

Renewable and recycled carbon fuels: extending the scope of traceability of the UDB
FuelsEurope recommendations on the draft Delegated Regulation 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

7 November 2024

FuelsEurope welcomes the opportunity to express its views on the draft Delegated Regulation extending the scope of the data to be included in the Union Database (UDB). FuelsEurope strongly supports the ongoing enhancements of the UDB, as it is essential for fuel manufacturers to have a robust and reliable tool to ensure traceability and mitigate the risks of fraud. This improvement not only fosters transparency in the industry but also strengthens our commitment to sustainability and regulatory compliance. While we firmly support the European Commission's initiative to extend the traceability from the from the first gathering point, we would like to emphasize a few considerations that require further attention and clarification.

To ensure a robust scope extension, we call on the European Commission to:

- 1 Reinforce the definitions of stakeholders needed to extend traceability from the start of the value chain (Articles 2 and 3);**
- 2 Articulate EU raw material nomenclature and the role of the UDB manager (Art. 2 and Art. 3(5));**
- 3 Anticipate the implications of new rules for initial stock registration (Articles 2 and 4);**
- 4 Reconsider the three-days rule (Article 5).**
- 5 Address transaction data entry uncertainties (Article 5);**
- 6 Ensure a level playing field for imported and domestic productions.;**
- 7 Ensure sufficient flexibility to administer the validity of certificates in the UDB (Article 6).**

Background information

By 21 November 2024, the Commission is to ensure that the UDB scope is expanded to enable the tracing of liquid and gaseous renewable and recycled carbon fuels. The Renewable Energy Directive (RED)¹ also empowers the Commission to further extend the scope to include data from the point of production or collection of the raw materials. A draft Implementing Act was submitted by the Commission for Open Public Consultation on October 10th until November 7th to provide legal grounds to the on-going expansion of the technical scope of the UDB.

To ensure clarity in the new rules, FuelsEurope recommends to consider the following points.

1. Reinforce the definitions of stakeholders needed to extend traceability from the start of the value chain (Articles 2 and 3).

The language in Article 3(1) should specify more precisely and exhaustively economic operators in scope of “*all economic operators dealing with biomass raw materials collection, preparation or first transformation into intermediary products*”. The current text references (a) ‘*individually certified points of origin*’, (b) ‘*first collection points or first gathering point of waste or non-waste biomass*’, and (c) ‘*traders of raw materials from biomass*’.

The generic term of “*traders of raw materials*” is however undefined. Its consistent understanding by all stakeholders is essential to ensure a consistent traceability in the UDB. This draft delegated act includes prescriptions on national schemes that RED’s article 30(6) places under the sole authority of Member States. Addressing these definitions and securing upfront adhesion of Member States will be crucial to ensure alignment and understanding the roles and responsibilities of these specific stakeholders. Inconsistent interpretation or application by Member States of the provisions applicable to national schemes in this draft delegated act would create regulatory uncertainty and hinder traceability integrity.

The only potential sources of raw materials not already covered by Article 3(1)(a) and(b) are those originating from farms, plantations, or forest management units with individual or group certification. Additionally, we recognize that these entities are not intended to become obligated parties under this regulation, which is why traders of raw materials from biomass have been included in Article 3.1.c.

We understand that first collecting points that purchase the waste from individual certified points of origin would not be required to enter their initial stock registration to make sure that the UDB implementation is gradual starting from the first economic operators in the supply chain. Therefore, we also suggest to indicate this in the regulation to provide certainty for economic operators.

We also recommend the Delegated Act clarifies that **blending and co-processing operators** do not fall in scope of the perimeter of Art. 3 (1).

Article 3(4)(b) requires a unique company identifier is used. We seek clarification on whether non-EU government-issued identifiers are accepted and recommend the definition of their attributes is referenced in the Delegated Act.

¹ 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 (recast).

2. Articulate EU raw material nomenclature and the role of the UDB manager (Art. 2 and Art. 3(5))

The draft Delegated Act defines the ‘Union database manager’ as “the responsible unit in the Commission being in charge of the IT maintenance and further development of the IT application of the Union database”. Moreover, Article. 3(5) and 3(6) extend these prerogatives to the maintenance of the raw material list.

However, per the RED the local transposition and eligibility of feedstocks listed in Annex IX and defined in a generic way² is an exclusive competence of Member States. Therefore, the assessments of feedstock additions requests are carried out by voluntary and national schemes with Member States, without any involvement from the UDB manager.

Realistic biofuel pathways³ need to be operationalized in the UDB and physically impossible pathways must be technically restricted. Currently the possibilities for physical pathways are fully open in the UDB, this goes against the fundamental role of the UDB to control the traceability of materials. This openness increases the risk of future misreporting into the Member States where national databases are already addressing such risks by being far more restrictive. In that regard, the list of raw material names used across the EU in the UDB should be able to accommodate the feedstock naming conventions used by Voluntary Scheme or National Scheme with the Member States and remove redundant definitions. This is needed to embed pathways’ controls in the UDB.

The eligibility of fuels with provisions set by other EU legislations is identified from the raw material mentioned in the Proofs of Sustainability (POS). The information entered into the UDB should be aligned with the data included in the POS to provide for a consistent treatment by national schemes and voluntary schemes and tracing of the eligibility of pathways in local and/or European obligations and mandates. In anticipation of the extension of the UDB for ReFuelEU Aviation and FuelEU Maritime, it is essential to identify already the pathways eligible to these legislations. For instance, biofuels derived from food and feed crops are not eligible, while other feedstocks, such as tallow category 3 are.

This understanding has roots and consequences reaching beyond the simple design of the UDB. For the above listed reasons, we believe the role of UDB manager should be redefined and prerogatives to address matters reaching beyond the IT operation and administration of the database assigned in the delegated act to a ‘UDB owner’ with full accountability for the traceability register and oversight of the UDB manager.

Meanwhile, the responsibilities of the UDB Manager (Article 2) as the custodian of the UDB should be expanded beyond IT development and maintenance to cover communication and training (ensuring all stakeholders are well-informed and adequately trained on UDB operations) as well as supporting

² For instance, Annex IX Part. A (d) “Biomass fraction of industrial waste not fit for use in the food or feed chain, including material from retail and wholesale and the agro-food and fish and aquaculture industry, and excluding feedstocks listed in part B of this Annex;”

³ ‘pathways’: combinations of feedstocks and final fuels that can be attributed with different options to determine GHG emission values, i.e. total default values and disaggregated default values (as per respective Annex to the RED III) as well as the option to add individually calculated GHG values.

procedures (establishing clear emergency and protocols, complaints procedure, proposing an independent verification mechanism for UDB data security).

3. Better anticipate the implications of new rules for initial stock registration (Articles 2 and 4)

The **requirement for the initial stock upload**, previously communicated as non-mandatory, is now stated in the draft Delegated Act as mandatory only for economic operators referred to in article 3(1). We welcome that clarification. Nevertheless, for economic operators positioned further down in the fuels value chain, the registration of raw material consignments by this subset of economic operators would become a prerequisite for the compliance of steps conducted thereafter by downstream economic operators. It is essential to plan this change in collaboration with all stakeholders and anticipate its repercussions to ensure the use of the UDB becomes rapidly the EU statistical reporting tool and traceability register ambitioned by the legislators.

The legal deadlines for registering initial stocks and the reference date for this stock are currently unclear. According to the announcement made on September 26 on the UDB's wiki site this reference date formerly set for January 1, 2024 for all economic operators is now set on a best-effort basis to October 1, 2024 for what appears to be a subset of the economic operators in scope of Art. 3 (1) of the draft Delegated Act. The enactment of the draft Delegated Act should empower to Commission to set a legally binding reference date and deadline to register initial stocks. Nevertheless, **sufficient notice** should be given to all stakeholders after the entry into force of the Delegated Act, (at least 2 months).

A reasonable **transition period** should then be established to all downstream stakeholders and transactions to be registered and operational in the UDB. The end of the transition period should be best **synchronized with an annual reporting cycle**. Realistically and subject to the prompt adoption of the Delegated act, this transition period should be **synchronized at the earliest with the end of the 2025 compliance cycle** (annual declaration closing typically at the end of Q1 or Q2 of 2026; subject to Member States). Enough time must be allowed for the modification of guidelines in Member States, for their translation into internal operational guidelines by the diverse stakeholders involved in liquid and gaseous fuels value-chain, for the training and eventual recruitment of personnel, and for the modification and eventual bi-directional and secure interfacing of national databases, stakeholders IT tools, and ERP systems of Economic Operators with the UDB. During this transition period the current systems in Member State may need to co-exist in parallel to the UDB for stocks that were already in the supply chain before the date when UDB becomes mandatory for economic operators in scope of Art. 3.1. Specific cutover plans are needed Member State by Member State in particular to accommodate the transition of national schemes. Registration of suppliers located outside of the European Union may require bilateral discussions with Member States. **Proofs of Sustainability (POS)** based on certified raw materials registered prior to the initial stock registration date should not be invalidated and must retain their validity after the end of transition period. Any cut-off date to upload such POS into the UDB should be set at the earliest at the end of the transition period. Enough time and eventual incentive should be granted to encourage the 'consumption' of these POS in the transition phase in order to minimize their number.

In this context it should be clarified which obligations detailed in the delegated regulation apply to specific economic operators and which ones apply to all economic operators. Throughout the document,

certain obligations for economic operators are explicitly directed at those defined in Article 3(1). However, other obligations lack this specificity. It is crucial for the obligated parties to be clearly identified for each obligation to ensure legal certainty.

Overlooking any the above steps may jeopardize the successful deployment of the UDB.

4. Reconsider the three-days rule (Article 5).

The three-day timeframe indicated in Article 5 of the draft Delegated Act for entering transaction data, is **operationally critical**. Such requirement seems unnecessary, as it does not contribute to improve traceability. A three-day timeline imposes an important administrative burden on economic operators and **can be impossible to implement**. You will find in annex a few scenarios to illustrate this impossibility. Additionally, the definition of three working days can vary from country to country due to public holidays and differing operational practices. The benefit of this 3-days deadline being unclear, **we renew our recommendation to reconsider this rule entirely**.

Nevertheless, if this provision is to be maintained we believe it is essential that an adjustment in the regulatory text is made to facilitate that economic operators can meet the established deadlines:

Article 5

Text in the draft	Recommendation for amendment
<p>1. Economic operators, referred to in Article 3(1) of this Regulation, that are obliged to enter transactions data in the Union database under national law and in accordance with Article 31a of Directive (EU) 2018/2001 shall enter such data within three working days from a triggering point, which shall be one of the following:</p> <ul style="list-style-type: none"> (a) an invoice issuance date; (b) a surveyor report issuance date; (c) a bill of lading issuance date; (d) the issuance date of an internal system reference document covering multiple shipments; or (e) a truck report issuance date. 	<p>1. Economic operators, referred to in Article 3(1) of this Regulation, that are obliged to enter transactions data in the Union database under national law and in accordance with Article 31a of Directive (EU) 2018/2001 shall enter such data within thirty working days from a triggering point, which shall be one of the following:</p> <ul style="list-style-type: none"> (a) an invoice issuance date; (b) a surveyor report issuance date; (c) a bill of lading issuance date; (d) the issuance date of an internal system reference document covering multiple shipments; or (e) a truck report issuance date.
	<p>1.bis (New)</p> <p>Other economic operators, not referred to in Article 3(1) subparagraphs a) and b) of this Regulation, that are obliged to enter transactions data in the Union database under national law and in accordance with</p>

	<p>Article 31a of Directive (EU) 2018/2001 shall enter such data within thirty working days from a triggering point, which shall be one of the following provided the material traded already appears in the stock of the economic operator in the Union Database:</p> <ul style="list-style-type: none"> (a) an invoice issuance date; (b) a surveyor report issuance date; (c) a bill of lading issuance date; (d) the issuance date of an internal system reference document covering multiple shipments; or (e) a truck report issuance date. <p>If the date by which the material that is being traded appears in the stock of the seller is posterior to thirty working days after any of the triggering points listed above, the seller shall enter the data of the transaction within thirty working days from the date the material that is being traded appears in the stock of the seller of the Union Database.</p>
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5. Address transaction data entry uncertainties (Article 5).

To avoid major disruptions in current operations, it is essential that the UDB aligns with the well-seasoned best-practices developed by Voluntary Schemes and Member States concerning the timeline for transaction data entry. Currently, voluntary schemes typically allow for the issuance of the Proofs of Sustainability (POS) **within 30 days** from the goods issue date (e.g., Bill of Lading or truck/RTCs report issuance date) and for another 30 days to receive the transaction. This timeline accommodates the operational needs of biofuel production sites and raw material gathering sites, as it allows for the **necessary alignment of fiscal material balances and the mass balance required for sustainability purposes**. We believe the UDB should be flexible enough to sustain these practices.

We recommend to ensure that the list of admissible triggering points for transaction data entry occur after the actual goods-issue date. This is implicit with the last three triggering points proposed by Art. 5 (1): (c) the 'Bill of Lading issuance date'; (d) the 'issuance date of an internal system reference document covering multiple shipment'; and (e) the 'truck report issuance date'. However, the first two listed triggering points may deserve attention: (a) 'an invoice issuance date'; and (b) 'a surveyor's issuance date'.

In cases where multiple physical shipments occur between the same trading partners, and those shipments contain raw materials with identical sustainability characteristics and GHG emission values, we welcome the possibility offered by Article 5 (1) (d) that the economic operator entering the transaction data as the seller could be allowed to aggregate these shipments into a single transaction.

This aggregated transaction should reflect the total amounts traded within a maximum period of one month, based on an auditable goods issue document chosen by the seller as the triggering point. We also recommend the term **'shipment' is understood to encompass the delivery by the seller and goods-receipt by the buyer**. Without this flexibility, the likelihood of needing corrections is high. As large bulk deliveries are involved the verification of quantities may lead to inventory corrections between buyers and sellers. To minimize the need for the procedure in Article 5 (5), these corrections would be best handled outside of the UDB.

If the buyer takes no action within three working days, the transaction will automatically be cancelled by the UDB and returned to the seller. This operational aspect requires reconsideration to ensure it aligns with practical realities in the market. The cancellation of any transaction and the potential **expiry of the 3-days delay should never lead to the invalidation and stranding of a parcel** of certified raw material consignment, intermediate product or finished fuel in the UDB. Consistently with other delays, we ask **this delay should be extended from 3 to 30 days**.

The correction mechanism described in Article 5 (5) is highly unclear. The phrase "*In case of identified errors, another correcting transaction shall be launched by the economic operator who is willing to operate the corrections*" needs further detail to clarify which entity is responsible for making these corrections, and further define the precise process. Additionally, the last sentence, "*The transaction may be finalized at the latest by the earliest date of net mass balancing of either the seller or the buyer*" requires clarification of what "*net mass balancing*" entails (for instance, how should this be applied if a barge is loaded on the final day of a mass balance period, or if there are different start and end dates for mass balancing between economic operators?).

We also recommend enlargement and clarification in the delegated act of the timeliness of the specific information that needs to be uploaded and whether there is a defined deadline for its validation that accommodates local legislations and practices.

Per Art. 5(5) of the draft Delegated Act, in case the 'accumulated GHG emissions data' are unavailable at the time of transaction entry, the corresponding field may remain empty and be updated later. It is worth highlighting that until the GHG emissions data field is completed and accepted by the buyer, the transaction cannot be finalized in the UDB. For this specific reason, limiting this provision solely to GHG emissions data seems too restrictive; we recommend allowing empty/open fields under the same logic for all items referenced in Section 1 of Annex I to Implementing Regulation (EU) 2022/996⁴.

Per Article 5(9), "*Transactions that do not trigger physical shipment of the raw material or fuel may be registered by keeping as a delivery location the site of the seller. When introducing transactions for shipments that are in transit with unknown final delivery location, the seller may introduce the main delivery location site of the buyer. This field shall be updated by the buyer upon physical delivery of the raw material or fuel*".

⁴ 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.

These provisions on 'back-to-back' trades appear relatively vague and weak in terms of traceability. They deserve further guidance to ensure consistent interpretation and application by Economic Operators.

Article 5 (10) states that transactions that are *"booked out (...) shall not be subject to validation by the buyer. In order to complete the entry of the transaction, the seller shall enter the transaction data, including the name and country of destination of the raw material."*

These provisions raise some operational concerns requiring further clarification and guidance for Economic Operators. Maintaining a separate list of buyers outside the scope of the UDB creates an additional administrative burden and controls exposures. We ask confirmation whether the information requested is beyond the purview of the European Commission. The term *"name"* is unclear and deserves further specification (e.g., to anticipate eventual audit requirements). Additionally, a procedure is missing for handling bio criteria removals that cannot be transferred to the next mass balance period due to the absence of a designated destination country for these bio criteria.

6. Ensure a level playing field for imported and domestic productions.

Imports will necessarily complement domestic production of RFNBOs and RCF as it is already the case for biofuels. Foreign economic operators should be allowed to register in the UDB and obtain upfront procedural clarity for clearance in the UDB. In facilitating the certification of renewable fuels and RCF through accredited EU Voluntary Schemes and national schemes, we urge the Commission to consider the importance of the global competitiveness of the European fuels industry while setting the rules for imported fuels from outside of the EU. The Commission should warrant a level playing field between imports and domestic production. We recommend these principles are reflected in a separate new article in the delegated act in order to minimize the need for legally non-binding EC guidance.

7. Ensure sufficient flexibility to administer the validity of certificates in the UDB (Article 6).

Article 6.2 states that *“The Union database shall automatically suspend the active status of the economic operators concerned if relevant certification data has not been updated according to the established procedures by the voluntary of national scheme before the expiration date of the previous certificate”*.

It is important to note that the responsibility for updating information may not rest solely with the economic operator, but also with the Certification body. Therefore, we believe that delays beyond the control of the economic operator should not result in the suspension of their active status, and propose the below amendment.

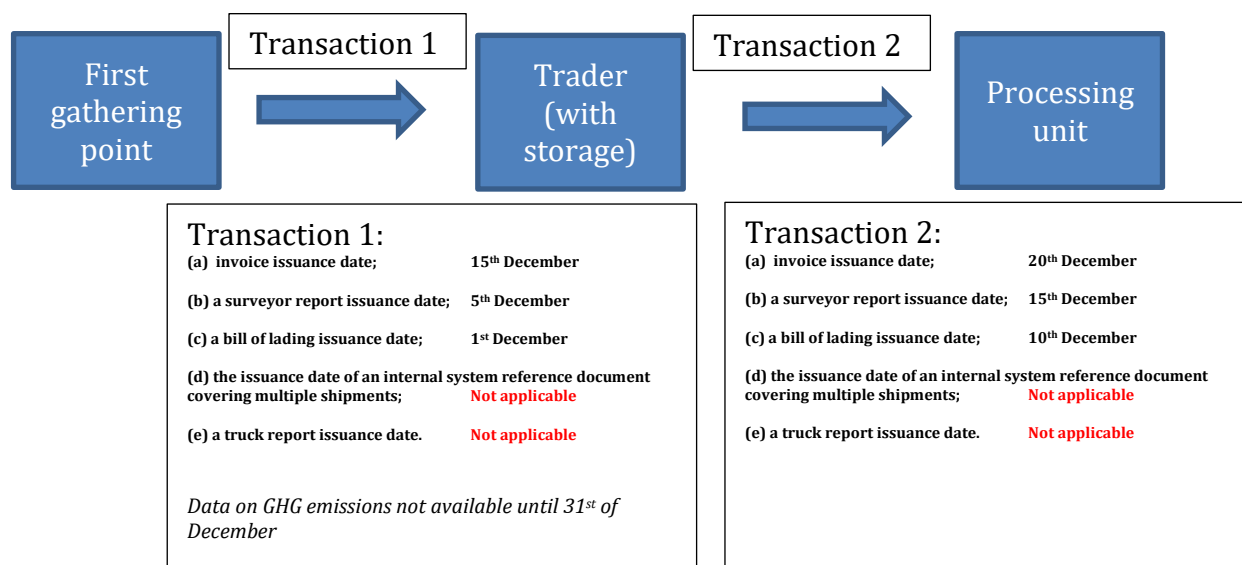
Article 6

Text in the draft	Recommendation for amendment
<p>2. Voluntary and national schemes shall ensure a system of data updates. They shall ensure that their certification bodies and the economic operators carry out the certification data updates in accordance with the procedures provided for by the scheme for such data updates. The Union database shall automatically suspend the active status of the economic operators concerned if relevant certification data has not been updated according to the established procedure by the voluntary or national scheme before the expiration date of the previous certificate. The validity period of certificates in the Union database shall not be longer than one year.</p>	<p>2. Voluntary and national schemes shall ensure a system of data updates. They shall ensure that their certification bodies and the economic operators carry out the certification data updates in accordance with the procedures provided for by the scheme for such data updates. The Union database shall automatically suspend the active status of the economic operators concerned if relevant certification data has not been updated according to the established procedure by the voluntary or national scheme before the expiration date of the previous certificate except in the cases where the certification data has not been provided by the certification body by the deadlines in the established procedures by the voluntary or national scheme. The validity period of certificates in the Union database shall not be longer than one year.</p>

ANNEX

Please find below some examples of situations where it would be impossible for the “trader” in these examples to comply with the 3 days deadline to register the seller transaction in the UDB.

A. Examples regarding delays in the arrival of PoS:



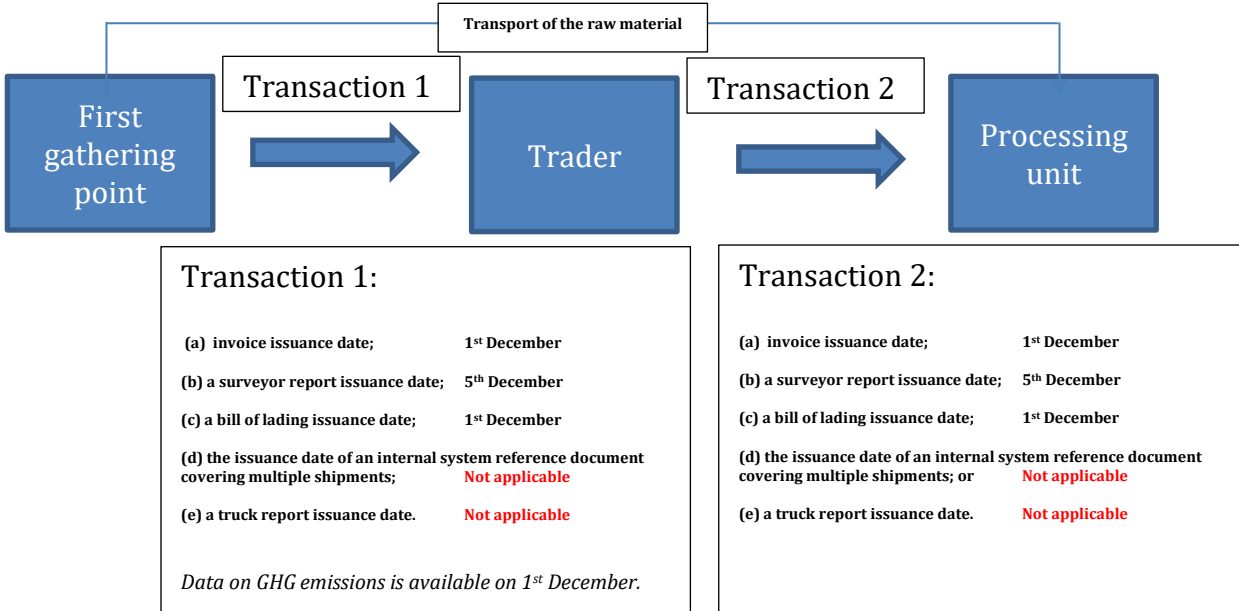
A first gathering point sells a batch of sustainable raw material to a trader, the raw material arrives to the trader’s storage on 5th December. The trader sells it to a processing unit and the raw material arrives to the processing unit installation on 15th December.

- The first gathering point chooses as triggering point the bill of lading issuance date (1st December). However, they cannot complete the transaction and send it to the buyer because they are missing the information of the GHG emissions that they cannot include until 30 days later (31st December).
- The trader sells the raw material to the processing unit and selects as triggering point the invoice issuance date (will be 20th December).
 - The trader will have only until 23th December to register the seller transaction to the processing unit.
 - However, it would be impossible for them to do so because the first gathering point will not be able to send the seller transaction to the trader until 31st December, and therefore the trader will not have the raw material in the trader’s stock in the UDB until that date.

B. Examples regarding back-to-back trading operations:

The trader sells the raw material to the processing unit operator the same day they buy it from the first gathering point.

• **Example I: consumption of time available to meet deadlines by the counterparty**

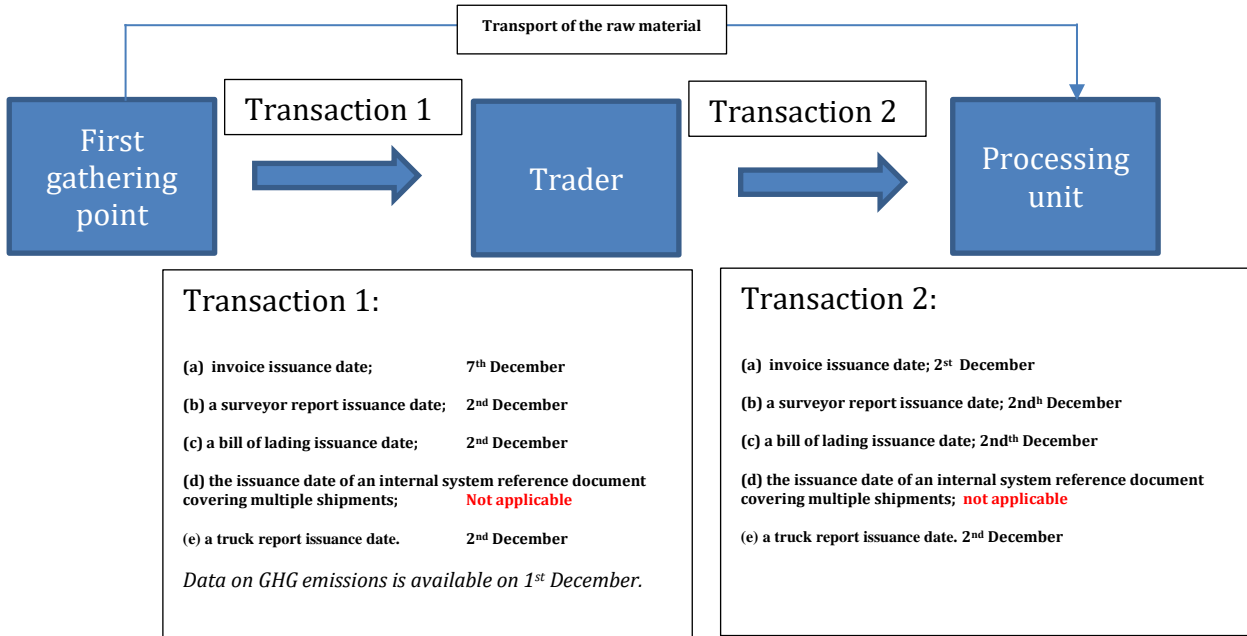


Both the first gathering point and the trader choose as triggering point, the bill of lading issuance date (e.g., 1st of December).

- The first gathering point enters the seller transaction data in the UDB on date 4th December (3 days after the triggering date).
- The trader would fail to comply with the requirement to register the transaction data (Trader to Processing unit operator) in the UDB 3 days after the triggering point (4th December) as there is no time left to enter the trader’s transaction because the raw material collector has already consumed the time.

It should be noted that where the transport takes short, very often all options of triggering point (a to e) are the same day, which is the delivery date, for both partners.

• **Example II: different counterparties procedures.**



Both first gathering point and the trader choose the **invoice issuance date** as triggering point:

- Raw material collector policy is invoicing 5 days after delivery (in this case 7th December 2024)
- Trader of Raw material policy is invoicing at delivery (2nd December)
- The first gathering point enters the seller transaction data in the UDB 3 days after the triggering point, i.e. 10th December (last day allowed).
- The trader would fail to comply with its commitment to register the transaction data (selling to Processing unit operator) in the UDB 3 days after the triggering point (5th of December) as there is no time left to enter the trader’s transaction.

FuelsEurope, the voice of the European fuel manufacturing industry. FuelsEurope represents with the EU institutions the interest of 41 companies manufacturing and distributing liquid fuels and products for mobility, energy & feedstocks for industrial value chains in the EU.

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