



**U.S. Department of Justice**

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

September 1, 2022

**Via E-mail**

[Lawyer Name & Address]

Re: Request for Advisory Opinion Pursuant to 28 C.F.R. § 5.2

Dear [Lawyer]:

We write in response to your letter of August 4, 2022 (“August 4 Letter”), in which you request an opinion, pursuant to 28 C.F.R. § 5.2(a), as to whether your client, [Individual], has an obligation to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”), for activities [Individual] intends to undertake on behalf of [Foreign Company]. Based on the representations made in the August 4 Letter, we assess that [Individual] does not have an obligation to register as an “agent of a foreign principal” under FARA.

According to your submission, [Individual] is the former U.S. Ambassador to [Foreign Country], having served [recently]. He is currently the majority shareholder and Chairman of [U.S. Company], a privately held U.S. [redacted] company. Your submission notes, that in addition to its [various] services for various industries, [U.S. Company] is a leader in [redacted] design and construction. [U.S. Company’s] activities relating to the [redacted] industry include [various commercial activities].

Further to your submission, [Foreign Company], a sole proprietorship owned by [Foreign Individual], and based in [Foreign Country], recently contacted [Individual] to learn about commercial opportunities in the United States (and globally) involving [product], and potentially between [Foreign Company] and [U.S. Company]. [Foreign Company] is a private company that is neither owned nor controlled by the [foreign] government. [Individual] entered into a preliminary non-disclosure agreement with [Foreign Company], but has no other formal agreement with [Foreign Company]. The first step anticipated by [Individual] would be to introduce [Foreign Company] and its principals to various investment opportunities in the United States (and elsewhere), and to help [Foreign Company] determine the feasibility of becoming a manufacturer of [products] in the [Foreign Country] or the United States. More specifically, according to the August 4 Letter, [Individual] plans to set up a one-week tour during the 4<sup>th</sup> quarter of 2022 of U.S. [product] manufacturers as well as meetings with investors and industry consultants and to develop a list of industry contacts involved in [text deleted] production. The August 4 Letter represents that [Individual]’s activities will not involve any outreach to U.S. government or U.S. media on behalf of [Foreign Company]. The August 4 Letter further represents that [Individual]’s activities will be limited to introducing [Foreign Company] to industry contacts, and counseling [Foreign Company] on different [redacted] investment opportunities in the U.S. and elsewhere, as well as

the capabilities of [U.S. Company].

Under FARA, a party is an “agent of a foreign principal” who must register under FARA if it acts “in any . . . capacity at the order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal and who directly or through any other person,” and within the United States:

(i) engages in political activities for or in the interests of such foreign principal;

(ii) acts as public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;

(iii) solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or

(iv) represents the interests of such foreign principal before any agency or official of the Government of the United States.

*See* 22 U.S.C. § 611(c)(1).

The definition of “foreign principal” contained in FARA includes “a government of a foreign country and a foreign political party,” as well as a “partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.” 22 U.S.C. § 611(b)(1). Under this definition, the government of Venezuela and PDVSA are foreign principals. 22 U.S.C. § 611(a)(1) and (3).

Thus, the inquiry to be made under FARA, in this and other instances, is a two-part inquiry, exploring: (1) the nature of the relationship between the agent and a foreign principal; and, (2) whether the agent has engaged within the United States in one of the enumerated activities in the Act for or in the interests of such foreign principal. 22 U.S.C. § 611(c)(1). If [Individual]’s activities satisfy both elements of the inquiry, then an obligation to register may exist.

While [Individual]’s relationship with [Foreign Company] appears to satisfy the first part of the inquiry, [Individual]’s proposed activities, based on the representations made in the August 4 Letter, do not appear to be the activities described in 22 U.S.C. §611(c)(1)(i-iv). The activities described in this section of the Act are all activities that, when engaged in a way that would require registration, are intended to influence the United States Government or a section of the American public with respect to the foreign or domestic policies of the United States or with reference to the political or public interests, policies, or relations of a foreign country or foreign political party. In this case, [Individual], at the request of [Foreign Company], proposes to assist [Foreign Company] in identifying various commercial opportunities in the United States and elsewhere, and to introduce [Foreign Company] and its principals to opportunities, to the benefit of [Foreign Company] and [Individual]’s company, [U.S. Company]. Thus, [Individual] would not be an

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“agent of a foreign principal” required to register as defined in the Act. 22 U.S.C. § 611(c) and 612.

Based on the representations made in the July 27 Letter, we conclude that [Individual] (and U.S. Company) is not an “agent of a foreign principal” required to register under FARA. Please note that our opinion is based solely on the facts as they have been presented and any change could alter our opinion and lead to a different result.

We will treat your submission in accordance with 28 C.F.R. § 5.2(m). Please contact this office by telephone at 202-233-0776, or by e-mail to [FARA.Public@usdoj.gov](mailto:FARA.Public@usdoj.gov), if you have any questions.

Sincerely,

*/s/ Jennifer K. Gellie*

Jennifer Kennedy Gellie  
Chief  
FARA Unit