



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

October 31, 2023

Via E-mail

[Lawyer]

[Address]

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

Dear [Lawyer]:

We write in response to your letter dated August 16, 2023 (“August 16 Letter”), in which you request an advisory opinion, pursuant to 28 C.F.R. § 5.2, regarding the registration obligations of [U.S. Organization] pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”) in connection with activities for the [Foreign Government Agency]. Based upon the representations made in the August 16 Letter, we have determined that [U.S. Organization] is required to register as an agent of the [Foreign Government Agency].

Background

The August 16 Letter notes that you are representing [Registered U.S. Person] and [Registered U.S. Public Relations Firm], both of whom are currently registered under FARA for the [Foreign Government Agency] (Reg. No. [Redacted]).¹ According to the letter, you are also representing [U.S. Organization]. The August 16 Letter states that [Registered U.S. Person] has formed the [U.S. Organization], a U.S. non-profit corporation,² and that “[t]he corporation is funded by [Registered U.S. Person] and/or [Registered U.S. Public Relations Firm].”³

The August 16 Letter represents that [U.S. Organization] and its activities are managed directly and exclusively by [Registered U.S. Person] and further assert that the [Foreign Government] will have no direct or indirect control or influence over the [U.S. Organization] and will be providing

¹ You note in the August 16 Letter that the [U.S. Public Relations Firm] engages in political activities for [Foreign Country] pursuant to a contract with the [Foreign Government]. According to [Registered U.S. Public Relations Firm’s] FARA registration, it acts pursuant to an oral agreement with the [Foreign Government Agency]. Please amend [Registered U.S. Public Relations Firm’s] FARA registration if it has entered into a written agreement with the [Foreign Government].

² [Cite to corporate registration of U.S. Organization].

³ August 16 Letter at 1.

zero direct funding for any of its activities.”⁴

The August 16 Letter also discloses activities in which the [U.S. Organization] is engaging, to include: (1) hosting receptions on or near the U.S. Capitol for members of Congress and their staff, potentially in concert with other organizations such as the United States-[Redacted]; and, (2) writing op-ed articles or advertisements for publication in newspapers and electronic media in the United States.⁵ In light of these activities and [U.S. Organization’s] relationship with [Registered U.S. Person], [Registered U.S. Public Relations Firm], and the [Foreign Government], [U.S. Organization] asks whether it is required to register.⁶

FARA Analysis

A party is an “agent of a foreign principal” if it acts “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:

- (i) engages within the United States in political activities⁷ for or in the interests of such foreign principal; [or] (ii) acts within the United States as public relations

⁴ Such statements are not dispositive on the question of whether [U.S. Organization] has a registration obligation under FARA.

⁵ August 16 Letter at 2.

⁶ The August 16 Letter sought an advisory opinion on three questions. [U.S. Organization’s] obligation to register is based on activities described in Question 1. With respect to the activities of [U.S. Organization’s] Advisory Board as described in Question 2, you have represented that the members of the Advisory Board have no duties or authority (voting or otherwise) and receive no benefits (financial or otherwise) as a result of their membership on the Advisory Board. Based on that representation, it does not appear that the individual members of the Board are required to register under FARA unless they engage in activities requiring registration, such as political activities or serving as a political consultant, agree or purport to hold themselves out as agents of a foreign principal. *See* 22 U.S.C. § 611(c). We decline to answer Question 3 in the August 16 Letter, which concerns the activities of persons not directly connected to [U.S. Organization], because insufficient information about the contemplated activities and the relationships of such persons to [U.S. Organization] has been provided. *See* 28 C.F.R. § 5.2(b) (“The entire transaction which is the subject of the review request must be an actual, as opposed to hypothetical, transaction.”).

⁷ 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 a foreign political party.” 22 U.S.C. § 611(o).

counsel,⁸ publicity agent,⁹ information-service employee,¹⁰ or political consultant¹¹ for or in the interests of such foreign principal[.]”

22 U.S.C. § 611(c)(1)(i) and (ii).

The [Foreign Government] through its [Foreign Government Agency] qualifies as a “foreign principal” under the Act, which is defined to include “a government of a foreign country.” 22 U.S.C. § 611(b)(1). By agreeing to work for the [Foreign Government Agency], [Registered U.S. Person] and [Registered U.S. Public Relations Firm] are subject to the [Foreign Government Agency’s] direction and control.¹² By agreeing to “[e]nhance US-[Foreign Country] relations[.]”¹³ they are engaging in political activities as defined by the Act. As a result, [Registered U.S. Person] and [Registered U.S. Public Relations Firm] registered under FARA as the [Foreign Government Agency’s] agent.¹⁴

You represent in the August 16 Letter that [U.S. Organization’s] “activities are managed directly and exclusively by [Registered U.S. Person],” who is a short-form FARA registrant under [Registered U.S. Public Relations Firm’s] registration. The August 16 Letter thus makes clear that [U.S. Organization] will be acting “at the order, request, direction or control . . . of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or

⁸ The term “public-relations counsel” includes any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any public relations matter pertaining to political or public interests, policies, or relations of such principal. 22 U.S.C. § 611(g).

⁹ The term “publicity agent” includes “any person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise.” 22 U.S.C. § 611(h).

¹⁰ The term “information-service employee” includes “any person who is engaged in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, social, cultural, or other benefits, advantages, facts, or conditions of any country other than the United States or of any government of a foreign country or of a foreign political party or of a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in a foreign country.” 22 U.S.C. § 611(i).

¹¹ The term “political consultant” means “any person who engages in informing or advising any other person with reference to the domestic or foreign policies of the United States or the political or public interest, policies, or relations of a foreign country or of a foreign political party.” 22 U.S.C. § 611(p).

¹² “As used in the Act, the term *control* or any of its variants shall be deemed to include the possession or the exercise of the power, directly or indirectly, to determine the policies or the activities of a person, whether through the ownership of voting rights, by contract, or otherwise.” 28 C.F.R. § 5.100(b).

¹³ Exhibit B, Reg. No. [Redacted], *available at* [Redacted].

¹⁴ *Id.*

subsidized in whole or in major part by a foreign principal,” namely, the [Foreign Government].¹⁵ As a result, [U.S. Organization], too, qualifies as an agent of the [Foreign Government].

The proposed activities described in the August 16 Letter, namely, contacting members of Congress and hosting receptions for members and their staff to foster “an improved and strong relationship between the United States and [Foreign Country] are political activities under FARA requiring registration.¹⁶ Writing op-ed articles and taking out advertisements in newspapers and electronic media would qualify [U.S. Organization] as a publicity agent and an information-service employee, and likewise require [U.S. Organization’s] registration under the Act.¹⁷ Therefore, [U.S. Organization] is required to register.¹⁸

Please effect [U.S. Organization’s] registration as an agent of the [Foreign Government Agency] within 30 days of the date of this letter. Useful information and forms may be found on our website at <https://justice.gov/nsd-fara>.

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

Sincerely,

/s/ Evan N. Turgeon

Evan N. Turgeon
Chief, FARA Unit

¹⁵ 22 U.S.C. § 611(c)(1).

¹⁶ 22 U.S.C. § 611(o).

¹⁷ 22 U.S.C. § 611(h) & (i).

¹⁸ Please note that we are not opining on the registration status of members of the Advisory Board and other individuals mentioned in the August 16 letter, other than to note that, depending on their activities, such individuals may be required to file a Short Form Registration Statement pursuant to 28 C.F.R. § 5.202.