



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

July 10, 2019

By FedEx and E-mail

[addressee redacted]

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

Dear [name redacted]:

We write in response to your letter of May 31, 2019, requesting an advisory opinion, pursuant to 28 C.F.R. § 5.2, with respect to the obligation of your client, [US firm], to register pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”), in regards to three separate agreements [US firm] entered into with the [US nonprofit organizations]. Based on the representations in your letter, we have concluded that your client’s activities require registration under FARA.

According to your letter, [US firm], a public relations firm with an office in [US city], has been retained by the aforementioned entities to perform [commercially focused work for foreign organization originally funded by government]. You state that the three agreements with these entities are similar in nature in that [US firm] interfaces directly with these nonprofit organizations on projects funded by [foreign organization], through which [foreign organization] seeks to change corporations’ [activities in certain regions of the world]. In each agreement, the payments to [US firm] are received directly from the nonprofit organizations, though funded by a grant from [foreign organization].

The stated goals of these agreements also appear to be similar in nature. [US firm]’s agreement with the [nonprofit 1 name deleted], a U.S. nonprofit organization, provides that it will engage in several activities to promote [text deleted] policies, including advocating “[text deleted]” and persuading “[text deleted].” [US firm]’s agreement with [nonprofit 2 name deleted] and [nonprofit 3 name deleted], both U.S. nonprofit organizations, provides that its purpose is to reduce the “[text deleted]” of [region of the world], with a focus on [product] production. [US firm]’s agreement with [a foreign nonprofit organization], provides that it will “[text deleted].” Pursuant to these agreements, [US firm] provides periodic reports to the nonprofit organizations, which then relay the reports to [foreign organization].

You state that these “three agreements do not involve any effort to influence U.S. government policy, any effort to promote [foreign organization] and [foreign country] within the United States, or any effort to benefit [foreign organization] and [foreign country] in an appreciable manner.” You further state that [US firm]’s activities pursuant to these three agreements are “limited to affecting the commercial decisions of U.S. and global companies with regard to their sourcing of [products] abroad, which is accomplished through holding private meeting with the companies, contacting media that cover the relevant companies and industries, and conducting consumer-awareness campaigns.”

[name redacted]

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Based on our review of your letter, we have concluded that your client's activities require registration under FARA for two reasons. First, as defined in Section 611(o) of the Act,¹ "political activities" include activities that a person believes will, or intends to, in any way to influence any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States. [US firm] satisfies this provision because it believes and intends that its actions will influence "any section of the public within the United States," that is, the behavior of U.S. companies with respect to their [text deleted] policies concerning [text deleted] supply chain and product sourcing and their public responsibilities in the United States. Second, even if the activities do not satisfy this first prong, Section 611(o) further defines "political activities" as activities that a person believes will, or intends to, in any way influence any section of the public within the United States "with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party." [US firm] satisfies this definition because it believes and intends that its actions will advance the product-sourcing practices that are in the political and public interests of, and the policies of, the government of [foreign country], through its agency [foreign organization].

Please effectuate the registration of [US firm] in the next thirty (30) days. If you have any questions regarding this matter, please contact [name redacted] by telephone at (202) 233-0776.

Sincerely,

Brandon L. Van Grack
Chief, FARA Unit

¹ The term "political activities" means any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or foreign political party. 22 U.S.C. § 611(o).