



January 2025

PROPOSALS ON RED VERIFICATION

# EBB proposals on how to improve the EU system for the verification of sustainable biofuels



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## Introduction

Directive (EU) 2018/2001<sup>1</sup> establishes a common framework for the promotion of energy from renewable sources, including in the transport sector. Implementing Regulation (EU) 2022/996<sup>2</sup> (“**Implementing Regulation**”) specifies detailed requirements covering areas including the traceability of transactions through the supply chain, the implementation of the EU database and the mass balance system.

As the European Commission (“**Commission**”) begins to work on a revision of the Implementing Regulation, a comprehensive review of the existing EU framework for the verification of sustainable biofuels is needed to address the concerns over suspicions of fraudulent imports of biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001, particularly from Asia, which have been damaging/harming European producers as well as the integrity of the industry. The ultimate purpose of such a revision shall be the strengthening of the functioning of the EU framework for the verification of sustainable biofuels, as notably laid down in the Implementing Regulation.

The need for such a revision was also highlighted in a non-paper presented by France, Germany and the Netherlands at the EU Energy Council on 30 May (and endorsed by several other Member States to EBB’s knowledge<sup>3</sup>). The delegations indeed call on the Commission to identify “*weakness in the existing governance system and develop in cooperation with [Member States] strong corrective actions to prevent the entry of fraudulent biofuels on the European market*”.<sup>4</sup>

As a non-profit organisation gathering 34 European producers of biodiesel (HVO & FAME), across 21 Member-States, which represent 75% of the European output, the European Biodiesel Board (“**EBB**”) would like to contribute to this revision of the Implementing Regulation by providing, based on its deep knowledge of the sector, its suggestions of measures and amendments on how to improve the said framework.

These suggestions - which are developed below - are structured around five main issues: **(1)** control and access; **(2)** proof; **(3)** the Union Database for Biofuels; **(4)** mass balance; and **(5)** other items. For the sake of clarity, EBB would like to clarify the scope of its suggestions of measures and amendments as follows:

- EBB’s proposals cover the entire chain of sustainability verification, including raw material considerations.

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<sup>1</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources.

<sup>2</sup> Commission Implementing Regulation (EU) 2022/996 of 14 June 2022 on rules to verify sustainability and greenhouse gas emissions saving criteria and low indirect land-use change-risk criteria.

<sup>3</sup> At least Austria, Denmark, Italy, Luxembourg, Poland and Slovenia.

<sup>4</sup> See the information note from the General Secretariat of the Council to the Council, dated 24 May 2024, 10302/24.



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- Some of the proposed measures and amendments are primarily focused at this stage on biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001. Since these biofuels benefit from favourable regulatory conditions in the EU, making the region (and some MSs) an attractive outlet for producers and exporters, including from extra EU countries, it is critical that the revision carefully examines/considers/focuses on the verification framework for biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001.

This approach is consistent with Implementing Regulation (EU) 2022/996 whereby the frequency and intensity of the internal monitoring (Article 5) and of the audits conducted by voluntary schemes and certification bodies working on their behalf “*shall reflect the overall level of risk*” (Article 13), notably “*the level of risk of the economic operator and the supply chain, above all at the immediately upstream and downstream stages, for example, for economic operators that handle material listed in Annex IX*” (Article 10).

That being said, the scope of the proposed measures and amendments can be extended to other feedstocks categories if necessary.



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## Summary

In 2025, biodiesel produced in the EU is and will remain the first renewable energy solution, deployed in all transport modes. The EU, once the global leader in terms of production from all feedstocks – now second to Southeast Asia – is still the largest consumer globally of renewable liquid fuels. In the last two years our domestic industry has been confronted with a surge of imported biodiesel, mostly from China. Consequently, biofuel prices have collapsed, leading to European production plants reducing production, furloughing workers and even closing facilities. Future projects are questioned and investments are stalled, exactly at a time that scaling up is most needed.

### Non-compliant biodiesel imported into the EU

The European Biodiesel Board (EBB) alerted the European Commission, national authorities and the voluntary schemes from early 2023 with evidence that a large share of the imported biodiesel was not in compliance with the sustainability criteria of the Renewable Energy Directive (RED). This has been recognised and led to the opening of an investigation by the Commission with several Member States calling for the development of strong corrective actions to prevent fraudulent biofuels from entering the EU market. Other stakeholders have joined this call for immediate action such as an environmental NGO in the field of transport. Even the world's biggest exporter of palm oil, Indonesia, has publicly acknowledged that they are concerned with large-scale fraud with exported palm oil waste feedstock.

To prevent EU use of unsustainable biofuels and to support its industry from unfair competition, the Commission must act now to correct flaws and restore the integrity of the RED verification system. The EBB is calling for an immediate revision of the Implementing Regulation (EU) 2022/996 and has developed a detailed proposal that is ready for immediate implementation.

### A targeted revision

Our proposal covers the entire value chain with a focus on biofuels derived from raw materials listed in Annex IX to Directive (EU) 2018/2001, which offer the highest GHG savings and are therefore more susceptible to fraud. That said, the scope of this proposal could be extended to biofuels from other feedstock categories if deemed necessary.

### Fixing, not changing the system

The EBB proposal focuses on introducing and/or clarifying requirements regarding audits and access to information, to allow regulatory authorities to cooperate and exercise their mission to oversee the economic operators, the voluntary schemes and their certification bodies, both in and outside the EU jurisdiction. We also recommend broadening the number of non-compliance cases and imposing effective sanctions, including retroactive invalidation of certificates, to compel every part of the value chain to exercise appropriate due diligence.

### Union Database for Biofuels

We propose to develop the Union Database for Biofuels (UDB) and enhance its features with the inclusion of traders and blenders. For all biofuels imported into the EU a copy of the certificate of



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origin used for customs clearance should be made available. Additionally, all production facilities should be approved, declaring capacity and expected production.

### Restoring the level playing field for EU producers

Biofuels production facilities in the EU are subject to both third-party verification and controls by the Member States. Frequent on-site audits are a common practice. Producers provide detailed information on their capacities and their feedstocks plan, and voluntary schemes (and their certifiers) have full access to their data and production sites. Imported product from outside the EU is not subject to this level of scrutiny. The standards and accountability of verification of economic operators should be upheld equally, no matter their location of origin.

To reinforce the traceability of biofuels, the EBB proposes an approval procedure by Member States for the quantities of biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001, to be placed on the market, as is already the case in some Member States. This would be a non-discriminatory measure that would apply to all producers. Furthermore, it is essential to ensure that the mass balance rules are properly applied to goods imported into the EU, and that appropriate measures are taken to prevent fraud related to anti-dumping and/or countervailing duties.

### The future of EU biofuels depends on this reform

For over two years, the economic viability of the EU biodiesel industry has been severely compromised and its reputation and sustainability credentials have been questioned. This is happening precisely when the climate ambitions require massive investments in advanced technologies and innovative feedstocks. The successful revision of the EU system for the certification of sustainable biofuels should establish a standard for the numerous EU policies relying on compliance with sustainability criteria. The EU must act resolutely to reach our common objectives of decarbonising all EU transport and avoid further damage inflicted by imports of non-sustainable fuels. Preserving the integrity of EU rules *and* the EU industry requires nothing less.



## Proposals

The European Biodiesel Board has developed proposals to address the abovementioned issues. This chapter is structured around five main issues: (1) control and access; (2) proof; (3) the Union Database for Biofuels; (4) mass balance; and (5) other items.

### (1) Control and access issue

It is first needed to reinforce trust into and reliability of the work of the voluntary schemes and their certification bodies, by enhancing external controls performed by the Member States and the Commission, notably by ensuring their access to data and on-site audits.

#### EBB's suggestions of amendments:

**1.1 Voluntary schemes shall be obliged to fully cooperate with the competent authorities of the Member States. Such authorities must be able to access all relevant information of voluntary schemes and their certification bodies in order to comprehensively verify the mass balances (raw materials, products, energy consumption) of each economic operator along the value chain, including those after the final producer of the biofuel in the supply chain. Such information shall include audit reports and protocols, as well as underlying documents such as delivery notes, invoices etc. assigned to the relevant economic operator.**

EBB suggests amending Article 15 (*Audits of mass balance systems*) and Article 17 (*Supervision by the Member States and the Commission*) of the Implementing Regulation as follows:

#### Article 15, first subparagraph, of the Implementing Regulation:

<i>Present text</i>	<i>Amendment</i>
<i>Voluntary schemes shall ensure that economic operators provide auditors with all mass balance data in advance of the audit.</i>	<i>Voluntary schemes shall ensure that economic operators provide auditors with all mass balance data in advance of the audit. Such data shall notably include audit reports and protocols, as well as all relevant underlying documents, such as delivery notes and invoices in relation to the relevant economic operator.</i>

#### Article 17, first paragraph, of the Implementing Regulation:

<i>Present text</i>	<i>Amendment</i>



<i>Voluntary schemes shall require economic operators participating in the scheme as well as certification bodies conducting audits under the scheme to cooperate with the Commission and the competent authorities of the Member States, including granting access to the premises of economic operators where requested as well as making available to the Commission and the competent authorities of the Member States all information needed to fulfil their tasks under Directive (EU) 2018/2001. [...]</i>	<i>Voluntary schemes shall require economic operators participating in the scheme as well as certification bodies conducting audits under the scheme to cooperate with the Commission and the competent authorities of the Member States, including granting access to the premises of economic operators where requested as well as making available to the Commission and the competent authorities of the Member States all information needed to fulfil their tasks under Directive (EU) 2018/2001, including the mass balance data referred to in Article 15, first subparagraph. [...]</i>
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**1.2 Audits of approved production units (see point 8 below), as well as of traders and blenders which intervene after the final producer of the biofuel in the supply chain should be conducted at least annually by certification bodies and the competent authorities of the Member States. Voluntary schemes shall grant the Member States access to relevant information on registered economic operators.**

EBB suggests amending Article 2 (*Definitions*), Article 13 (*Auditing of waste and residues*) and Article 17 (*Supervision by the Member States and the Commission*) as follows:

**Article 2, paragraph 1, point (11), of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<i>'economic operator' means a producer of raw material, a collector of waste and residues, an operator of installations processing raw material into final fuels or intermediate products, an operator of installations producing energy (electricity, heating or cooling) or any other operator, including of storage facilities or traders that are in physical possession of raw material or fuels, provided that they process information on the sustainability and greenhouse gas emissions saving characteristics of those raw materials or fuels.</i>	<i>'economic operator' means a producer of raw material, a collector of waste and residues, an operator of installations processing raw material into final fuels or intermediate products, an operator of installations producing energy (electricity, heating or cooling) or any other operator, including of storage facilities or traders or blenders that are in physical possession of raw material or fuels, provided that they process information on the sustainability and greenhouse gas emissions saving characteristics of those raw materials or fuels.</i>

**Article 13, title and paragraphs 2, 4 and 7, of the Implementing Regulation:**



Present text	Amendment
<p style="text-align: center;"><i>Auditing of waste and residues</i></p> <p>2. <i>The whole supply chain shall be covered starting from its origin, that is to say, the economic operator where the waste or residue material arises;</i></p> <p>[...]</p> <p>4. <i>The frequency and intensity of the auditing procedure shall reflect the overall level of risk. Voluntary schemes shall define clear rules, commensurate to the level of specific risk associated with the type of residues or waste. For biofuels and bioliquids, points of origin supplying five or more tonnes per month of waste or residue listed in part A and B of Annex IX to Directive (EU) 2018/2001 shall be subject to an on-site audit. The on-site audit may be based on a sample where a group auditing approach is taken.</i></p> <p>7. <i>The certification body shall carry out a mandatory surveillance audit within 6 months after the first certification. For collection points and traders that deal with both waste and residues and with virgin materials such as vegetable oils, an additional surveillance audit shall be conducted 3 months after the first</i></p>	<p style="text-align: center;"><i>Auditing of waste and residues and of raw materials listed in Annex IX to Directive (EU) 2018/2001</i></p> <p>2. <i>The whole supply chain shall be covered, starting from its origin, that is to say, the economic operator where the waste or residue material arises or the raw materials listed in Annex IX to Directive (EU) 2018/2001 are produced. It shall cover all economic operators, including approved production units pursuant to Article 23 bis, as well as traders and blenders which intervene in the supply chain after the final producers of biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001;</i></p> <p>[...]</p> <p>4. <i>The frequency and intensity of the auditing procedure shall reflect the overall level of risk, taking into account the level of risk of the economic operator and the supply chain, above all at the downstream stages for economic operators that handle raw materials listed in Annex IX to Directive (EU) 2018/2001 and/or biofuels produced from them. Voluntary schemes shall define clear rules, commensurate to the level of specific risk associated with the type of residues or waste. For biofuels and bioliquids, points of origin supplying five or more tonnes per month of waste or residue listed in part A and B of Annex IX to Directive (EU) 2018/2001 shall be subject to an on-site audit. The on-site audit may be based on a sample where a group auditing approach is taken.</i></p> <p>7. <i>The certification body shall carry out a mandatory surveillance audit within 6 months after the first certification. For collection points and traders that deal with both waste and residues and with virgin materials such as vegetable oils, an additional surveillance audit shall be conducted 3 months after the first certification audit, covering the first</i></p>



<p><i>certification audit, covering the first mass balance period. Where a collection point has multiple storage sites, the auditor shall audit the mass balance of every storage site.</i></p>	<p><i>mass balance period. Where a collection point has multiple storage sites, the auditor shall audit the mass balance of every storage site.</i></p> <p><i>Approved production units pursuant to Article 23 bis, as well as traders and blenders which intervene in the supply chain after the final producers of biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001 are subject to an annual audit.</i></p>
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**Article 17, paragraph 1, of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<p><i>Voluntary schemes shall require economic operators participating in the scheme as well as certification bodies conducting audits under the scheme to cooperate with the Commission and the competent authorities of the Member States, including granting access to the premises of economic operators where requested as well as making available to the Commission and the competent authorities of the Member States all information needed to fulfil their tasks under Directive (EU) 2018/2001. For those purposes, certification bodies shall also be required to:</i></p> <p><i>(a) provide the information needed by Member States to supervise the operation of certification bodies pursuant to Article 30(9) of Directive (EU) 2018/2001;</i></p> <p><i>(b) provide the information required by the Commission to comply with Article 30(10) of Directive (EU) 2018/2001;</i></p>	<p><i>Voluntary schemes shall require economic operators participating in the scheme as well as certification bodies conducting audits under the scheme to cooperate with the Commission and the competent authorities of the Member States, including granting access to the premises of economic operators where requested as well as making available to the Commission and the competent authorities of the Member States all information needed to fulfil their tasks under Directive (EU) 2018/2001 notably, for biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001, information relating to approved production units pursuant to Article 23 bis, as well as to traders and blenders which intervene in the supply chain after the final producers. For those purposes, certification bodies shall also be required to:</i></p> <p><i>(a) provide the information needed by Member States to supervise the operation of certification bodies pursuant to Article 30(9) of Directive (EU) 2018/2001;</i></p> <p><i>(b) provide the information required by the Commission in due time so as to ensure that the Commission adopts implementing acts within the deadline set by Article 30(10) of Directive (EU) 2018/2001;</i></p>



<i>(c) verify the accuracy of information entered into the Union database or relevant national database pursuant to Article 28(4) of Directive (EU) 2018/2001.</i>	<i>(c) verify the accuracy of information entered into the Union database or relevant national database pursuant to Article 28(4) of Directive (EU) 2018/2001.</i>
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**1.3 The inspection of certification bodies by the competent authorities of the Member States must be possible regardless of the certification bodies’ country of origin (currently a foreign certification body cannot be inspected by the competent authority).**

Without prejudice to the need to introduce an EU-wide standardized accreditation for certification bodies, EBB suggests at this stage amending Article 17 (*Supervision by the Member States and the Commission*) of the Implementing Regulation as follows:

**Article 17, paragraph 5, of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<i>Member States shall to the extent possible establish cooperation frameworks with third countries for the supervision of certification bodies auditing in their territories, where relevant, in order to ensure the same level of information flow and the application of audit supervision standards to certification bodies operating in third countries.</i>	<i>Member States shall establish cooperation frameworks with third countries for the supervision of certification bodies auditing in their territories in order to ensure the same level of information flow and the application of audit supervision standards to certification bodies operating in third countries. To that end, Members States are allowed to supervise at any time, through audits, certification bodies operating in third countries.</i>

**1.4 The competent authorities of the Member States must be able to inspect at any time, in the form of on-site audits, the premises of producers (and of all other economic operators within the supply chain), regardless of whether they are located in a Member State or in a third country.**

Such a measure is consistent with the non-paper presented by France, Germany and the Netherlands at the EU Energy Council on 30 May which stated: “*We believe it is crucial to strengthen the controls on production units wherever they are located in the world*”.



EBB thus suggests amending Article 17 (*Supervision by the Member States and the Commission*) of the Implementing Regulation as follows:

**Article 17, paragraph 1, of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<i>Voluntary schemes shall require economic operators participating in the scheme as well as certification bodies conducting audits under the scheme to cooperate with the Commission and the competent authorities of the Member States, including granting access to the premises of economic operators where requested as well as making available to the Commission and the competent authorities of the Member States all information needed to fulfil their tasks under Directive (EU) 2018/2001. [...]</i>	<i>Voluntary schemes shall require economic operators participating in the scheme as well as certification bodies conducting audits under the scheme to cooperate with the Commission and the competent authorities of the Member States, including granting access at any time to the premises of economic operators (regardless of whether they are located in a Member State or in a third country) where requested for on-site audits to be conducted, as well as making available to the Commission and the competent authorities of the Member States all information needed to fulfil their tasks under Directive (EU) 2018/2001. [...]</i>

**1.5 With regard to on-site audit of points of origin supplying waste or residues listed in Annex IX to Directive (EU) 2018/2001, the monthly threshold set forth in the Implementing Regulation shall be lowered from five tons to three tons to improve fraud prevention at the level of waste gathering points (more on-site audits of point of origin).**

EBB suggests amending Article 13 (*Auditing of waste and residues*) of the Implementing Regulation as follows:

**Article 13, paragraph 4, of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<i>The frequency and intensity of the auditing procedure shall reflect the overall level of risk. Voluntary schemes shall define clear rules, commensurate to the level of specific risk associated with the type of residues or waste. For biofuels and bioliquids, points of origin supplying five or more tonnes per month of waste or residue listed in part A and B of Annex IX to Directive (EU) 2018/2001 shall be subject to an on-site audit. The</i>	<i>The frequency and intensity of the auditing procedure shall reflect the overall level of risk. Voluntary schemes shall define clear rules, commensurate to the level of specific risk associated with the type of residues or waste. For biofuels and bioliquids, points of origin supplying three or more tonnes per month of waste or residue listed in part A and B of Annex IX to Directive (EU) 2018/2001 shall be subject to an on-site audit. The on-</i>



<i>on-side audit may be based on a sample where a group auditing approach is taken.</i>	<i>side audit may be based on a sample where a group auditing approach is taken.</i>
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**1.6 Member States shall be required to setup own control capacities including independent auditors for regular or (in case of fraud suspicions) exceptional inspections/witness audits of certification bodies and their audit process in relation to a given economic operator.**

EBB suggests amending Article 17 (*Supervision by the Member States and the Commission*) of the Implementing Regulation as follows:

**Article 17, paragraph 9 (new), of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
	<p>9. Each Member State shall ensure that each relevant competent authority is provided with the human, technical and financial resources necessary to supervise the operation of certification bodies pursuant to Article 30(9) of Directive (EU) 2018/2001. They shall ensure that the frequency and intensity of the supervision of the certification bodies reflect the overall level of risk of the supply chain, above all at the immediately upstream and downstream stages, for example, for economic operators that handle raw materials listed in Annex IX to Directive (EU) 2018/2001 and/or biofuels produced from them.</p>



(2) Proof issue

This item refers to the current high burden of proof for Member States to prove non-compliance. EBB proposes the introduction of other mechanisms, intended to make the demonstration of non-compliance easier for the Member States's competent authorities when operators do not cooperate.

EBB's suggestions of amendments:

- 2.1 **If the competent authorities of the Member States cannot physically enter the premises of economic operators for on-site audits to be conducted or are denied access to requested information/documentation (loading documents, invoices, surveillance reports, sample reports, etc. or access to ERP system) by the voluntary scheme, the certification body or the economic operator itself:**
  - a. **the certificate of the economic operator in question must be suspended until the issue is resolved or otherwise permanently withdrawn after three months of non-compliance;**
  - b. **in case of suspension of the certificate, no proof of sustainability shall be issued. In case of permanent withdrawal, the proofs of sustainability issued on the basis of the certificate shall be declared invalid, with retroactive effect from the date of the last audit of the economic operator.**

EBB suggests amending Article 17 (*Supervision by the Member States and the Commission*) of the Implementing Regulation as follows:

Article 17, paragraph 7, of the Implementing Regulation:

<i>Present text</i>	<i>Amendment</i>
<i>Economic operators and certification bodies failing or unwilling to comply with the requirements set out in paragraphs 1 to 6 of this Article shall be respectively excluded from participating in and conducting audits under voluntary schemes.</i>	<i>Economic operators and certification bodies failing or unwilling to comply with the requirements set out in paragraphs 1 to 6 of this Article shall be respectively excluded from participating in and conducting audits under voluntary schemes.</i>
<i>Voluntary schemes shall submit annual activity reports to the Commission pursuant to Article 30 (5) of Directive (EU) 2018/2001. The structure and content of the annual activity reports provided for in Article 30(5) of Directive (EU) 2018/2001 shall follow the minimum requirements set out in Annex III to this Regulation. The main report shall not contain confidential information and shall be published in full. Data shall be supplied separately in a format to be determined by the Commission.</i>	<i>The certificate of such economic operators issued by certification bodies shall be suspended until they comply with the above-mentioned requirements, or permanently withdrawn by the competent authorities of the Member States after three months of non-compliance.</i>
	<i>Economic operators whose certificates are suspended shall not be able to make sustainability claims until the suspension has been lifted and</i>



	<p><i>cannot join another voluntary scheme during that period.</i></p> <p><i>In case of permanent withdrawal, the proofs of sustainability made on the basis of the certificate shall be declared invalid, with retroactive effect from the date of the last audit of the economic operator. Other voluntary schemes shall refuse the participation of that operator for at least two years following the withdrawal of the certificate.</i></p> <p><i>Voluntary schemes shall submit annual activity reports to the Commission pursuant to Article 30 (5) of Directive (EU) 2018/2001. The structure and content of the annual activity reports provided for in Article 30(5) of Directive (EU) 2018/2001 shall follow the minimum requirements set out in Annex III to this Regulation. The main report shall not contain confidential information and shall be published in full. Data shall be supplied separately in a format to be determined by the Commission.</i></p>
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**2.2 The traceability of biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001 shall be ensured through the approval of such biofuels by the relevant competent authorities of the Member States.**

**Approval is granted when it is possible to establish based on a technical file that the operator will be able, in terms of the quantities produced, to guarantee the nature of the raw materials used and, for biofuels, compliance with the sustainability criteria.**

**The approval decision includes (i) a registration number, (ii) the date of approval, (iii) the period of validity of the approval and (iv) the quantity of biofuel for which the approval is valid, with a distinction by raw material.**

**In case the approval ceases to apply for quantities of biofuels or the quantities of biofuels exceed the annual quantities approved by a Member State, proof of sustainability relating to such biofuels shall be declared invalid and such biofuels can no longer be used or sold as Annex IX biofuels in that Member State.**

**To ensure a uniform application of such an approbation procedure in the Member States, the Commission shall adopt guidelines to clarify its modalities of application in the Member States, in particular those relating to the technical file.**

**This amendment is based on the applicable regimes in some Member States in which a technical file from the producer or declarant must first be approved before biofuels produced from Annex IX to Directive (EU) 2018/2001 can be placed on the market.**



EBB suggests creating a new Article 23 bis (*Approval of biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001*) in the Implementing Regulation as follows:

**Article 23 bis (new) of the Implementing Regulation:**

Present text	Amendment
	<p style="text-align: center;"><i>Article 23 bis</i></p> <p style="text-align: center;"><i>Approval of biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001</i></p> <ol style="list-style-type: none"> <li>1. <i>The traceability of biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001 is ensured in each Member State through the approval of such biofuels by the relevant competent authority of the Member State.</i></li> <li>2. <i>To that end, a technical dossier, containing all relevant data and demonstrating that the biofuels comply with the provisions of Directive (EU) 2018/2001 and introducing a mechanism for monitoring shall be submitted by the declarant, which is the natural or legal person representing the producer in the Member State.</i> <p style="margin-left: 40px;"><i>The declarant assumes full responsibility for the biofuel in question until transfer of ownership.</i></p> <p style="margin-left: 40px;"><i>If the producer is a European company, the declarant may be identical to the producer. If the producer is a foreign company, it must designate a natural or legal person established in the European Union as declarant.</i></p> </li> <li>3. <i>The content of the technical file is monitored by a certification body.</i> <p style="margin-left: 40px;"><i>The certification body shall in particular verify the total annual production capacity of the unit, based on a technical report on the production facilities (including pre-processing units) and the process used: process engineering design, type and scope of the auxiliaries/catalysts used and energy supply.</i></p> <p style="margin-left: 40px;"><i>The certification body shall prepare a report which is sent to the relevant competent authority of the Member State before the approval is granted.</i></p> <p style="margin-left: 40px;"><i>The costs associated with this monitoring are supported by the declarant.</i></p> </li> <li>4. <i>Approval is granted expressly when the technical dossier referred to in paragraph 2 makes it possible to establish that the declarant will be able, in</i></li> </ol>



	<p><i>terms of the quantities produced, to guarantee the nature of the raw materials used as well as, for biofuels, compliance with the sustainability criteria.</i></p> <p>5. <i>The approval decision includes:</i></p> <p><i>1° A registration number;</i></p> <p><i>2° The date of the approval;</i></p> <p><i>3° The duration of the approval;</i></p> <p><i>4° The raw materials and the quantity of biofuels for which the approval is granted.</i></p> <p>6. <i>The declarant shall inform the relevant competent authority of the Member State of any substantial change to the technical dossier referred to in paragraph 2 occurring when the approval applies.</i></p> <p><i>Upon notification by the relevant competent authority, approval shall cease to apply to quantities produced during the period set by this notification:</i></p> <p><i>1° In the event of a substantial change calling into question the assessment provided for in paragraph 4;</i></p> <p><i>2° When the competent authority notes that the traceability conditions are no longer guaranteed;</i></p> <p><i>3° When a fraud is established or suspected.</i></p> <p>7. <i>In case the approval ceases to apply for quantities of biofuels or the quantities of biofuels exceed the annual quantities approved by a Member State, proof of sustainability relating to such biofuels shall be declared invalid and such biofuels can no longer be used or sold as Annex IX biofuels in that Member State.</i></p> <p>8. <i>To ensure an uniform application of such an approbation procedure in the Member States, the Commission shall adopt guidelines to clarify its modalities of application in the Member States, in particular those relating to the technical file.</i></p>
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(3) UDB issue

This item refers to additional features of the Union database that will be necessary to complement EBB's-described proposals.

**EBB's suggestions of actions and amendments:**

**3.1 For biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001, a registry of approved production units (see point 8 above), as well as of traders and blenders which intervene after the final producer of the biofuel in the supply chain, should be entered in the Union database and relevant national databases.**

EBB suggests amending Article 17 (*Supervision by the Member States and the Commission*), Article 18 (*Traceability and Union database*) and Annex I of the Implementing Regulation as follows:

**Article 17, paragraph 1, of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<p><i>Voluntary schemes shall require economic operators participating in the scheme as well as certification bodies conducting audits under the scheme to cooperate with the Commission and the competent authorities of the Member States, including granting access to the premises of economic operators where requested as well as making available to the Commission and the competent authorities of the Member States all information needed to fulfil their tasks under Directive (EU) 2018/2001. For those purposes, certification bodies shall also be required to:</i></p> <p><i>(a) provide the information needed by Member States to supervise the operation of certification bodies pursuant to Article 30(9) of Directive (EU) 2018/2001;</i></p> <p><i>(b) provide the information required by the Commission to comply with Article 30(10) of Directive (EU) 2018/2001;</i></p>	<p><i>Voluntary schemes shall require economic operators participating in the scheme as well as certification bodies conducting audits under the scheme to cooperate with the Commission and the competent authorities of the Member States, including granting access to the premises of economic operators where requested as well as making available to the Commission and the competent authorities of the Member States all information needed to fulfil their tasks under Directive (EU) 2018/2001. For those purposes, certification bodies shall also be required to:</i></p> <p><i>(a) provide the information needed by Member States to supervise the operation of certification bodies pursuant to Article 30(9) of Directive (EU) 2018/2001;</i></p> <p><i>(b) provide the information required by the Commission to comply with Article 30(10) of Directive (EU) 2018/2001;</i></p>



<p><i>(c) verify the accuracy of information entered into the Union database or relevant national database pursuant to Article 28(4) of Directive (EU) 2018/2001.</i></p>	<p><i>(c) verify the accuracy of information entered into the Union database or relevant national database pursuant to Article 28(4) of Directive (EU) 2018/2001 including, for biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001, the registry of approved production units pursuant to Article 23 bis, as well as of traders and blenders which intervene in the supply chain after the final producers. For this purpose, competent authorities of the Member States shall audit those economic operators on an annual basis. The same information shall be entered into national databases.</i></p>
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**Article 18, paragraph 2, of the Implementing Regulation**

<i>Present text</i>	<i>Amendment</i>
<p><i>The information to be transmitted through the supply chain shall be included in the documentation accompanying the physical shipments of raw material or fuels. It shall also be included in the Union database as soon as this starts operation, in the case of liquid and gaseous transport fuels that are eligible for being counted towards the numerator referred to in Article 27(1), point (b) of Directive (EU) 2018/2001, or that are taken into account for the purposes referred to in Article 29(1), points (a), (b) and (c), first subparagraph, of that Directive.</i></p>	<p><i>The information to be transmitted through the supply chain shall be included in the documentation accompanying the physical shipments of raw material or fuels. It shall also be included in the Union database as soon as this starts operation, in the case of liquid and gaseous transport fuels that are eligible for being counted towards the numerator referred to in Article 27(1), point (b) of Directive (EU) 2018/2001, or that are taken into account for the purposes referred to in Article 29(1), points (a), (b) and (c), first subparagraph, of that Directive. A registry of approved production units pursuant to Article 23 bis, as well as of traders and blenders which intervene in the supply chain after the final producers of biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001 shall also be included in the Union database.</i></p>

**Annex I, paragraph 2, of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<p><i>2. Transaction Data</i></p>	<p><i>2. Transaction Data</i></p>



<p><i>(a) supplier company name and address;</i></p> <p><i>(b) buyer company name and address;</i></p> <p><i>(c) date of (physical) loading;</i></p> <p><i>(d) place of (physical) loading or logistical facility or distribution infrastructure entry point;</i></p> <p><i>(e) place of (physical) delivery or logistical facility or distribution infrastructure exit point;</i></p> <p><i>(f) volume: For fuels, the energy quantity of the fuel must also be included. For the calculation of the energy quantity, conversion factors in Annex III to Directive (EU) 2018/2001 must be used.</i></p>	<p><i>(a) supplier company name and address;</i></p> <p><i>(b) buyer company name and address;</i></p> <p><i>(c) date of (physical) loading;</i></p> <p><i>(d) place of (physical) loading or logistical facility or distribution infrastructure entry point;</i></p> <p><i>(e) place of (physical) delivery or logistical facility or distribution infrastructure exit point;</i></p> <p><i>(f) volume: For fuels, the energy quantity of the fuel must also be included. For the calculation of the energy quantity, conversion factors in Annex III to Directive (EU) 2018/2001 must be used;</i></p> <p><i>(g) for biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001, a registry of approved production units pursuant to Article 23 bis, as well as of traders and blenders which intervene in the supply chain after the final producers.</i></p>
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**3.2 The quantities of biofuels approved in a given Member State shall be included in the Union database.**

EBB suggests amending Article 17 (*Supervision by the Member States and the Commission*), Article 18 (*Traceability and Union database*) and Annex I of the Commission Implementing Regulation as follows:

**Article 17, paragraph 1, of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<i>Voluntary schemes shall require economic operators participating in the scheme as well as certification bodies conducting audits under the scheme to cooperate with the Commission and the competent authorities of the Member States, including granting access to the premises of economic operators where requested as well as making available to the Commission and the</i>	<i>Voluntary schemes shall require economic operators participating in the scheme as well as certification bodies conducting audits under the scheme to cooperate with the Commission and the competent authorities of the Member States, including granting access to the premises of economic operators where requested as well as making available to the Commission and the</i>



<p><i>competent authorities of the Member States all information needed to fulfil their tasks under Directive (EU) 2018/2001. For those purposes, certification bodies shall also be required to:</i></p> <p><i>(a) provide the information needed by Member States to supervise the operation of certification bodies pursuant to Article 30(9) of Directive (EU) 2018/2001;</i></p> <p><i>(b) provide the information required by the Commission to comply with Article 30(10) of Directive (EU) 2018/2001;</i></p> <p><i>(c) verify the accuracy of information entered into the Union database or relevant national database pursuant to Article 28(4) of Directive (EU) 2018/2001.</i></p>	<p><i>competent authorities of the Member States all information needed to fulfil their tasks under Directive (EU) 2018/2001. For those purposes, certification bodies shall also be required to:</i></p> <p><i>(a) provide the information needed by Member States to supervise the operation of certification bodies pursuant to Article 30(9) of Directive (EU) 2018/2001;</i></p> <p><i>(b) provide the information required by the Commission to comply with Article 30(10) of Directive (EU) 2018/2001;</i></p> <p><i>(c) verify the accuracy of information entered into the Union database or relevant national database pursuant to Article 28(4) of Directive (EU) 2018/2001 including, for biofuels produced from raw materials listed in Annex IX to Directive (EU) 2018/2001, the approved quantities of biofuels, as referred to in Article 23 bis. The same information shall be entered into national databases.</i></p>
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**Article 18, paragraph 2, of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<p><i>The information to be transmitted through the supply chain shall be included in the documentation accompanying the physical shipments of raw material or fuels. It shall also be included in the Union database as soon as this starts operation, in the case of liquid and gaseous transport fuels that are eligible for being counted towards the numerator referred to in Article 27(1), point (b) of Directive (EU) 2018/2001, or that are taken into account for the purposes referred to in Article 29(1), points (a), (b) and (c), first subparagraph, of that Directive.</i></p>	<p><i>The information to be transmitted through the supply chain shall be included in the documentation accompanying the physical shipments of raw material or fuels. It shall also be included in the Union database as soon as this starts operation, in the case of liquid and gaseous transport fuels that are eligible for being counted towards the numerator referred to in Article 27(1), point (b) of Directive (EU) 2018/2001, or that are taken into account for the purposes referred to in Article 29(1), points (a), (b) and (c), first subparagraph, of that Directive. The Union database shall also include the approved quantities of biofuels, as referred to in Article 23 bis.</i></p>



**Annex I, title and paragraph 3 (new), of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<i>ANNEX I</i> <i>DATA TO BE TRANSMITTED THROUGH THE WHOLE SUPPLY CHAIN AND TRANSACTION DATA</i>	<i>ANNEX I</i> <i>DATA TO BE TRANSMITTED THROUGH THE WHOLE SUPPLY CHAIN, TRANSACTION DATA AND APPROVED QUANTITIES OF BIOFUELS</i>  [...]  <i>3. Approved quantities of biofuels</i>  <i>Approved quantities of biofuels, as referred to in Article 23 bis.</i>

**3.3 For all biofuels imported into the European Union a copy of the certificate of origin used for the customs clearance shall be recorded in the Union database.**

EBB suggests amending Annex I of the Implementing Regulation as follows:

**Annex I, paragraph 1, of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<p><i>1. Data to be transmitted through the whole supply chain</i></p> <p><i>(a) name of the voluntary or national scheme;</i></p> <p><i>(b) proof of sustainability number;</i></p> <p><i>(c) sustainability and GHG emission savings characteristics, including:</i></p> <p><i>(i) statement on whether the raw material or fuel complies with the criteria set out in Article 29(2) to (7) of Directive (EU) 2018/2001;</i></p> <p><i>(ii) GHG emission data calculated according to the methodology set out in Annexes V and VI</i></p>	<p><i>1. Data to be transmitted through the whole supply chain</i></p> <p><i>(a) name of the voluntary or national scheme;</i></p> <p><i>(b) proof of sustainability number;</i></p> <p><i>(c) sustainability and GHG emission savings characteristics, including:</i></p> <p><i>(i) statement on whether the raw material or fuel complies with the criteria set out in Article 29(2) to (7) of Directive (EU) 2018/2001;</i></p> <p><i>(ii) GHG emission data calculated according to the methodology set out in Annexes V and</i></p>



<p><i>to Directive (EU) 2018/2001 or Delegated Regulation (EU) 2019/807;</i></p> <p><i>(iii) description of when the installation started operation (for fuels only);</i></p> <p><i>(d) name of raw material or name of raw material that the fuel is produced from;</i></p> <p><i>(e) waste or animal by-product permit number (if applicable);</i></p> <p><i>(f) fuel type (for fuels only);</i></p> <p><i>(g) country of origin of raw material;</i></p> <p><i>(h) country of fuel production;</i></p> <p><i>(i) statement on whether the raw material or fuel complies with the criteria set out for low indirect land-use change-risk biofuels;</i></p> <p><i>(j) information on whether support has been provided for the production of that consignment, and if so, the type of support scheme.</i></p>	<p><i>VI to Directive (EU) 2018/2001 or Delegated Regulation (EU) 2019/807;</i></p> <p><i>(iii) description of when the installation started operation (for fuels only);</i></p> <p><i>(d) name of raw material or name of raw material that the fuel is produced from;</i></p> <p><i>(e) waste or animal by-product permit number (if applicable);</i></p> <p><i>(f) fuel type (for fuels only);</i></p> <p><i>(g) country of origin of raw material;</i></p> <p><i>(h) country of fuel production;</i></p> <p><i>(i) statement on whether the raw material or fuel complies with the criteria set out for low indirect land-use change-risk biofuels;</i></p> <p><i>(j) information on whether support has been provided for the production of that consignment, and if so, the type of support scheme.</i></p> <p><i>(k) a copy of the certificate of origin used for the customs clearance for all biofuels imported into the European Union.</i></p>
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**3.4 The Commission shall adopt the necessary legal act to introduce the registration in the Union database of the first gathering points for non-crop raw materials.**

Article 31a (“*Union database*”), paragraph 2, of Directive (EU) 2018/2001 states that:

*“Where appropriate for the purpose of improving the traceability of data along the entire supply chain, the Commission is empowered to adopt delegated acts in accordance with Article 35 to supplement this Directive by further extending the scope of the data to be included in the Union database to cover relevant data from the point of production or collection of the raw material used for the fuel production”.*

EBB therefore respectfully asks the Commission to adopt delegated acts to strengthen the fight against fraud, by **extending the scope of the data to be included in the Union database to the first gathering points for non-crop raw materials listed in Annex IX to Directive (EU) 2018/2001.**



## (4) Mass balance issue

This item refers to the current frauds of economic operators in the implementation of the mass balance system and to the necessity to tackle such frauds.

As a reminder, the mass balance system aims to reduce the administrative burden of economic operators for demonstrating compliance with the sustainability and greenhouse gas saving criteria. It allows the physical mixing of raw material and fuels with differing sustainability characteristics and the reassignment of the sustainability characteristics in a flexible manner to consignments withdrawn from such a mixture.

According to Article 19, paragraph 2, subparagraph (e), of the Implementing Regulation, economic operators are required to keep **separate mass balances for raw materials and fuels which cannot be considered part of a mixture**.

As clarified by the Commission in a 2022 presentation<sup>5</sup> “[Mass balance] can be applied only if the raw materials or fuels can be considered part of the same mixture, which means being in one the situations below:

- *physically mixed in a container, at a processing or logistical facility, or at a transmission and distribution infrastructure or site;*
- *physically identical/ not mixed/ but stored in the boundaries of the [mass balance];*
- *belong to the same product group and stored in the boundaries of the [mass balance].*

As far as raw materials are concerned, there is a “special additional requirement for raw materials - to be considered part of a mixture, they have to belong to the same product group, except where the raw material is mixed for the purpose of further processing (processing site [of biofuels])”, as explained by the Commission.

The notion of “product group” is defined as follows by Article 2, paragraph 1, point (21) of the Implementing Regulation:

*“raw materials, biofuels, bioliquids, non-gaseous biomass fuels with similar physical and chemical characteristics and similar heating values or gaseous biomass fuels, and LNG with similar chemical characteristics that all are subject to the same rules set out in Articles 7, 26 and 27 of Directive (EU) 2018/2001 for determining the contribution of biofuels, bioliquids and biomass fuels towards achieving the targets for renewable energy”.*

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<sup>5</sup> [https://climate.ec.europa.eu/system/files/2023-05/ets\\_mrva\\_training\\_biomass\\_en.pdf](https://climate.ec.europa.eu/system/files/2023-05/ets_mrva_training_biomass_en.pdf)



The objective of such an additional requirement for raw materials is to “*Keep separate chain of custody and traceability for raw materials that are treated differently under RED II until the production site*”, as clarified by the Commission.

There is documented evidence of recurrent frauds to the mass balance system, notably to avoid the payment of antidumping and countervailing duties. One of these frauds consist in (i) using two separate biodiesel storage tanks in a processing or logistical facility (one tank for imported biodiesel subject to antidumping/ countervailing duties and the other tank for other EU biodiesel), (ii) swapping, without any physical mixing, the proofs of sustainability between the two products and (iii) reexporting the imported biodiesel ahead of customs clearance, but selling and using into the EU the “new” proof of sustainability attached to that imported biodiesel.

**4.1 To tackle recurrent frauds to the mass balance systems, auditors shall verify that mass balance is only applied to raw materials or fuels that are part of the same mixture.**

**Further, the following procedure must be implemented by the competent authorities of the Member States:**

- **The competent authorities of the Member States shall identify, on the basis of the information relating to the country of the fuel production included in the Union database and mentioned in the proof of sustainability, the consignments of fuels that are subject to antidumping and/or countervailing duties;**
- **The competent authorities of the Member States shall obtain from voluntary schemes, economic operators and certification bodies all customs clearance documents, including a certificate of origin, relating to the consignments of fuels that are subject to antidumping and/or countervailing duties;**
- **The competent authorities of the Member States shall carry out an in-depth review of the customs clearance documents, including the certificate of origin, and compare the country recorded in that certificate of origin with the country of the fuel production included in the Union database and mentioned in the proof of sustainability for the same consignment;**
- **In case (i) of any discrepancy between (a) the country recorded in the certificate of origin and (b) the country of the fuel production included in the Union database and mentioned in the proof of sustainability or (ii) the competent authorities of the Member States cannot obtain the relevant customs clearance documents, the proof of sustainability related to the consignment shall be invalidated.**



EBB suggests amending Article 15 (*Audits of mass balance systems*) and Article 17 (*Supervision by the Member States and the Commission*) of the Implementing Regulation as follows:

**Article 15, third subparagraph, point (a), of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<p><i>During subsequent annual audits, the auditor shall check at least the following elements:</i></p> <p><i>(a) list of all sites, that are under the scope of certification. Each site shall have its own mass balance records;</i></p> <p><i>(b) list of all inputs per site and the description of material handled and details of all suppliers;</i></p> <p><i>(c) list of all outputs per site and the description of material handled and details of all customers;</i></p> <p><i>(d) conversion factors applied, in particular in the case of installations processing waste or residues to ensure that the process is not modified to produce more waste or residue material;</i></p> <p><i>(e) any discrepancies between book keeping system and inputs, outputs and balances;</i></p> <p><i>(f) allocation of sustainability characteristics;</i></p> <p><i>(g) equivalence of the sustainability data and the physical stock at the end of the mass balance period.</i></p>	<p><i>During subsequent annual audits, the auditor shall check at least the following elements:</i></p> <p><i>(a) any proof that the mass balance system has only been implemented in relation to raw materials or fuels that are part of the same mixture ;</i></p> <p><i>(b) list of all sites, that are under the scope of certification. Each site shall have its own mass balance records;</i></p> <p><i>(c) list of all inputs per site and the description of material handled and details of all suppliers;</i></p> <p><i>(d) list of all outputs per site and the description of material handled and details of all customers;</i></p> <p><i>(e) conversion factors applied, in particular in the case of installations processing waste or residues to ensure that the process is not modified to produce more waste or residue material;</i></p> <p><i>(f) any discrepancies between book keeping system and inputs, outputs and balances;</i></p> <p><i>(g) allocation of sustainability characteristics;</i></p> <p><i>(h) equivalence of the sustainability data and the physical stock at the end of the mass balance period.</i></p>



**Article 17, paragraph 9 (new), of the Implementing regulation:**

Present text	Amendment
	<p>9. <i>The competent authorities of the Member States shall identify, on the basis of the information relating to the country of the fuel production included in the Union database and mentioned in the proof of sustainability, the consignments of fuels that are subject to antidumping and/or countervailing duties.</i></p> <p><i>The competent authorities of the Member States shall obtain from voluntary schemes, economic operators and certification bodies all customs clearance documents, including a certificate of origin, relating to the consignments of fuels that are subject to antidumping and/or countervailing duties.</i></p> <p><i>The competent authorities of the Member States shall carry out an in-depth review of the customs clearance documents, including the certificate of origin, and compare the country recorded in that certificate of origin with the country of the fuel production included in the Union database and mentioned in the proof of sustainability for the same consignment.</i></p> <p><i>In case (i) of any discrepancy between (a) the country recorded in the certificate of origin and (b) the country of the fuel production included in the Union database and mentioned in the proof of sustainability or (ii) the competent authorities of the Member States cannot obtain the relevant customs clearance documents, the proof of sustainability related to the consignment shall be invalidated.</i></p>

**4.2 The precise nature of the raw materials shall further be clarified in the mass balance documentation.**

EBB suggests amending Article 15 (*Audits of mass balance systems*) of the Implementing Regulation as follows:

**Article 15, first paragraph, of the Implementing Regulation:**

Present text	Amendment
<p><i>Voluntary schemes shall ensure that economic operators provide auditors with all mass balance data in advance of the audit.</i></p>	<p><i>Voluntary schemes shall ensure that economic operators provide auditors with all mass balance data in advance of the audit. Mass balance data shall include the name of raw material or name of raw material that the fuel is produced from.</i></p>



## (5) Other issues

EBB further proposes the following measures amending the EU framework for the certification of sustainable biofuels:

**5.1 For all biofuels and blends entering the EU, the declared biogenic content on the proof of sustainability and the customs documents of the imported fuel must match its physical biogenic content. To ensure this, each shipment shall be subject to a mandatory C14 analysis. The result of such analysis shall be included in the Union database.**

Article 10 (*Audit process and levels of assurance*) and Annex I of the Implementing Regulation should be amended as follows:

### Article 10, paragraph 2, point (c) of the Implementing Regulation:

<i>Present text</i>	<i>Amendment</i>
<p><i>analysis of the risks which could lead to a material misstatement, based on the auditor's professional knowledge and the information submitted by the economic operator. That analysis shall take into consideration the overall risk profile of the activities, depending on the level of risk of the economic operator and the supply chain, above all at the immediately upstream and downstream stages, for example, for economic operators that handle material listed in Annex IX. The audit intensity or scope, or both, shall be adapted to the level of overall risk identified, also based on plausibility checks of the production capacity of a plant and the declared quantities of produced fuels;</i></p>	<p><i>analysis of the risks which could lead to a material misstatement, based on the auditor's professional knowledge and the information submitted by the economic operator. That analysis shall take into consideration the overall risk profile of the activities, depending on the level of risk of the economic operator and the supply chain, above all at the immediately upstream and downstream stages, for example, for economic operators that handle material listed in Annex IX. The audit intensity or scope, or both, shall be adapted to the level of overall risk identified, also based on plausibility checks of the production capacity of a plant and the declared quantities of produced fuels. For all biofuels and blends entering the European Union, the declared biogenic content in the proof of sustainability and the customs documents must match the physical biogenic content of such biofuels and blends. To that end, each physical shipment shall be subject to a carbon 14 analysis. The results of such analysis and the temperature measurement are entered into the Union database.</i></p>



## Annex I, paragraph 1, of the Implementing Regulation:

<i>Present text</i>	<i>Amendment</i>
<p>1. Data to be transmitted through the whole supply chain</p> <p>(a) name of the voluntary or national scheme;</p> <p>(b) proof of sustainability number;</p> <p>(c) sustainability and GHG emission savings characteristics, including:</p> <p>(i) statement on whether the raw material or fuel complies with the criteria set out in Article 29(2) to (7) of Directive (EU) 2018/2001;</p> <p>(ii) GHG emission data calculated according to the methodology set out in Annexes V and VI to Directive (EU) 2018/2001 or Delegated Regulation (EU) 2019/807;</p> <p>(iii) description of when the installation started operation (for fuels only);</p> <p>(d) name of raw material or name of raw material that the fuel is produced from;</p> <p>(e) waste or animal by-product permit number (if applicable);</p> <p>(f) fuel type (for fuels only);</p> <p>(g) country of origin of raw material;</p> <p>(h) country of fuel production;</p> <p>(i) statement on whether the raw material or fuel complies with the criteria set out for low indirect land-use change-risk biofuels;</p>	<p>1. Data to be transmitted through the whole supply chain</p> <p>(a) name of the voluntary or national scheme;</p> <p>(b) proof of sustainability number;</p> <p>(c) sustainability and GHG emission savings characteristics, including:</p> <p>(i) statement on whether the raw material or fuel complies with the criteria set out in Article 29(2) to (7) of Directive (EU) 2018/2001;</p> <p>(ii) GHG emission data calculated according to the methodology set out in Annexes V and VI to Directive (EU) 2018/2001 or Delegated Regulation (EU) 2019/807;</p> <p>(iii) description of when the installation started operation (for fuels only);</p> <p>(d) name of raw material or name of raw material that the fuel is produced from;</p> <p>(e) waste or animal by-product permit number (if applicable);</p> <p>(f) fuel type (for fuels only);</p> <p>(g) country of origin of raw material;</p> <p>(h) country of fuel production;</p> <p>(i) statement on whether the raw material or fuel complies with the criteria set out for low indirect land-use change-risk biofuels;</p>



<p>(j) information on whether support has been provided for the production of that consignment, and if so, the type of support scheme.</p>	<p>(j) information on whether support has been provided for the production of that consignment, and if so, the type of support scheme.</p> <p>(k) Results of the carbon 14 analysis and temperature measurement for all biofuels and blends entering the European Union.</p>
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**5.2 Biofuels imported to the EU as Sustainable Aviation Fuels (SAF) must not be used in road transport and *vice versa*. This is to avoid that HVO for road transport is imported as SAF (and thus under a different customs code) to avoid EU countervailing duties against HVO.**

**SAF must comply with kerosene quality standards (Jet A1), i.e. a freeze point below minus 40°C. Each SAF shipment shall be subject to a mandatory analysis to confirm compliance. The result of such analysis shall be included in the Union database. If a SAF shipment fails to comply, it shall automatically be re-declared as HVO.**

**EBB suggests to create a new CN code specific for more than 20% of biocomponent as a jet/kerosene equivalent product. It would be a new CN subheading falling within the CN category of “medium oils”, inspired by the same customs structure as within the CN category of “heavy oils”, with the last two digits of CN codes differentiating a fossil distillate from a bio-equivalent one (FAME/HVO). The fight against fraud indeed implies to better differentiate products with different characteristics.**

Article 10 (*Audit process and levels of assurance*) and Annex I of the Implementing Regulation should be amended as follows:

**Article 10, paragraph 2, point (c) of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<p><i>analysis of the risks which could lead to a material misstatement, based on the auditor's professional knowledge and the information submitted by the economic operator. That analysis shall take into consideration the overall risk profile of the activities, depending on the level of risk of the economic operator and the supply chain, above all at the immediately upstream and downstream stages, for example, for economic operators that handle material listed in Annex IX. The audit</i></p>	<p><i>analysis of the risks which could lead to a material misstatement, based on the auditor's professional knowledge and the information submitted by the economic operator. That analysis shall take into consideration the overall risk profile of the activities, depending on the level of risk of the economic operator and the supply chain, above all at the immediately upstream and downstream stages, for example, for economic operators that handle material listed in Annex IX. The audit intensity or scope, or both, shall be</i></p>



<p><i>intensity or scope, or both, shall be adapted to the level of overall risk identified, also based on plausibility checks of the production capacity of a plant and the declared quantities of produced fuels;</i></p>	<p><i>adapted to the level of overall risk identified, also based on plausibility checks of the production capacity of a plant and the declared quantities of produced fuels. The audit shall verify that (i) biofuels imported to the European Union as sustainable aviation fuels (SAF) must not be used in road transport and vice versa and (ii) that sustainable aviation fuels have a freeze point maximum of minus 40 degrees C. To that end, each shipment of sustainable aviation fuels shall be subject to a technical analysis, whose results are entered into the Union database. In case of non-compliance, fuels can no longer be used or sold as sustainable aviation fuels.</i></p>
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**Annex I, paragraph 1, of the Implementing Regulation:**

<i>Present text</i>	<i>Amendment</i>
<p><i>1. Data to be transmitted through the whole supply chain</i></p> <p><i>(a) name of the voluntary or national scheme;</i></p> <p><i>(b) proof of sustainability number;</i></p> <p><i>(c) sustainability and GHG emission savings characteristics, including:</i></p> <p><i>(i) statement on whether the raw material or fuel complies with the criteria set out in Article 29(2) to (7) of Directive (EU) 2018/2001;</i></p> <p><i>(ii) GHG emission data calculated according to the methodology set out in Annexes V and VI to Directive (EU) 2018/2001 or Delegated Regulation (EU) 2019/807;</i></p> <p><i>(iii) description of when the installation started operation (for fuels only);</i></p> <p><i>(d) name of raw material or name of raw material that the fuel is produced from;</i></p>	<p><i>1. Data to be transmitted through the whole supply chain</i></p> <p><i>(a) name of the voluntary or national scheme;</i></p> <p><i>(b) proof of sustainability number;</i></p> <p><i>(c) sustainability and GHG emission savings characteristics, including:</i></p> <p><i>(i) statement on whether the raw material or fuel complies with the criteria set out in Article 29(2) to (7) of Directive (EU) 2018/2001;</i></p> <p><i>(ii) GHG emission data calculated according to the methodology set out in Annexes V and VI to Directive (EU) 2018/2001 or Delegated Regulation (EU) 2019/807;</i></p> <p><i>(iii) description of when the installation started operation (for fuels only);</i></p> <p><i>(d) name of raw material or name of raw material that the fuel is produced from;</i></p>



January 2025

PROPOSALS ON RED VERIFICATION

<p><i>(e) waste or animal by-product permit number (if applicable);</i></p> <p><i>(f) fuel type (for fuels only);</i></p> <p><i>(g) country of origin of raw material;</i></p> <p><i>(h) country of fuel production;</i></p> <p><i>(i) statement on whether the raw material or fuel complies with the criteria set out for low indirect land-use change-risk biofuels;</i></p> <p><i>(j) information on whether support has been provided for the production of that consignment, and if so, the type of support scheme.</i></p>	<p><i>(e) waste or animal by-product permit number (if applicable);</i></p> <p><i>(f) fuel type (for fuels only);</i></p> <p><i>(g) country of origin of raw material;</i></p> <p><i>(h) country of fuel production;</i></p> <p><i>(i) statement on whether the raw material or fuel complies with the criteria set out for low indirect land-use change-risk biofuels;</i></p> <p><i>(j) information on whether support has been provided for the production of that consignment, and if so, the type of support scheme.</i></p> <p><i>(k) Results of the technical analysis of sustainable aviation fuels (freeze point).</i></p>
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## EUROPEAN BIODIESEL BOARD

The European Biodiesel Board (EBB) is a non-profit organisation established in January 1997. Today, the EBB gathers 34 members across 21 Member-States, which represents 75% of the European output. Biodiesel is the main European solution to reduce emissions from transport and dependence on imported oil. EBB aims to promote the use of biodiesel in the European Union and is committed to fulfil International standards for sustainability in GHG emissions and sustainable feedstock. The EBB is constantly working towards the development of improved and greener technologies.



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