The recast of the RED aims at limiting the support to food-based biofuels after 2020 and ending the support to the highest emitting biofuels on the EU market by 2030 at the latest. The proposed draft delegated act is not fit for purpose and too weak to make this a reality. On the contrary, it could lead to the same level or even more palm oil biofuels to be used on the EU market compared to today’s consumption.

The Globiom study for the European Commission revealed that [biodiesel from palm oil is three times worse for the climate](https://www.transportenvironment.org/publications/globiom-basis-biofuel-policy-post-2020) than regular diesel while soy oil diesel is two times worse. Despite a drop in the use of palm oil in consumer products (food, cosmetics etc.) [palm oil consumption keeps increasing](https://www.transportenvironment.org/press/motorists-forced-burn-more-rainforest-meet-eu-green-energy-targets-2017-figures) because of biodiesel. The EU is the second largest importer of crude palm oil in the world. The majority of palm oil imported into the EU (51%) is currently subsidised to make ‘renewable’ fuel. Europe uses around 4 million tonnes of crude palm oil to produce diesel, making drivers the top (albeit unaware) consumers of palm oil in Europe.

Based on the most recent available data, a recent briefing [briefing](https://www.transportenvironment.org/sites/te/files/publications/2019_01_High_low_ILUC_TE_briefing_final.pdf) by NGO Transport & Environment concluded that soy and palm as well as their co-products should be included in the category of high ILUC risk biofuels associated with significant expansion on high carbon stocks, to be phased out of the renewable targets.Regarding the low ILUC risk category, T&E concluded that the available evidence at that stage did not provide for a workable and sufficiently robust system for certification and recommended the Commission to close the door to this option for high ILUC risk biofuels.

The draft delegated act released by the European Commission includes palm oil in the category of high ILUC risk biofuels, due to its massive expansion on high carbon stocks since 2008 (average 45%). This is an important element and constitutes a landmark decision. But the choice of a 10% threshold keeps soy out of this category despite the fact that 8% of its expansion took place on high carbon stocks since 2008. We recommend the Commission to choose a lower threshold to decide what is significantly expanding on high carbon stocks or not. Palm and soy have been identified as forest risk commodities in various initiatives (e.g. Amsterdam Declaration) and classifying soy as ‘high ILUC risk’ would be in line with these examples.

Regarding the low ILUC risk criteria, the draft delegated act unfortunately keeps this option open for high ILUC risk biofuels. It includes a requirement for an additionality test, to ensure that a project wouldn’t have happened in the absence of the ‘low ILUC risk’ certification. But it also includes broad derogations regarding ‘unused’ land and smallholders which could lead to a business as usual situation. For example, [the ICCT](https://www.theicct.org/publications/analysis-high-and-low-iluc-definitions-eu) concluded that up to 5 million tonnes of palm oil will be produced in 2030 only in Indonesia and Malaysia, on land which would be considered ‘low ILUC risk’ according to the draft act. This land will be needed to meet the increased demand for food, feed and oleochemicals so its use for biofuels will still indirectly cause further palm expansion, in other words, ILUC. Also, the definition of ‘unused’ land doesn’t capture cases of uses by local communities or important ecosystem services provided by this land. Regarding smallholders, the size of a plantation or the type of land tenure have no relation to the risk of indirect deforestation or ILUC.

This is why we recommend the Commission to:

1. Suggest a lower threshold – maximum 4 / 3 / 2 / 1 % - for categorizing crops in the ‘high ILUC risk’ category and thus include soy in this category, together with palm and their respective co-products.
2. Close completely the door to the low ILUC certification for crops classified as high ILUC risk biofuels.