



American Chamber of Commerce
in Romania

AMERICAN CHAMBER OF COMMERCE IN ROMANIA

*Member of the U.S. Chamber of Commerce and of
the European Council of the American Chambers of Commerce*

11 Ion Campineanu St., Bucharest 1

Tel: + 40 21 315 86 94, 312 48 34

Fax: + 40 21 312 48 51

E-mail: amcham@amcham.ro

**AMCHAM ROMANIA POSITION PAPER ON ENERGY AND
ENVIRONMENT
2010**

MAY 2010

1. EXECUTIVE SUMMARY

AmCham Romania supports urgent and coherent action in Romania based on political consensus, consistent high-level approach and best industry practices, in order to address the triad competitiveness - climate change - security.

In order to benefit of the effective support from the business community in the field, it is imperative that the Government - i.e. Ministry of Economy, Trade and Business Environment; Ministry of Environment and Forestry, Ministry of Development and Public Works - enhances transparency and significantly improves the consultation process with representatives of the business environment, including other organizations than the 'Patronate', such as Chambers of Commerce, business associations, professional associations, etc.

The foreseeable high energy prices, carbon constraints and greater competition for resources and markets are risks but also present opportunities Romania should seize in order to ensure a strong competitive advantage in the region. New greener technologies can stimulate growth and create new jobs and services and AmCham Romania is willing to contribute in this respect and to support Government initiatives in the following fields.

Energy and climate change policy

- Consolidated and functional legal and regulatory framework
- Stable and coherent energy policy, based on a mix of energy resources and new technology
- Ensuring security of energy supply and strategic energy infrastructure
- Revision of Romania's energy roadmap
- Ensuring and continuously supporting regional network interconnection for both gas and electricity
- Supporting renewable energy and the elaboration of a sound National Renewable Energy Action Plan
- Sustaining the high efficiency cogeneration bonus scheme
- Setting-up a functional cooperation framework in the field of energy and climate change mitigation and adaptation between [Government] stakeholders
- Supporting the implementation of a coherent energy efficiency policy
- Ensuring improved energy efficiency in buildings through rapid transposition and implementation of the EPBD recast
- Setting-up effective Public-Private Partnerships (PPP)
- Implementing policies and measures for climate change mitigation, including appropriate incentives and risk/reward mechanisms to be enforced for the promotion of energy efficiency, cogeneration and renewable energy resources
- Transposition and implementation of Directive 2009/29/EC amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community
- Supporting the development of coherent policies for CO₂ reduction in the other economic sectors that are not covered yet by the EU-ETS
- Supporting and implementing the EU initiatives related to Carbon Capture and Storage
- Implementing a Green Investment Scheme based on AAU trading
- Establishing and implementing a coherent climate change mitigation and adaptation policy, including post 2012
- Strengthening Romania's participation in the most relevant EU programs and initiatives and maximizing the advantages the country would have out of this participation.

Environmental Policy

- Promotion of the sustainable use of Romania's Natural Capital/ Natura 2000 network and of the national network of protected areas
- Establishing an incentive program for local authorities to improve the environmental infrastructure.
- Under the Waste framework Directive, promoting a realistic national approach for the issues open for Member States decision
- Active promotion and involvement of stakeholders including the business community in the Waste management national strategy and national plan
- Completion of the legislative framework for historically contaminated waste and sites
- Introduction of specific wastewater quality norms for each industrial sector
- Transparent communication and information exchange between authorities ensured in the frame of the IPPC revision – the new Industrial Emission Directive.

2. INTRODUCTION

AmCham Romania supports urgent and coherent action in Romania based on political consensus, consistent high-level approach and best industry practices, in order to address the triad competitiveness - climate change - security.

In the current economic conditions, the competitiveness issue is vital, but there are lots of ways in which energy and environmental policy can support it. AmCham Romania believes that the current financial crisis should not determine the delaying or softening of the regulations regarding energy market development, emissions reduction and increased use of the renewable energy resources; the European regulatory framework and national legislation should provide for incentives, and should ensure that companies are not forced to reduce their activity, decrease the number of employees or relocate the factories outside the EU.

The foreseeable high energy prices, carbon constraints and greater competition for resources and markets are risks but also present opportunities Romania should seize in order to ensure a strong competitive advantage in the region. New greener technologies can stimulate growth and create new jobs and services and AmCham Romania is willing to contribute in this respect.

AmCham Romania can strengthen the mobilization of the private sector and the national and regional capacity to develop project pipelines and capitalize funds to finance energy and/or environment-related projects.

In the same time, AmCham Romania can provide support and expertise to address the key energy challenges in the context of CEE regional energy market and the achievement of EU Energy Efficiency Policy, in terms of a sustainable, competitive and secure energy future for Romania.

Through our members, we can help at enhancing Romanian Government's capacity to negotiate/substantiate its position with the EC in Brussels, by providing comprehensive and up-to-date insight and consultancy for the Government.

Romania needs to keep the pace with other countries in the region/ EU in terms of setting up 'smart grids' for energy and make the right strategic investments in the field. AmCham Romania could ensure – through its members – appropriate advice and technical support in order to start implementing related measures (e.g. strategy, demonstrative projects etc.).

The deployment of the technology addressing both security of energy supply and climate change challenge requires policy support, i.e. stable energy regulation and nondiscriminatory market rules, incentives for low emissions technologies, long-term price for carbon, etc. and AmCham Romania is willing to support the Romanian Government initiatives in this respect.

The policies at national level to promote eco-innovation and energy-efficient products and systems should also include emissions trading, tax reform, subsidies and loans, public investment and procurement and targeting of research and innovation budgets.

AmCham Romania promotes among its members environmental leadership in their business activities and considers energy efficiency and energy conservation to be cornerstones for climate protection. We believe that the Romanian Government should encourage local and central authorities to conserve energy and continually improve the energy efficiency of their operations, products and services while collaborating with and

incentivizing their suppliers to do likewise. We recommend to the Romanian Government to adopt and enforce strict and comprehensive regulations related to energy efficiency and conservation, both for public sector users as well as the private ones. Energy efficiency and conservation should be included as compliance conditions in public tenders. Also, population should be targeted with an energy efficiency awareness dedicated program.

In the following sections, a more detailed list of potential Government initiatives which would be supported by AmCham is given.

3. ENERGY AND CLIMATE CHANGE POLICY

- **Consolidated and functional legal and regulatory framework**, in accordance to energy and environment-related EU legislation and Romania's commitments, thus eliminating any potential distortion affecting energy market competition. The implementation of the legislation and regulations should be based on clear and non-bureaucratic procedures, and it should not allow distortion. Support to new players entering the generation sector should be provided and the privatization of generation assets accelerated. Use of the trading platforms should be supported, while decreasing the volume of bilateral negotiated contracts which lack transparency.

- **Stable and coherent energy policy, based on a mix of energy resources** (including hydro, clean fossil fuels, renewable energy, nuclear) **and new technology**, committed to market mechanisms.

- **Ensuring security of energy supply and strategic energy infrastructure**, i.e. regional energy projects, mining reform etc.

- **Revision of Romania's energy roadmap**, based on the National Strategy for Energy and National Sustainable Development Strategy, in order to provide a comprehensive impact analysis, substantiated costs and concrete actions.

- **Ensuring and continuously supporting regional network interconnection** – for both gas and electricity - in order to diversify resources and increase efficiency of energy markets.

- **Supporting renewable energy:**

- Transposition and implementation of Directive 2009/28/EC on the promotion of the use of energy from renewable sources. This includes **the preparation and submission to the EC of the National Renewable Energy Action Plan (NREAP) by June 2010**. The Plan will set up targets and trajectories for renewables in electricity, heating & cooling, transport, buildings etc., and is an important strategic document in terms of sector's predictability. As such, AmCham Romania considers that consultations with stakeholders, including business associations, should be performed during the elaboration of the Plan and is willing to contribute with its members' expertise. A higher degree of transparency and public participation at designing energy policies in the Ministry of Economy, Commerce and Business Environment – including the NREAP – with involvement of all stakeholders including business environment would be beneficial and highly appreciated by the business community AmCham Romania represents.

- Clarification of the legislation regulating the renewable energy sector in Romania, including clarifying the required production of electricity from renewable resources as per Law 220/2008 and issuing the norms for the implementation of this law, as well as new regulation on grid connection of new investments. Prior to publishing the

implementation norms, a transparent and concrete discussion in the Government should take place, with representatives of all stakeholders (i.e. Ministry of Economy, Commerce and Business Environment, Ministry of Environment and Forestry, Transelectrica, ANRE, Opcom, business community). AmCham Romania could support the Government in organizing such round tables.

- Setting RES (renewable energy sources) targets at county/municipal/commune level by splitting the 24% national target to be achieved by 2020 at county level (i.e. based on the RES potential of each county); this could ensure higher motivation for local public authorities at taking concrete action to reach the target.
- Simplifying the procedure for authorizing small and dispersed RES producers.
- Supporting the introduction of net metering systems for small and dispersed RES.
- Application of minimum performance standards to energy solutions for renewable energy sources.
- The secondary legislation regarding grid connection should be amended to take on board the principles set in Law 220/2008 regarding grid connection of renewable energy electricity generators, or at least the uncertainty should be eliminated in order to allow clear investment decisions.

- Supporting the high efficiency cogeneration bonus scheme

- Setting-up a functional cooperation framework in the field of energy and climate change mitigation and adaptation between [Government] stakeholders, including Ministry of Environment and Forestry, Ministry of Economy and Finance, Government's General Secretariat, ANRE, other ministries etc. (horizontal cooperation).

- Supporting the implementation of a coherent energy efficiency policy, tackling all energy sectors from production to transport, distribution and consumption; this should include a massive information and education campaign aiming at raising the general awareness of all stakeholders, from the general public, to technicians and decision makers.

Through its members, AmCham Romania could be an active factor in such a campaign. Developing benchmarks, sharing of good practices, introducing Europe wide harmonized performance criteria or metrics for measuring energy efficiency for different sectors (i.e. energy passports/ ratings for buildings, energy labels for consumer products) are only few examples of such potential contribution.

- Ensuring improved energy efficiency in buildings through:

- Supporting the implementation of the EPBD (Energy Performance in Buildings) recast. As a Member State, Romania will have two years to change own legislation in line with the new Directive that includes bold targets i.e. all new constructions to be nearly net zero energy from 2020 (with intermediate targets for new buildings of public authorities in 2018), mandatory upgrades of the energy performance of buildings undergoing minor renovations (the initial 1000sqm threshold being abolished), minor energy performance requirements for the building elements and technologies, adoption of financial incentives and mechanisms to encourage implementation. This would lead to re-discussing and updating Law 372/2005 so that it reflects the changes brought up by the new EPBD version and allows an easier implementation¹.
- Supporting the implementation of an incentive program by the local public authorities in order to reduce/support the cost of the energy audit in case of "A" rated buildings.

¹ including a clear distribution of responsibilities in implementation between different stakeholders – local public authorities, building owners, energy auditors, notaries - and providing a clear set of penalties for not complying with the provisions of the law (at present there are none).

- Creating the background for a proper implementation of law 372/2005 in case of existing buildings through: a) implementing the requirement related to mandatory energy performance certificates for existing buildings when renting or selling starting with 2010 and b) investing and supporting the training and certification of energy auditors (proper implementation of the law would also drive the creation of new jobs with zero or limited financial effort from the public budget).

- **Setting-up effective Public-Private Partnerships (PPP)**; appropriate incentives and consistent supporting policy – i.e. simplified rules balancing control and risk – should enable effective implementation of PPP projects in energy in Romania.

- **Implementing policies and measures for climate change mitigation, including appropriate incentives** (Production Tax Credits, loan guarantees, etc.) and risk/reward mechanisms to be enforced for the promotion of energy efficiency, cogeneration and renewable energy resources, i.e.: effective implementation of support schemes for renewable energy and high efficiency cogeneration, stable secondary legislation to support the renewable technologies (including next generation technologies), quantifiable incentives for private investments in municipal power plants and for the end users, support for carbon capture and storage deployment, etc.

- **Transposition and implementation of Directive 2009/29/EC amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community**

AmCham Romania believes that the implementation of the Directive would result in important increase in energy prices which could affect energy-intensive industries of Romania with the **risk of relocation of such industries, leading to a strong economic and social impact**. In this context, we would support Government initiatives preventing carbon leakage and keeping the related industry businesses in the country.

Through the 'comitology procedure' a distribution method for free allowances will be developed by the end of 2010 by expert panels within the European Commission; the EC is to consult relevant stakeholders in defining the criteria. **AmCham offers to support Romania's position in the comitology discussions**, so that the energy-intensive industries in the country would not be forced to leave Romania for countries with less strict climate legislation.

Romania, as each Member State, would have to [partly] use the revenues generated from the auctioning of allowances at reducing greenhouse gas emissions, adapting to impacts of climate change, funding R&D (demo projects to reduce GHG emissions, energy efficiency, clean technologies, adaptation), developing renewable energies, enhancing forestry sequestration, implementing CCS projects, applying measures to increase energy efficiency and insulation/ ensure financial support to address social aspects, and others. Through its specialized consultancy members, **AmCham Romania would support the Government of Romania at establishing the country's strategy on the use of such revenues in order to maximize country's benefits**.

In order to be able to accurately respond to different requirements they receive from environmental authorities (following surveys/ studies sent by the EC), AmCham Romania members acting as operators within the EU ETS express the need for a more detailed transmission by the Romanian authorities - participating in the EC working groups - of the opinions and rules adopted by the European Commission in relation to establishing the allowances at Community, national, sector and operator level, applicable as of 2013, establishing the rules for auctioning CO₂ emission allowances.

Debates should be organized by the environmental authorities with the operators in the industrial sector for discussing the draft regulations required for transposing into the national legislation the Directive 29/2009 for amending Directive 87/2003, applicable as of 2013, considering the directive's implementation calendar. AmCham Romania could be an effective partner in ensuring participation of the business community it represents.

The tax and accounting issues applicable to the CO₂ certificates should be regulated as, currently, the Fiscal Code contains no regulation regarding such issues.

- Supporting the development of coherent policies for CO₂ reduction in the other economic sectors that are not covered yet by the EU-ETS (such as transport, buildings, agriculture and waste). Although under the 'Effort-Sharing' Decision 3738/09 Romania was granted a +19% greenhouse gas emission limit in 2020 compared to 2005 level, assuming these sectors will grow it is important that the country has a clear strategy in the field. For example, in the case of the buildings sector, an inventory of CO₂ emissions from buildings should be created and a proper methodology for assessing CO₂ emissions from buildings should be designed.

- Supporting and implementing the EU initiatives related to Carbon Capture and Storage

- Implementing a Green Investment Scheme based on AAU trading

- Establishing and implementing a coherent climate change mitigation and adaptation policy, including post 2012, in relation with a sound energy policy, with clear strategy and action plans setting up roles, responsibilities and deadlines for Government stakeholders is necessary. Supplementary efforts are needed besides the publication of the guideline for adapting to the climate change effects (Ministry Order 1170/2008).

- Strengthening Romania's participation in the most relevant EU programs and initiatives and maximizing the advantages the country would have out of this participation, i.e.:

- *The European Strategic Energy Technology Plan SET-Plan* is the technology pillar of the EU's energy and climate policy²

- *The new European initiative "Smart Cities"* aims at creating the conditions to trigger the mass market take-up of energy efficiency technologies³.

- *Assembly of the European Regions/Committee of the Regions* - are local authorities organizations that allow development of cooperation initiatives between regions and give the opportunity to local representatives to have a say regarding the contents of EU laws.

² The SET-Plan is the EU's response to the challenge of accelerating the development of low carbon technologies, leading to their widespread market take-up. It sets out the vision of a Europe with world leadership in a diverse portfolio of clean, efficient and low-carbon energy technologies as a motor for prosperity and a key contributor to growth and jobs. It proposes joint strategic planning and more effective implementation of programmes.

³ The initiative will support ambitious and pioneer cities (e.g. from the Covenant of Mayors) that would transform their buildings, energy networks and transport systems into those of the future, demonstrating transition concepts and strategies to a low carbon economy. Participating cities and regions will be expected to test and demonstrate the feasibility of going beyond the current EU energy and climate objectives – i.e. towards a 40% reduction of greenhouse gas emissions through sustainable production, distribution and use of energy by 2020. The total public and private investment needed in Europe over the next 10 years is estimate as €11 bn. By 2020, the Smart Cities initiative should put 25 to 30 European cities at the forefront of the transition to a low carbon future. These cities will be the nuclei from which smart networks, a new generation of buildings and low carbon transport solutions will develop into European wide realities transforming our energy systems.

4. ENVIRONMENTAL POLICY

- **Promotion of the sustainable use of Romania's Natural Capital/ Natura 2000 network** and of the national network of protected areas - including the establishment of a national management authority for the protected areas - in line with the EU commitment on halting biodiversity loss.

- **Establishing an incentive program for local authorities** to improve the environmental infrastructure in order to fulfil short-term environmental targets and to ensure long-term sustainability and regional balanced growth.

- Under the Waste framework Directive approved and published in November 2008, which should be transposed by the EU Member States by December 2010, **promoting a realistic national approach for the issues open for Member States decision**, i.e. waste hierarchy, recovery-disposal, by-products, end-of-waste, waste oils, self – sufficiency and proximity principle, targets for re-using and recycling, permits, waste management plans.

- Active promotion and involvement of stakeholders including the business community in the **Waste management national strategy and national plan**, under revision in 2009-2010:

- encouraging of waste selective collection at source or sorting at the transfer stations (depending on feasibility);
- promotion of recycling and recovery of waste (especially municipal waste);
- promotion of pre-treatment of waste and preparation for recovery (drying for sewage sludges, sorting of household waste in order to diminish the landfill quantities).

- **For historically contaminated waste and sites** - completion of the legislative framework regulated by the Government Decision no. 1408/2007 for detailing the procedure of investigation and assessment of soil and subsoil pollution that needs to be implemented by the operators owning contaminated soils. Besides the GD no.1408/2007 currently in force, there is a Draft Technical Guide on methods of investigation and assessment of soil and subsoil pollution – containing also responsibilities for the economic operators - which has not been transposed into legislation yet.

- **Wastewater.** Different national and local environmental requirements regarding the quality of wastewater create challenges for private sector companies. National legislation allows private sector companies to discharge their industrial wastewater even if the quality does not meet the requirements. This exception is granted on the condition of implementing a compliance programme within a certain period. However, Romanian legislation allows local water authorities to impose stricter wastewater quality limits than those stated in the norms. This right to impose stricter limits frequently leads to unrealistic compliance programmes for private sector companies, and penalties are applied for non-compliance.

A solution for solving this problem might consist of specific wastewater quality norms for each industrial sector, which should be developed in consultation with industry groups. This approach has been successfully applied in several EU countries, such as Germany, the Czech Republic, Slovakia, and Slovenia.

- Regarding the **IPPC revision – the new Industrial Emission Directive** combining and revising several directives (i.e. IPPC, Large Combustion Plants, Waste Incineration Directive, Directives on TiO₂, Volatile Organic Compounds), which has to be approved in final form by December 2010, AmCham Romania advocates for transparent communication and information exchange between authorities (i.e. Ministry of Economy, Commerce and Business Environment, Ministry of Environment and Forestry and also Romanian European

Parliament members) in order to: a) not hinder the economic and industrial development, b) provide fair treatment of various economic sectors, c) use BAT values as indicative, but not as mandatory emission limit values, and d) closely analyze the impact of the potential trading of NO_x and SO_x.

5. CONCLUSIONS

AmCham Romania considers that there is the opportunity for Romania to take the lead in the region if the Government shows a coherent high-level approach in quantifying where the country is now on the competitiveness - climate change - security axes and in finding the most cost effective ways of getting to agreed targets and of tracking the performances.

In order to benefit of the effective support from the business community in the field, it is imperative that the Government - i.e. Ministry of Economy, Trade and Business Environment; Ministry of Environment and Forestry - enhances transparency and significantly improves the consultation process with representatives of the business environment, including other organizations than the 'Patronate', such as Chambers of Commerce, business associations, professional associations, etc.

Based on its members' national and international know-how and capacity, AmCham Romania offers its support and expertise to the Romanian Government, in order to address the key energy and environment-related challenges in the current regional/EU and global context.