



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT



Brussels
PP/sf/agri.ddg1.b.4(2021)8579403

Dear [REDACTED]

I would like to thank you for your email¹ of 26 October 2021, in which you provide detailed information supporting your request for the opening of a CN code in TRACES concerning organic spirulina extract to be used as a colouring matter of vegetable origin, in particular on candies, chewing gums, coatings and decorations, tablets.

In order to address your request, I would like to start by recalling that Article 6 of Regulation (EC) No 834/2007², which concerns specific organic principles applicable to the processing of organic food, provides for the following: *“the restriction of the use of food additives...so that they are used to a minimum extent and only in case of essential technological need of for particular nutritional purposes”*.

The same principle is included in Article 7 of Regulation (EU) 2018/848³, which is applicable from 1 January 2022.

Indeed, the use of colorants is extremely restricted in organic production. In particular, under Article 27 (1)(d) of Regulation (EC) No 889/2008⁴, only the following substances can be used in the processing of organic food *“colours for stamping meat and eggshells in accordance with respectively, Article 2(8) and Article 2(9) of European Parliament and Council Directive 94/36/EC”*. In addition, paragraph 4 of the same Article further lays down that *“For the traditional decorative colouring of the shell of boiled eggs produced with the intention to place them on the market at a given period of the year, the competent authority may authorise for the period referred to above, the use of natural colours and natural coating substances. The authorisation may comprise synthetic forms of iron oxides and iron hydroxides until 31 December 2013. Authorisations shall be notified to the Commission and the Member States.”*

¹ ARES(2021)7598107

² <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32007R0834>

³ [Regulation \(EU\) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation \(EC\) No 834/2007 \(OJ L 150, 14.6.2018, p. 1\)](#)

⁴ Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p. 1–84)



Point 2.2.2. of Annex II Part IV to Regulation (EU) 2018/848 regarding the processing of food, is also reflecting the same provisions as follows ...”*c) colours for stamping meat and eggshells in accordance with Article 17 of Regulation (EC) No 1333/2008; (d) natural colours and natural coating substances for the traditional decorative colouring of the shell of boiled eggs produced with the intention of placing them on the market at a given period of the year;*”.

Moreover, considering the extract of spirulina, I would like to draw your attention to the fact that a compound could only qualify as ‘colouring food’ rather than food additive, if it does not meet the definition of food additive laid down in Article 3(2)(a) or if it falls within the scope of the exception laid down in Article 3(2)(a)(ii) of Regulation (EC) No 1333/2008⁵. Therefore, an extract meeting the definition of a food additive, which would be added to food primarily for a colouring effect, would qualify as food additive and its use would be subject to the provisions of Regulation (EC) No 1333/2008. Please be informed that extract of spirulina is currently not approved as a food additive in Europe.

On this basis, it is considered that it is not possible to open a CN code for spirulina extract used as a colouring matter of vegetable origin for organic production.

The present opinion is provided on the basis of the facts as set out in your email of 26 October 2021 and expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Yours sincerely,



⁵ Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives, OJ L 354, 31.12.2008, p. 16–33.