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Delegations will find attached document D067752/03 ANNEX.

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ANNEX

ANNEX

to the

Commission Regulation

**amending Regulation (EC) No 852/2004 of the European Parliament and of the Council
on the hygiene of foodstuffs as regards food allergen management, redistribution of food
and food safety culture**

ANNEX

(1) Annex I to Regulation (EC) No 852/2004 is amended as follows:

In Part A, Section II, the following point 5a is inserted:

'5a. Equipment, conveyances and/or containers used for the harvesting, transport or storage of one of the substances or products causing allergies or intolerances, referred to in Annex II to Regulation (EU) No 1169/2011, shall not be used for the harvesting, transport or storage of any food not containing that substance or product, unless the equipment, conveyances and/or containers have been cleaned and checked at least for the absence of any visible debris of that substance or product.'

(2) Annex II to Regulation (EC) No 852/2004 is amended as follows:

(a) The introduction is replaced by the following:

'INTRODUCTION

Chapters V, Va, VI, VII, VIII, IX, X, XI, XIa and XII apply to all stages of production, processing and distribution of food. The remaining Chapters apply as follows:

- Chapter I applies to all food premises, except premises to which Chapter III applies;
- Chapter II applies to all rooms where food is prepared, treated or processed, except dining areas and premises to which Chapter III applies;
- Chapter III applies to those premises listed in the heading of that Chapter;
- Chapter IV applies to all transportation;'

(b) The following Chapter Va is inserted after Chapter V:

' CHAPTER Va

Redistribution of food

Food business operators may redistribute food for the purpose of food donation subject to the following conditions:

- (1) Food business operators shall routinely check if food under their responsibility is not injurious to health and is fit for human consumption in accordance with Article 14(2) of Regulation (EC) No 178/2002¹. If the check carried out is satisfactory, food business operators may redistribute food in accordance with point (2):
- for food for which a 'use by' date is applied in accordance with Article 24 of Regulation (EU) No 1169/2011, before the expiry of that date;
 - for food for which a date of minimum durability is applied in accordance with Article 2(2)(r) of Regulation (EU) No 1169/2011, up to and after that date, or,
 - for food for which a date of minimum durability is not required in accordance with point 1(d) of Annex X to Regulation (EU) No 1169/2011, at any time provided.

¹ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1)

- (2) Food business operators handling food referred to in point 1, shall assess if food is not injurious to health and fit for human consumption by taking into account at least the following:
- the date of minimum durability or the ‘use by’ date, ensuring sufficient remaining shelf-life left to allow for the safe redistribution and use by the final consumer;
 - the integrity of the packaging, when applicable;
 - the proper storage and transport conditions, including applicable temperature requirements;
 - the date of freezing in accordance with point 2(b) of Section IV of Annex II to Regulation (EC) No 853/2004 of the European Parliament and of the Council², when applicable;
 - the organoleptic conditions;
 - the assurance of traceability in accordance with Commission Implementing Regulation (EU) No 931/2011³, in case of products of animal origin.’

(c) In Chapter IX, the following point 9 is inserted:

‘9 Equipment, conveyances and/or containers used for the processing, handling, transport or storage of one of the substances or products causing allergies or intolerances, referred to in Annex II to Regulation (EU) No 1169/2011, shall not be used for the processing, handling, transport or storage of any food, not containing that substance or product, unless the equipment, conveyances and/or containers have been cleaned and checked at least for the absence of any visible debris of that substance or product.’

(d) The following Chapter XIa is inserted after Chapter XI:

‘CHAPTER XIa

Food Safety Culture

1. Food business operators shall establish, maintain and provide evidence of an appropriate food safety culture by fulfilling the following requirements:
 - (a) commitment of the management, in accordance with point 2, and all employees to the safe production and distribution of food;
 - (b) leadership towards the production of safe food and to engage all employees in food safety practices;
 - (c) awareness of food safety hazards and of the importance of food safety and hygiene by all employees in the business;
 - (d) open and clear communication between all employees in the business, within an activity and between consecutive activities, including communication of deviations and expectations;

² Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55)

³ Commission Implementing Regulation (EU) No 931/2011 of 19 September 2011 on the traceability requirements set by Regulation (EC) No 178/2002 of the European Parliament and of the Council for food of animal origin (OJ L 242, 20.9.2011, p. 2)

- (e) availability of sufficient resources to ensure the safe and hygienic handling of food.
2. Management commitment shall include:
- (a) ensuring that roles and responsibilities are clearly communicated within each activity of the food business;
 - (b) maintaining the integrity of the food hygiene system when changes are planned and implemented;
 - (c) verifying that controls are being performed timely and efficiently and documentation is up to date;
 - (d) Ensuring that the appropriate training and supervision are in place for personnel;
 - (e) ensuring compliance with relevant regulatory requirements;
 - (f) encouraging continual improvement of the food safety management system of the business, where appropriate, taking into account developments in science, technology and best practices.
3. The implementation of the food safety culture shall take account of the nature and size of the food business.’