

*Annual Report*  
2005 | 2006



**RAID**  
*Rights & Accountability in Development*

## *About RAID*

Founded in 1997, RAID's mission is to promote a rights-based approach to development. RAID works to advance corporate accountability, fair investment and good governance to ensure the human rights of people living in poverty are respected by the private sector, international financial institutions and governments.

Until 2003, all research and advocacy work was carried out under the auspices of the Refugee Studies Centre, Queen Elizabeth House, University of Oxford. In September 2003, RAID was incorporated as a private, not-for-profit company limited by guarantee.

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## Highlights

### ■ **Drawing Lessons from the Illegal Exploitation of Natural Resources in the Democratic Republic of the Congo.**

RAID's detailed research and analysis of companies cited in the United Nations Panel of Experts' reports on illegal exploitation of natural resources in the Democratic Republic of the Congo (DRC) have made a major contribution to the debate about business and human rights. According to a survey of Fortune Global 500 companies, the DRC is one of only two countries where companies have faced the greatest scrutiny over their human rights conduct. Our work in the DRC has also had practical results on the ground. Many companies have started to develop human rights frameworks, which incorporate instruments such as the US-UK Voluntary Principles on Security and Human Rights.

### ■ **The Kilwa Incident and Anvil Mining.**

As a result of investigations by RAID and our Congolese partners into the role of Anvil Mining in providing logistical support for troops that carried out a massacre in the DRC, the World Bank President ordered an audit by the Compliance Advisor Ombudsman (CAO) into whether the political risks had been adequately assessed by the Multilateral Investment Guarantee Agency. The CAO's findings confirmed concerns first raised by RAID and our partners in 2003. Our work also prompted an investigation by the World Bank's Department for Institutional Integrity. It has also led to the first ever investigation of a company by Australian authorities under the OECD's Convention on Combating Bribery. Australian authorities are also conducting an investigation into Anvil's alleged complicity in crimes against humanity.

### ■ **Promoting Fair Investment in the DRC's Mining Sector.**

RAID has pressed the World Bank to address its failed mining sector reform programme in the DRC. Our work prompted the World Bank's Department for Institutional Integrity to investigate mining contracts with the Congolese state mining enterprise, Gecamines. The Managing Director of Gecamines has since confirmed that there is a possibility that some contracts could be renegotiated.

### ■ **Furthering Corporate Accountability.**

RAID's work has figured prominently in a number of policy debates over the past year. RAID has been one of the main NGO contributors in the debate about the UN Human Rights Norms for Business. RAID's research will be a key resource in the International Commission of Jurists' "Corporate Complicity in International Crimes" project, particularly two cases involving Anvil Mining and Avient. Our work was also a major impetus behind the OECD's creation of the "Risk Awareness Tool".

### ■ **Action on Corporate Conduct in the UK.**

RAID's complaints under the OECD's Guidelines for Multinational Enterprises (OECD Guidelines) to hold British companies to account for their alleged complicity in the illegal exploitation of the DRC's natural resources prompted a Parliamentary-mandated review of the way the OECD Guidelines' complaint procedures have been implemented in the UK. The procedures have now been revamped and most of RAID's key recommendations have been accepted. In addition to cases filed under the OECD Guidelines, RAID has sought advice on the potential prosecution of principals of a UK-based air cargo company, Avient, under the Geneva Convention Act for instances arising from mercenary operations in the DRC.

# *Drawing Lessons from the Illegal Exploitation of Natural Resources in the DRC*

RAID’s work in the DRC has its origins in a series of reports published by a United Nations Panel of Experts (Panel) on the underlying causes of the DRC’s recent wars and ongoing conflict. In October 2002, the Panel accused 85 companies of helping to fuel the war through illicit exploitation of natural resources. In a groundbreaking move, the Panel accused the companies of violating the OECD’s Guidelines for Multinational Enterprises (OECD Guidelines), which embody what OECD governments have agreed are the basic components of responsible corporate conduct.

After nearly two years of governmental inaction to seriously address the Panel’s allegations, RAID released “Unanswered Questions: Companies, Conflict and the Democratic Republic of Congo” in June 2004. Our report examined the Panel’s allegations against 40 companies and promulgated additional evidence attesting to their responsibility for perpetrating or profiteering from the conflict.

RAID also spearheaded the filing of over a dozen complaints in Belgium, the Netherlands, the UK and the US alleging violations of the OECD Guidelines. The purpose of the complaints was to force governments to take the OECD Guidelines more seriously as a means of fostering a culture of corporate responsibility and accountability, particularly in natural resource-rich, conflict-prone countries like the DRC.

According to a survey of Fortune Global 500 companies commissioned by the UN special representative for business and human rights, the DRC is one of only two countries where companies have faced the greatest scrutiny over their human rights conduct.

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International Crimes” project, particularly two cases involving Anvil Mining and Avient. Our work was a major impetus behind the OECD’s creation of the “Risk Awareness Tool” as well as reforms adopted in the UK to improve implementation of the OECD Guidelines.



Photo: United Nations Cartographic Section, Democratic Republic of the Congo, No. 4007, Rev. 8, January 2004. (Reproduced with permission)

## *The Kilwa Incident and Anvil Mining*

In October 2004, over 100 innocent civilians were killed by the Congolese Armed Forces in the town of Kilwa during a counter-offensive to suppress a small-scale rebellion. RAID and our Congolese partners collaborated with the Australian Broadcast Corporation's flagship current affairs programme, Four Corners, on a documentary about the Kilwa incident that aired in June 2006.

After the Four Corners' programme exposed Anvil Mining's role in the incident, the company confirmed that it provided "logistical assistance" to the Congolese Armed Forces, but claimed that its vehicles were "requisitioned" and that it effectively had no choice but to comply. Before the expose, Anvil Mining never informed any authorities of the scale and gravity of the incident.

RAID led the call to World Bank President Paul Wolfowitz to launch an inquiry into why the Multilateral Investment Guarantee Agency (MIGA) had awarded Anvil Mining political risk insurance for the Dikulushi copper/silver mine. In response, President Wolfowitz instructed the Compliance Adviser Ombudsman (CAO) to investigate the matter. The World Bank's Department for Institutional Integrity also initiated an investigation.

The CAO's February 2006 report strongly endorsed concerns first raised in 2003 by RAID and our partners. Among its findings, the CAO concluded that MIGA had failed to adequately consider the security risks the mine posed to local communities. The CAO also found that MIGA lacked the expertise to advise and monitor clients' implementation of the US-UK Voluntary Principles on Security and Human Rights.

Slater and Gordon, an Australian law firm acting on behalf of RAID and our Congolese partners, called on the Australian Federal Police to investigate whether there was evidence of Anvil's complicity in the commission of crimes against humanity or war crimes under Chapter 8 of the Australian Criminal Code Act of 1995.

According to the Australian chapter of Transparency International, the Federal Police's inquiry, which includes allegations of corruption, is the first time an Australian company has been investigated under the OECD's Convention on Combating Bribery.



The Anvil Mining case has also been selected by the Expert Panel convened by the International Commission of Jurists (ICJ). The findings of ICJ's "Corporate Complicity in International Crimes" project will contribute to the dialogue being led by

UN special representative for business and human rights, John Ruggie.

**Photo: © Four Corners. (Reproduced with permission)**

## Promoting Fair Investment in the DRC's Mining Sector

RAID has been at the forefront in pressing the World Bank to instigate a review of all mining contracts in the DRC that were concluded during the war and subsequent transitional period.

In the early 1990s, the DRC's state mining enterprise, Gecamines, was the most lucrative source of revenue. Today, Gecamines has been stripped of virtually all of its assets and ore bodies through a number of disadvantageous contracts.

In February 2006, RAID and our Belgian partners published a devastating critique of the World Bank's failed mining sector reform programme and two of the most recent mining contracts with Gecamines.

In March 2006, RAID was invited to meet with senior mining officials at the World Bank. The Congolese Ministry of Mines also invited RAID to Kinshasa for a working session to discuss our memorandum's findings and recommendations. In June 2006, the head of the World Bank's DRC Country Operations Department invited RAID to participate in a video conference to discuss these issues further.

The analysis of the contracts, combined with RAID's work on Anvil Mining's Dikulushi project, prompted a request from the World Bank's Department of Institutional Integrity for more information on agreements with private firms to exploit Gecamines' assets. RAID has subsequently sent a confidential briefing on these mining concessions.

Our work is beginning to show some results. In an interview published in July 2006 by the *Financial Times*, Paul Fortin, the managing director of Gecamines, has confirmed that there is a "possibility some of the [mining] contracts could be renegotiated". Fortin also confirms that the World Bank's audit "revealed 'some faults on the legal aspects' and that he 'think[s] that the laws were not respected in some cases'". Fortin also stated that if "Gecamines enters into new joint ventures, it would be through open tenders".\*

RAID is seeking a commitment from all companies that are confident in the fairness of their contracts with Gecamines to demonstrate this by agreeing to an independent, transparent re-evaluation of their agreements. As part of this commitment, companies would renegotiate any parts of their contracts that are not consistent with the World Bank's recommendations.



**Photo: Abandoned Gecamines smelter adjacent to the STL smelter or "Big Hill" in Lubumbashi, DRC. (Credit: RAID)**

**\* Andrew England, "Congo mining chief puts private sector contracts under spotlight", *Financial Times*, 20 July 2006.**

## *Furthering Corporate Accountability*

### ■ **OECD's Guidelines for Multinational Enterprises**

RAID is one of the main coordinators of the OECD Watch network, which currently has 60 members in over 30 countries. OECD Watch promotes sustainable development by building support for binding social and environmental standards and corporate accountability frameworks ([www.oecdwatch.org](http://www.oecdwatch.org)).

RAID has been leading efforts to enforce adherence to the OECD Guidelines and improve government scrutiny of corporate conduct in developing countries. RAID produced most of OECD Watch's major publications in the past year, including a five-year review of governments' implementation of the OECD Guidelines.

### ■ **UN Human Rights Norms for Business**

As co-coordinator of the International Network on Economic, Social and Cultural Rights' (ESCR-Net) Corporate Accountability Working Group, RAID has been one of the main NGO contributors in the debate concerning the UN Norms on Human Rights and Business. In November 2005, RAID wrote a submission for a consultation on human rights and extractive industries. The submission, which was endorsed by over 70 NGOs, has been used extensively in advocacy efforts. RAID has also participated in a number of consultations about the human rights responsibilities of business.

RAID was also invited to be on the steering group for the International Commission of Jurists "Corporate Complicity in International Crimes" project. The project seeks to establish the legal accountability of business wherever they operate. The research that RAID has undertaken into the conduct of companies in the DRC will be a key resource for the project, particularly two cases involving Anvil Mining and Avient.

### ■ **OECD's Risk Awareness Tool**

RAID's research and complaints concerning illegal exploitation of natural resources in the DRC figured prominently in the OECD Investment Committee's decision to create a "Risk Awareness Tool" for companies investing in weak governance zones.

In December 2005, RAID organised a multi-stakeholder roundtable in Paris with FAFO and International Alert to discuss investment in weak governance and conflict zones. RAID also attended OECD Investment Committee consultations throughout the year and prepared several policy papers for discussion.

Because of RAID's advocacy, the OECD's Risk Awareness Tool makes clear reference to the US-UK Voluntary Principles on Security and Human Rights. Several governments and business groups initially opposed making reference to a non-OECD instrument, but RAID held up the Anvil Mining case as evidence for the need for explicit guidance on security and human rights issues.

### ■ **OECD's Policy Framework for Investment**

RAID was invited to become a member of the OECD's taskforce for the Policy Framework on Investment (PFI). Many of RAID's recommendations for strengthening the PFI's chapter on corporate responsibility were included in the final text. This chapter now includes explicit language that states governments should effectively enforce laws on respecting human rights, environmental protection, labour relations and financial accountability. In addition, the annotation for this chapter states that companies' responsibilities go beyond complying with legal and regulatory requirements and include "responding to societal expectations that might be communicated through channels other than law".

## *Action on Corporate Conduct in the UK*

### ■ Reforming how the UK implements the OECD's Guidelines for Multinational Enterprises

Because of RAID's efforts in raising concerns about the conduct of companies in the DRC, the UK Government announced a multi-stakeholder consultation on how to improve the OECD Guidelines' complaint procedures.

RAID and The Corner House submitted comprehensive recommendations for improving the Guidelines' complaint procedures, which were acknowledged by the Department for Trade and Industry (DTI) to be the best it had received. The Corporate Responsibility Coalition's "Flagship or Failure" report relied heavily on RAID's case studies and our critique of the UK Government's implementation of the OECD Guidelines.

RAID also helped Members of Parliament in the All Party Parliamentary Group on the Great Lakes Region (APPG) produce a report on the UK National Contact Point's (NCP) failings and mishandling of the DRC complaints filed by RAID. Our work forced the DTI to justify its inaction to Parliament.

In conjunction with the APPG, RAID also organised a joint working group with the participation of leading British multinationals and NGOs with a view to making joint recommendations on improvements to the UK NCP's procedures. Among the key reforms adopted in July 2006, the UK Government will now make clear if a breach of the OECD Guidelines has occurred when a complaint is concluded. RAID's proposals are now being promoted by NGOs in other countries, particularly in Canada, Germany and the Netherlands.

### ■ Current OECD Guidelines cases

RAID has two active complaints filed under the OECD Guidelines with the UK National Contact Point (NCP). The first, filed four years ago, concerns Anglo American and its role in the privatisation of mining assets in Zambia. An NCP statement on this case is overdue.

The second case relates to the conduct of the air transport company DAS Air during the DRC conflict. The NCP is currently undertaking an assessment of information provided by RAID and the company.



RAID has also publicly challenged the UK NCP's handling of our complaint concerning UK-based air cargo company, Avient. RAID has gathered extensive documentation to show that Avient was engaged in mercenary operations in the DRC, including bombing missions, and has sought advice on the potential

prosecution of the company's principals under the Geneva Convention Act.

### ■ RAID's Parliamentary Testimony on Conflict, Companies and Human Rights

In July 2006, RAID's executive director, Patricia Feeney, was invited to give evidence to the House of Commons' Parliamentary Committee on International Development as part of its inquiry into "Conflict and Development: Peace building and Post-Conflict Reconstruction". RAID presented the case of a British assaying company, A. H. Knight, which had been involved in the coltan trade at the height of the DRC's war. RAID also provided recommendations about what steps could be taken by the British Government to reduce the possibility of corporate misbehaviour fuelling conflict in countries like the DRC.



## *Africa Advisory Group*

Launched in January 2004, the Africa Advisory Group (AAG) is a joint initiative with the Chadian Association for the Promotion and Defense of Human Rights, the Center for Environment and Development in Cameroon, the DRC-based ACIDH (Action Contre l'impunité pour les Droits Humains – Action Against Impunity for Human Rights) and US-based Environmental Defense.

The AAG's goal is to create a global governance system that recognises, adheres to and is ultimately accountable to international human rights norms. The AAG's focus is on the resource-rich, Central African countries that are experiencing significant natural resource-driven development. RAID helped found and coordinates the AAG in order to build up expertise among a core group of African NGOs to advise, assist and train other NGOs on corporate responsibility and human rights issues.

### ■ Environmental Monitoring

In November 2005, RAID published preliminary findings on soil toxicity near the STL cobalt smelter in Lubumbashi, DRC. Working with a Congolese partner, RAID took wipe samples and had these tested and analysed. The findings, which revealed significant levels of toxic pollution near the smelter, were used to engage in a dialogue with the government and company about reducing emissions and other forms of pollution.



### ■ Capacity-Building

In July 2006, RAID participated in OECD Watch's regional workshop in Accra, Ghana. The workshop was a key opportunity to establish stronger ties with advocates throughout Africa.

Using the new OECD Watch guide in which RAID was lead author, RAID instructed participants on issues NGOs should consider when submitting an OECD Guidelines complaint.

After the workshop, RAID participated in a three-day field trip to the Wassa District where the majority of gold mining occurs in Ghana to see how active and abandoned mining sites have affected people's health, drinking water and livelihoods.

RAID's policy analyst, Colleen Freeman, also discussed corporate accountability issues in a live interview on Ghana's

national television programme, "The Morning Show".

**Page 7 photo: OECD Watch members from Australia, Brazil, DRC, France, Germany, Ghana, India, Pakistan, UK, US and Zambia outside the OECD in Paris. Patricia Feeney and Colleen Freeman are fifth and sixth from the left. RAID Board Member Hubert Tshiswaka (ACIDH) is eighth from the left. (Credit: Serena Lillywhite, Brotherhood of St. Laurence)**

**Page 8 photo: In Tarkwa, Ghana, the community's groundwater has allegedly been contaminated by gold mining. As seen in this photo, the community's well water turns purple after a few minutes when a plantain is submerged. (Credit: RAID)**

## *RAID's Web Site*

RAID launched the [www.raid-uk.org](http://www.raid-uk.org) web site in mid-December 2005. Our web site has been a vitally important vehicle for disseminating our publications and raising awareness with the public, policymakers and officials at institutions like the World Bank and OECD. Our web site has also allowed us to publicise the campaigns of intimidation our Congolese partners have been subjected to for their work to demand accountability and transparency in the DRC's mining sector. We now receive inquiries on a nearly weekly basis from journalists.

To illustrate the significant utility and impact of our web site, at the end of January 2006, the number of hits was approximately 1,500. The following month, after RAID called on the World Bank to review its failed mining sector reform programme and two contracts with the DRC's state mining enterprise, Gecamines, the number of hits jumped to nearly 9,000. In the first two weeks, there was a four-fold increase from approximately 250 hits per day to over 1,000 per day, with some days nearing 1,200 hits. In March alone, the number of hits was over 17,000.

We are also able to monitor to some extent who visits our web site, which includes staff and officials from the World Bank, the US government and many well-known mining companies. RAID's web site and publications have also been featured on many NGO web sites and electronic newsletters. The total number of hits at the end of September was over 73,000.

RAID appreciates the generous financial support from the Sigrid Rausing Trust for the development of our web site.

## Highlights: Press Coverage and Publications

- *Ethical Corporation magazine*, “Watching the OECD”, 25/05/05.
- *The Age*, “Massacre victims to sue mining company”, 07/07/05.
- *Diamond Intelligence Briefs*, “OECD Watchdog Claims ORYX Director Was Not Authorized to Negotiate Settlement with UK Government – and Demands Reopening of Case”, pp. 3583-3584, 20/07/05.
- ABC News Online, “Anvil’s Congo operations under scrutiny”, 25/07/05.
- *The Age*, “Call to Press Miner Linked to Massacre”, 25/07/05.
- *Financial Times*, “NGOs voice doubts on next OECD chief – Angel Gurría”, 30/11/05.
- CNN.com, “U.N., groups push for report on alleged massacre”, 01/02/06.
- *International Herald Tribune*, “When a club of winners loses its way”, 10/02/06.
- *Reuters*, “World Bank should probe Congo mining deals – groups”, 28/02/06.
- *International Herald Tribune*, “Is big business coming clean?”, 15/03/06.
- ABC News Radio, Interview concerning the complaint against Global Solutions Ltd. and the mandatory, indefinite detention of asylum seekers in Australia, 15/07/05.
- *Mining Environmental Management*, “RAID – Striking the Right Balance”, 07/06.
- *The Sunday Times*, “Briton linked to Congo war crimes”, 10/09/06.
- “Five Years On: A Review of the OECD Guidelines and NCPs”, OECD Watch, 09/05.
- “Kilwa – A year after the massacre”, ACIDH and RAID, 10/05.
- “Joint NGO Submission on Human Rights and the Extractive Industries”, ESCR-Net, 12/05.
- Patricia Feeney and Tom Kenny, “Conflict Management and the OECD Guidelines for Multinational Enterprises” in *Profiting from Peace: Managing the Resource Dimensions of Civil War*, Karen Ballentine and Heiko Nitzschke (eds), International Peace Academy, 2005.
- “Response to the Stakeholder Consultation” concerning the UK government’s implementation of the OECD Guidelines”, RAID and The Corner House, 01/06.
- “Good governance and transparency in the DRC’s mining sector”, RAID, 11 11 11 and Broederlijk Delen, 02/06.
- “The Confidentiality Principle, Transparency and the Specific Instance Procedure”, OECD Watch, 03/06.
- “Guide to the OECD Guidelines’ Complaint Procedure: Lessons from Past NGO Complaints”, OECD Watch, 06/06.
- “2006 Review of National Contact Points and Bi-Annual Newsletter”, OECD Watch, 06/06.
- “Globalisation and its Challenges for Public Resource Management in Southern Africa”, Patricia Feeney, article for *Open Space* (A digest of the Open Society Initiative for Southern Africa and the University of Botswana), Vol .1, Issue 4606.



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