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## **Response to The Third Review of the Hong Kong Special Administrative Region by the Working Group on the Universal Periodic Review of the United Nations Human Rights Council**

This response is in two parts, unrelated to each other:

- A) a comment on human rights and the environment; and
- B) a specific issue we would like to raise concerning the human rights to “safe and healthy working conditions”, for delivery workers in Hong Kong.

### **A. Human rights and the environment**

1. There is now global agreement that human rights norms apply to environmental issues<sup>[1]</sup>.
2. However, due to the difficulties in adopting appropriate language, “environment” is yet to make an appearance in any official UN treaty or convention on human rights.
3. In September and October 2018, the UN’s Special Rapporteur (SR) organised a public consultation with States, international organizations and other relevant stakeholders, with a call for inputs on air pollution and human rights circulated to all member States.
4. The SR received 30 responses: Hong Kong, neither independently nor through China, did not respond to the SR’s call for a response.
5. We call for Hong Kong to examine and consider environment as a human right, to engage with the SR’s public consultation on the issue, and to seek to develop language and concepts which may be appropriate for the HKSAR to adopt; and to report its awareness of the SR’s work to the UPR.

### **B. Safe and healthy working conditions**

1. Under the International Covenant on Economic, Social and Cultural Rights to which Hong Kong is a signatory, Hong Kong must provide “Safe and healthy working conditions” for its workers.
2. In the case of those working in commercial vehicles as drivers, delivery workers, and including those who need transportation in commercial vehicles (eg handymen, gas installation engineers), there is NO protection in this regard from the dangers of secondhand smoke in their “workplace”.
3. Secondhand smoke (SHS) contains a complex mixture of pollutants that includes toxic and

irritant compounds, as well as carcinogens.[2, 3]. SHS has been classified by the International Agency for Research on Cancer (IARC) as a type I carcinogen in humans. [2]

4. Research shows secondhand smoker concentration can be extremely high in closed vehicles. The US EPA reports that “the concentration of breathable particles (from secondhand smoke) in a closed motor vehicle is more than 133 times higher than the current average annual EPA standard.”[4]

5. Canadian research found that a single cigarette smoked in a stationary car with its windows closed can produce a level of secondhand smoke 11 times higher than the level found in an average bar where smoking is permitted. In a moving car, the level of secondhand smoke produced by a single cigarette can be as high as seven times the average level of a smoky bar.[5]

6. Even if the smoker has the window open, a US study examined 100 different air change rate measurements in four vehicles. Results showed that under all ventilation circumstances, even with windows open and the fan on high, SHS concentrations in a vehicle were greater than in any other small enclosed place.[6]

7. Our own observations show a high prevalence of smoking by commercial vehicle drivers, particularly when making stops (eg delivery stops). Aside from the impact of SHS, non-smokers may feel pressure to join in the smoking, or, given the high SHS they are smoking, feel they may as well smoke.

8. There are around 119,000 registered commercial vehicles (LGVs, MGVs and HGVs) in Hong Kong, representing a large number of “workplaces” which are entirely unprotected under Hong Kong law. On average, 48 hours of drivers’ and 39 hours of delivery staff’s time were deployed in a week for each goods vehicle [7].

9. We cannot say, under International Covenant on Economic, Social and Cultural Rights to which Hong Kong is a signatory, that we have taken seriously the right to Safe and healthy working conditions when hundreds of thousands of workers are exposed to this dangerous health impact every day.

**10. We urge the government to consider**

**a) reporting this gap to the UN UPR; and**

**b) taking steps to introduce legislation to protect these workers from the hazards of SHS**

## References

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