OGP
International Association of Oil & Gas Producers

Brussels, 13th January 2014

**To the trialogue negotiators of the revision of Markets in Financial Instruments Directive**

Dear Madam / Sir

**Re: MiFID II, Section C6 – Latest Council Proposals should be rejected. Recreating Physical Forward Oil and Gas Contracts as financial instruments will be very expensive for consumers.**

The continued efficient functioning of wholesale energy markets is of critical importance to the European Union, as it supports economic growth and improves industrial competitiveness. It is also crucial for oil and gas producers.

As the EU negotiates the revision of the MiFID, the International Association of Oil & Gas Producers (OGP) is very concerned that the current proposals would recreate physical forward oil and gas contracts as financial instruments at great cost to consumers.

OGP represents major companies engaged in the exploration and extraction of oil and natural gas, as well as national industry associations. Our members produce more than half the world's oil and about one third of its gas.

**OPG believes that physical forward commercial contracts should remain excluded from financial regulation, as they are not financial instruments.** The latest proposals from the Presidency greatly concern OGP and we recommend they be rejected in their current form.

With MiFID II definitions' broad reach, the inclusion of physically settled products would have long-lasting unintended consequences – primarily undermining the development of the internal energy market. These are easily avoidable now.

First of all, if physical forward oil and gas contracts are included within the scope of MiFID, this will add billions in unnecessary cost. Ultimately, it will be consumers who will pay a high price for this mistake. We also anticipate significant liquidity reductions in these energy markets.

Second, regulatory initiatives similar to MiFID II are being implemented elsewhere in the world as a result of G20 commitments, but physically delivered energy products have been exempted (i.e. Dodd Frank Act). Inconsistency will put the EU at a competitive disadvantage– at a time when Europe is struggling to boost is economic recovery and is increasingly reliant on energy imports.

Furthermore, the exclusion of physical forward contracts would not raise risks of regulatory arbitrage. The cost of moving to other trading platforms and the adjustments required to a company's business model would far outweigh any benefit that may be gained from regulatory arbitrage.

We hope the above points will help in ensuring an informed debate within the remaining trialogue negotiations. OGP remains at your disposal should you have any further questions or wish to discuss the content of this letter in detail.

Yours sincerely,

[redacted]

EU Affairs Director
E-mail: [redacted]

CC: [redacted], Energy Market Sub Committee, OGP [redacted]
Financial attaches, national representations to the EU.

More about OGP: Our membership spans the globe and accounts for more than half of the world's oil output and about one third of global gas production. From our London office, we foster cooperation in the area of health, safety and the environment, operations and engineering, and represent the industry before international organisations, such as the UN, IMO and the World Bank, as well as regional seas conventions, such as OSPAR, where we have observer status. OGP Europe in Brussels represents before the EU OGP members who are active in Europe.