



**THE AMERICAN CHAMBER OF COMMERCE IN HONG KONG**

**SUBMISSION FOR THE CHIEF EXECUTIVE'S  
2014 POLICY ADDRESS & 2014-2015 BUDGET CONSULTATION**

**November 7, 2013**

*The American Chamber of Commerce in Hong Kong (AmCham) appreciates the opportunity to provide comments and recommendations for the Chief Executive's 2014 Policy Address and 2014-2015 Budget Consultation.*

*AmCham is committed to contributing to Hong Kong's prosperity, stability, and competitiveness under "One Country, Two Systems" and is pleased to specifically mention seven areas of concern raised by our members that hopefully will be of relevance for your Policy Address.*

*We respectfully list them here for your consideration – International Integration, HK-China Relationship, Financial Services, Transportation & Logistics, Environment, Education, and Overall Business Environment. As always, we are eager to provide more details at your request.*

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**1. International Integration**

**International Status:** Hong Kong needs to continuously strengthen its international status, recognizing that many domestic and foreign firms are regional and/or global players and need to see the SAR as a competitive base for their operations.

**CEPA:** AmCham has repeatedly expressed concern over the inconsistency of implementation of the Closer Economic Partnership Arrangement (CEPA) in localities in China – primarily in areas such as market access, approval hurdles and regulation interpretation. The Government should vigorously pursue genuine market access in line with CEPA's goals.

**FTA:** AmCham supports the Government's efforts to negotiate a Free Trade Agreement (FTA) with the Association of Southeast Asian Nations (ASEAN) as it is consistent with Hong Kong's traditional role of being a regional "super-connector" of people, institutions, capital, and knowhow. AmCham strongly encourages the Government to speed up the ASEAN FTA negotiations.

**TPP:** AmCham urges the Government to consider joining the Trans-Pacific Partnership (TPP). As Hong Kong is predominantly a service economy, its businesses will substantially benefit from the higher standards of trade facilitation, harmonization, and market entry facilitation under the TPP. The Chamber understands that, as an independent Customs territory, Hong Kong is eligible to join the negotiations. Furthermore, Hong Kong can be a highly valuable source of information in the event that China becomes interested in joining the TPP in the future.

## 2. Hong Kong-China Relationship

**Gateway in:** Hong Kong's future remains closely tied with that of Mainland China, but in increasingly dynamic ways. Beyond its traditional role being an entry gateway for new investment into China, other roles are gaining importance.

**Gateway out:** Hong Kong is now a gateway out of China, not only for Chinese companies going global, but also for American, European, Japanese, Korean, and Taiwanese companies that are restructuring their manufacturing operations to diversify into Southeast Asia, South Asia, and elsewhere. Global supply chains are in tremendous flux, and many of the decision-makers are based in Hong Kong or utilize HK-based expertise.

**Services for China:** As service industries continue to expand in the Mainland, HK-based service providers are playing larger roles in transferring standards and assisting with building services expertise in China.

**PRD:** Hong Kong should see itself as the "Manhattan of South China" and develop constructive, mutually useful integration with financial center experiments in the Pearl River Delta (PRD). Integration, rather than competition, should be the goal.

**ASEAN:** As ASEAN-China two-way trade increases in line with Beijing's expectations, Hong Kong is the conduit for trade facilitation and services both ways. This is a developing trend worthy of careful cultivation by HONG KONG-based service industries.

**China discrimination:** Hong Kong's success is built on the free flow of capital and non-discriminatory way of doing business. Recent "special" measures against mainlanders such as the Double Stamp Duties (DSD) are alarming. These measures should be reviewed or repealed as soon as their purposes are served.

## 3. Financial Services

**RMB:** As China's premier offshore RMB business center, Hong Kong should work towards ensuring that foreign firms domiciled and managed in Hong Kong have early access to RMB QFII and collective funds. The industry would welcome an early conclusion of an agreement on mutual recognition of collective funds. Hong Kong should continue to explore more RMB products involving Hong Kong, Taiwan, and perhaps Singapore in conjunction with the Mainland. AmCham fully supports and looks forward to working with the Financial Services Development Council (FSDC) on these and related issues.

**Guangdong:** Hong Kong should continue pursuing long-term, cooperative economic development plans with Guangdong under the Framework Agreement on Hong Kong/Guangdong Cooperation. The establishment of a financial cooperation zone and a world-class metropolitan cluster with Hong Kong's financial system taking the lead will prepare Guangdong to push for a similar zone as that of the proposed Shanghai Free Trade Zone.

**Tax:** The Foreign Account Tax Compliance Act (FATCA) imposes very challenging new compliance obligations on financial institutions worldwide, including Hong Kong, which could have an adverse impact on the financial services industry if not handled properly. Most governments are choosing to enter into a so-called "inter-governmental agreement" (IGA) with the US in order to obtain certain advantages with respect to FATCA compliance. AmCham recommends that the Hong Kong government negotiate a FATCA IGA with the United States. The Chamber has strong expertise in this area and is willing to work with Government on this complex topic.

**Taxpayer information:** The G20 recently announced its intention to move toward global automatic exchange of taxpayer information by 2015. The Government should stay closely involved in these discussions and communicate with the financial services industry in Hong Kong to ensure understanding of this important development.

#### 4. Transportation and Logistics

**Supporting social mobility in the logistics industry:** The logistics industry supports a wide array of job types and a significant proportion of the working population in Hong Kong. The opportunities offered across a range of entry positions for long-term stable employment in unskilled and skilled roles allows for upward social mobility as terminal operators invest in staff to acquire technical and managerial experience. Without support in tackling the issues faced by the industry as a result of changing market dynamics, the logistics sector will wither and the social mobility of the Hong Kong workforce will be adversely impacted, as there are few direct comparator jobs. This will no doubt increase social tension in this sector of the workforce.

**Transformations and jobs:** The transportation and logistics industry remains a pillar of Hong Kong's economy, but the global industry is undergoing significant transformations that require swift action to ensure Hong Kong's continued competitiveness. Not only does the sea-trade logistics sector make a direct contribution to Hong Kong's economy, but it also employs over 600,000 people providing livelihood support to a significant portion of local families. Strengthening the competitiveness of the industry improves public livelihood.

**Rationalization of port backup land:** The rationalization of Kwai Tsing Port requires a change in the land use policy. It is imperative that land and waterfront sites adjacent to container terminals be allocated and reserved, on a long-term basis, to support the further development of the port and protecting the jobs that the logistics industry supports. Surrounding the Kwai Tsing container terminals is over 100 hectares of "container related use" land which for the past twenty years has been rented through short-term tenancies until "long-term uses" are determined. These identified land parcels should be indicated as for "container storage only" to satisfy the long-term needs.

**Provision and integration of additional dedicated barge berths:** Barge traffic has increased significantly and the trend of barge-to-vessel and vessel-to-vessel transshipments will continue to grow. The lack of dedicated barge berths has been a long-standing issue that impacts the port's competitiveness, as main quays have to be used for barge vessels that could be handled elsewhere. Due to the scarcity of waterfront facilities, the priority for use of sites adjacent to Kwai Tsing port should be given to container operations. Other non-container related activities can be easily located elsewhere.

**Supporting labor force measures:** To remain competitive the industry not only needs infrastructure rationalization but also needs a vibrant supply of staff to meet the changing needs of the industry. AmCham proposes initiatives in the areas of terminal operators include issuing driving licenses for trucks operating within the container yards; centralized training to develop the next generation of local industry leaders; and an open recognition of the port and logistics sector's importance as a pillar industry so that talent can be attracted and retained.

#### 5. Environment

**Clean Air:** It is essential for the Government to have a clear timeline on the implementation of the Clean Air Plan. There are limitations to technology-based, "tail-pipe" solutions, so the Government needs to further step up its environmental leadership to shape behavior, specifically in effecting green mobility

policies in line with those of international cities, and in aligning pan-PRD governments in adopting common emission standards for ocean vessels.

**Trucking to Barges:** For over two decades, trucking was the primary mode of connecting transportation to facilitate sea-trade logistics in Hong Kong. However, continued over-reliance on trucking is not only environmentally unfriendly, it is also hampering the continued healthy development of this sector. AmCham urges the Government to explore other methods, such as supporting barging as an additional alternative, which is less costly and more environmentally friendly.

**Fuel Switch:** AmCham has been a supporter of the Mandatory Fuel Switch requirement for Ocean Going Vessels (OGVs) at Berth in Hong Kong. While this helps improve air quality, it also boosts the competitiveness of the shipping and logistics sector. AmCham urges Government to extend the 3-Year Port Facilities and Light Dues Incentive Scheme, and to provide additional financial incentives to assist and support shipping operators who have voluntarily joined the Fair Winds Charter.

**Regional Air Quality:** Cooperation and engagement with all governments in the PRD are necessary to establish a comprehensive program to address the region's air quality. AmCham urges the Government to work for concurrent adoption of the same environmental standards across the PRD to ensure Hong Kong's sea-trade logistics sector is not put into a disadvantaged position. Recognizing that air quality is a regional issue, AmCham urges stepped up discussions with Guangdong and Central government authorities to adopt an Emission Control Area (ECA) for the PRD region.

**Pedestrians First, Mass Transport Second, Private Cars Last:** Hong Kong's green mobility policies are behind those of many international cities, which have adopted the planning philosophy of "pedestrians first, mass transport second, private cars last." Redefining road space usage and making road-based mass transport more efficient are essential to a world-class city and can substantially alleviate long transit times, rising costs of transport, and worsening roadside pollution. Referring to the sustainable transport practices of many world-class cities, Hong Kong should:

- Provide more space to create a more "walkable city" in city centers (i.e., more pedestrian-only areas) where road traffic and pedestrian traffic are now competing for space;
- Create more road-based mass transit priority schemes (e.g., bus-only lanes, priority signals, bus-rapid transits to improve the speed of road-based mass transport) and adopt new policies to limit or discourage the growth of private cars;
- Adopt technology-enabled traffic management solutions (e.g., similar to Seoul) to facilitate movement of traffic and traffic enforcement; and
- Speed up reorganizing the legacy bus network. For successful bus route reorganization and adoption of sustainable mobility policy, the Government can exercise its executive authority to make decisions after necessary consultations have been completed.

**Fuel Mix:** The Clean Air Plan notes that emissions from power plants have already been greatly reduced and that further unit reductions will need to come from changing the fuel mix. Electricity companies require years of advance planning to make meaningful changes to the fuel mix, given the long development and construction period for infrastructure development to support a new fuel mix policy.

**Public decisions based on facts:** If Hong Kong wants to maintain world-class supply of secure, reliable electricity, an engagement process must be initiated now and brought to an early conclusion with the Hong Kong people and the business community to determine what tradeoffs must be made between improved environmental performance, costs, and reliability. Coal, gas, and nuclear options need full and informed public discourse.

**Waste Management:** AmCham strongly supports the recently published “Hong Kong Blueprint for Sustainable Use of Resources 2013-2022” and also urges the Government to pursue the proposed landfill extensions (withdrawn earlier), obtain the necessary funding to allow time for other measures to take place and reduce landfill waste in the long run. The government should further educate the public on the waste problem and encourage a fact-based, rational debate to steer the Legislators and the wider community towards consensus on this critical issue.

## 6. Education

The state of education in Hong Kong has a direct effect on the relevance and competitiveness of the SAR. AmCham’s members remain concerned about the following:

- Lack of sufficient international primary school places;
- A local K-12 education system that is not keeping pace with stronger educational systems in China and other modern societies;
- Lack of sufficient university places in Hong Kong to meet the needs of local graduates; and
- An insufficient infrastructure for meeting the special education needs of children of Hong Kong citizens and international residents.

**Shortage of International School Places:** The shortage of international school places, especially at the primary level, has been a prevalent issue affecting the SAR’s competitiveness for many years. One cause is interdepartmental inefficiencies. AmCham encourages the government to prioritize and expedite school expansion projects and, if required, place it under the direction of the Business Efficiency Unit.

**Weakening Local K-12 Education System:** The English proficiency of local youths has declined, and the SAR is now places seventh among 12 Asian neighbors – falling behind even Japan and South Korea. Language standards have become a concern, especially since the introduction of the Government’s mother-tongue teaching policy. Other concerns include insufficient science & technology in the classroom, an exam-oriented system, and insufficient attention to international affairs. A “world city” needs a local education system that develops proficiency in English language and Putonghua, international perspectives, and critical thinking. AmCham encourages the government to undertake an assessment of the capability of Hong Kong graduates against other economies in Asia and seek to produce a substantial upgrade in the ranking of its graduates in the region.

**Special Education Needs:** Hong Kong seriously trails other developed economies in supporting children with special education needs (SEN). While not satisfactory for Cantonese-speaking children, this is particularly chronic for non-Cantonese speakers, in particular for ethnic minority children. AmCham commends the Education Bureau (EDB) for giving more recent attention to this issue, but also encourages the EDB to raise its capability to support SEN children, both Cantonese and non-Cantonese speakers, on par with other advanced global economies.

## 7. Overall Business Environment

**Intellectual Property:** To ensure that Hong Kong continues to remain competitive and play a leading active role in the global knowledge economy, attract and retain investments, and develop the creative and innovation industries, the government needs to provide an ever more robust intellectual property rights protection regime with international best standards on protection and enforcement.

**Copyright protection:** Hong Kong's copyright legislation lags behind many jurisdictions in respect of its ability to address the challenges and realize the opportunities arising from the digital environment. Online piracy and unauthorized digital distribution presents a serious and immediate threat to all copyright-based industries (originating both locally and internationally). AmCham urges the government to proactively move forward the review of the Copyright (Amendment) Bill 2011 to address issues which are preventing its finalization and implementation.

**Patent reform:** To support Hong Kong's continuing transformation to both a regional innovation and technology hub, the Government needs to move forward without delay on the patent reform recommendations contained in the 2013 Report of the Advisory Committee on Review of the Patent System in Hong Kong.

**Competition Law:** Adoption of the Competition Ordinance is a milestone for Hong Kong, but the Ordinance comes with its share of challenges. Uncertainty is the greatest of all. The general perception is that the Ordinance contains a number of terms, concepts, and processes that require considerable clarification. Without this, too much power is given to bureaucratic interpretations. This is not best practice. AmCham has already shared with Government its concerns about the vast exemptions granted to statutory bodies. This exception is unnecessary, disproportionate, and suggests that the law is discriminatory. It ultimately undermines competition.

**Cross-Border Information and Data Flows:** The freedom to move data across borders is essential for e-Commerce, and a largely unregulated internet enables the most cost-effective solutions and services to be delivered and deployed. With many countries looking to mandate local infrastructure and data storage, Hong Kong can play a leadership role in the region by championing a market forces approach where the lowest cost solutions can be freely accessed or deployed from Hong Kong. AmCham recommends that Hong Kong continue this advocacy through APEC, and, potentially, TPP.

**Counterfeit pharmaceuticals:** Government needs to adopt more stringent measures to fight against counterfeit drugs. Currently there is insufficient deterrence because dispensaries previously convicted of selling counterfeit drugs are permitted to continue business by simply changing the name of business, even with the same ownership details. AmCham also urges the government to strengthen poison selling licensing system by requiring applicants' self-declaration of any previous conviction to safeguard public health.

**New drug registration:** As Asia's World City, Hong Kong should adopt a speedy and flexible new drug registration system and an abridged review and fast track registration process for life-critical and life-saving drugs. This would enable quicker access of new medicines while not compromising on safety, quality, and efficacy. With a vision of developing into an international clinical trial centre, Hong Kong, in expediting new drug registration, would offer an adequate enabling policy for its healthcare development.

**Free market reputation and Hong Kong image:** Hong Kong has always been a free trade port. The export ban on formula products is contrary to Hong Kong's international reputation as a business friendly market and has an unfavorable impact on Hong Kong's position as a place for free trade. AmCham understands that there was a shortage of supply of certain formula brands and agrees that there was a need to stabilize supply of formula products for infants and young children in Hong Kong. Nevertheless, there are less trade-restrictive ways of ensuring availability of formula products to support Hong Kong mothers and babies without negatively impacting Hong Kong's image as the bastion of free trade. Every airport announcement and example of signage concerning the severe penalties concerning milk powder make Hong Kong look profoundly silly. This continuing episode creates a bad precedent, for businesses fear the government may adopt similar measures in respect to other goods to appease negative sentiment from the

public. AmCham strongly urges the government to lift the export ban and let market forces work in the traditional Hong Kong manner.

**Conclusion:** At the Government's request, AmCham is willing and eager to expand upon any of the summary comments and recommendations made above. AmCham and the Hong Kong Government recognize the importance of maintaining a vibrant economic and business environment for sustainable growth. AmCham looks forward to continued constructive interaction with government bureaus, departments, and agencies, the Legislative Council, relevant business and trade organizations, and the Hong Kong community towards achieving the common interests of Hong Kong.

*AmCham is the largest international chamber in Hong Kong, and represents a broad and diverse membership. It has approximately 1,800 members, covers over 40 nationalities, and includes large multinationals as well as small- and medium-sized enterprises. AmCham is one of the most dynamic and influential international business organizations in the Asia-Pacific region. The Chamber's mission is to enhance Hong Kong's stature as an international business center fostering commerce among the Mainland China, Hong Kong, and the United States.*