporated in the EEA Agreement:

1. Basic legislation

Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed (OJ L 125, 11.7.1966, p. 2309/66), as last amended by Directive 96/72/EC (OJ L 304, 27.11.1996, p. 10).

Council Directive 70/457/EEC of 29 September 1970 on the common catalogue of varieties of agricultural plant species (OJ L 225, 12.10.1970, p. 1), as last amended by the Act of Accession of 1994.

2. Implementing provisions¹

Commission Directive 72/180/EEC of 14 April 1972 determining the characteristics and minimum conditions for examining agricultural varieties (OJ L 108, 8.5.1972, p. 8).

Commission Directive 74/268/EEC of 2 May 1974 laying down special conditions concerning the presence of 'Avena fatua' in fodder plant and cereal seed (OJ L 141, 24.5.1974, p. 19), as last amended by Directive 78/511/EEC (OJ L 157, 15.6.1978, p. 34).

Commission Decision 80/755/EEC of 17 July 1980 authorising the indelible printing of prescribed information on packages of cereal seed (OJ L 207, 9.8.1980, p. 37), as last amended by Decision 81/109/EEC (OJ L 64, 11.3.1981, p. 13).

Commission Decision 81/675/EEC of 28 July 1981 establishing that particular sealing systems are 'non-reusable systems' within the meaning of Council Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 69/208/EEC and 70/458/EEC (OJ L 246, 29.8.1981, p. 26), as last amended by Decision 86/563/EEC (OJ L 327, 22.11.1986, p. 50).

¹ Where applicable, only with regard to cereal seed.

B. LEGAL ACTS APPLICABLE TO SWITZERLAND²:

Federal Law of 29 April 1998 on agriculture (RO 1998 3033).

Ordinance of 7 December 1998 on the production and entry into free circulation of plant propagating material (RO 1999 420).

Ordinance of the Swiss Federal Department of Economy of 7 December 1998 on seeds and seedlings of species of arable crops and fodder plants (RO 1999 781).

Ordinance of the Swiss Federal Office for Agriculture on the catalogue of varieties of cereals, potatoes, fodder plants and hemp (RO 1999 429).³

Section 2 (mutual recognition of certificates)

A. LEGAL ACTS APPLICABLE TO THE EEA EFTA STATES:

National regulations introduced pursuant to the following acts, as incorporated in the EEA Agreement:

1. Basic legislation

Council Directive 66/400/EEC of 14 June 1966 on the marketing of beet seed (OJ L 125, 11.7.1966, p. 2290/66), as last amended by Council Directive 96/72/EC (OJ L 304, 27.11.1996, p. 10).

Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed (OJ L 125, 11.7.1966, p. 2298/66), as last amended by Council Directive 96/72/EC (OJ L 304, 27.11.1996, p. 10).

Council Directive 69/208/EEC of 30 June 1969 on the marketing of seed of oil and fiber plants (OJ L 169, 10.7.1969, p. 3), as last amended by Council Directive 96/72/EC (OJ L 304, 27.11.1996, p. 10).

2. Implementing provisions⁴

Commission Directive 75/502/EEC of 25 July 1975 limiting the marketing of seed of smooth-stalk meadowgrass (*Poa pratensis* L.) to seed which has been officially certified 'basic seed' or 'certified seed' (OJ L 228, 29.8.1975, p. 26).

² Local varieties authorised for marketing in Switzerland are not covered.

³ Where applicable, only with regard to cereal.

⁴ Where applicable, excluding cereal seed.

Commission Decision 81/675/EEC of 28 July 1981 establishing that particular sealing systems are 'non-reusable systems' within the meaning of Council Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 69/208/EEC and 70/458/EEC (OJ L 246, 29.8.1981, p. 26), as last amended by Decision 86/563/EEC (OJ L 327, 22.11.1986, p. 50).

Commission Directive 86/109/EEC of 27 February 1986 limiting the marketing of seed of certain species of fodder plants and oil and fiber plants to seed which has been officially certified as 'basic seed' or 'certified seed' (OJ L 93, 8.4.1986, p. 21), as last amended by Directive 91/376/EEC (OJ L 203, 26.7.1991, p. 108).

Commission Decision 87/309/EEC of 2 June 1987 authorising the indelible printing of prescribed information on packages of seed of certain fodder plant species (OJ L 155, 16.6.1987, p. 26), as last amended by Decision 97/125/CE (OJ L 48, 19.2.1997, p. 35).

Commission Decision 92/195/EEC of 17 March 1992 on the organisation of a temporary experiment under Council Directive 66/401/EEC on the marketing of fodder plant seed with regard to increasing the maximum weight of a lot (OJ L 88, 3.4.1992, p. 59), as last amended by Decision 96/203/EC (OJ L 65, 15.3.1996, p. 41).

B. LEGAL ACTS APPLICABLE TO SWITZERLAND:

Federal Law of 29 April 1998 on agriculture (RO 1998 3033).

Ordinance of 7 December 1998 on the production and entry into free circulation of plant propagating material (RO 1999 420).

Ordinance of the Swiss Federal Department of Economy of 7 December 1998 on seeds and seedlings of species of arable crops and fodder plants (RO 1999 781).

Catalogue of seeds of the Swiss Federal Department of Economy of 6 June 1974, as last amended on 7 December 1998 (RO 1999 408).

C. CERTIFICATES REQUIRED FOR IMPORTS:

Official EC or OECD packaging labels issued by the bodies listed in Appendix 2 to this Annex and orange or green ISTA certificates or similar seed analysis certificates for each batch of seed.

APPENDIX 2

Seed inspection and certification bodies

ICELAND	Ministry of Agriculture Sölvhólsögötu 7, 4 th floor 150 Reykjavík
LIECHTENSTEIN	Service des Semences et Plants RAC Changins Nyon Dienst für Saat- und Pflanzgut FAL Reckenholz Zürich
NORWAY	Norwegian Agricultural Inspection Service Moerveien 12 1430 Ås
SWITZERLAND	Service des Semences et Plants RAC Changins Nyon Dienst für Saat- und Pflanzgut FAL Reckenholz Zürich

APPENDIX 3

List of third States

Recognition is based on Council Decision 95/514/EC (OJ L 296, 9.12.1995, p. 34), as last amended by Decision 98/162/EC (OJ L 53, 24.2.1998, p. 21), for field inspections of seed-producing crops and seeds produced, and on Council Decision 97/788/EC (OJ L 322, 25.11.1998, p. 39) for checks on practices for the maintenance of varieties.

ARGENTINA
AUSTRALIA
AUSTRIA
BELGIUM
BULGARIA
CANADA
CHILE
CROATIA
CZECH REPUBLIC
DENMARK
FINLAND
FRANCE
GERMANY
GREECE
HUNGARY
IRELAND
ISRAEL
ITALY
LUXEMBOURG
MOROCCO
NETHERLANDS
NEW ZEALAND
POLAND
PORTUGAL
ROMANIA
SLOVAKIA
SLOVENIA
SOUTH AFRICA
SPAIN
SWEDEN
TURKEY
UNITED KINGDOM
UNITED STATES OF AMERICA
URUGUAY