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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Corporate Accountability International, a non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[7 September 2011]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

National Plans: The roles of states, the UN, and IFIs in advancing the human right to water & sanitation

Esteemed Government Representatives and United Nations Officials,

As a grassroots organization with tens of thousands of active members and allies working to realize the universal human right to water, Corporate Accountability International welcomes the report of the Special Rapporteur. In addition to our joint statement responding to the U.S. mission report, we applaud and wish to comment on her recommendations regarding national plans. Notably, we include recommendations for States and the United Nations, and ask the Special Rapporteur to investigate the impacts of IFC activities on the human right to water and sanitation.

Corporate Accountability International has operated for nearly thirty five years to stop life-threatening abuses by transnational corporations and increase their accountability to people around the world. Our efforts range from the local to the international, including working with the WHO to develop and implement the groundbreaking Framework Convention on Tobacco Control, with its precedent-setting acknowledgement that public health policy-making must be protected from the interference of profit-seeking corporations. The analogy to the water sector is clear, and our aim is to support the work of the United Nations and the Special Rapporteur in pursuing a vision of universal water access free of pressure from the private sector.

As emphasized by the Special Rapporteur's report, government planning to realize the human rights to water and sanitation must place human rights at the center. National plans may include roles for a wide range of actors, but the fundamental state responsibility for ensuring access to water cannot be delegated. The report contains many valuable insights for policy makers and planners, particularly the following characteristics of a successful national plan:

- Take special measures to eliminate inequality and discrimination
- Prioritize expenditures and resources for basic needs, of which water is the most essential
- Provide adequate and reliable financing for the realization of the rights
- Conduct planning and implementation in a meaningful, participatory and transparent manner
- Ensure adequate oversight and ongoing monitoring, regardless of privatization or delegation
- Ensure no third party directly or indirectly violates human rights
- Provide remedies and the legal framework for accountability to those rights

As the report indicates, states must ensure that privatization or delegation of aspects of water delivery does not interfere with human rights, and that decisions regarding water should be democratically accountable. When aspects of service provision are delegated to the private sector, states retain the obligation to ensure access, and to oversee and regulate the operations of those entrusted with service. In most cases, capital investment needed to develop and maintain infrastructure is also derived from public sector and donor funds. Thus, it is imperative that government authorities retain the independence, technical capacity and access to information necessary to effectively manage this public resource.

States should ensure that international organizations in which they are member, donor or stakeholder – including international financial institutions – do not infringe upon, but

rather support the progressive realization of the right to water and sanitation. However, we have grave concerns that international financial institutions, particularly the World Bank Group's International Finance Corporation, is undertaking activities that threaten and impede the realization of the right to water and sanitation. The IFC's increasing support for private water corporations has too frequently led to ambiguous or detrimental impacts on the human right to water and sanitation, and routinely threatens democratic water governance through bypassing democratic processes, transparency, and accountability. This transfer of management for our most essential resource to outside the realm of public accountability is a serious threat not only to the human right to water and sanitation, but to the stability and security of states worldwide.

It is essential for states and international organizations to recognize that the human right to water is too fundamental to be relegated to an effect of profit-seeking by water corporations. By lending, providing risk guarantees and even taking ownership shares in some of the largest players in the industry, the IFC has consistently promoted private sector solutions to the detriment of more lasting and participatory water management solutions. In addition to financing the privatization of water, IFC's government consulting, prolific publications and role as a liaison between the public and private sectors (particularly at the sub-national level,) are all directed at encouraging the treatment of water as a business opportunity, relegating it to the whims of the market and bypassing the accountability and transparency of the public sector altogether. To illustrate the inherent problems with a profit-oriented approach to water delivery, one need look no further than IFC's most touted "success" story, the privatization of the water supply of Manila in the Philippines.¹ The IFC designed the plan, conducted the bidding, and took an equity position in one of the corporate joint ventures created to manage the city's water distribution. While it has been a profitable investment for the IFC and its corporate partners, after thirteen years of privatized water, prices have increased fivefold, quality has declined with life-threatening consequences for water users, and infrastructure has suffered from persistent neglect. Today, hundreds of communities remain waterless and the cost of a connection, even where it is available, is out of reach for many of the city's poorest residents. Despite objections to this human toll and calls for audits and price freezes from church and elected officials, unions and community groups, Manila Water's contract was recently extended through 2037 with no competitive bidding. To the contrary, where water policy is concerned, meeting fundamental human needs should always come before ensuring a profit for transnational corporations and the IFC. IFC's continued investment in and promotion of Manila Water illustrates that pursuit of profit has taken precedence over accountability to human rights.

Even within the United Nations, governments are under pressure to delegate much of the work of water governance to the corporate sector. Through a concerted decades-long effort, corporations have gradually embedded themselves in the policy-making process, providing financial resources and advice, and establishing joint initiatives where they can further leverage UN processes for business advantage. One such initiative is the CEO Water Mandate, which is an entirely voluntary corporate initiative that serves primarily as a public relations vehicle for water, beverage, chemical, apparel and other corporations to pre-empt more binding international policy on water. Earlier this year, we delivered to you signatures from more than 150 civil society groups from 24 countries calling on the UN to establish clear and enforceable standards to prevent corporate conflicts of interest and protect the primacy of human rights and the environment over commercial enterprise. The letter also

¹ A more detailed case study is available online at:
http://www.stopcorporateabuse.org/sites/default/files/Manila%20edited%20for%20webv2_0.pdf

urged the UN to take a first step to guard against these corporate conflicts of interest by withdrawing its institutional support for the CEO Water Mandate.²

In sum, governments should safeguard against corporate interference, ensure an adequate, rights-based regulatory framework is in place, and increase their independent capacity to exercise effective democratic governance over water. Corporations should not be made responsible for stewarding water – a good directly related to our ability to enjoy the most fundamental human rights – and they cannot be trusted with self-regulation due to inherent and irreconcilable conflicts of interest. This is not a matter of vilifying corporations, but rather being realistic about the incentives and pressures corporations experience. Governments must, as a part of the planning process, and prior to any delegation, adopt and be able to sustainably implement rigorous legal frameworks for progressively realizing the rights to water and sanitation. These standards should include reliable means for ensuring accountability for violations of those rights.

Likewise, the United Nations should take steps to safeguard against corporate influence and limit collaboration with corporations, which will require a cultural shift towards recognizing that the activities of transnational corporations are always meant, first and foremost, to increase profits for investors. Thus, there must always be a degree of separation between entities devoted to the public interest – including the UN, governments, development organizations – and profit seeking entities as well as their corporate-driven voluntary initiatives. The United Nations should take a step towards creating such a separation by withdrawing its institutional support for the CEO Water Mandate, allowing this corporate initiative to stand on its own.

Finally, we call on the Special Rapporteur to investigate the impacts of IFC's activities on the human right to water and sanitation. IFIs, and multilateral development banks like the World Bank in particular, have a crucial role to play in developing, funding, and even implementing global water policy frameworks, but they are increasingly bypassing the public sector to directly fund the private sector. Key attention needs to be paid to the consequences of this trend for the water sector, where the role for government is so crucial, and the stakes are so high.

Together, these actions will lay the groundwork for competent democratic water governance to ensure that the rights to water and sanitation can be realized and sustained, and that competing interests are balanced for the common good of humanity and the ecological systems which sustain us.

² <http://www.stopcorporateabuse.org/release-civil-society-who-un-reject-corporate-conflict-interest>