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**UN Human Rights Council
Public hearing by the Independent Expert on the Right to Water**

**Introductory remarks by Gerard PAYEN¹,
President of AquaFed**

1. Contribution of private water operators to the Right to Water and Sanitation

I represent the private companies of all sizes that operate water and sanitation services as mandated and regulated by governments. I am the President of AquaFed, their international federation, and I am pleased to be here today to work with the Human Rights Council and its Independent Expert [INDEPENDENT EXPERT] on the Right to Water and Sanitation. It reminds me our contribution to the report of the High Commissioner in 2007 on this very important topic

The INDEPENDENT EXPERT intends to submit a report on the practical challenges of the Right to Water in the field that will be based on the experience of private operators. We are very pleased to contribute to this work. We are proud and honoured that the work of private companies in the delivery of water services can be used to enhance the understanding and, hopefully, the implementation of the Right to Water.

Members of our Federation have intimate knowledge of what it means to deliver the Right to Water and sanitation on the ground, often in very difficult circumstances. One of their main jobs - under the direction of public authorities - is to supply good quality water through public networks or other means and to contribute to developing access to safe water and dignified and effective sanitation to deprived communities in the developing countries. Private companies are proud to be implementers of the human Right to Water and they have supported this right for many years². While they serve only 4% of the population of developing countries they have provided access to safe piped water to more than 25 million additional (mostly poor) people in less than 10 years³ in these countries. The solutions they have found can be replicated by others thereby accelerating progress in extending quality public services, especially to the poorest and most marginalised people.

Our work in the field has made many hurdles of the water sector visible. For example, it allowed a better understanding of the importance of connection subsidies, the conflict with the right of land-owners or the necessity of inclusive policies with clear targets.

I would like to draw the attention of the INDEPENDENT EXPERT and the Council on two potential pitfalls in the use of the experience of private water operators in the UN work on the Right to Water.

2. Beware of the “lamppost syndrome”

The lamppost syndrome: *it is not necessarily where there is the most light that the most important issues are*. Many structural problems facing the whole water sector have been made visible through Public-Private Partnerships. Indeed, these partnerships involve detailed contracts, public information and regular reporting which bring intrinsic transparency to the actions in the field of private operators mandated by governments. This transparency means that while private companies mandated by governments serve less than 4% of the population of developing countries it is where they intervene that the problems of the water sector in developing countries are the best known and the most studied by academics.

¹ An electronic version can be downloaded from <http://www.aquafed.org/documents.html>

² See AquaFed's press release, March 2006 - http://www.aquafed.org/pdf/Operators_Right-to-Water_PR_Pc_2006-03-19.pdf

³ See World Bank 2008 and 2009 reports on PPP in developing countries

This does not mean that they face specific problems. This does not mean either that they are the cause of these problems. On the contrary, they contribute to solving them. Their experience as water professionals is that:

- public and private regulated operators face the same types of issues as far as the Right to Water is concerned.
- these operators, public or private, are implementers of public policies. It is in these policies that the main decisions regarding the implementation of the Right to Water must be made (targets, geographical priorities, types of service, tariffs structure, pro-poor mechanisms, etc) by governments. Operators, no matter from what background, have no legitimacy to make these decisions and make no claim to do so.

Furthermore, the Council must be aware that the supply of water services through formal private companies mandated by governments is a very small proportion of water service delivery in developing countries (<4% of population), both in comparison with population served by public operators and with population using informal private providers where and when no public service is available. Informal private providers supply water to 50% of urban Africans and 25% of urban Latin-Americans. The Independent Expert will certainly clarify the Right to Water challenges of these many situations where the State, although the duty-bearer, has little or no influence on the access of people to water.

3. Beware of the “instrumentalisation” of the Right to Water and Sanitation

The specific focus of the Independent Expert on Private Sector Participation is of great interest to the sector as a whole because of the light this type of operation provides on the whole water sector.

However, when billions of people are expecting more governmental action and have no other option than to fetch water themselves, this limited analysis might divert attention from the real priorities of governments - and of the Council - with respect to the Right to Water and Sanitation.

It would be unfortunate for the Right to Water - and for the billions of Rights-owners - if the current focus on the private sector delays decisions on the Right to Water to the satisfaction of the anti-private lobbies that seem to be more interested in preventing private companies from doing their job than in the effective implementation of the Right to Water.

If governments are serious about the Right to Water, they should (1) publicly affirm that they recognise it, (2) decide to accelerate action in the field and (3) focus on the ways to progressively develop access to safe water for all. They should not let themselves be distracted by those interested in maintaining public/private polemics which are detrimental to poor people. I am confident that the Human Rights Council will understand that all the so-called “Right to Water problems attributed by these lobbies to private companies” are not linked to the identity of the operator’s owners but are the result of decisions which are clearly governments’ responsibility.

4. Mobilisation of all stakeholders

The Council met today to support the unfortunate Haiti. In Haiti, today, private operators, public operators and NGOs work with the Haitian government to restore the water supply to the population. Various AquaFed members, some supported by their non-profit workers’ associations, are currently on the ground turning the Right to Water into a reality.

The needs for safe water are so huge that no option for delivering water services should be disregarded. All stakeholders must be mobilised. The billions of people who are still waiting to benefit from public water services do not mind whether these are delivered by public or private operators. They need safe and affordable water, and they need it without delay.

AquaFed is the International Federation of Private Water Operators. Open to companies and associations of companies of all sizes and from all countries, it aims to contribute to solving water challenges by making Private Sector know-how and experience available to the international community. It brings together more than 300 water companies that serve hundreds of millions of people in 40 countries.