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 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


1 Replaced by Council Decision No 3 of 2012 of 2 July 2012 (e.i.f. 2 July 2012)
2. Implementing provisions²


² Where applicable, only with regard to cereal seed.


Commission Decision 2004/842/EC of 1 December 2004 concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted (OJ L 362, 9.12.2004, p. 21–27).


Commission Directive 2008/124/EC of 18 December 2008 limiting the marketing of seed of certain species of fodder plants and oil and fibre plants to seed which has been officially certified as basic seed or certified seed (OJ L 340, 19.12.2008, p. 73–75).


B. LEGAL ACTS APPLICABLE TO SWITZERLAND:


Ordinance of 7 December 1998 on the production and entry into free circulation of plant propagating material, as last amended on 25 May 2011 (RO 2011 2399).

Ordinance of the Swiss Federal Department of Economy of 7 December 1998 on seeds and seedlings of species of arable crops and fodder plants as well as vegetable species, as last amended on 7 June 2010 (RO 2010 2763).

Ordinance of the Swiss Federal Office for Agriculture of 7 December 1998 on the catalogue of varieties of cereals, potatoes, fodder plants, oil- and fibre plants and beet, as last amended on 14 May 2012, (RO 2012 2835).3

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


2. Implementing provisions


4 Where applicable, excluding cereal seed.


Commission Directive 2009/145/EC of 26 November 2009 providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties (OJ L 312, 27.11.2009, p. 44–54).

B. LEGAL ACTS APPLICABLE TO SWITZERLAND:


Ordinance of 7 December 1998 on the production and entry into free circulation of plant propagating material, as last amended on 25 May 2011 (RO 2011 2399).

Ordinance of the Swiss Federal Department of Economy of 7 December 1998 on seeds and seedlings of species of arable crops and fodder plants as well as vegetable species, as last amended on 7 June 2010 (RO 2010 2763).
Ordinance of the Swiss Federal Office for Agriculture of 7 December 1998 on the catalogue of varieties of cereals, potatoes, fodder plants, oil- and fibre plants and beet, as last amended on 14 May 2012 (RO 2012 2835).³

C. CERTIFICATES REQUIRED FOR IMPORTS:

Official EU 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\(^5\)

**National authorities responsible for the implementation of the legislation**

<table>
<thead>
<tr>
<th>Country</th>
<th>Authority</th>
<th>Address</th>
<th>Telephone</th>
<th>Telefax</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICELAND</td>
<td>Ministry of Fisheries and Agriculture</td>
<td>Skulagata 4, IS-150 Reykjavík</td>
<td>+354 545 8300</td>
<td>+354 552 1160</td>
</tr>
<tr>
<td>LIECHTENSTEIN</td>
<td>Office Fédéral de l’Agriculture</td>
<td>Service des semences et plants CH-3003 Berne</td>
<td>+41 31 322 25 50</td>
<td>+41 31 322 26 34</td>
</tr>
<tr>
<td>NORWAY</td>
<td>Norwegian Food Safety Authority</td>
<td>Felles postmottak Postboks 383 N-2381 Brumunddal</td>
<td>+47 23 21 68 00</td>
<td>+47 23 21 68 01</td>
</tr>
<tr>
<td>SWITZERLAND</td>
<td>Office Fédéral de l’Agriculture</td>
<td>Service des semences et plants CH-3003 Berne</td>
<td>+41 31 322 25 50</td>
<td>+41 31 322 26 34</td>
</tr>
</tbody>
</table>

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\(^5\) Replaced by Council Decision No 3 of 2012 of 2 July 2012 (e.i.f. 2 July 2012)

E/II/1
APPENDIX 3

List of third States


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

\(^6\) Replaced by Council Decision No 3 of 2012 of 2 July 2012 (e.i.f. 2 July 2012)