Letter sent to all COREPER 1 Ambassadors, in view of the 19 December Environment Council meeting.

16 December 2011

Dear Ambassador,

The American Chamber of Commerce to the EU (AmCham EU) is closely following the proposals and discussions surrounding the calculation methods and reporting requirements for Member States to implement a provision of the revised Fuel Quality Directive (2009/30/EC): Article 7a requires fuel suppliers to reduce life-cycle greenhouse gas emissions (GHG) per unit of energy by six percent by 2020 for transport fuels.

It has come to our attention that the Commission may discuss this item at the next Environment Council meeting on 19 December. AmCham EU, therefore, would like to make you aware of our concerns regarding the current proposal.

Through the comitology process, the Commission has proposed a methodology to measure this reduction by assigning different GHG values to certain types of crude, thereby creating a penalty for using these crudes as feedstock. AmCham EU is concerned that this methodology introduces discriminatory technical measures that are contrary to several key principles that are essential to legislation and broader policy.

Impact Assessment

Although some Member States and stakeholders have called for the Commission to conduct an impact assessment on its proposal, the Commission has not deemed it necessary. AmCham EU believes that the proposed methodology of differentiating between crudes, and the significant reporting requirements that this entails, would affect the competiveness of the European energy sector, EU trade flows and ultimately costs to end-users in ways that were not effectively measured in the Commission's original impact assessment.[1] We have similar concerns about the methodology to calculate the GHG value of electricity which would be linked to the energy mix of each Member State and the implications this could have on the deployment of electric vehicles. AmCham EU strongly supports those Member States and other organisations calling for a thorough, comprehensive and objective impact assessment to understand what this differentiation might imply for the European economy, security of energy supply, coherence of the internal market and trade relations.

Trade Barrier

The proposed measure includes a GHG value for bitumen, also known as oil sands. The primary market supplier of oil sands-derived crude is Canada. Canada has consistently warned the EU that it sees this as an unjustified trade barrier that would not stand up to scrutiny under World Trade Organisation (WTO) laws. There is also a trade implication with the U.S. as it is the main consumer

[1] SEC(2007) 55, p. 116-117: In fact, the original impact assessment states, "Introduction of the monitoring regime can be achieved through use of a Committee procedure to agree the methodology to be adopted. In view of the broad agreement between different life cycle models, the development of an appropriate methodology is not considered a major obstacle, but trade-offs between accuracy and complexity of the methodology will need to be made."

of oil sands for feedstock, which U.S. refiners could then export to the EU in the form of refined products (e.g. diesel). The EU fuel market is largely dependent on imported diesel.

EU competitiveness
AmCham EU supports climate policy and legislation that is harmonised and market-based, and recognises the global nature of the problem. Crude differentiation and the administrative burden that comes with the additional reporting requirements will result in a loss of global competitiveness for EU industry and ultimately in higher costs throughout the economy. This type of EU-only action may also not create an incentive to reduce emissions globally, as long as other economically viable markets exist for the product. Crude markets are global: any crude produced in one part of the world, e.g., Canada, will move to and be consumed in another region, with no overall environmental benefit, but still penalising EU fuel suppliers.

Similarly, the methodology to calculate the GHG value of electricity would lead to market fragmentation in the case of electric vehicles because of differing energy mixes in each member state. Furthermore industry would be pushed in a Well-to Wheel responsibility without having any influence on the energy mix of member states.

AmCham EU supports conducting an impact assessment on the Commission's proposal to establish the cost implications of crude differentiation, and highlights the risks of this type of proposal to trade relations and European industry competitiveness.

We will be in touch shortly with a comprehensive position paper raising our concerns with the Comitology discussions on implementing measures and AmCham EU's concern for the political and non-transparent manner under which they are discussed.

Yours Sincerely,

Jerome Bandry
Chair of the Transport and Energy Committee
American Chamber of Commerce to the EU

* * *

AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate U.S. investment in Europe totalled €1.4 trillion in 2009 and currently supports more than 4.5 million jobs in Europe.

* * *