



THE AMERICAN CHAMBER OF COMMERCE IN HONG KONG

SUBMISSION ON THE CHIEF EXECUTIVE'S POLICY ADDRESS 2016 AND
2016 – 2017 BUDGET CONSULTATION

LOOKING AHEAD Vision, Relevance & Influence

FULL SUBMISSION

NOVEMBER 20, 2015

The American Chamber of Commerce in Hong Kong (AmCham) appreciates the opportunity to provide comments and recommendations for the Chief Executive's Policy Address and Budget Consultation for 2016.

In the context of a rapidly changing political, economic and social landscape, AmCham acknowledges the need, not only for the Chamber, but for Hong Kong to stay *visionary*, *relevant* and *influential*. AmCham wishes to emphasize Hong Kong's unique and significant geographical footprint in the Asia Pacific region and globally due to its unique international, Asian and Chinese qualities.

Hong Kong should never take its strategic position for granted – One Country, Two Systems has long provided access to and first mover advantages in China through favorable trade and investment policy initiatives. Hong Kong is a super-connector, a choice conduit, linking up the region and globally due to the deep bench of international and competitive talent as well as world class infrastructure. Its competitive advantages have enabled it to house a large number of global and regional headquarters and branches as well as entrepreneurs and startups.

This submission has considered the assumptions regarding Hong Kong and Asia, and the implications of Hong Kong's integration with South China over the next five years. AmCham respectfully submits that the Chief Executive to lead Hong Kong with a long-term and broad vision, focus and direct resources in the strategic priorities and areas.

This **Full Submission** covers the following ten areas: Hong Kong-China Relations, Global and Regional Trade, Business Climate, Education & Labor, Environment, Financial Services, Intellectual Property, Pharmaceutical, Tourism, and Transportation and Logistics.

A. Hong Kong-China Relations

1. One Country, Two Systems continues to be the premise of successful Hong Kong-China relations. China's economic transition into the new normal focusing on domestic consumption and market being the decisive force presents tremendous opportunities for Hong Kong.
2. In the upcoming 13th Five Year Plan, the Hong Kong chapter should emphasize its unique role and substantial offerings – an economic model being the freest market in the world, low and simple tax regime, international best practice and global standards, regulatory efficiency, service industry expertise, intellectual property rights and the rule of law.
3. The subsidiary Agreement to further liberalize trade in services between Guangdong and Hong Kong under the framework of the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA) signed in December 2014 is significant. The next natural step would be to progressively reduce the negative list under the mode of commercial presence to further expand market access.
4. The cross-border Guangdong Free Trade Zone (GDFTZ) provides the framework to deepen economic integration within the Pearl River Delta (PRD). Connectivity and collaboration among Hong Kong, Macau and Guangdong would lead to win-win in trade and investments for all. In addition, the GDFTZ provides the platform for the PRD partners to compete and cooperate with Shanghai Free Trade Zone (SHFTZ) and other regional clusters.
5. AmCham welcomes the draft Foreign Investment Law published by Ministry of Commerce (MOC) of the People's Republic of China (PRC) and acknowledges all the positive developments including the principle of national treatment, the narrowed focus on investment actually controlled by non-Chinese persons, the emphasis on openness and transparency, the consolidation of rules relating to foreign investment and the convergence of organizational and governance arrangements for foreign-invested and domestic enterprises
6. Given the extraordinary complexities involved in the modernization of Mainland's foreign investment regime, AmCham submits that the government actively engage with MOC to contribute from the perspective of important principles including the rule of law; open, efficient and globalized capital markets; and free and fair competition, which are the key drivers of Hong Kong's success.
7. In addition, AmCham is active in the area of PRC law development, by way of contribution on drafts and informing the Hong Kong population about important PRC law developments. This is an area where Hong Kong has played, and – it is hoped - should continue, to play a leading role.

B. Global & Regional Trade

8. Proactive participation in global and regional trade is vital to maintain and strengthen Hong Kong's competitiveness.
9. Hong Kong would benefit by adopting an intentional approach to capture the opportunities in One Belt One Road (OBOR) and Asian Infrastructure Investment Bank (AIIB). It should leverage upon its strengths – that is by expanding through its pillar industries, transportation and logistics, financial services, tourism and professional services, as well as other emerging industries. AmCham submits that the government work closely with Mainland authorities to elucidate the policy framework under which Hong Kong enterprises may participate.

10. The recent conclusion of Trans-Pacific Partnership (TPP) provides another opportunity for Hong Kong to join the Pacific trade deal as a non-sovereign party or as an observer. AmCham suggests that the government consider taking an active role to explore the potential of matching the relevant trading services and/or goods within TPP to relevant areas of OBOR.
11. The timeline to conclude the Hong Kong-ASEAN Free Trade Agreement (FTA) by the end of 2015 and implement in 2016 is desirable. AmCham continues to support the negotiations in the Trade in Services Agreement (TISA) negotiations and hopes for the conclusion by the end of 2016.

C. Business Climate

Smart City

12. Hong Kong competitive status requires a vigorous approach to “smart city” development, to include utilizing analytics and data for better urban planning and citizen services. While Hong Kong is very competitive in a number of areas in the region and globally, its digital agenda is far behind its competition. Hong Kong needs to take urgent action to connect the current analogue silo’s and create an environment to attract talent to capitalize on opportunities in data analytics for urban planning, energy efficiency, traffic control, as well as services for education, healthcare and the aging population.
13. The successful evolution of Hong Kong to become a smart city is in line with the administration’s policy intention and direction to develop the selected industries, including innovation and technology, medical services, education services and environmental industries and the “Digital 21 Strategy” for “Smarter Hong Kong, Smarter Living”.
14. Invest Hong Kong has contributed significantly in building up the FinTech, HealthTech, and Consumer Internet of Things (IoT) community through the StartmeupHK program. A successful Hong Kong smart city model utilizing the existing and incoming innovators and entrepreneurs will provide tremendous job opportunities and can be replicated in urbanizing some of China’s emerging cities.
15. A comprehensive approach with cross-bureau and cross-department collaboration with a practical business case is essential. AmCham submits that the Chief Executive to establish a cross-bureau, cross-department Smart City Development Council (SCDC) to spearhead and accelerate the development. The proposed body should be tasked with authority and responsibilities to map out the strategic direction of Hong Kong as a smart city, lead and expedite cooperation among relevant bureaus, departments and government agencies, and facilitate discussion and collaboration among public, private and other relevant stakeholders.

The Rule of Law

16. In the legal field, AmCham continues to monitor closely the two main drivers of Hong Kong’s attractiveness as an international business center: on the one hand, the ‘laissez-faire’ approach and the resulting light regulatory burden, and on the other hand, the upholding of the Rule of Law.
17. The Chamber is mindful of the difficulty to strike the right balance between these contradictory trends. AmCham has been an active contributor to the debate leading up to the adoption, and now implementation of the Hong Kong Competition Ordinance, and has repeatedly highlighted the need for an optimal level of legal certainty, without excessive regulatory oversight. The same applies in the areas of financial regulation, data protection and marketing.

18. On the Rule of Law theme, AmCham has followed closely the events of September-December 2014, and has hosted a series of high level speakers to explore the deep implications of the movement itself, as well as the way it was handled. The importance of an independent judiciary was a recurring theme in these events.

Market Access & Restrictions

19. AmCham is delighted to see that Hong Kong has been ranked the world's freest economy for 21 consecutive years¹. Nevertheless, the Government should be cautious of posing any or over-regulation hindering Hong Kong's open and free market economy and address the following examples.

(a) Infant Formula

20. The latest "Proposed Regulatory Framework on Nutrition and Health Claims on Infant Formula, Follow-up Formula, and Prepackaged Foods for Infants and Young Children under the Age of 36 months in Hong Kong", which the government suggests a total ban on the nutrition and health claims on formula products, in disregard of their scientific substantiation. The restrictive proposal not only deprives consumers' right to evidence-based information for informed choice, but also undermines the freedom of market players of a legitimate product to communicate science-supported product information.
21. The Proposed Regulatory Framework together with the proposal from the draft "Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children", which intends to ban all marketing and promotion activities of formula products for children under 36 months, would result in consumers deprived of product information. These over-regulations not only would result in a "no-win" situation for consumers, trade, and the society but the deviation from international standards and practices in other developed markets would affect the free trade image of Hong Kong sending a negative signal to global investors.

(b) Drug Registration

22. Hong Kong should adopt a speedy and flexible new drug registration system and an abridged review and fast track registration process for life-saving and rare disease drugs. At present, Hong Kong adopts a *multiple* Certificate of Pharmaceutical Products (CPP) system for new drug registration. Hong Kong should recognize a *single* CPP system to accelerate drug registration process. As observed from other Asian countries, one CPP system is prevalent. This would enable quicker access of new medicines by Hong Kong patients while not compromising on safety, quality, and efficacy. Notable countries practicing single CPP include China, Indonesia, Korea, Macau, Malaysia, Pakistan, Philippines, Singapore, Taiwan, Thailand, and Vietnam.

(c) Tobacco Packaging

23. Another example is the proposal to require graphic health warnings to occupy 85% of tobacco packaging, thus leaving only 15% of pack space available for the use of trademark. This proposal would set a dangerous precedent of over-regulation of legitimate products by substantially depriving the rights of trademark owners and exposing Hong Kong to violations of treaty obligations which set international standards on the protection of intellectual property rights.

¹ HKSAR Press Releases, <http://www.info.gov.hk/gia/general/201501/28/P201501280027.htm>. Accessed on 7 Sep 2015.

D. Education & Labor

Labor

24. The vibrant, international and competitive talent is the most valuable asset of Hong Kong. To remain competitive, Hong Kong needs its talent to be more internationally aware and connected, and keep attracting new international talent to the city. In formulating the population policy, AmCham recommends that the government work with the business sector to strategize to attract and maintain the talent that the city needs most.
25. A labor law relevant to the current economic model is important as it underpins the legal and contractual framework for the workforce. Nevertheless, the existing labor legislation of Hong Kong is dated back to an era when Hong Kong was a manufacturing-based economy. AmCham respectfully submits that the government undergo a review of the labor legislation and incorporate relevant provisions based on international best practice.

Education

26. AmCham appreciates the Education Bureau's proactive efforts in the international school allocation exercise to address the needs of the lack of international school spaces.
27. Local students need to be equipped with a global mindset, more China interest and English and language skills. AmCham has been active in hosting the program, "Conversation with an AmCham Leaders" in local high schools. Furthermore, a balanced international and Mainland mix of students is beneficial for the local, Mainland and overseas students. AmCham therefore recommends that the government publicizes its high quality education to Mainland China as well as overseas.
28. AmCham supports the government's direction to raise the profile of vocational training to address the job demands and skill shortage in Hong Kong. A number of companies have expressed interest in having an "AmCham-host Career Day" where high school, university, and business school students can see opportunities in addition to finance, including vocational jobs. Featuring "Vocational Heroes" and "highlighting the range of successful professions that may not require a university degree, students will also learn about future in-house education and high salary opportunities for non-executive positions
29. From the perspective of continuing professional development, AmCham plans to link up its Young Professional Committee with various alumni groups from various US colleges – another effort to expose Hong Kong students to a more global mindset by interacting with returnees.

Student/Intern/Work Visa

30. Echoing the importance of cross-border and international cultural interaction, AmCham submits that the government to relax the immigration provisions to issue student visas for Mainland Chinese students to study in international business schools in Hong Kong. AmCham recommends that Hong Kong and Shenzhen education institutions collaborate more to build synergy among students in colleges and high schools.
31. Apart from the university-affiliated student visa with work permit conditions, working holiday visa, and employer-sponsored intern visa, AmCham submits that the government to expand the working holiday scheme to other jurisdictions and/or to provide a more flexible scheme to allow overseas students to intern in Hong Kong.

32. Attracting, retaining and engaging a competitive talent pool is a key priority for companies operating in Hong Kong, and the current immigration policy has the potential to be a significant obstacle in achieving this. The policy of not recognizing foreign, legally registered same-sex marriages and partnerships, unlike heterosexual ones, means that the spouses of those coming to Hong Kong to add to our economic strength and vitality are not being granted dependent visas – consequently are denied resident status, cannot attain permanent resident status, and cannot themselves work visa-free – unlike heterosexual dependent spouses.
33. AmCham urges the Hong Kong government to recognize foreign, legally registered same-sex and domestic partnerships and marriages in order to maintain Hong Kong’s status as an international financial center and compete on the global stage. Hong Kong must have a level playing field to enable our world class industries to nurture, recruit and retain the best talent who are free from differential treatment.

E. Environment

Climate Change

34. AmCham notes the importance placed by both the Central People’s Government and the US Administration on the forthcoming COP 21 discussions to take place in Paris later this year. Whilst we continue to support practical and responsible measures to reduce greenhouse gas emissions and encourage the endeavor of all parties to reach a new agreement, we need to also consider mitigation measures to protect our city as the climate does change.
35. Hong Kong is a key international finance and trading hub, located at sea level with a small and open economy which is wholly dependent on the resilience of high quality infrastructure to support us. More extreme climate change events could mean a substantial dislocation of water, food and other logistical supply chains, the interruption of power and gas supplies and widespread damage in our densely populated urban environment. AmCham calls upon the administration to set out before the end of the current term:-
 - (i) An impact assessment of the potential risks from such events, on a cross-bureau basis;
 - (ii) A costed annual plan and long-term program to put in place mitigation measures as to protect our city, on a five and ten year basis;
 - (iii) A commitment to publish an annual progress report against this program.

Ground Transportation Efficiency

36. Hong Kong’s approach to green and integrated transportation policies continue to fall behind those of many international cities. Better planning to create an integrated and environmentally-friendly public transport infrastructure, redefining road space usage and making road and rail-based mass public transport more efficient are essential for our city and can substantially alleviate long journey times, the rising costs of transport, and worsening roadside pollution. Hong Kong should:
 - Support the planning and development of a more holistic approach for green mobility, creating a city that is pleasant to live in and convenient to move about. This entails reviewing mobility space planning vis-à-vis both motorized and non-motorized transport, creating a more walkable city in key city center areas, reviewing public transport availability and infrastructure, and containing the growth of private cars.

- Lay out a clear path towards greener/zero-emission road-based mass-transport, leveraging from the existing trials of diesel-electric hybrid and pure electric bus trials. Although Hong Kong has been putting these vehicles on trial, there is yet to be a developed timeline for mass rollout.
- Systematically engineer the provision of more ‘quick’ and ‘semi-quick’ charging stations to support the more rapid roll-out of electric vehicles across our city. Although Hong Kong should provide one of the most suitable environments in the world for the use of electric vehicles, take-up has so far been slow. Government should set a target for a significant expansion of their use over the next 10 years, with interim milestones and a particular focus on supporting the development and introduction of electric vehicles for use in public transport.

Energy

37. AmCham welcomes government’s decision to move to a cleaner fuel mix for electricity generation, based on the use of more local gas generation, in line with the Chamber’s submission to the public consultation held in 2014. There is a need to get on and build the new gas generation capacity necessary to deliver this and to contract for new gas supplies. To allow investment certainty for this to proceed and in line with our response to the government’s further public consultation in June this year, the Chamber strongly recommends that a new Scheme of Control for at least the 10 years from 2018 is put in place as soon as practicable.
38. At the same time, government should support a detailed environmental and economic assessment for the provision of an LNG terminal in Hong Kong waters, so as to allow the city’s major utilities to access LNG cargoes at the lower prices now being seen in world markets. New technologies such as Floating Storage and Regasification Units can facilitate this at a lower environmental footprint and cost than many land-based sites.

Water Supply and Water Conservation

39. Hong Kong currently imports the vast majority of its water supplies from Guangdong. Whilst these are presently secure, changing rainfall patterns are set to impact Southern China, with the possibility of a drier climate. There are also significant pressures on both the quality and volume of water supplies in the Mainland over the longer term.
40. Our city has a very high water consumption per capita and with our over-reliance on imports, the time has come for the Administration to place a much greater emphasis on assessing the risks for water supply and the adoption of plans to reduce usage. A more practical action plan to minimize leakage, maximize rainwater capture and encourage water conservation is urgently needed. This should include a new approach to water pricing, which has remained generally unchanged for many years and which needs urgent reform.

Harborside Living

41. Hong Kong has one of the most beautiful natural settings in the world – a unique harbor and a wonderful contrast between green mountains and the sea. Our city has many natural advantages, not least the ability for outdoor living by the sea in a warm climate but, to many of the city’s inhabitants, little attempt seems to be made to capitalize on the opportunities this presents.
42. Other coastal cities, such as those in Florida or California in the US or examples like Vancouver or Sydney, have all made accessible harborside living and recreation a high priority. Hong Kong

needs to do the same – opening up new areas to better public access for sports, recreation, cultural activities and dining, as well as improving public access to existing water fronts. The Chamber calls upon government to learn from overseas models and form a cross-bureau task force, with support from NGOs and local businesses to develop a new vision, planning and implementation approach to transform our city with harborside living and special events as a cornerstone of the 25 year celebrations to be held in 2022.

F. Financial Services

Financial Center for Economic Growth

43. AmCham strongly supports the role of Hong Kong as a leading international financial center (IFC). The industry continues to make long-term commitments to Hong Kong's success. As major financial services employers in the city, most of whom have regional headquarters in Hong Kong, the financial services sector represented by AmCham has worked closely with universities to develop higher education and corporate programs to ensure graduates and professionals have the skills they need to succeed in financial services in Hong Kong, regionally and globally.
44. AmCham supports the ongoing efforts by Hong Kong to both increase its role as a link to the mainland as well as develop its successes as a global city. AmCham supports a greater role for Hong Kong in financing projects for the Asian Infrastructure Investment Bank (AIIB) and China's One Belt One Road (OBOR) Initiative.
45. Financial center development is not a zero-sum game. Advances in Hong Kong will benefit the region as a whole, just as positive developments in other regional financial centers stand to increase economic activity and growth for the region to the advantage of all. AmCham is eager to continue to support Hong Kong's success and development as an IFC.

RMB Internationalization

46. As China's premier offshore RMB business center, foreign firms domiciled and managed in Hong Kong have sufficient access to RMB QFII and collective funds. AmCham recommends the expansion of RMB QFII quotas to allow the freer flow of financial services between Hong Kong and the mainland. AmCham fully supports and looks forward to working with the Financial Services Development Council (FSDC) on these and related issues with an ultimate goal to operate without the constraint of quotas.
47. The industry fully supports the Shanghai-Hong Kong Stock Connect initiative, proposes the consideration of Bond Connect initiatives and welcomes the agreement on mutual recognition of collective funds.

(a) Stock Connect

48. AmCham acknowledges the innovative developments in Hong Kong – particularly the recent launch of the Shanghai-Hong Kong Stock Connect. Increasing connectivity between the Shanghai and Hong Kong is essential to fostering market development in both destinations. The launch of this new project is a strong example of the benefits to be achieved through Hong Kong-Shanghai cooperation. AmCham looks forward to support the launch of the Shenzhen-Hong Kong Stock Connect.

(b) Bond Connect

49. Bond Connect would be a logical follow on from the highly successful stock connect initiative(s). As bonds are loans to companies, rather than ownership stakes as is the case for equity, there will likely be less of concern from a political perspective, to introducing the scheme. Bond Connect aims provide a significant new and additional access channel for investors.

(c) **China-Hong Kong Mutual Recognition of Funds (MRF)**

50. AmCham enthusiastically supports this important MRF initiative to further open China's capital markets. MRF allows eligible China-domiciled and Hong Kong-domiciled funds to apply for approval for their qualified retail funds to be offered to retail investors in each other's market. For the first time, non-Chinese fund providers will be able to offer their funds to the US\$18 trillion private wealth market in China directly, instead of via a local provider under the Qualified Domestic Institutional Investor (QDII) scheme. AmCham encourages the Hong Kong government to engage industry on remaining key issues covering taxation, anti-money laundering (AML)/know your customer (KYC), distribution arrangements, account opening, and account issues on foreign exchange.

Regional

51. The Asia Regional Funds Passport (ARFP) initiative was led by Australia, New Zealand, Korea and Singapore, who signed the Statement of Intent in September 2013. Currently, seven members including Japan, the Philippines and Thailand have joined this initiative by signing the ARFP MOU. Member countries signing the MOU will have 12 months to adopt ARFP rules with the expected launch date of late 2016. According to a recent APEC cost-benefit analysis study, the ARFP could potentially create 170,000 jobs in the region and save Asian investors USD 20 billion per annum in fund management costs.

52. AmCham encourages Hong Kong to join the ARFP in order to serve as regional hub for the asset and wealth management industry. Hong Kong's membership will be critical for the development of a large scale market for collective investment schemes in the region and promote sustainable economic development by facilitating the region's savings toward productive investment.

Taxation

(a) **G20 and OECD Tax Proposals Including Exchange of Tax Information**

53. AmCham understands various tax-related proposals from the G20 and OECD, including the G20's commitment to the new standard of automatic exchange of taxpayer information (the "Standard") and the Hong Kong Government's commitment to the Standard. AmCham appreciates that the Government wishes to protect the financial services industry and its customers in Hong Kong from adverse ramifications that could result if Hong Kong were not to support this G20 initiative. Accordingly, we support the Government's effort to make progress on implementation of the Standard and will assist in commenting on detailed legislative proposals. We recommend the Financial Services and the Treasury Bureau (FSTB) and Inland Revenue Department (IRD) to assess and address G20 and OECD tax-related proposals that have a material impact on Hong Kong.

(b) **Low and Simple Tax Regime**

54. AmCham supports Hong Kong's low and simple tax regime – indeed, this is one key reason for Hong Kong's international competitiveness as an investment hub. Maintaining the current system of taxation, while simplifying areas of uncertainty would be a better policy vis-à-vis

competitiveness than trying to implement tax specific regimes. With the offshore regime, other competitiveness issues can be addressed through general rate reductions.

55. AmCham highlights the need for the Government to address the evasion and avoidance of both direct taxes and excise duties on petroleum, tobacco, and alcohol products, through robust public awareness campaigns, more effective enforcement and increased penalties. This is important for the Government to maintain Hong Kong's competitive tax regime, and equally important to ensure a level playing field for all businesses.
56. In particular, AmCham respectfully submits that the current law and practices of the Inland Revenue Department to be amended to correspond with the updated Trust Law to allow Hong Kong trusts to become advantageous from a profits tax perspective to attract trust business from Hong Kong residents, and from residents and citizens from other countries.

Insurance

57. AmCham recognizes Hong Kong's efforts to take a leadership position regionally in insurance, including the recent passage of the Insurance Companies (Amendment) Ordinance 2015, upcoming establishment of the Independent Insurance Authority, and impending implementation of Risk Based Capital framework. However, Hong Kong will need to accelerate the development of its insurance industry, particularly Non-Life, to keep pace with other Asian markets. Non-Life insurance plays an important role in enhancing risk management practices across industries in Hong Kong.
58. Hong Kong should continue to invest in becoming a reinsurance and captive hub. Singapore's sustained focus has positioned it as a regional reinsurance hub, and China's implementation of the China Risk Oriented Solvency System (C-ROSS) next year will increase Mainland competitiveness. However, Hong Kong is well positioned to support Chinese outbound business, including the One Belt One Road (OBOR) initiative. Hong Kong should build on recent efforts to attract captives, which can be an important tool in assisting Chinese corporation. Captives can be particularly useful in managing infrastructure project risk and protecting overseas assets through insurance and other risk management solutions.

G. Intellectual Property

59. 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 for all products and industries with international best standards on protection and enforcement of trademark, copyright, and patent rights.
60. In particular, AmCham urges the Government to (1) address the copyright challenges and realize the opportunities arising from the digital environment; (2) move forward with patent reform without delay; and (3) fight against counterfeit products, including pharmaceutical and personal care products, luxury brands, and excisable products such as petroleum, tobacco, and alcohol products.

(a) Copyright Protection

61. 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 continues to present a serious and immediate threat to all copyright-based industries (originating both locally and internationally).

62. AmCham urges the Government to urgently move forward with the passage of the Copyright (Amendment) Bill 2014 as a significant step forward in improving the environment for the creative and innovation industries in Hong Kong.

(b) Patent Reform

63. 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.

H. Pharmaceutical

Counterfeit Pharmaceuticals

64. AmCham recognizes the excellent work done by the Hong Kong Government, and Customs department in particular, to tackle counterfeit pharmaceuticals both at the retail level as well as distribution and transshipment through Hong Kong. At the retail level in particular, reports of counterfeit pharmaceutical sales have drastically reduced over the last 10 years. We encourage the continuation of such good work and to expand on that to the following areas:

(a) Sales at Retail Level

65. Information indicates that whilst enforcement action has led to a large drop in the sale of counterfeit pharmaceuticals to the Hong Kong public, some pharmacies, mainly in the New Territories, continue to sell to Mainland tourists. Pharmacy staff will check the passports of potential customers to ensure they are not Law Enforcement Officers or those supporting industry making it difficult to proceed further with these investigations.

(b) Review the Licensing Requirements or Conditions

66. Review the licensing requirements or conditions (including blocking the loophole of changing shop name and continuing in business) for pharmacies particularly those found selling counterfeit pharmaceuticals on more than one occasion, or review those received many customers complaints such as the recommendations of Consumer Council recently.

(c) Transshipment

67. Hong Kong Customs have made significant seizures in recent years of packages passing through Hong Kong logistics and mail facilities, mainly destined for North America and the EU. We would encourage the sharing of such Intel with their Law Enforcement counterparts in Guangdong province and elsewhere that results in the closure of the illegal manufacturing facilities.

(d) Finances

68. Profits from counterfeit pharmaceuticals now exceed those of other illegal narcotics. For larger distribution cases, and those that involve International transshipment we would encourage the use of legislation that includes asset forfeiture, such as the Organized Crime Ordinance, rather than Trademark violations, which impose much lower jail sentences.

(e) **Set up Specified Court**

69. Counterfeit drugs case need special knowledge of its seriousness, and judge needs to be assisted by expert evidence, in order that a judge can see the perspective of the harm to people and society and give the proper ruling and penalty.

Pharmaceutical Patent Linkage

70. Effective Patent Linkage is critical components of an IPR-protection regime for pharmaceuticals. The “patent linkage” issue relates to the lack of coordination between the system for pharmaceutical patent protection and pharmaceutical product registration. If Hong Kong is to become an IP trading hub and to align with the development in Asia, it should take measures to encourage investments and safeguard pharmaceutical patent rights. Hong Kong should require applicants to, at a minimum, confirm that their products have not infringed any current patent registered in Hong Kong and the Department of Health should have a right to reject product applications or revoke product registrations based on false declarations. Notable countries which practice patent linkage include Australia, United States, Canada, China, Japan, Korea, Mexico, and Singapore.

I. Tourism

71. The number of international tourist arrivals grew by 4% in the first half of 2015, an increase of 21 million compared to the same period of 2014, according to the United Nations World Tourism Organization (UNWTO). Europe, Asia and the Pacific and the Middle East all recorded 5% growth in international arrivals and the Americas 4%. China started the year with double-digit growth in the first quarter. Against this backdrop, why is Hong Kong, a world-class tourism destination, seeing slowing growth and a decline in overnight stays? We propose some ideas for consideration:

“Rebranding Hong Kong” marketing campaign by an international PR agency

72. The perception of Hong Kong needs to be refreshed and targeted at a higher-end level. According to feedback from overseas PR agencies and frequent travelers based overseas, Hong Kong is perceived mainly as a business destination and a busy, polluted city. It is viewed as an ideal hub location to the rest of Asia but there is a general lack of a good reason to re-visit or extend a stay. The Luxury Supermarket image is no longer attractive, as high-end shoppers can go anywhere for global brands and Hong Kong is not offering any particularly good deals. The “unique destination or experience” is the Holy Grail for high-end travelers. On the plus side, people think Hong Kong is easy to navigate, English-speaking, has a better human rights record than mainland China, and is a great destination for food and nightlife.
73. There is an urgent need for a new, high-level global destination marketing campaign to rebrand Hong Kong as a dynamic, exciting and relevant modern city, particularly aimed at high-end long-haul markets. The Government would need to finance this global rebranding campaign and act as the guardian of the budget and execution. The global launch should be 2016 with a five-year rollout plan.
74. A committee of key private sector influencers from the hotel, retail, arts and entertainment sectors could be formed to help create the brief underlying the rebrand campaign similar to *Incredible India*, *Malaysia Truly Asia*, or *100% Pure New Zealand*. Qantas does a particularly good job of promoting Australia as a destination in its marketing campaigns - could Cathay Pacific do something similar?

75. Appoint more effective PR agencies for HKTB overseas to distribute this campaign. We have had feedback from our overseas PR agencies that HKTB is not active in some high-end markets such as Germany, Switzerland, UK and US. The local PR agencies used by HKTB are also not even very well known in their local markets or are based in 3rd tier cities.

Sporting Events

76. Hong Kong has potential to be an international sporting event venue. We could bring:
- a. Formula 3 night races
 - b. An international society horse racing event such as Melbourne Cup or Royal Ascot
 - c. Take advantage of the spectacular harbor for an international yacht race such as the America's Cup/Cowes Week, an international level cross-harbor swim, or a Triathlon festival.
 - d. We can promote more outdoor sports events such as rollerblading, skateboarding, jogging and cycling.
 - e. International sports stars could be appointed as ambassadors for Hong Kong.

Culinary Traditions

77. Chinese cuisine is enormously popular around the world. Cities such as San Francisco, London and New York have thriving Chinatown districts which have successful food festivals and draw millions of visitors. Hong Kong should celebrate our local traditional cuisine of dim sum through food festivals and dining tours and culinary activities.

Nature

78. There is a perception among long-haul visitors that Hong Kong is only a business destination with skyscrapers and shopping centers. We should promote the hiking trails, beaches and countryside. Consider establishing wildlife animal parks in the New Territories. Luxury health retreats in the New Territories. The Pink Dolphins used to be a great attraction until the dolphins started to disappear. Can their natural habitat be protected and re-established?

Arts and Culture

79. Art Basel has been a resounding success. We could build on this image, further to the unveiling of the West Kowloon Cultural District, with a prestigious arts academy in Hong Kong. The Central Harbor-front Park could be used for high-end cultural activities, such as sculpture exhibitions from world-renowned sculptors and artists. Hong Kong film is a thriving industry – a theme park featuring Hong Kong movie memorabilia could be established. One of Hong Kong's famous talents was traditional tailoring. Bespoke items are much sought-after by high end travelers, yet tailoring is a dying art form; could this be revived?
80. An authentic arts and crafts weekend market could be established where local farmers come to sell their organic produce or the young artists from PMQ can showcase their work.
81. Visitors are fascinated by Chinese culture, traditions and heritage and this needs to be highlighted in an elegant and unique way.

Family-friendly activities and infrastructure

82. Hong Kong is not perceived as family-friendly or elderly-friendly. Taiwan, Japan and Singapore offer excellent family-friendly attractions and environments including breastfeeding rooms, baby changing facilities, family seats on public buses.

83. We need to set up more attractions for children such as Legoland, animal parks and aquariums for educational purposes, and create an itinerary for families.

Traditional Chinese Medicine medical tourism

84. Today's technology-focused world leads to very high stress levels and zero downtime even on holiday. Natural healing and natural medicine is becoming highly desirable. Hong Kong has an opportunity to build on its plan outlined in Tung Chee-Hwa's 1998 Policy Address to become a center for Traditional Chinese Medicine. High-end travelers from Europe and the US would be attracted by the excellent standards and regulations in acupuncture, Chinese herbal medicine and reflexology.

Investment into tourism infrastructure

85. One idea is to build a spectacular high pedestrian bridge linking Hong Kong and Kowloon at the Lei Yue Mun gap, which would offer spectacular views from the Eastern end of the harbor (example of Brooklyn Bridge which attracts a huge number of visitors or Sydney Harbor Bridge).
86. The harbor is under-used as a tourism attraction. It would be good if more interesting activities would return to the harbor e.g. sampans, junks, etc. Building a pedestrian "finger" into the harbor (e.g. San Francisco) could draw a lot of people.

J. Transportation and Logistics

87. The erosion of the competitiveness of Hong Kong port has accelerated in recent years owing to congestion brought on by the lack of backup land to support operations. Once shipping lines have made the decision to move to alternatives in the Pearl River Delta it is very difficult to reverse that decision and attract them back to Hong Kong due to the structural disadvantages that Hong Kong faces and the liberalization of Shenzhen and Nansha ports through China's FTZ initiative.
88. Also, while important steps in Hong Kong's economic development, the new Competition Ordinance and the "Ocean Going Vessels Fuel Switch at Berth" regulation further impact Hong Kong's competitiveness as there is not anything similar currently in force in Mainland China.
89. Cargo is shifting to Shenzhen as the competitiveness gap closes and Ningbo is now up to 4th in the world container port rankings, surpassing Hong Kong during the 1st half of 2015, due to more significant local Government support to the maritime trade.

Expedite the Transport & Housing Bureau's recommendations from their "Proposals for Enhancing the Use of Port Back-Up Land in Kwai Tsing" by co-ordinating across Departments

90. The Transport and Housing Bureau's "Proposals for Enhancing the Use of Port Back-up Land in Kwai Tsing", published in June 2015, represents a positive first step in responding to changes in the shipping line market (e.g. increasing transshipment and deployment of mega vessels), addressing the shortage of terminal backup land and dedicated barge berths, reducing port congestion, slowing the decline in Hong Kong port's competitiveness and protecting the 88,000 families whose livelihoods depend on the port.
91. There is strong support from across the industry to these recommendations, as seen during the consultation period that ended in August 2015. Rationalization of Hong Kong port and the more effective use of land in its immediate vicinity will benefit the industry as a whole and also reduce the costs and pollution created from inefficiency, delays and idling engines for shipping lines,

barge operators, truckers and port operators, not to mention the environmental benefits for the Hong Kong population.

92. The Government should pro-actively co-ordinate across Departments and Bureaus to progress quickly on land allocation for those land parcels identified as first priorities. While recommendations are being actioned, the Government should also work with terminal operators to allow the short-term use of vacant land for terminal operations while the permanent solutions are being processed.
93. Additional work is still needed to plan subsequent phases of land allocation to fully realize the requirements laid out in the Government's "Strategic Development Plan for Hong Kong Port 2030" (2014) and the Hong Kong Container Terminal Operators Association's White Paper entitled "Maintaining Kwai Tsing Port's Regional Competitiveness: Investing in Container Throughput Capacity and Operational Efficiency" (2013). The land parcels identified for this phase of development will raise the yard to berth ratio from an average of 11.6 hectares per berth to 12.4 hectares per berth, still quite a way from the industry average of 25 hectares per berth. The current recommendations represent less than 20% of the land consolidation required around Kwai Tsing and the Government must ensure that the planning for the next phase of land consolidation work is progressed in parallel to the first phase work outlined in THB's paper.

Implement measures to ease labor shortages, particularly for container truck drivers

94. The current licensing process for container truck drivers currently takes 7 years, impacting already tight labor availability and compelling potential drivers into other industries with simpler licensing requirements. The Transport Department should streamline the licensing process through specific testing requirements, rather than also relying on holding lower levels of vehicle licenses for fixed lengths of time, thereby levelling the market for trucking resources and allowing container trucking SMEs to maintain their businesses.
95. An alternative to streamlining of Hong Kong container truck licensing requirements is to allow Mainland truckers to apply for all the relevant Hong Kong licensing requirements and operate across the border. Currently only Hong Kong truckers are allowed to operate across the border, thereby driving up logistics costs in Hong Kong by thousands of dollars and negatively impacting the overall logistics industry.

Ensure that the enactment of the Competition Ordinance doesn't drive maritime trade out of Hong Kong

96. The Competition Ordinance will come into effect on 14th December 2015. Shipping lines, through the Hong Kong Liner Shipping Association, are seeking an exemption to the competition ordinance for the operational consolidation of cargo on vessels as part of their alliances arrangements. These practices are accepted around the world in other competition law jurisdictions. Within the region, Singapore has had a Competition Commission for 10 years as is seen as a regional leader in this area.
97. While the Competition Commission is prevented from giving exemptions prior to the enactment of the Ordinance in December, the uncertainty surrounding the process for handling exemption requests, and any associated grace period during the process of considering requests, is driving shipping lines to move business to other ports in South China to reduce their legal risk exposure in Hong Kong.

98. By clarifying the way that exemption applications will be handled, Hong Kong's competitiveness can be protected and business retained to the benefit of the 88,000 families whose livelihoods depend on the success of the port.

Continue to promote environmental protection by working towards a Pearl River Delta emissions control area

99. The Chamber fully supports the substantial efforts that the Hong Kong Government has made in driving emissions reduction initiatives both at home and in conjunction with Guangdong province.
100. On 1st July 2015 the Hong Kong Government introduced the Ocean Going Vessels Fuel Switch at Berth regulation, ensuring low Sulphur fuel is used while vessels are berthed in Hong Kong and meeting industry requests for regulations that level the competitive landscape across all carriers. While this is an admirable initiative it does disadvantage Hong Kong port when compared with Pearl River Delta (PRD) competitors as the costs for low Sulphur fuel, and therefore overall port call costs in Hong Kong, have been increased versus our competitors.
101. The Government are strongly encouraged to continue their dialog with the Municipal and Provincial Governments in the Pearl River Delta and deliver a PRD Emissions Control Area (ECA) similar to ECAs along the coasts of America and Northern Europe. This would improve air quality across the Pearl River Delta, cement Hong Kong as a leader in environmental development while also levelling the playing field and protect Hong Kong port's competitiveness in the region.

Continue integration with Guangdong while protecting Hong Kong's competitiveness by maintaining cabotage laws

102. Hong Kong is considered an international port under China's cabotage trade, i.e. the transfer of goods between two Mainland ports by a foreign controlled vessel, and as such offers significant transshipment services to shipping lines to support their China business. 60% of Hong Kong's current container volumes are transshipment, with a significant proportion being driven by cabotage laws.
103. In April 2015, as part of China's Free Trade Zone (FTZ) initiative, West Shenzhen port (including Shekou, Chiwan and Mawan) and Nansha port in Guangzhou obtained the central government's approval to allow Chinese owned but overseas-flagged container ships to operate cabotage (domestic) business. The Shanghai FTZ already has the right to allow foreign controlled vessels registered in the FTZ to operate cabotage business. This ongoing erosion of the cabotage laws will directly impact Hong Kong and reduce throughput in both the short and long term, particularly if foreign controlled vessels are allowed to operate cabotage business in the Guangdong FTZ ports.
104. Cabotage laws are maintained around the world at both the country (e.g. the USA) and regional (e.g. European Union) basis. Surrendering these laws in China will damage both the Chinese shipping industry and Hong Kong port, thereby impacting those whose livelihoods rely on our maritime trade