**Follow up to the European Parliament resolution on the proposal for a Council regulation amending Annexes II and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for tricyclazole in or on certain products**

**1.** **Resolution tabled pursuant to Rules 112(2) and (3) and (4)(c) of the European Parliament’s Rules of procedure**

**2.** **Reference numbers:** 2023/2998 (RPS) / B9-0494/2023 / P9\_TA(2023)0474

**3.** **Date of adoption of the resolution:** 14 December 2023

**4. Competent Parliamentary Committee:** Committee on Environment, Public Health and Food Safety (ENVI)

**5. Brief analysis/ assessment of the resolution and requests made in it:**

The draft Council regulation intends to increase the maximum residue level (MRL) for the active substance tricyclazole in rice following an application for import tolerance (originating from Brazil) and a safety evaluation made by a Member State and the European Food Safety Authority (EFSA). MRLs are the upper levels of pesticide residues that are legally allowed in or on food or animal feed, based on good agricultural practices and considering the lowest consumer exposure necessary to protect vulnerable consumers. They are derived after a comprehensive assessment of the properties of the active substance and the intended use of the pesticide. EFSA concluded that the proposed MRL is safe for consumers.

The resolution refers to safety concerns related to tricyclazole, and more explicitly to the fact that lack of data prevented EFSA to adequately assess the toxicity of this substance, therefore preventing its approval for use in the Union (**recitals G and H**) and opines that setting this MRL would allow the import of rice not in line with the Union consumer safety standards (**recitals S and W**). The resolution states that tricyclazole was banned in the Union in 2016, and that this led to a major reduction in the Union’s rice production and obliged producers within and outside the Union to invest in finding alternative agricultural practices (**recitals I, J, K and L**). The resolution also mentions that setting this MRL would impair the reciprocity of rules regarding the use of pesticides and may lead to unfair competition to Union’s rice producers (**recitals M, N and O**), noting that rice imports are significant and have increased (**recitals Q and R**). The resolution also mentions that adopting the Council regulation could have negative impacts on food security and implies it may contravene the use of the precautionary principle (**recitals U and V**).

The resolution states that the draft Council regulation exceeds the implementing powers provided for in Regulation (EC) No 396/2005 (**paragraph 2**) and is not compatible with the aim and content of that Regulation (**paragraph 3**). It opines that the proposal does not comply with the commitments made to high consumer safety (**paragraph 4**). It implies that the proposed modification to the MRL for tricyclazole in rice could lead to barriers and potential trade disruption that could significantly impact consumers, farmers, and the food sector in the Union and beyond (**paragraph 5)** and therefore requests not to modify the MRL for tricyclazole in rice (**paragraph 6)**.

Finally, it calls on the Commission to withdraw the draft Council regulation (**paragraph 7**) and to safeguard a level playing field for the European farmers (**paragraph 8**).

**6. Response to the requests and overview of actions taken, or intended to be taken, by the Commission:**

Concerning **paragraphs 2,** **3, 7 and 8** of the resolution, the Commission would like to point out that the draft regulation is based on an application for an MRL and a scientific opinion by the Evaluating Member State and by EFSA confirming the safety of this MRL for consumers, which was developed following the procedure outlined in Articles 6 to 11 of Regulation (EC) No 396/2005. Regulation (EC) No 396/2005 obliges the Commission to either adopt a regulation on the modification of MRLs, or a decision rejecting the application (Article 14(1)). The Commission considers that it is correctly implementing the regulatory framework agreed by the co-legislators in line with its aim and content and, therefore, sees no reason to withdraw the draft regulation. Nevertheless, the Parliament’s objection prevents the Commission from proceeding with its adoption according to Article 5a (4) (e) of the Comitology decision.

Regarding **paragraph 4**, the Commission highlights that the setting of MRLs for active substances for use in plant protection is focused on an assessment of the safety of those MRLs for consumers, regarding both acute and chronic toxicity. The application for import tolerance for tricyclazole in rice that is the subject of this draft regulation was assessed by a Member State and by EFSA, which concluded that the proposed MRL is safe for consumers. In the framework of that application, previously unavailable data were provided that also allowed EFSA to conclude that tricyclazole has no genotoxic and carcinogenic potential, and that it does not meet the endocrine disruption criteria. Therefore, the draft regulation will not compromise consumer safety.

Concerning the difference in the playing field among farmers in the Union and in the third countries mentioned in **paragraph 5** and that, according to the resolution, may originate from the MRL proposed by this draft regulation, the Commission recalls that all MRLs set in the Union apply equally to both domestic and imported products.

The Commission considers that the Parliament's objection to increasing the MRLs and to refusing any import tolerances for tricyclazole, despite them being safe for consumers and being submitted and processed in accordance with legal requirements in force, could hamper the legitimate expectation of the applicant and raise concerns with respect to the EU’s international obligations under the World Trade Organization (WTO)’s Sanitary and Phytosanitary (SPS) Agreement. Furthermore, a departure from a scientific-based approach in this case would expose the Union to a challenge under EU or WTO law.

Currently tricyclazole is not approved for use in the EU. The Commission recalls that previously missing information that prevented the approval of tricyclazole use in the Union in the past was provided in the framework of the import tolerance application for rice, and safe thresholds could be derived by EFSA. Therefore, interested companies can at any moment submit a new application for the approval of tricyclazole in the Union, which, if successful, would allow farmers in the Union to use the substance in the future. In addition although farmers in the EU cannot directly benefit from this new MRL for tricyclazole in rice, farmers in the Union could still be helped by it in exceptional circumstances, e.g., if tricyclazole-containing products were to be authorised by Member States’ competent authorities for emergency use. Lastly, as regards the assumptions made in the resolution about the potential trade disruption deriving from the setting of this MRL, and its impact on consumers and food security (also mentioned in **recital S**), the Commission notes that the Union’s rice production is insufficient to cover demand, and that therefore rice imports are necessary to ensure the availability of this product in the Union. On the other hand, the Commission also confirms its commitment to sustain domestic rice production. To this end, several actions are accessible to Union’s farmers through the Common Agricultural Policy. In 2022, seven Member States provided specific coupled support for domestic rice production with a total value of EUR 68.6 million.

As regards **paragraph 6**, the Commission would like to recall that Regulation (EC) No 396/2005 indicates that MRL applications in relation to uses in the Union and in third countries are treated equally in terms of consumer safety and data requirements. Refusing import tolerances that are submitted in accordance with the procedure outlined in Articles 6 to 11 of Regulation (EC) No 396/2005, and in a situation when neither the risk assessment made by EFSA, nor the risk management by the Commission identified any ground for not granting the import tolerance, would contravene the provisions of Regulation (EC) No 396/2005. According to that regulation, upon receipt of the opinion by EFSA, and taking into account that opinion, a regulation on the setting, modification or deletion of an MRL or a decision rejecting the application shall be prepared by the Commission without delay and submitted for adoption.