



**U.S. Department of Justice**

National Security Division

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Counterintelligence and Export Control Section

Washington, DC 20530

December 19, 2023

**Via FedEx**

[Requestor]

[Address]

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

Dear [Requestor]:

This letter is in response to your letter of November 6, 2023,<sup>1</sup> and its supporting attachment, received on November 16, 2023, (collectively “the Letter”), requesting an advisory opinion, pursuant to 28 C.F.R. § 5.2, regarding the possible registration obligation of a proposed [U.S. chapter] of the [Foreign Political Party] pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or “the Act”), for activities in which it expects to engage in the United States. Based on our review of your request, we have determined that the [U.S. Chapter] of the [Foreign Political Party] would be required to register under FARA for engaging in its intended activities, as described below.

**I. Background**

In the Letter, to which was attached the [Foreign Political Party]’s constitution, you inform us that the [Foreign Political Party] is a political party in [Foreign Country] that is registered with the [Foreign Country]’s Electoral Commission.<sup>2</sup> The Letter indicates that the [Foreign Political Party] is funded through donations and subscriptions by its members; collected funds are provided to the central party.<sup>3</sup> The Letter informs us that the [Foreign Political Party] also consists of local branches in [Foreign Country] called [branches], which are self-funded and governed by an executive committee.<sup>4</sup> You further state that there are International [branches] comprised of members who reside outside [Foreign Country] and members who reside in [Foreign Country] but choose not to join their local [branches].<sup>5</sup>

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<sup>1</sup> Letter from [Requestor], International [Foreign Political Party] [branch] [Committee], to the FARA Unit (Nov. 6, 2023).

<sup>2</sup> *Id.* at 1.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

The Letter indicates that the International [branches] propose to form a [U.S. Chapter]. One of the Chapter's goals would be "to build goodwill for [Foreign Country] and its independence" in countries other than [Foreign Country] by "engaging with civic groups in the USA and [Foreign Country 2] and writing op-eds or letters for publication in US and [Foreign Country 2] newspapers."<sup>6</sup> A second goal would be to develop policy in areas such as international trade.<sup>7</sup> The Letter further represents that there will be no "direct contact with [U.S.] elected officials at the federal, state and local level."<sup>8</sup> The Letter seeks a determination as to whether the [U.S. Chapter] would be required to register under FARA if it were to engage in these activities.

## II. FARA Analysis

FARA's definition of a "foreign principal" includes, among other things, a "government of a foreign country and a foreign political party."<sup>9</sup> Because the [Foreign Political Party] is a foreign political party registered with the [Foreign Country]'s Electoral Commission, it qualifies as a foreign principal under FARA.

Under FARA, an "agent of a foreign principal" is defined to include:

(1) any person who acts . . . at the order, request, or under the direction or control,<sup>[10]</sup> 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, within the United States, directly or through any other person:

(i) engages in political activities<sup>11</sup> for or in the interests of the foreign principal;

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *See* 22 U.S.C. § 611(b)(1).

<sup>10</sup> *See* 28 C.F.R. § 5.100(b) ("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.").

<sup>11</sup> 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).

- (ii) acts as a public relations counsel,<sup>12</sup> publicity agent,<sup>13</sup> information-service employee<sup>14</sup> or political consultant<sup>15</sup> 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[.]<sup>16</sup>

The information you provided reveals that the [U.S. Chapter] would have an agency relationship with the [Foreign Political Party] under the Act. The Letter states, “The chapters would remain subject to the authority of the International [branches]” and notes that “party members must subscribe to the Objectives of the party and must not do anything that will conflict with overall party objectives, [but that] the International [branches] retains wide latitude in pursuing its goals.”<sup>17</sup> The [U.S. Chapter] would thus be acting “at the order, request, or under the direction or control” of the [Foreign Political Party] and its activities would be “directly or indirectly supervised, directed, [or] controlled” by the [Foreign Political Party].

The [U.S. Chapter]’s proposed activities would require registration under multiple provisions of FARA. First, several of the proposed activities qualify as “political activities” under the Act. The Letter states that the [U.S. Chapter]’s primary goal would be to build “goodwill for [Foreign Country] and its independence” in other countries, including the United States, by “engaging with civic groups in the USA and [Foreign Country 2] and writing op-eds or letters for publication in

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<sup>12</sup> 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).

<sup>13</sup> 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).

<sup>14</sup> 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).

<sup>15</sup> 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).

<sup>16</sup> 22 U.S.C. § 611(c)(1)(i)-(iv).

<sup>17</sup> Letter at 1.

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US and [Foreign Country 2] newspapers.” These op-eds and letters appear to target audiences in the United States. The Chapter’s secondary goal, “develop[ing] policy in areas such as international trade[.]” appears to target a U.S. audience as well. In engaging in these activities, the [U.S. Chapter] would thus be seeking to influence the U.S. public—and possibly U.S. government officials as well—with reference to the political or public interests, policies, or relations of the [Foreign Political Party], and thus would be engaging in “political activities” as defined in the Act.

Second, the proposed activities would qualify the [U.S. Chapter] as a public-relations counsel and a publicity agent under the Act. By “engaging with civic groups in the USA and [Foreign Country 2] and writing op-eds or letters for publication in US and [Foreign Country 2] newspapers” in order to build “goodwill for [Foreign Country] and its independence,” the [U.S. Chapter] would be engaging directly in representing the [Foreign Political Party] in a public relations matter pertaining to its political or public interests, policies, or relations, and thus would be acting as a public-relations counsel. Through these activities, the [U.S. Chapter] would also be engaging directly in the publication and dissemination of written information, and thus would be acting as a publicity agent for the [Foreign Political Party].

Third, the [U.S. chapter]’s proposed activities may also qualify it as an information-service employee under FARA. According to the Letter, an additional goal of the [U.S. chapter] would be to “develop policy in areas such as international trade.” If activities in furtherance of this goal included providing accounts, descriptions, information, or data concerning the industrial, economic, or other benefits and advantages of [Foreign Country] or the [Foreign Political Party], the [U.S. chapter] would qualify as an information-service employee under the Act.

Fourth, the Letter mentions that the [Foreign Political Party] is supported financially by donations and subscriptions by party members. To the extent that contributions, money, or things of value are solicited or collected in the United States and provided to the [Foreign Political Party] in [Foreign Country], such activities would form an additional basis for registration.<sup>18</sup>

If the [U.S. Chapter] of the [Foreign Political Party] is established and engages in any of the above-described activities, please complete its registration within 10 days of it becoming an agent of a foreign principal, as required by the Act.<sup>19</sup> Useful information and forms may be obtained on the FARA Unit’s website, located at <https://www.justice.gov/nsd-fara>. If you have any questions regarding this matter, please contact the FARA Unit by e-mail at [FARA.Public@usdoj.gov](mailto:FARA.Public@usdoj.gov) or by telephone at (202) 233-0776.

Sincerely,

*/s/ Evan N. Turgeon*

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<sup>18</sup> See 22 U.S.C. § 611(c)(1)(iii).

<sup>19</sup> 22 U.S.C. § 612(a).

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Evan N. Turgeon  
Chief, FARA Unit