



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B – Sustainability
The Director

Brussels

I would like to thank you for your email ⁽¹⁾ of 3 October 2022, in which you asked about the possibility of including algae oil rich in Docosahexaenoic acid (DHA) in Annex I to Regulation (EU) 2018/848 ⁽²⁾.

I would like to start by drawing your attention to Article 2 of Regulation (EU) 2018/848:

“1. This Regulation applies to the following products originating from agriculture, including aquaculture and beekeeping, as listed in Annex I to the TFEU and to products originating from those products, where such products are, or are intended to be, produced, prepared, labelled, distributed, placed on the market, imported into or exported from the Union:

- (a) live or unprocessed agricultural products, including seeds and other plant reproductive material;*
- (b) processed agricultural products for use as food;*
- (c) feed.*

This Regulation also applies to certain other products closely linked to agriculture listed in Annex I to this Regulation, where they are, or are intended to be, produced, prepared, labelled, distributed, placed on the market, imported into or exported from the Union.”

Given that Algae are already included in Annex I (Chapter 12) to the TFEU, your request to add such a product to the Annex I to Regulation (EU) 2018/848 is unclear. In fact, subject to any further information on the product at stake, algae oil rich in DHA, originating from algae and produced in accordance with Regulation (EU) 2018/848 and all the applicable rules, would already be considered as an organic food.

In this context, however, I would like to draw your attention to the fact that DHA is considered a micronutrient ⁽³⁾ and, consequently its use in organic processed food is

⁽¹⁾ ARES(2022)6846079

⁽²⁾ [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 \(OJ L 150, 14.6.2018, p. 1\)](#)

⁽³⁾ The term “micronutrient” is not defined in the EU legislation. However, the glossary of the European Food Safety Authority³ defines a micronutrient as a “Nutrient required by the body in tiny amounts for

strictly limited in accordance with point 2.2.2(f) of Part IV of Annex II to Regulation (EU) 2018/848:

“2.2.2. In the processing of food, the following products and substances may be used:

(...)

(f) minerals (trace elements included), vitamins, amino acids and micronutrients, provided that:

(i) their use in food for normal consumption is ‘directly legally required’, in the meaning of being directly required by provisions of Union law or provisions of national law compatible with Union law, with the consequence that the food cannot be placed at all on the market as food for normal consumption if those minerals, vitamins, amino acids or micronutrients are not added; or

(ii) as regards food placed on the market as having particular characteristics or effects in relation to health or nutrition or in relation to needs of specific groups of consumers:

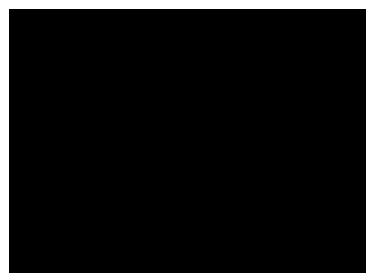
— in products referred to in points (a) and (b) of Article 1(1) of Regulation (EU) No 609/2013 of the European Parliament and of the Council (1) their use is authorised by that Regulation and acts adopted on the basis of Article 11(1) of that Regulation for the products concerned, or

— in products regulated by Commission Directive 2006/125/EC (2), their use is authorised by that Directive”.

Please consider the strict rules relating to the addition of products and substances, such as micronutrients in the production of organic food, which are laid down by the legislation.

The present opinion is provided on the basis of the facts as set out in your email of 3 October 2022 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,



normal growth, development and maintenance of health; for example, vitamins and minerals”. DHA is a primary structural component of the brain, cerebral cortex, skin and retina. This is an essential fatty acids and is required in tiny amounts.