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PROPOSAL FOR A UNION ACT

submitted under Rule 47(2) of the Rules of Procedure

on the need to amend Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC

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Proposal for a Union act on the need to amend Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC

The European Parliament,

– having regard to Article 3(3) of the Treaty on European Union,

– having regard to Articles 38, 43, 114, 168(4)(b) and 225 of the Treaty on the Functioning of the European Union,

– having regard to Regulation (EC) No 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC,

– having regard to Commission Implementing Regulation (EU) 2016/1826 of 14 October 2016 concerning the non-approval of the active substance tricyclazole, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market,

– having regard to the EFSA reasoned opinion of 7 December 2022 in response to question EFSA-Q-2018-00338 on the setting of an import tolerance for tricyclazole in rice,

– having regard to Rule 47(2) of its Rules of Procedure,

A. whereas the approval of a plant protection product for use in the Union is currently covered by Regulation (EC) No 1107/2009 concerning the placing of plant protection products on the market;

B. whereas if that substance is not approved, maximum residue levels (MRLs) should be set by means of an implementing regulation on the basis of Regulation (EC) No 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin;

C. whereas under Regulation (EC) No 396/2005, a producer may apply through a Member State for a substance's MRL to be increased and, in the event of a positive opinion, the new MRL would apply to products produced both in the Union and in third countries;

D. whereas under Regulation (EC) No 396/2005, an increase in the MRL may be granted to a substance that is prohibited in the European Union, creating a paradox whereby EU producers would be on an uneven footing with producers in third countries;

E. whereas in the situation referred to above and under the current legislation, in order to approve the use of the substance prohibited in the Union whose MRL has been amended, the procedure laid down in Regulation (EC) No 1107/2009 would have to be followed; whereas Article 7 of that Regulation states that it is the producer of the active substance that is responsible for submitting to a Member State an application for approval of the substance or an amendment to the conditions of an approval; whereas that procedure cannot be initiated in any other way, leaving EU producers powerless and vulnerable to unfair competition;

1. Requests the Commission to submit, by [...], on the basis of Article 168(4)(b) of the Treaty on the Functioning of the European Union, a proposal amending Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC; notes that, by means of a revision of Regulation (EC) No 396/2005, where the Authority's reasoned opinion, given in accordance with Chapter II of Regulation (EC) No 396/2005, contains a positive report for an active substance that is prohibited in the Union that allows its MRLs to be increased from the limits previously set, the approval application procedures provided for in Regulation (EC) No 1107/2009 would thus be automatically initiated via the channels provided for in that Regulation, without the need for a specific application;

2. Calls on the Commission, when amending Regulation (EC) No 1107/2009, to consider introducing a simplified approval procedure to allow for the situation referred to in paragraph 1 of this proposal for a Union act; notes that this would prevent any delay between the new MRL increase and approval of the use of the substance in the EU, thereby ensuring that EU producers are not faced with an uneven playing field or any unfair competition from producers in third countries;

3. Requests that, once Regulation (EC) No 107/2009 has been revised, it be applied retroactively to existing similar situations;

4. Instructs its President to forward this resolution to the Commission, the Council and the governments and parliaments of the Member States.

EXPLANATORY STATEMENT

In the European Union, the authorisation of substances is governed by the procedure laid down in Regulation (EC) No 1107/2009, which seeks to ensure the protection of human and animal health and the environment, while safeguarding the competitiveness of EU agriculture. This procedure is based on the precautionary principle, which means that substances cannot be approved unless a report by the Authority demonstrates that they are safe. Otherwise, a maximum residue limit (MRL) is set, in accordance with Regulation (EC) No 396/2005, for imports containing that substance.

Modifications to MRLs allowing products containing substances that were initially prohibited to enter the single market would make EU producers less competitive until those substances are approved in line with the procedures laid down in Regulation (EC) No 1107/2009, thereby undermining the objective of fairness in the market. The proposed amendment seeks to restore a level playing field in such cases.