

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :
 : INFORMATION
 - v. - :
SAMIR A. VINCENT, : 05 Cr.
 :
 Defendant. :
 - - - - -x

COUNT ONE

Conspiracy to Act as an Unregistered Agent of a Foreign Government

The United States Attorney charges:

THE OIL-FOR-FOOD PROGRAM

1. On or about August 6, 1990, approximately four days after the Iraqi army invaded Kuwait, the United Nations imposed economic sanctions on the Government of Iraq. These sanctions prohibited member states of the United Nations from, among other things, trading in any Iraqi commodities or products. The United Nations continued to enforce these sanctions up to and including in or about 2003.

2. On or about April 14, 1995, the Security Council of the United Nations adopted Resolution 986, which authorized the Government of Iraq to sell oil under certain conditions – principally, that the proceeds of all sales of Iraqi oil were to be deposited into an escrow bank account monitored by the United Nations and used by the Government of Iraq only to purchase various humanitarian goods. The Iraqi Government consented to the terms of Security Council Resolution 986 after more than a year of

negotiations over the particular methods of implementing this arrangement.

3. The United Nations Office of Iraq Programme, Oil-for-Food (the "Oil-for-Food Program") was subsequently established to administer, among other things, the sale of oil and purchase of humanitarian goods by Iraq. The United Nations' economic sanctions on Iraq remained in place for all trade and transactions not authorized by the Oil-for-Food Program.

4. During the operation of the Oil-for-Food Program, federal law prohibited United States companies and individuals from executing contracts with the Government of Iraq unless they received a license issued by the Department of Treasury's Office of Foreign Assets Control.

5. Iraq began selling oil pursuant to the Oil-for-Food Program in or about December 1996. Between in or about December 1996 and December 2002, the Security Council of the United Nations adopted a series of resolutions that re-authorized the Oil-for-Food Program for approximately 13 six-month phases of operation.

6. Under the Oil-for-Food Program, the Government of Iraq alone had the power to select the companies and individuals who received the rights to purchase Iraqi oil. During every phase of the Oil-for-Food Program, officials at the highest levels of the Government of Iraq selected a group of companies and individuals to receive the rights to purchase certain quantities of Iraqi oil

(frequently referred to as "allocations" of oil). These companies and individuals – many of whom were not otherwise involved in the oil industry – were able to reap large profits by selling their allocations of Iraqi oil to brokers and/or companies capable of transporting the oil to a refinery.

7. From at least in or about 2000, up to and including in or about March 2003, officials of the Iraqi Government conditioned the distribution of allocations of oil under the Oil-for-Food Program on the recipients' willingness to pay a secret surcharge to the Government of Iraq. The Government of Iraq directed that these surcharges – representing a percentage of the total amount of each oil contract and totaling at least several hundred million dollars – be paid to front companies and/or bank accounts under the control of the Iraqi Government in various countries in the Middle East and elsewhere.

THE DEFENDANT

8. SAMIR A. VINCENT, the defendant, was born in Iraq in or about 1940 and is a naturalized United States citizen. At no time relevant to this Information was VINCENT: (a) a duly accredited diplomatic or consular officer of a foreign government, recognized by the United States Department of State; (b) an officially and publicly acknowledged and sponsored official or representative of a foreign government; or (c) an officially and publicly acknowledged and sponsored member of the staff of, or

employee of, any such officer, official, or representative of a foreign government.

VINCENT'S ROLE IN THE CONSPIRACY

9. Between at least in or about 1992 and January 2003, SAMIR A. VINCENT, the defendant, consulted with and repeatedly received direction from the Government of Iraq in the course of lobbying officials of the United States Government and the United Nations to repeal sanctions against Iraq.

10. Between in or about 1992 and early 1996, SAMIR A. VINCENT, the defendant, and other individuals, including United Nations officials, met in Manhattan in an effort to secure terms favorable to the Government of Iraq in connection with the adoption and implementation of Resolution 986.

11. During the course of these discussions, in or about February 1996, VINCENT traveled to Baghdad. Based on instructions received from officials of the Iraqi Government, VINCENT participated in the drafting of agreements with other Iraqi Government officials that guaranteed millions of dollars of compensation for VINCENT and others upon the successful completion of an agreement regarding Resolution 986. Between in or about February 1996 and in or about July 1997, pursuant to these agreements, the Government of Iraq delivered millions of dollars in cash to VINCENT and others.

12. At the direction of the Government of Iraq, between

in or about 1998 and January 2003, VINCENT lobbied former officials of the United States Government who maintained close contacts to high-ranking members of both the Clinton and Bush Administrations in an unsuccessful effort to convince the United States Government to support a repeal of sanctions against Iraq. VINCENT reported the results of those consultations to the Iraqi Intelligence Service and other officials of the Government of Iraq.

13. In consideration of VINCENT's efforts on its behalf, the Government of Iraq awarded VINCENT and a company under his control the rights to purchase approximately 9 million barrels of oil under the Oil-for-Food Program. VINCENT received the rights to this oil between in or about 1997 and in or about 2001 in the form of approximately five separate allocations of Iraqi oil. VINCENT reaped millions of dollars of profits by selling to an oil company the rights to purchase that Iraqi oil.

CONSPIRACY CHARGE

14. From at least in or about 1992, up to and including in or about January 2003, in the Southern District of New York and elsewhere, SAMIR A. VINCENT, the defendant, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, to violate Section 951 of Title 18, United States Code.

15. It was a part and an object of the conspiracy that

SAMIR A. VINCENT, the defendant, and others known and unknown, unlawfully, willfully and knowingly would and did act in the United States as agents of a foreign government, specifically the Government of Iraq, without prior notification to the Attorney General, as required by law, in violation of Title 18, United States Code, Section 951.

OVERT ACTS

16. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about 1995 and 1996, SAMIR A. VINCENT, the defendant, and other individuals, including United Nations officials, met in Manhattan to negotiate an agreement between the Government of Iraq and the United Nations regarding the implementation of Resolution 986.

b. In or about 1995 and 1996, SAMIR A. VINCENT, the defendant, conveyed messages from a United Nations official to representatives of the Iraqi government in Manhattan and elsewhere.

c. In or about February 1996, SAMIR A. VINCENT, the defendant, traveled to Baghdad, where he participated in the drafting of agreements with an Iraqi official relating to VINCENT's and others' compensation regarding their efforts on behalf of the Iraqi government with respect to Resolution 986.

d. In or about May 1996, SAMIR A. VINCENT, the

defendant, received a cash payment in Manhattan from the Government of Iraq in partial satisfaction of the agreements referenced above in paragraph 16(c).

e. In or about May 1996, SAMIR A. VINCENT, the defendant, distributed to another individual a cash payment from the Government of Iraq in partial satisfaction of the agreements referenced above in paragraph 16(c).

f. In or about December 1996, SAMIR A. VINCENT, the defendant, received in Manhattan money paid in partial satisfaction of the agreements referenced above in paragraph 16(c), which he transferred to a foreign bank account on behalf of an Iraqi official.

g. In or about July 1997, SAMIR A. VINCENT, the defendant, wrote a letter to officials of the Government of Iraq to explain the payment arrangements in the agreements referenced above in paragraph 16(c).

h. In or about August 1997, SAMIR A. VINCENT, the defendant, and a representative of the Government of Iraq signed a contract in which Iraq agreed to sell VINCENT approximately 2.7 million barrels of oil as part of the Oil-for-Food Program.

i. On or about June 13, 1998, SAMIR A. VINCENT, the defendant, and a representative of the Government of Iraq signed a contract in which Iraq agreed to sell VINCENT approximately 1.8 million barrels of oil as part of the Oil-for-

Food Program.

j. In or about September 1999, SAMIR A. VINCENT, the defendant, helped arrange for a delegation of Iraqi religious leaders to visit the United States and meet with American religious leaders to discuss the repeal of sanctions against the Government of Iraq.

k. On or about December 20, 1999, SAMIR A. VINCENT, the defendant, and a representative of the Government of Iraq signed a contract in which Iraq agreed to sell VINCENT approximately 1.2 million barrels of oil as part of the Oil-for-Food Program.

l. On or about June 26, 2000, SAMIR A. VINCENT, the defendant, and a representative of the Government of Iraq signed a contract in which Iraq agreed to sell VINCENT approximately 1.5 million barrels of oil as part of the Oil-for-Food Program.

m. On or about September 11, 2000, SAMIR A. VINCENT, the defendant, arranged a meeting in Manhattan between a former official of the United States Government and a high-ranking representative of the Iraqi government, to discuss the United States Government's foreign policy toward Iraq and strategies to convince the United States Government to support the repeal of United Nations sanctions against the Government of Iraq.

n. On or about February 12, 2001, SAMIR A.

VINCENT, the defendant, and a representative of the Government of Iraq signed a contract in which Iraq agreed to sell VINCENT approximately 2 million barrels of oil as part of the Oil-for-Food Program.

o. In or about April 2001, SAMIR A. VINCENT, the defendant, wrote a letter to an official of the Government of Iraq, in which VINCENT emphasized his efforts on behalf of the Government of Iraq in the United States and recommended that any required surcharges on his oil allocations under the Oil-for-Food Program be deducted from the amounts still owed to him under the agreements referenced above in paragraph 16(c).

p. In or about November 2001, SAMIR A. VINCENT, the defendant, collected a message in Baghdad from officials of the Iraqi Intelligence Service and the Government of Iraq, for delivery to a former official of the United States Government regarding the Government of Iraq's position on re-admitting weapons inspectors to Iraq and the repeal of sanctions.

q. On or about May 20, 2002, SAMIR A. VINCENT, the defendant, sent a letter to an official of the Iraqi Intelligence Service in which VINCENT again emphasized his efforts on behalf of the Government of Iraq in the United States and requested additional oil allocations without any conditions, including surcharges, placed on them.

(Title 18, United States Code, Section 371.)

COUNT TWO

Acting as an Unregistered Agent of a Foreign Government

The United States Attorney further charges:

17. Paragraphs One through Thirteen and Sixteen of this Information are realleged, repeated, and incorporated by reference as if fully set forth herein.

18. From at least in or about 1992, up to and including in or about January 2003, in the Southern District of New York and elsewhere, SAMIR A. VINCENT, the defendant, unlawfully and knowingly acted in the United States as an agent of a foreign government, specifically the Government of Iraq, without prior notification to the Attorney General, as required by law.

(Title 18, United States Code, Section 951.)

COUNT THREE

Violation of the International Emergency Economic Powers Act

The United States Attorney further charges:

19. Paragraphs One through Thirteen and Sixteen of this Information are realleged, repeated, and incorporated by reference as if fully set forth herein.

20. Title 50, United States Code, Section 1701, et seq., known as the International Emergency Economic Powers Act ("IEEPA"), grants the President the authority to, among other things, "investigate, . . . prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation

or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States" 50 U.S.C. § 1702(a)(1)(B). Section 1701 grants the President the power to exercise this authority upon declaration of a national emergency.

21. In Executive Order Number 12722, signed on August 2, 1990, President George H. W. Bush declared that "the policies and actions of the Government of Iraq constitute an unusual and extraordinary threat to the national security and foreign policy of the United States," and declared "a national emergency to deal with that threat." On August 9, 1990, following passage of United Nations Security Council Resolution Number 661 (which dealt, in part, with sanctions placed on Iraq) on August 6, 1990, the President issued Executive Order Number 12724. Executive Order Number 12724 takes "additional steps with respect to Iraq's invasion of Kuwait and the national emergency declared in Executive Order Number 12722." Executive Orders No. 12722 and 12724, which remained in effect at all times relevant to this Information, prohibit certain trade-related activities with Iraq.

22. Executive Order Numbers 12722 and 12724 (the "Executive Orders") imposed economic sanctions, including a complete trade embargo, on Iraq. The Executive Orders prohibited,

among other things, the export to Iraq of any goods, technology, or services from the United States and the performance by any United States person of any contract in support of an industrial, commercial, public utility or government project in Iraq. The Executive Orders also prohibited other activities relating to Iraq, including "any transaction by a United States person relating to travel by any United States citizen or permanent resident alien to Iraq, after the date of this order, other than transactions necessary to effect (i) such person's departure from Iraq, (ii) travel and activities for the conduct of the official business of the Federal Government or the United Nations, or (iii) travel for journalistic activity by persons regularly employed in such capacity by a news-gathering organization." In addition, the Executive Orders specifically prohibited "[a]ny transaction by any United States person that evades or avoids, or has the purpose of evading or avoiding, any of the prohibitions set forth in this order." The Executive Orders define the term "United States person" as "any United States citizen, permanent resident alien, judicial person organized under the laws of the United States (including foreign branches), or any person in the United States, and vessels of U.S. registration." 31 C.F.R. § 575.321

23. From 1990 through all times relevant to this Information, the President continued, on an annual basis, the national emergency with respect to Iraq. These successive

Executive Orders have authorized the Secretary of Treasury, in consultation with the Secretary of State, "to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes" of the Executive Orders.

24. Pursuant to this authority, the Office of Foreign Assets Control ("OFAC"), the office within the Department of Treasury charged with the responsibility of administering sanctions against foreign entities, promulgated regulations to implement the Executive Orders. The relevant regulations are located in Section 575 of Title 31 of the Code of Federal Regulations, and state, in part:

- a. "no property or interests in property of the Government of Iraq that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, may be transferred, paid, exported withdrawn or otherwise dealt in," and "any other dealing in any security (or evidence thereof) registered or inscribed in the name of the Government of Iraq and held within the possession or control of a U.S. person is prohibited," without first obtaining a license from OFAC. 31 C.F.R. § 575.201. By virtue of these prohibitions against dealing with Iraqi government property, and securities or interests therein, "[a] U.S. person may not, within the United States or abroad, conduct transactions of any nature whatsoever with an entity that the U.S. person knows or has reason to know is an Iraqi government entity unless the entity is licensed by the Office of Foreign Assets Control to conduct such transactions with U.S. persons." 31 C.F.R. § 575.408(c)(2);
- b. "no goods, technology (including technical data or other information), or services may be exported from the United States, or, if subject to U.S.

jurisdiction, exported or reexported from a third country to Iraq, to any entity owned or controlled by the Government of Iraq, or to any entity operated from Iraq," without first obtaining a license from OFAC. 31 C.F.R. § 575.205;

- c. "no U.S. person may deal in property of Iraqi origin exported from Iraq after August 6, 1990, property intended for exportation to Iraq, or property intended for exportation from Iraq to any other country, nor may any U.S. person engage in any activity that promotes or is intended to promote such dealing," without first obtaining a license from OFAC. 31 C.F.R. § 575.206;
- d. "no U.S. person may engage in any transaction relating to travel by any U.S. citizen or permanent resident alien to Iraq, or to activities by any U.S. citizen or permanent resident alien within Iraq," without first obtaining a license from OFAC. 31 C.F.R. § 575.207; and
- e. "no U.S. person may perform any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Iraq," without first obtaining a license from OFAC. 31 C.F.R. § 575.209.

25. From in or about 1992, up to and including in or about January 2003, in the Southern District of New York and elsewhere, SAMIR A. VINCENT, the defendant, being a United States person, unlawfully, willfully, and knowingly violated IEEPA, and the regulations promulgated thereunder, as described above, to wit, VINCENT attempted to and did engage in financial transactions with the Government of Iraq related to, among other things, his efforts to secure an agreement between the United Nations and the Government of Iraq relating to United Nations Security Council

Resolution 986, and did travel to Iraq on several occasions in connection with these transactions.

(Title 50, United States Code, Section 1701, et seq.; Executive Orders 12722 and 12724; Title 31, C.F.R. Section 575.201, et seq.; and Title 18, United States Code, Section 2.)

COUNT FOUR

(False Statements in Income Tax Returns)

The United States Attorney further charges:

26. Paragraphs One through Thirteen of the Information are realleged, repeated, and incorporated by reference as if fully set forth herein.

27. From in or about 2001 through and including in or about 2004, in the Southern District of New York and elsewhere, SAMIR A. VINCENT, the defendant, unlawfully, willfully, and knowingly did make and subscribe U.S. Individual Income Tax Returns, Forms 1040, for the tax years 2000, 2001, 2002, and 2003, which returns contained and were verified by the written declaration of SAMIR A. VINCENT that they were made under the penalties of perjury, and which returns SAMIR A. VINCENT did not believe to be true and correct as to every material matter, in

that, among other things, SAMIR A. VINCENT falsely claimed that he did not have control over any offshore bank accounts.

(Title 26, United States Code, Section 7206(1).)

DAVID N. KELLEY
United States Attorney