

# **STATEMENT BY THE United Kingdom NATIONAL CONTACT POINT (NCP) FOR OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES (NCP): DAS AIR**

## **Summary of NCP Decision**

The National Contact Point (NCP) considered the complaint brought under Chapter I (Concepts and Principles) and Chapter II (General policies) of the OECD Guidelines for Multinational Enterprises (the Guidelines) alleging that DAS Air (i) failed to apply due diligence when transporting minerals from Entebbe and Kigali, which had a reasonable probability of being sourced from the conflict zone in the Democratic Republic of Congo (DRC); and (ii) undertook flights between Entebbe airport and the conflict zone in Eastern DRC. These flights coincided with an illegal occupation of the area by the Ugandan military, during a period when the United Nations and NGO's recorded human rights abuses. A flight ban between DRC and Entebbe was in place during the applicable period, meaning these flights were in direct contravention of international aviation conventions (the Chicago Convention). The NCP upheld the allegations brought by Rights and Accountability in Development (RAID) and concluded that DAS Air had failed to meet the requirements of the Guidelines.

## **Background**

1. The complaint about DAS Air was submitted to the NCP under the auspices of the OECD Guidelines for Multinational Enterprises by a Non-Government Organisation RAID (Rights and Accountability in Development) on 28 April 2005. The complaint alleges that DAS Air knowingly breached United Nations embargoes by transporting minerals, notably coltan, from rebel held areas of DRC:

- The transportation of coltan from DRC including flights between DRC and Uganda between 1998 and 2001 (when this airspace was closed to civilian airlines due to the conflict); and
- The onwards transportation of coltan from Rwanda and Uganda until December 2001, which the complainants allege were sourced from the conflict area in Eastern DRC.

## **The OECD Guidelines for Multinational Enterprises**

2. The Guidelines are recommendations that governments endorse and promote in relation to the behaviour of multinational enterprises. The Guidelines are voluntary principles and standards for responsible business conduct. They are the only comprehensive, multilaterally-endorsed code of conduct for multinational enterprises.

3. The Guidelines establish non-legally binding principles covering a broad range of issues in business ethics in the following areas of operation: general company policies, disclosure of information, employment and industrial

relations, environment, combating bribery, consumer interests, responsible use of science and technology, competition and taxation.

4. The Guidelines are not legally binding, but OECD governments and a number of non OECD members are committed to promoting their observance. The Guidelines are also supported by the business community and labour federations. In addition, a number of Non-Governmental Organisations are also heavily involved the work of the OECD Investment Committee responsible for monitoring and reviewing the Guidelines and are increasingly involved in overseeing the operation and promotion of the Guidelines.

5. The final statement has been approved by Gareth Thomas, Minister for Trade and Consumer Affairs and copies have been placed in the House of Commons and the House of Lords libraries.

### **The complainant:**

6. Rights and Accountability in Development (RAID). A Non-Government Organisation founded in 1997 that aims through its research to promote social and economic rights and improve corporate accountability.

### **The MNE that is the subject of the allegations**

7. DAS Air. DAS Air is a long established UK based air freight services business operating routes between Europe and West Africa and between East Africa and the Middle East.

8. In October 2007 DAS Air Limited had been forced to close operations after failing to recover from a ban on flights operating into and out of European Community (EC) that was imposed on 16 October 2006. Administrators were appointed. It was subsequently confirmed that the administrators have sold the business and assets of DAS Air Limited to Continental Aviation Services (Nig) Limited. The date of the transfer was 20 November 2007. DAS Air Limited is now in liquidation.

### **The Complaint**

9. The complaint submitted covers the period of the war in DRC, in particular from the end of 1998 to December 2001 (the date that DAS Air stopped flying coltan from Rwanda). The NCP's determination of this complaint is towards those actions after June 2000, when the current version of the Guidelines came into effect.

10. The allegations by RAID were of DAS Air:

- Flying into a conflict zone pre-2000 in support of a Ugandan offensive found by the International Court of Justice to have violated the principle of non-use of force in international relations and principle of non-intervention, as well as having violated international human rights law and humanitarian law

- Flying into a conflict zone in DRC during 2000-2001 while the area was occupied by the Ugandan military. The occupation was deemed illegal and to violate international human rights law by International Court of Justice
- The operation of civilian aircraft in a conflict zone pre and post 2000, in contravention of international conventions governing civil aviation.
- The transport of coltan from Kigali in Rwanda and the transport of cobalt from Entebbe in Uganda which had a reasonable probability of originating in eastern DRC during the conflict period.

11. The applicable paragraphs of the Guidelines are:

*1.7 Governments have the right to prescribe the condition under which multinational enterprises operate within their jurisdictions, subject to international law. The entities of a multinational enterprise located in various countries are subject to the laws applicable in these countries. When multinational enterprises are subject to conflicting requirements by adhering countries, the governments concerned will co-operate in good faith with a view to resolving problems that may arise.*

*II.1 Contribute to economic, social and environmental progress with a view to achieving sustainable development.*

*II.2 Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.*

*II.5 Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues.*

*II.10 Encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the guidelines.*

### Coltan

12. Coltan is the colloquial African name for columbite-tantalite, a metallic ore used to produce the elements niobium and tantalum. The latter is used primarily for the production of capacitors, which are vital components in electronic devices ranging from mobile telephones to laptop computers. After an increased demand from the hi-tech, communications and aerospace industries drove coltan prices to an all-time high of more than \$300 per pound in 2000, prices plummeted during the first six months of 2001, levelling off at \$20 to \$30 per pound in late 2001. DRC has an estimated 80% of the world's coltan reserves. It is also found in Egypt, Ethiopia, Mozambique, Namibia, Nigeria and South Africa. The high-tec industry's demand for tantalum has fuelled an increase in coltan mining worldwide – including in DRC.

## **DAS Air's response**

13. DAS Air denied the allegations in the complaint and strongly objected to the allegations that DAS Air contributed to the ongoing conflict in the DRC and to human rights' abuses. The company accepts that it transported coltan from Kigali in Rwanda but state these flights were halted immediately that DAS Air was notified that the transportation of such cargo from Kigali was unacceptable, this occurred when they came across the UN Panel report in December 2001 (the first report was published on 12 April 2001 citing the link between conflict and resources in DRC and the second report, which named DAS Air was published in November 2001). The Company firmly denied that it had ever knowingly transported coltan sourced from DRC explaining they believed the coltan it flew out of Kigali originated in Kigali.

14. In response to the allegation of DAS Air flights into DRC between 1998 and August 2001, the company make a categorical denial pointing out that air space between Uganda and DRC was closed for the duration of the conflict, and that it was impossible for Ugandan registered aircraft to land in DRC.

## **Applicability of the Guidelines**

15. The dates of the events that are the subject of the complaint by RAID are relevant. The complaint covers the period between 1998 (from the start of the second conflict in DRC) to the end of 2001 (when the Company stopped flying minerals from the area). The current version of the OECD Guidelines came into force in June 2000 replacing the 1991 version. There is precedent for the UK NCP to investigate behaviour that took place before 2000 but in that case the parties were aware of the retrospective application of the Guidelines.

16. Although there was active engagement in the complaint by Das Air between April 2005 – October 2006, there had been no active consideration as to whether it was appropriate to apply the 2000 Guidelines to events that occurred between 1998- June 2000. Since May 2008, the NCP has attempted to contact Das Air through its liquidators to see if they have any comments on this issue. No response has been received. In this case, the NCP has taken the view that it is not appropriate to apply the 2000 revision of the Guidelines to events that occurred before 2000. However, the NCP considers that past behaviour is pertinent when considering behaviour that occurred after June 2000.

## **UN Panel of Experts – the genesis of the allegations**

17. In June 2000, The United Nations Security Council appointed an independent panel of experts:

- “ To follow up on reports and collect information on all activities on illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo, including in violation of the sovereignty of that country;

- To research and analyse the links between the exploitation of the natural resources and other forms of wealth in the Democratic Republic of the Congo and the continuation of the conflict.”

18. The UN Panel of Experts on the Illegal Exploitation of Natural Resources and other Forms of Wealth of the Democratic Republic of Congo published its first report on 12 April 2001, two of the report’s key conclusions was:

“The conflict in the Democratic Republic of the Congo has become mainly about access, control and trade of five key mineral resources: coltan, diamonds, copper, cobalt and gold. The wealth of the country is appealing and hard to resist in the context of lawlessness and the weakness of the central authority.

Exploitation of the natural resources of the Democratic Republic of Congo by foreign armies has become systematic and systemic. Plundering, looting and racketeering and the constitution of criminal cartels are becoming commonplace in occupied territories. These criminal cartels have ramifications and connections worldwide, and they represent the next serious security problem in the region.”

19. In a second report issued by the UN Panel, published on 13 November 2001, reference was made to DAS Air:

“DAS Air, a Ugandan-owned freight company, is also believed to be transporting coltan from Bukavu and Goma to Europe via Kigali”.

20. This reference formed part of the complaint lodged with the UK National Contact Point under the OECD Guidelines for Multinational Enterprises by RAID.

### **The Porter Commission**

21. Following the first Report by the UN Panel of Experts the Ugandan Government established a Ugandan Judicial Commission under Justice Porter (Porter Commission) to look into allegations made in the UN Report, specifically about Uganda. It is information provided by the Porter Commission that provides much of the information in support of RAID’s original complaint.

22. The Porter Commission investigated the use of the Military Air Base as a result of the original UN Panel’s claims that it was being used during Operation Safe Haven to transport goods to and from the DRC.

23. Porter found that, “trade through the Military Air Base was being hidden...”

24. The use of the air base for civilian purposes is a key consideration of this complaint.

## The NCP Analysis

25. The NCP analysis is made with the understanding that the specific instance process further to the complaint was not completed due to DAS Air going into administration. The last letter between the parties was exchanged on 18 October 2006. The NCP received no further response from DAS Air after this point. The NCP notes that this timing coincided with the European Commission ban of DAS Air from flying over EU territory. However DAS Air did not go into administration until September 2007 and so there was sufficient time for it to rebut RAID's allegations.

26. RAID alleges that DAS Air knowingly breached United Nations embargoes by transporting from rebel held areas of the Democratic Republic of Congo (DRC) by:

- The transportation of coltan from DRC including flights between DRC and Entebbe, Uganda between 1998 and 2001 (when this airspace was closed to civilian airlines due to the conflict); and
- The onwards transportation of coltan from Rwanda and Uganda until December 2001, which the complainants allege were sourced from the conflict area in Eastern DRC.

### Flights between DRC and Uganda

27. The complainant provided records sourced from the Porter Commission archives that indicated that DAS Air had undertaken 35 flights from Entebbe to DRC during the period of the conflict, when this air space was closed. The NCP has determined on the 3 flights that took place after June 2000 (when the current version of the Guidelines came into force).

28. The implications of these flights are that:

- DAS Air contravened international aviation conventions that prohibited civil flights between Uganda and DRC due to the conflict.
- To circumvent the ban on civil flights between DRC and Uganda, DAS Air defined civil flights as military or were flying in support of the Ugandan army during its occupation of the area.

29. DAS Air has insisted throughout that the information sourced from the Porter Commission archives is false, with the exception of 1 flight (which took place before June 2000) undertaken on behalf of *Medecins Sans Frontiers*. DAS Air also pointed out the allegations that DAS Air flew between Entebbe airport and DRC is demonstrably incorrect as it is "common knowledge that the air space between Uganda and DRC has been closed for the duration of the conflict, and it was impossible for Ugandan registered aircraft to land in DRC; because of their size". The NCP considers that DAS Air had sufficient time to provide evidence to substantiate this explanation about the size of plane but did not. In the absence of any evidence to support the statement, the NCP gave consideration to the balance of information i.e. the claim that DAS Air airplanes could not land in Eastern DRC due to the size of the planes versus the credibility of the Porter Commission archives; the NCP rejects DAS

Air's explanation as unsubstantiated. The NCP also notes that DAS Air provided this explanation before it was aware of the Porter Commission records itemising the DAS Air flights from Entebbe and no subsequent explanation was received once this evidence was passed to DAS Air.

30. International Conventions required the air space between Uganda and DRC to be closed to civil aircraft during the period of the conflict (specifically from July 1999 until April 2004, when A Memorandum of Understanding normalising mutually beneficial air operations between the two countries was signed). Civil aviation flights are subject to the provisions of the Convention on International Civil Aviation (CICA), also known as 'the Chicago Convention'. The Convention consists of a number of principles and arrangements to which governments have agreed "in order that international civil aviation may be developed in a safe and orderly manner and that international civil air transport services may be established on the basis of equality of opportunity and operated soundly and economically". (Preamble, CICA, 2006 version.)

31. Following the report of the UN Panel of Experts in 2001, the Porter Commission investigated allegations that the Ugandan Army had contravened these requirements by designating civil flights that used Entebbe Airport as military flights (as the Convention on Civil Aviation only applies to civilian airlines). The Porter Commission was published in May 2003 and quotes a letter, dated 23 July 1999, from the Managing Director of the Civil Aviation Authority to a UPDF officer:

"We wish to advise you that Civil Aviation Authority had difficulty in authorising civil air operation in/out of DR Congo for the following reasons:

The ICAO rules and regulations that govern international air operations do not permit such operations given the current situation prevailing in the eastern part of Congo"

32. The Porter Commission concluded that 'if the operator was private and not military, and the aircraft was not chartered to MOD, then it should not be allowed to fly, as it came under Civil Aviation Authority rules'."

33. The Commission report described how Uganda has one International Airport (Entebbe International Airport), part of which is called the New Airport; the other part is the Old Airport or the Military Air Base, which is for the military. The Commission recorded a situation in which international civilian flights into the DRC, as a conflict zone, were not allowed by International Convention. The Porter Commission cites a further paragraph from the Managing Director of the CAA's letter of 23 July 1999:

"However, if the flights have to be operated, then they should be operated as purely military flights which are not subject to Civil Aviation Authority's strict regulations and safety requirements..."

34. While this indicates that the flights flying between Entebbe Airport and DRC were categorised as military, the Porter Commission went on to conclude that non-military flights occurred during this period:

“Whilst military transport of goods from the Congo, which cannot have been anything else than natural resources, has been proved to have been taking place, by far the largest number of flights were private carrying merchandise to and from the Congo.”

35. Therefore, the Porter Commission Report concluded that it is likely that civilian flights did take place between DRC and Uganda during the period of the conflict in direct contravention of International Conventions. Having reviewed the Porter Commission report the NCP accepts its conclusions and considers that the flights undertaken by DAS Air between Entebbe and DRC were likely to have been civil flights defined as military to circumvent International Aviation Conventions. The issue that the NCP considered for the purpose of this specific instance is whether DAS Air participated in these flights which would have been in direct contravention of International Aviation Conventions leading to a failure to meet the expectations of paragraphs 1.7 and II.5 of the Guidelines.

36. The key evidence submitted by RAID is flight logs sourced from the Porter Commission archives. The NCP has considered the validity of the evidence collected by the Porter Commission. The Porter Commission was established by the Minister of Foreign Affairs by Legal Notice and operated under the Commission of Inquiries Act. The Commission gathered extensive documentation. It worked only with sworn evidence given in public. The Commission adhered to the Evidence Act in its proceedings. The International Court of Justice (ICJ) has acknowledged the evidentiary value of the Porter Commission. The ICJ, in the Case Concerning Armed Activities on the Territory of the Congo, 2005 used evidence from the Porter Commission as they considered the Commission had followed methods of inquiry that were broadly accepted standards and included testimony of Ugandan officials that contained statements against interest, the Court found the Commission’s factual findings particularly reliable. The ICJ had tested the evidence collected by the Porter Commission and considered it stood up to scrutiny. The NCP also considers evidence collected by the Porter Commission to be reliable and admissible.

37. The flight logs indicate that DAS Air contravened International Conventions by flying between Uganda and DRC during the conflict.

38. The flight logs also points to DAS Air operating flights into areas of Eastern DRC while it was occupied by Ugandan troops. Human Rights Watch documented human rights abuses on the local population including the killing of civilians around Beni in mid-2000<sup>1</sup>. The UN Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo in his August 2001 report described Ugandan backing for rebel forces, how the local

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<sup>1</sup> Suliman Ali Baldo Testimony at the House Committee on International Relations

population was living in fear, and attested to the use of torture and 'many acts of violence by Ugandan soldiers that caused countless deaths'.<sup>2</sup> Amnesty International condemned the use of torture by Ugandan forces.<sup>3</sup> The occupation in this area followed a major Ugandan Offensive condemned and declared illegal by the International Court of Justice.

39. The NCP did not make a determination on the 32 flights that took place before the current version of the Guidelines came into force but did consider these flights when determining the status of the 3 flights that took place after June 2000. The NCP believes that past behaviour is pertinent to the analysis. The NCP noted that many of the DAS Air flights into Eastern DRC occurred shortly after the Ugandan army had occupied the specific area during Operation 'Safe Haven'. The NCP noted that the ICJ concluded that Operation 'Safe Haven' was not consonant with self-defence and that Uganda violated the sovereignty and territorial integrity of the DRC.

40. The NCP notes that DAS Air did not respond to the specific allegations made in October 2006 (when the Porter Commission records were shared with DAS Air) but that it had sufficient opportunity to do so. The NCP notes that prior to that date DAS Air had denied that flights between Entebbe and the DRC took place. Despite this, the NCP is satisfied that the evidence submitted is sufficient to conclude that DAS Air did fly between Entebbe and DRC in breach of International Conventions. The NCP accepts the Porter Commission evidence. While the NCP process had not been finalised by the time DAS Air went into administration, the NCP considers that sufficient evidence had been collected to conclude that there was a clear failure to meet the expectations of the Guidelines. By flying between Entebbe and DRC, DAS Air failed to meet the requirements of paragraphs II.2, II.5 and 1.7 of the Guidelines.

#### The onward transportation of coltan and cobalt from Rwanda and Uganda

41. DAS Air estimated that it transported approximately 400 tonnes of coltan from Kigali to Johannesburg and 500 tonnes of cobalt from Entebbe to Ostende between 21 November 2000 and 17 December 2001. RAID alleges that this coltan and cobalt was sourced from the conflict zone in Eastern DRC. DAS Air stated they were merely contracted by the freight forwarders to transport the minerals; that all merchandise transported by DAS Air is customs-cleared before it is transported and DAS Air had not at any time been aware that any coltan transported by it originated from DRC. They also stated that any enquiries the NCP had in regards to the consignors and consignees should be made to DAS Air's customer as DAS Air would not have that information. DAS Air explained that it was not aware of the UN Panel report of 12 April 2001. The adverse implications of the carriage of minerals from the region did not come to DAS Air's attention until December 2001 (in all likelihood from a press article): as soon as it came to DAS Air's

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<sup>2</sup> Report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, A/56/327, 31 August 2001.

<sup>3</sup> Amnesty International, June 2001, 'Democratic Republic of Congo – Torture: a weapon of war against unarmed civilians,' pp. 21 – 23.

attention, they immediately halted all transportation of coltan from Kigali. DAS Air was named in the November 2001 UN Panel Report:

Transport networks have also been reconfigured since the publication of the report [the Panel's April 2001 report]. Sabena halted the transport of all coltan shipments from Kigali. Instead, the Netherlands carrier Martinair is now shipping coltan from Kigali twice a week to Amsterdam. DAS Air, a Ugandan-owned freight company, is also believed to be transporting coltan from Bukavu and Goma to Europe via Kigali.

42 The NCP accepts the key conclusion made by Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo that “the conflict in the Democratic Republic of the Congo has become mainly about access, control and trade of five key mineral resources: coltan, diamonds, copper, cobalt and gold. The wealth of the country is appealing and hard to resist in the context of lawlessness and the weakness of the central authority...” The Panel went on to explain that “the role of the private sector in the exploitation of natural resources and the continuation of the war has been vital...Companies trading minerals, which the Panel considered to be ‘the engine of the conflict in the Democratic Republic of Congo’, have prepared the field for illegal mining activities in the country.”

43. Heightened care is required by companies when investing and trading in weak governance zones. There is no evidence that DAS Air made any concessions to the conflict occurring in the region. DAS Air transported minerals from Kigali, which had a reasonable probability of having been sourced from the conflict zone in the DRC, on behalf of its customers.

44. The NCP considered the extent of the influence that DAS Air could have in its contracts with third parties to transport coltan from Kigali to Europe. The commentary to the Guidelines on the supply chain paragraph refers to the level of influence that a business holds and says “the extent of these limitations depends upon sectoral, enterprise and product characteristics such as the number of suppliers or other business partners, the structure and complexity of the supply chain and the market position of the enterprise...”. The NCP understands that DAS Air did not hold a monopoly but had a significant market share of flights transporting minerals from Kigali, DAS Air had good regional knowledge as it was a prominent carrier in Africa. Most importantly, the flights recorded by the Porter Commission showing DAS Air flying between Entebbe and DRC illustrates that DAS Air should have had a clear understanding of the potential for the minerals to have been sourced from Eastern DRC. DAS Air clearly stated to the NCP that they did not question the source of the mineral that it transported, the NCP considers that DAS Air undertook insufficient due diligence on the supply chain.

45. The Porter Commission archives record 35 DAS Air flight between DRC and Entebbe airport between 1998 and 2004, the majority of these flights into the conflict zone where many of DRC's minerals are mined. The NCP has not made a determination on the 32 flights that took place before June 2000, but believes these earlier flights should be recorded in this statement in support the NCP's view that DAS Air was aware of the conflict in DRC and the potential for the minerals to be sourced from the conflict zone.

46. Therefore the NCP finds that DAS Air did not meet the requirements set out in paragraphs II.1, II.2 and II.10 of the Guidelines:

### **NCP Conclusions**

47. DAS Air flights between Entebbe and DRC were in direct contravention of the Chicago Convention. The destination airports in Eastern DRC were situated in an area in North Eastern DRC that was under Ugandan army occupation and human rights abuses were recorded by NGOs in the area during 2001. The DAS Air flights can be seen as either:

- civilian flights that were recorded as military to circumvent the Chicago Convention; or
- flying in support of the Ugandan army during its occupation of the area.

48. The NCP believes it to be the former option as the Porter Commission records instances of civilian flights being defined as military to circumvent the Chicago Convention and the NCP concludes that this is the more likely outcome. The NCP concludes that the flights between DRC and Entebbe failed to meet the expectations of the following paragraphs of the Guidelines:

*II.2 Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.*

*II.5 Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues.*

*1.7 Governments have the right to prescribe the condition under which multinational enterprises operate within their jurisdictions, subject to international law. The entities of a multinational enterprise located in various countries are subject to the laws applicable in these countries. When multinational enterprises are subject to conflicting requirements by adhering countries, the governments concerned will co-operate in good faith with a view to resolving problems that may arise.*

49. DAS Air did not try to establish the source of the minerals they were transporting from Kigali and Entebbe, stating they were unaware of the potential for the minerals to be sourced from the conflict zone in eastern DRC. The NCP finds it difficult to accept that an airline with a significant presence in Africa including a base in Entebbe would not have been aware of the conflict and the potential for the minerals to be sourced from Eastern DRC. In addition, the 35 DAS Air flights between Entebbe and DRC (including several flights to the conflict zone itself) between 1998 and 2001 recorded by the

Porter Commission, adds support to DAS Air having an intimate understanding of the situation and the conflict.

50. The NCP concludes the lack of due diligence on the supply chain, meant that DAS Air did not meet the requirements of the following paragraphs of the Guidelines:

*II.1 Contribute to economic, social and environmental progress with a view to achieving sustainable development.*

*II.2 Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.*

*II.10 Encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the guidelines.*

## **Recommendations**

51. The UK Government expects all UK business to follow international conventions including the Convention of International Civil Aviation.

52. Under no circumstances should a UK MNE define its flights as military when they are not.

53. The NCP refers to UN Resolution 1592 (30 March 2005): recital 10 of the resolution urges "all states neighbouring the Democratic Republic of Congo to impede any kind of support to the illegal exploitation of Congolese natural resources, particularly by preventing the flow of such resources through their respective territories." The NCP notes that this resolution is directed towards states but considers this resolution highlights the requirement for business to undertake heightened awareness when trading or investing in natural resources within this region. The NCP urges UK companies to use their influence over contracting parties, when trading in natural resources from this region, to ensure that due diligence is applied to the supply chain.

54. The UK Government draws attention to the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones, which has been developed as part of the OECD's Investment Committee's follow up to the Guidelines. The Risk Awareness tool consists of a list of questions that companies should ask themselves when considering actual or prospective investments in weak governance zones. The questions cover the following issues:

- Obeying the law and observing international relations.
- Heightened managerial care.
- Political activities.
- Knowing clients and business partners.
- Speaking out about wrongdoing.

- Business roles in weak governance societies – a broadened view of self interest.

55. The Risk Awareness tool can be downloaded from:

[www.oecd.org/dataoecd/26/21/36885821.pdf](http://www.oecd.org/dataoecd/26/21/36885821.pdf)

### **NCP commitment to publicise recommendations**

56. The NCP will contact trade organisations with an interest in freight forwarding and request they bring this statement to the attention of their members.

17 July 2008

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