
Final Submission, pursuant to paragraph 11 of Security Council
Resolution 1457 (2003), in reaction to the Report of the Panel of
Experts on the Illegal Exploitation of Natural Resources and
Other Forms of Wealth in the Democratic Republic of the Congo
[S/2002/1146]

Filed jointly by
Oryx Natural Resources Limited and Mr Thamer Al Shanfari

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INTRODUCTION and SUMMARY

This Memorandum is submitted jointly by Oryx Natural Resources ("Oryx") and its former Chairman Mr Thamer Al Shanfari ("Mr Al Shanfari"). It is made in response to the Security Council, which in Resolution 1457 (2003) invited individuals, companies and States named in the Report of the Panel of Experts[S/2002/1146] ("the Report" and "the Panel") to submit their reactions to the Report.

Oryx and Mr Al Shanfari were subject to intense criticism in the Report and were listed in an Annex to the Report as "Companies/Persons on which the Panel recommends the placing of financial restrictions", along with other multinational companies operating in the DRC.

Oryx and Mr Al Shanfari have always maintained since the publication of the Report, and continue to maintain, that the allegations of wrongdoing were false.

Oryx and Mr Al-Shanfari are fully supportive of the position of the Security Council in its Resolution 1457, notably in its definition of the current process, as laid out in paragraph nine of the Resolution. It is in the spirit of this that Oryx and Mr Al-Shanfari met with the Panel in March and May 2003.

Although they would have welcomed the opportunity to respond to the allegations when Oryx approached the Panel in July 2002, prior to the publication of the Report, they have been encouraged by the dialogue that they have had with the Panel since then.

Since the publication of the Report, Oryx and Mr Al-Shanfari have held a number of meetings with the Panel, both in New York and in Nairobi, and have now received the Panel's unanimous and clear assurance that as a result of these meetings and the full and frank disclosure by both Oryx and Mr Al-Shanfari the Panel is recommending to the Security Council the removal of the Company and Mr Al Shanfari from all of the annexes of its Report and can no longer persist with the allegations against the company and Mr Al Shanfari. No allegations of wrongdoing remain.

As a result of these disclosures and discussions, concluded on 24th May 2003 in Nairobi, Oryx prepared a text and agreed it point by point with the Panel, and has reached a minuted and formal resolution with the Panel that the document reflects the unanimous agreed view of the Panel, Oryx and Mr Al Shanfari in accordance with UN Resolution 1457. This is copied below. Oryx would like to take this opportunity to thank the Panel for its time, and the opportunity to clarify these issues.

Oryx and Mr Al-Shanfari welcome the dialogue which they have had with the Panel and welcome this position of the Panel. Both look forward to being able to assist in any future role the Panel may have,



Note upon the conclusion of Oryx's meetings with the Panel

Oryx notes that the Security Council has mandated the Expert Panel on the DRC, and encouraged companies and individuals named in the Report of October 2002 to exchange information and re-examine the allegations recorded in the Report. Consequently Oryx and Thamer Al Shanfari have been afforded the opportunity to make representations to the Panel and have been given some documents and other information on which the Panel relied (subject to the Panel's obligation to protect the safety of its sources). Oryx and Thamer Al Shanfari have answered all the questions that the Panel has raised.

A: Introduction

Oryx Natural Resources welcomes constructive criticism from any expert quarter, and supports the Security Council's intentions in the creation of the Panel and its inquiry.

In a spirit of co-operation, the Panel, Oryx and Thamer Al Shanfari have engaged in a dialogue and exchange of documentation and other information regarding the Panel's allegations.

Oryx acknowledges that certain aspects of the Sengamines project, which though neither illegal nor in any way secret, might be considered not to have matched the 'best practice' that the Panel is trying to encourage. Oryx welcomes constructive criticism in this regard.

B: Long Term Commitment

Oryx has a long term interest in the further development of a stable, transparent economy in the DRC, backed up by the rule of law. The company is happy to endorse the Panel's efforts, and work closely with any future role that the Panel or its successors might have in monitoring and issuing constructive criticism.

Oryx and Thamer Al Shanfari undertake to ensure that any future projects where they are involved will adhere to the ethical standards embraced by the Panel.

Oryx invested in the DRC during a period of hardship for the country when it was receiving little support and minimal inward investment.

C: Preventive Measures

Following the publication of the Panel's Report on October 16th, 2002, and in light of the constructive dialogue with the Panel, Oryx has conducted a review of its business practices. Oryx and Thamer Al Shanfari have taken, and will continue to take, very seriously any rumours or allegations made against Oryx or Thamer Al Shanfari or Sengamines from whatever sources.

Consequently, Oryx is planning to establish a specific mechanism, including the introduction of new PR briefings and controls and procedures. This is to minimise the



risk of wrongdoing or improper behaviour by Oryx employees and agents or other parties and to promote a better understanding of the company by all parties in a transparent and open manner. Oryx and Thamer Al Shanfari will continue to investigate vigorously any allegations of wrongdoing in a public, open and transparent manner.

D: OECD

Oryx is committed to adhering fully with the OECD Guidelines for Multinational Enterprises as the standards for its business practices and governance. Oryx will therefore liaise with the OECD National Contact Point to help Oryx set up the appropriate rules and practices and through regular meetings intend to keep it informed of progress on implementation.

Oryx proposes to hold regular meetings with the Panel to ensure that its relationship with the UN and other relevant institutions is constructive and mutually beneficial.

E: Specific Allegations

Oryx notes that the Security Council Resolution 1457 states that the Panel is not a judicial body, and does not have the resources to carry out an investigation whereby its findings can be considered as established facts. Oryx acknowledges the difficulties that the Panel faces in the handling of information without judicial process. Oryx also notes that the Panel based its opinion on activities in the DRC with the information it held at that time.

Since publication of the Report in 2002, there has been extensive dialogue between Oryx, Thamer Al Shanfari and the Panel, during which the Panel was provided with substantial quantities of information. Oryx believes that this process has enabled the Panel to update and expand its knowledge of the activities of Oryx and Thamer Al Shanfari.

Oryx understands that as a result of its dialogue with the Panel the names of Oryx Natural Resources and Thamer Al Shanfari will be removed from the annexes of the Panel's Report of October 2002. Oryx understands that as a result, the disputed allegations recorded in this Report about Oryx and Thamer Al Shanfari can no longer be pursued.

Oryx further understands that the Panel's work in this field is by nature constantly developing. Oryx remains ready to engage in discussions about any future concerns or allegations that may arise in the future to enable the Panel to base its assertions on the best possible information.

Oryx hopes that the Panel's findings will promote a transparent and open understanding of Oryx Natural Resources' and Thamer Al Shanfari's role in the development of Sengamines S.A.R.L.

24th May 2003, UN offices, Nairobi.

