UPEI Position Paper on the European Commission proposal for a Regulation on an emergency intervention to address high energy prices COM(2022) 473 final

28 September 2022

UPEI, representing the European Independent Fuel Suppliers, has carefully read the proposal presented by the European Commission on 14 September to address high energy prices, announced the day before by President von der Leyen in her speech on the state of the European Union.

The purpose of this Regulation proposal is to tackle recent dramatic price rises of energy as a consequence of the Russian invasion of Ukraine and the subsequent economic sanctions adopted notably by the EU against Russia.

The Regulation Proposal is based on article 122 (1) of the Treaty on the Functioning of the European Union (TFEU), allowing for the adoption of measures appropriate to the economic situation and particularly if severe difficulties arise in the supply of certain products, notably in the area of energy. This legal basis allows for a fast-track adoption of the proposal since the European Parliament is not involved and the EU Council can decide by qualified majority. It is expected that the Council will adopt it on 30 September at an extraordinary meeting of the Energy ministers.

Amongst other measures, the Regulation proposal establishes a mandate for Members States to introduce a "temporary solidarity contribution" on surplus benefits generated by the energy crisis for the oil, gas, coal and refinery sectors. These sectors are more precisely defined in Article 2 (17) as *"activities in the field of oil, gas, coal and refinery sectors' means any economic activity performed by an EU company or permanent establishment generating at least 75% of turnover in the field of the extraction, mining, refining of petroleum or manufacture of coke oven products"*, therefore excluding non-extracting and non-producing companies.

As it stands, non-integrated companies represented by UPEI will not be affected by this new contribution, but the Regulation proposal allows Member States to complement the European contribution with broader national measures.

In view of the mentioned Energy Council, UPEI proposes that that the Regulation contains a better definition of complementary national measures, by excluding contributions on turnover or companies which do not benefit from surplus profits. This would contribute to maintaining the coherence of the Internal Market.

Although Member States can go further in this income redistributive action, it is understandable that they should adjust to the aim and the philosophy of the temporary solidarity contribution, as explained in the Regulation's explanatory memorandum "to tackle surplus profits, due to unforeseen circumstances" in order to generate "additional proceeds for national authorities to provide financial support to households and companies heavily affected by the soaring energy prices while ensuring a level playing field across the Union and the internal market."

As regards to the fuels sector, it happens that independent companies without refining capacity are purchasing from the international market and from local refineries, in both cases with reference to international prices. They are therefore victims and not beneficiaries of the soaring prices increase. Additionally, they also have to compete with producers who are benefiting from the situation. Moreover, companies without refining capacity have to increase their fixed assets to maintain the same sales volume.

UPEI and its association and company members remain at the disposal of the Commission and the Council members to explain our position in more details.