

RAID

Rights & Accountability in Development

Embargoed until:

21 July 2008
00:00 (GMT)

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Government Condemns British Aviation Company for Fueling Congo's War

Oxford, Monday 21 July 2008

The British Government has found DAS Air, a UK-based air cargo company, in breach of the OECD Guidelines on corporate conduct for its part in transporting minerals from rebel-held areas of the Eastern Democratic Republic of the Congo (DRC). Rights and Accountability in Development (RAID), a human rights non-governmental organization, which brought a complaint against the company welcomed the government's findings.

“This is a major breakthrough and sets an important precedent” said Patricia Feeney, RAID's Executive Director. “For the first time a foreign company has been held to account by its own government for its part in fueling a war that has cost the lives of an estimated 5.4 million people – the highest civilian death toll since World War II.”

In 2002 a UN Panel of experts accused over 80 multinational companies of violating the OECD Guidelines for Multinational Enterprises (a government-backed code of corporate conduct). Despite the wealth of evidence in the UN Panel's reports to date DAS Air is the only company to have been publicly sanctioned by a government.

According to the UN Panel, DAS Air transported coltan (columbo-tantalite used in the manufacture of electronic equipment) from the Congolese towns of Bukavu and Goma to Europe via Kigali (the Rwandan capital).¹

¹UN Panel report dated 13 November 2001, paragraph 20

<http://www.un.org/Docs/sc/letters/2001/sglet01.htm> click on S/2001/1072

The UK National Contact Point (NCP) - the government unit responsible for overseeing companies' adherence to the OECD Guidelines – rejected DAS Air's argument denying that it knew the coltan came from rebel areas:

“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.”²

RAID provided the British Government with crucial evidence proving that DAS Air made regular flights into the Eastern DRC. The flights contravened international aviation conventions banning civil air traffic from flying into conflict zones. Several flights coincided with a Ugandan military offensive which was found by the International Court of Justice to have been in violation of international humanitarian law.

“By finding DAS Air to have breached human rights the British Government has sent a powerful message to others currently engaged in the exploitation of natural resources in conflict zones around the world which fuels war and appalling human rights abuses. This case has taken four years to resolve” said Patricia Feeney. “It is time for Britain to lead the way in prohibiting such callous corporate behaviour and to provide clear guidance for British businesses that operate in difficult business environments.”

In 2003 the UN Panel forwarded dossiers to the British Government concerning the activities of three other British companies, De Beers, Avient Limited and Oryx Natural Resources, all of which were exonerated in *ad hoc* and untransparent proceedings.³

“The condemnation of DAS Air has emerged as a result of the reforms to the UK NCP's procedures that were implemented last year after pressure from MPs. It is to be hoped that the Government will now use the promised parliamentary statement on the UN Panel process to set the record straight about the conduct of some of the other companies, and indicate when further guidance for British business will be forthcoming” said Patricia Feeney.

Notes for Editors.

1. Statement by the United Kingdom National Contact Point (NCP) for OECD Guidelines for Multinational Enterprises: DAS Air; available at: <http://www.csr.gov.uk/oecd1.htm>
2. DAS Air is a long established air freight services business operating routes between Europe and West Africa and between East Africa and the Middle East. In October 2007 DAS Air Limited was forced to shut down its operations after

² NCP Statement paragraph 49

³ The NCP statements on these companies are available at <http://www.csr.gov.uk/oecd1.htm>

- failing to recover from a ban on flights operating into and out of European Community that was imposed on 16 October 2006. Administrators were appointed. In November 2007, the business and assets of DAS Air Limited were sold to Continental Aviation Services (Nig) Limited. DAS Air limited is now in liquidation.
3. International Rescue Committee, *Mortality in the Democratic Republic of Congo*, <http://www.theirc.org/resources/2007/2006-7_congomortalitysurvey.pdf>. Survey Conducted: January 2006–April 2007. “Based on the results of the five IRC studies, we now estimate that 5.4 million excess deaths have occurred between August 1998 and April 2007. An estimated 2.1 million of those deaths have occurred since the formal end of war in 2002.”
 4. UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo (UN Panel) was set up by the Security Council in June 2000. Between 2001 and 2003, when it was disbanded, the Panel’s reports detailed the role foreign companies had played in fueling the conflict through the exploitation of minerals, timber and diamonds.
 5. NCP statement paragraph 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.”
 6. Republic of Uganda, ‘Judicial Commission of Inquiry Into Allegations into Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of the Congo,’ Final Report November 2002 p. 38, lines 22- 23. The Commission known as the ‘Porter Commission’ was set up to examine the UN Panel’s allegations relating to Uganda.
 7. International Court of Justice Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda) 19 December 2005, Judgement paragraphs 61 and 237. In its judgment 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. [NCP Statement paragraph 39]
 8. International Civil Aviation Convention

References

RAID, *Unanswered Questions: companies, conflict and the Democratic Republic of the Congo* (June 2004) available at:

http://www.raiduk.org/docs/UN_Panel_DRC/Unanswered_Questions_Full.pdf

Reports of the UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo

UN Panel report dated 16 January 2001

<http://www.un.org/Docs/sc/letters/2001/sglet01.htm> click on S/2001/49

UN Panel report dated 12 April 2001

<http://www.un.org/Docs/sc/letters/2001/sglet01.htm> click on S/2001/357

UN Panel report dated 13 November 2001

<http://www.un.org/Docs/sc/letters/2001/sglet01.htm> click on S/2001/1072

UN Panel report dated 22 May 2002

<http://www.un.org/Docs/sc/letters/2002/sglet02.htm> click on S/2002/565

UN Panel report dated 16 October 2002

<http://www.un.org/Docs/sc/letters/2002/sglet02.htm> click on S/2002/1146

UN Panel report dated 20 June 2003

<http://www.un.org/Docs/sc/letters/2002/sglet02.htm> click on S/2002/1146/Add.1

UN Panel report dated 23 October 2003

http://www.un.org/Docs/sc/unsc_presandsg_letters03.html click on S/2003/1027