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PERMANENT MISSION OF THAILAND
GENEVA

The Permanent Mission of Thailand to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, Special Procedures Division (SPD) and has the honour to refer to the latter's Note dated 19 November 2009 requesting Governments to submit views on the topic of private sector participation in the provision of water and sanitation services in order to facilitate the preparation of a report by the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation on the same subject.

In this connection, the Permanent Mission of Thailand has further the honour to forward herewith the Royal Thai Government's views and experiences relating to the above-mentioned topic for your perusal.

The Permanent Mission of Thailand to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights, Special Procedures Division (SPD) the assurances of its highest consideration.



Office of the United Nations High Commissioner for Human Rights,
Palais des Nations, 1211 Geneva 10.

Attention : Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, ESCR Session, Special Procedures Division
OHCHR REGISTRY

Fax : 022 917 9006

- 9 AVR. 2010

Recipients :SPD.....

Human rights obligations related to access to safe drinking water and sanitation

- Which obligations do States bear in the context of private sector participation in the provision of water and sanitation services?

For Thailand, private sector participation in the provision of water and sanitation services is regulated by the 53rd Announcement of the Revolutionary Committee on 26 January 1973, which aims to control these services to meet set standards and safety requirements. Under this regulation, the **Minister of Natural Resources and Environment** has the authority to permit private companies to provide water and sanitation services in areas where these services could not be provided by government agencies¹. The role of the State in regulating the private sector, which receive the government's concessions to provide water services², under the said Announcement are:

1. to ensure that the companies' water system facilities can produce water which meet the standards and are able to provide a sufficient amount of water 24 hours a day/ 7 days a week with sufficient water pressure;
2. to control the quality of water to meet the standards laid out by the Ministry of Natural Resources and Environment;
3. to control the price of the water, so as to be fair for both consumers and producers; and
4. to ensure that the water provided by the private sector is sufficient to meet consumption demand in the area, including for intervention purposes in case of fire.

- What should the regulatory framework put into place by States provide for?

According to the said Announcement, the State could grant a permit to private companies in the areas where the State could not efficiently provide such service, which are:

1. within private residential property where the state agency could not provide the service;
2. within private industrial estates where the state agency could not provide the service; and
3. private companies that have been granted a concession by the State agencies, which are the Provincial Waterworks Authority (PWA) or the Metropolitan Waterworks Authority (MWA), to produce and provide water either for the agencies to redistribute to the consumers or to distribute directly to the consumers. These companies will be regulated by the concession grantor (either the PWA or MWA) and the Ministry of Natural Resources and Environment.

- Apart from regulation, what additional measures, structures and institutions are necessary?

As water services directly affect the well being of citizens, States have to be certain that private companies that have been granted a permit to provide water services for the community can indeed provide that service which reaches the minimum standard in every way. It is vital for the relevant agencies to integrate their policy to facilitate implementation. In Thailand's case, the central agency is the Department of Water Resources which is the focal

¹ The government agencies that have the authority under Thai law and regulations to provide water services are the Local Administration Organization, Provincial Waterworks Authority and Metropolitan Waterworks Authority.

² There are 66 companies that receive concessions to provide water services in Thailand which can provide a total of 1,084,000 cubic meters of water per day

point for verifying and screening results from companies that are water service concessionaires, whereas local agencies, which are the provincial Natural Resources and Environment Office and the Area Water Resource Office, are tasked with assessing the company's project both before and after the commencement of the project.

- What are the responsibilities of the private sector when participating in the provision of water and sanitation services

The private sector has the obligation to provide water service that is up to the standards mentioned above. This includes the construction of water producing and distributing system; the quality of water; and sufficient quantity for consumption and fire protection and the provision of water service 24 hours a day. The said Announcement also determined the penalties for private companies that violate the regulations set under the Announcement. This includes imprisonment not exceeding one year or fine not exceeding 20,000 baht, or both.

- How can existing frameworks on private sector responsibility for human rights protection (including the work of Special representative of the Secretary General on human rights and transnational corporations and other business enterprises, the OECD guidelines, the Global Compact) be used to guide our understanding of private sector responsibility in water and sanitation service provision?

In order to guide the private sector's understanding of responsibility for human rights protection including in the provision of water and sanitation services, the State needs to promote human rights awareness among entrepreneurs. This could be done by applying the concept of the Corporate Social Responsibility (CSR) which is the code of conduct on business ethics and morality.

In Thailand, the Ministry of Social Development and Human Security has established the CSR Promotion Center to function as the government center tasked with promoting CSR in Thailand. This includes promoting and supporting the business sector to play a role in social responsibility; ensuring the development of CSR and raising its significance in the business sector; and following up and evaluating the impact of CSR policies and measures taken by the business sector on society. It is believed that by promoting the concept of CSR, private sector would conduct its social responsibility with the inclusion of public interest into corporate decision-making.

**Department of International Organizations
Ministry of Foreign Affairs**