

RAID
Rights & Accountability in Development

22 July 2005

VIA FACSIMILE and POST: Fax: 61 2 6273 3286

Mr Peter Hendy
Chief Executive
Australian Chamber of Commerce and Industry
Commerce House
Level 3, 24 Brisbane Avenue
Barton ACT 2600

Dear Mr. Hendy:

By way of introduction, Rights & Accountability in Development (RAID) is a UK-based non-governmental organisation. As its name suggests, the primary objective of RAID is to promote greater accountability for the conduct of governments and corporations in developing countries. RAID is also a coordinator of OECD Watch, the NGO counterpart to the Business Industry Advisory Committee at the OECD's Investment Committee. In this capacity, OECD Watch provides advice and comment on the implementation of the OECD Guidelines for Multinational Enterprises and investment related work of the Committee.

As you are no doubt aware, on June 6, 2005, the Australian Broadcast Corporation's "Four Corners" program aired a documentary about a brutal massacre that took place in the remote town of Kilwa, Democratic Republic of Congo (DRC) last October.¹ This broadcast also revealed the logistical role played in this incident by Anvil Mining, an Australian-headquartered and Canadian-listed company.

To briefly recap the events of last October, a small-scale uprising led by a small band of rebels calling themselves the *Mouvement Revolutionaire pour la libération du Katanga* (Revolutionary Movement for the Liberation of Katanga) was put down by the Congolese Armed Forces with disproportionate force and violence. The Lubumbashi regional office of *Mission de*

¹ A transcript is available at: www.abc.net.au/4corners/content/2005/s1384238.htm.

l'Organisation des Nations unies en République démocratique du Congo (MONUC), the organization established by the United Nations Security Council to monitor and maintain the cease-fire in the DRC, conducted an investigation soon after this incident occurred. As many as 100 deaths were reported, and according to the UN, as many as 28 deaths appeared to be summary executions. Bodies were dumped in shallow graves for which MONUC calculated geographical coordinates. According to eyewitness accounts gathered by the prominent Congolese human rights organization, *l'Association africaine de défense des droits de l'homme* (African Association of the Defense of Human Rights or "ASADHO"), the soldiers went on an indiscriminate rampage carrying out arbitrary arrests and summary killings of suspected rebels and their supporters, raping women, and subjecting those in detention to torture and beatings.

MONUC's report also revealed that Anvil Mining provided logistical support for the military operation. Anvil helped fly in the military in the planes that it leases to ferry people to and from the mine, and provided vehicles for the military once they reached Kilwa. People who had been arbitrarily detained were also flown to Lubumbashi in Anvil's planes. Witnesses also informed ASADHO lawyers that Anvil provided the military with food and money, and Anvil vehicles, driven by Anvil employees, were used to bury the corpses from the massacre.

The Four Corners documentary includes footage of ASADHO's work to investigate the killings and human rights violations that were committed. Soon after the Four Corners' broadcast, ASADHO called on the Congolese authorities to conduct a prompt and impartial inquiry into the events that occurred at Kilwa, including Anvil's role.

We are writing to inform you about an escalating situation, which stems from the Kilwa incident and directly involves Anvil Mining. In the past two weeks, ASADHO has been the subject of threats and intimidation for their work to investigate and seek justice for the victims of a Kilwa incident. These threats and appeals to tribal hatred are being carried out in the name of Anvil Mining.

Last week, RAID wrote to Anvil President Bill Turner to request that the company issue a public statement deploring the intimidation and threats against ASADHO. We have since received a written response that can be described as brief and cautious from Mr. Turner; however, he has refused to publicly condemn the campaign of intimidation against ASADHO. We refer to you the attached letter from RAID to Anvil President Bill Turner for further details.

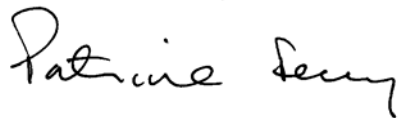
We are troubled by Anvil's response, and believe that the ACCI in particular, should be concerned that an Australian company, through its refusal to make a public condemnation, is signalling both to the local actors threatening ASADHO and to the international community that it condones these activities.

While organizations like the ACCI and RAID often find themselves on opposing sides of policy debates, we share a mutual desire to promote corporate social responsibility and good governance to ensure human rights are respected. The significant increase in transnational business activity requires a coordinated approach from government, business, industry associations and civil society to promote ethical business practices, and play an important role in strengthening democracy in post-conflict countries like the DRC.

We therefore respectfully request that the ACCI publicly pronounce that investors operating in conflict zones have a special obligation to adhere to established, international human rights principles and standards. Moreover, the ACCI should make clear that it is absolutely inappropriate for foreign investors to be complicit – through inaction or otherwise – in campaigns of intimidation against non-governmental organizations.

We are in contact with MONUC and officials with the Canadian and Australian governments. We write to you in good faith, because we are deeply concerned about the escalating threats of violence against ASADHO. We understand that you are well informed on the OECD Guidelines for Multinational Enterprises, and consider the ACCI's pronouncement will send a strong message to Australian companies investing offshore, that exceptional efforts to protect human rights are required when operating in conflict zones and threats against NGOs in the name of foreign investors should not be tolerated.

Yours sincerely,

A handwritten signature in black ink that reads "Patricia Feeney". The signature is written in a cursive, flowing style.

Patricia Feeney
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Cc: Australian National Contact Point for the OECD Guidelines for Multinational Enterprises