



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

May 16, 2025

Via E-mail

[Requestor]

[Foreign Address]

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

Dear [Requestor]:

We write in response to your letter received on March 17, 2025 (“Letter”), as supplemented on April 16, 2025 (“Supplement”), requesting an advisory opinion pursuant to 28 C.F.R. § 5.2(a). You ask whether you must register as an agent of a foreign principal under the Foreign Agents Registration Act of 1938 (“FARA” or “the Act”), as amended, 22 U.S.C. §§ 611-21. Your Letter explains that in your capacity as an employee of an intergovernmental organization, you will be involved in providing advice to that organization on its relationship with the U.S. government and representing the organization’s interests before U.S. officials and private-sector persons in the United States. Based on the representations in your Letter, and for the reasons discussed below, we have determined that you are obligated to register for the proposed activities.

I. Background

[Intergovernmental Organization 1 (“IGO 1”)] is an affiliated organization of [Intergovernmental Organization 2 (“IGO 2”)].¹ [IGO 1] is [discussion of IGO 1’s purposes].² It was formed when countries began accepting its Constitution in [year].³ Currently, [number] nations are [IGO 1] members.⁴ [IGO 1]’s headquarters is in [Foreign City].⁵

¹ [citation to IGO 1 constitution].

² [citation to IGO 1 website].

³ [citation to IGO 1 constitution preamble].

⁴ [citation to IGO 1 website].

⁵ [citation to IGO 1 website].

You indicate that you are a U.S. citizen and a former [U.S. government employee].⁶ In [month and year], you were hired by [IGO 1] to work in the office of [a senior officer] as [an advisor and program manager].⁷

In addition to areas of substantive expertise, [IGO 1] personnel are often tasked with additional portfolios such as relations with key member states.⁸ Due to your [previous experience], your responsibilities at [IGO 1] include advising on the relationship that organization and the broader [IGO 2] system have with the U.S. government and representing [IGO 1] in interactions with U.S. government officials and American companies, including on matters of U.S. government policy.⁹ Those matters include specific [IGO 2] programs, policy questions, and intergovernmental political dynamics related to the [IGO 2] system, and the amount of financial contributions from the U.S. government for specific [IGO 2] programs.¹⁰ You represent that you are always clear in your representations that you are affiliated with [IGO 1].¹¹ You work at [IGO 1] headquarters in [Foreign Country] but may travel to the United States, including to carry out your duties connected to that country.¹²

II. FARA Analysis

FARA is designed “to protect the national defense, internal security, and foreign relations of the United States by requiring public disclosure by persons engaging in [certain] activities for or on behalf of foreign governments, foreign political parties, and other foreign principals so that the Government and the people of the United States may be informed of the identity of such persons and may appraise their statements and actions in light of their associations and activities.”¹³ Whether a person is required to register under FARA involves four determinations: (1) the existence of a foreign principal; (2) the nature of the relationship between the person and the foreign principal; (3) whether the person is engaging in specified activities within the United States for or in the interests of such foreign principal; and (4) whether an exemption applies. An obligation to register under FARA will arise when the first three parts of the inquiry are established, and no exemption applies in the fourth part.

⁶ Supplement; Letter.

⁷ Letter.

⁸ *Id.*

⁹ *Id.*; Supplement.

¹⁰ Supplement.

¹¹ Letter.

¹² *Id.*

¹³ 22 U.S.C. § 611 Note on Policy and Purpose of Subchapter.

FARA's definition of a "foreign principal" includes an "association, . . . organization, or other combination of persons . . . having its principal place of business in a foreign country."¹⁴ As an organization, an association, and a combination of member countries with its principal office in [Foreign Country], [IGO 1] qualifies as a foreign principal under the Act.¹⁵

As to the nature of the relationship, agency can arise under FARA when a "person acts as an agent, representative, employee, or servant, or who acts at the order, request, or under the direction or control, of a foreign principal" in covered activities.¹⁶ Agency can also arise when a person "agrees, consents, assumes or purports to act as, or . . . holds himself out to be, whether or not pursuant to contractual relationship, an agent of a foreign principal."¹⁷ Here, you are an employee of [IGO 1] and will hold yourself out as acting on its behalf. You thus have the requisite relationship with that organization as a foreign principal.¹⁸

Turning to which activities require registration, those include when a person:

- (i) engages within the United States in political activities for or in the interests of such foreign principal;
- (ii) acts within the United States as a . . . political consultant for or in the interests of such foreign principal; [or]
- (iv) within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States.¹⁹

Here, you are proposing to engage in each of these categories of FARA-covered activities for the reasons that follow.

First, "political activities" is defined in relevant part under FARA to mean:

¹⁴ 22 U.S.C. § 611(b)(3).

¹⁵ *Id.*

¹⁶ 22 U.S.C. § 611(c)(1) (emphasis added). "[C]ontrol" includes "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).

¹⁷ 22 U.S.C. § 611(c)(2).

¹⁸ 22 U.S.C. § 611(c)(1)-(2).

¹⁹ 22 U.S.C. § 611(c)(1)(i)-(ii), (iv).

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.²⁰

Your responsibilities include outreach to both U.S. officials and persons at companies regarding matters of U.S. government policy on behalf of [IGO 1].²¹ Attempting to persuade those federal officials and those sections of the public regarding U.S. policies when in this country constitutes “political activities” within the meaning of FARA.²² You thus are planning to engage in § 611(c)(1)(i) activities.

Second, “political consultant” under FARA is defined, as relevant here, as “any person who engages in informing or advising any other person with reference to the domestic or foreign policies of the United States.”²³ Your role providing advice to [IGO 1] on its relationship with the U.S. government qualifies as acting as a “political consultant.”²⁴ When dispensed within the United States, that advice-giving constitutes registrable activity under 22 U.S.C. § 611(c)(1)(ii).

Finally, your plan to speak on behalf of [IGO 1] in interactions with U.S. officials also falls within the last category of registrable conduct when conducted within the United States, because you will be “represent[ing] the interests of such foreign principal before any agency or official of the Government of the United States.”²⁵ You are therefore planning to engage in § 611(c)(1)(iv) activity as well.

Each of these registrable activities is in the interest of [IGO 1] and undertaken pursuant to your role as an employee of the organization and while holding yourself out as its representative, as explained above. Because the three elements that make you an “agent of a foreign principal”²⁶ are

²⁰ 22 U.S.C. § 611(o). *See also* 28 C.F.R. § 5.100(e) (deeming “the terms *formulating, adopting, or changing* . . . to include any activity which seeks to maintain any existing domestic or foreign policy of the United States); *id.*

§ 5.100(f) (deeming the “term *domestic or foreign policies of the United States* . . . to relate to existing and proposed legislation, or legislative action generally; treaties; executive agreements, proclamations, and orders; decisions relating to or affecting departmental or agency policy, and the like”).

²¹ Letter.

²² 22 U.S.C. § 611(c)(1)(i), (o).

²³ 22 U.S.C. § 611(p).

²⁴ Letter.

²⁵ 22 U.S.C. § 611(c)(1)(iv).

²⁶ 22 U.S.C. § 611(c).

present, you must register unless one of the exemptions from FARA's requirements applies.²⁷ "The burden of establishing the availability of an exemption under the Act shall rest upon the person whose benefit the exemption is claimed."²⁸

There is a group of exemptions from FARA registration applicable to certain officials and employees of foreign governments who work in the United States and are officially recognized by the U.S. Department of State.²⁹ As an intergovernmental organization, [IGO 1] is not itself a foreign government.³⁰ The exemptions from FARA for officials and employees of foreign governments accordingly do not apply to you.

As to international organizations, federal law does contain some exemptions to certain laws that are potentially relevant to such entities' employees. The International Organizations Immunities Act of 1945 ("IOIA") grants a set of privileges, exemptions, and immunities to a defined set of "international organizations" and certain officers and employees of such organizations.³¹ The term is defined to mean "a public international organization in which the United States participates" through treaty or Congressional action, and which has been designated by the President "through appropriate Executive order" to receive the benefits of the IOIA.³² [IGO 1] has been so designated and at present the United States has neither withdrawn from membership nor revoked the organization's IOIA benefits.³³

The IOIA provides that for several areas of law, certain employees of qualifying international organizations who are accepted by the Department of State as such are "entitled to the same privileges, exemptions, and immunities as are accorded under similar circumstances to officers and employees, respectively, of foreign governments."³⁴ Laws regulating "the registration of foreign agents" are included in the laws for which some international-organization personnel may

²⁷ 22 U.S.C. § 613.

²⁸ 28 C.F.R. § 5.300.

²⁹ 22 U.S.C. § 613(a)-(c).

³⁰ See *supra* notes 42-43 and accompanying text; cf. [citation to IGO 2 website] (noting that [IGO 2 is not a supranational union]).

³¹ 22 U.S.C. §§ 288-288l.

³² 22 U.S.C. § 288.

³³ [citation to executive order]; [citation to IGO 1 website] ([referencing the United States's membership status]). [Discussion of executive order].

³⁴ 22 U.S.C. § 288d; see 22 U.S.C. § 288e(a) (requiring notification to and acceptance by U.S. Secretary of State for personnel to receive IOIA benefits).

receive the same exemptions as foreign-government personnel.³⁵ This provision of the IOIA, however, specifically does not apply to “nationals of the United States.”³⁶

The regulations implementing FARA track the IOIA in 28 C.F.R. § 5.303. That provision exempts from FARA registration certain persons accredited to international organizations as follows:

Persons designated by foreign governments as their representatives in or to an international organization, other than nationals of the United States, are exempt from registration under the Act in accordance with the provisions of the International Organizations Immunities Act, if they have been duly notified to and accepted by the Secretary of State as such representatives, officers, or employees, and if they engage exclusively in activities which are recognized as being within the scope of their official functions.³⁷

While other [IGO 1] personnel may thus be eligible for the FARA exemption at 28 C.F.R. § 5.303 applicable to employees of foreign international organizations when the other criteria of that provision are met, as a United States national, you accordingly would not.³⁸

Another exemption to FARA appears in 22 U.S.C. § 613(d)(2) and covers “[a]ny person engaging or agreeing to engage only . . . in . . . activities not serving predominantly a foreign interest.”³⁹ Here, however, your advice and efforts to influence U.S. officials and companies are focused on [IGO 1] and [IGO 2] system operations, policies, programs, and funding.⁴⁰ No particular domestic impacts have been identified, and the efforts predominantly serve the interest of [IGO 1], a foreign one.

There is a regulation implementing § 613(d)(2) that provides further specification for the context of “a person engaged in political activities on behalf of a foreign corporation.”⁴¹ That regulation, 28 C.F.R. § 5.304(c), does not apply here because [IGO 1] is not a corporation. Rather, it is a body formed when many nation states agreed to its Constitution and established a permanent governing

³⁵ 22 U.S.C. § 288d(a).

³⁶ *Id.*

³⁷ 28 C.F.R. § 5.303.

³⁸ Supplement; *see, e.g.*, 8 U.S.C. § 1101(22) (defining “national of the United States” for purposes of the Immigration and Nationality Act to include “a citizen of the United States”).

³⁹ 22 U.S.C. § 613(d)(2).

⁴⁰ Supplement.

⁴¹ 28 C.F.R. § 5.304(c).

entity that performs ongoing functions.⁴² As such, it is an intergovernmental organization.⁴³ Unlike intergovernmental organizations, corporations are entities that incorporate in a particular jurisdiction and subject themselves to the laws of that jurisdiction.⁴⁴ Furthermore, [IGO 1] is engaged in intergovernmental processes, not the “commercial, industrial, and financial operations” associated with corporations that are referenced in the regulation.⁴⁵ 28 C.F.R. § 5.304(c) is inapplicable here.

Given the lack of an applicable exemption from FARA, you will accordingly need to register within ten days of engaging in any of the above-referenced registrable activities within the United States. If you have already engaged in such activities, please complete the registration process within 30 days of the date of this letter. Useful information and forms may be obtained on the FARA Unit’s website, located at <https://www.justice.gov/nsd-fara>.

This advisory opinion is expressly limited to the facts, conditions, and conclusions stated herein, and the requirements of FARA and its regulations. If there are any changes in the facts and circumstances you related to us, you should contact us immediately.

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

Sincerely,

/s/ *Evan N. Turgeon*

Evan N. Turgeon
Chief, FARA Unit

⁴² [citation to IGO 1 constitution].

⁴³ See, e.g., *Types of International Organization, Conventional Categories*, UNION OF INT’L ASS’NS, <https://uia.org/archive/types-organization/cc> [<https://perma.cc/ZL36-6EZE>] (last visited May 15, 2025) (distinguishing between intergovernmental organizations and other categories of international organization).

⁴⁴ See, e.g., *Foreign Persons*, INTERNAL REVENUE SERV., <https://www.irs.gov/individuals/international-taxpayers/foreign-persons> [<https://perma.cc/K2J3-X9RD>] (describing foreign corporations).

⁴⁵ 28 C.F.R. § 5.304(c).