



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

December 6, 2019

By FedEx

[addressee deleted]

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

Dear [name deleted]:

This is in reference to your letter of September 26, 2019 (“September 26 Letter”), in which you request an advisory opinion, pursuant to 28 C.F.R. § 5.2. Your letter asks whether your firm, [US firm], is obligated to continue its registration under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”), or instead whether qualifies for the exemption under Section 613(d)(2) of the Act. Based upon your representations, we do not contest your assertion that the exemption applies, and thus [US firm] may terminate its registration.

In the September 26 Letter, you stated that [US firm] represents the [industry chamber of commerce (chamber)], which you described as a trade association in [foreign country] for commercial [text deleted] companies. You informed us that [chamber] was founded in [year] as a “bi-national, private sector, not-for-profit association that represents more than 130 [text deleted] industry stakeholders, including domestic and international [industry stakeholders - text deleted].” You further stated that neither [chamber] nor its members are government entities or controlled by the [foreign government]. According to your letter, [chamber] advocates for policies and regulations for the [text deleted] industry.

[US firm] has been hired by [chamber] to monitor [industry-related] issues in the United States that may impact [chamber] members. To date, [US firm]’s activities on behalf of [chamber] consist of having sent two [chamber] press releases to congressional committees with jurisdiction over [industry] issues, although the expectation is that [US firm] will be in “direct” contact with congressional offices to promote [chamber] issues and its member companies. You maintain that none of these issues are controlled by the [foreign government], and that the issues are “directly related to each individual [industry] company and direct commerce.” Accordingly, you assert that your firm’s activities on behalf of [chamber] are exempt from registration pursuant to Section 613(d)(2) because they are commercial in nature.¹

Generally speaking, 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, in relevant part:

¹ We note that [US firm] is also registered under the Lobbying Disclosure Act of 1995, 2 U.S.C. §1601.

[addressee deleted]

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- (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; 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). Section 613(d)(2) provides an exemption from registration for “any person engaging or agreeing to engage only . . . in other activities not serving predominantly a foreign interest.”

Based upon the representations in your letter, we do not contest your claim that the proposed activities qualify for the exemption from registration under FARA pursuant to Section 613(d)(2) because they do not serve predominantly a foreign interest. Accordingly, [US firm] may terminate its registration under the Act.

Please note that our opinion is based solely upon the specific facts set forth in the September 26 Letter, and must be revisited in the event that any of the facts change. In particular, your firm may need to register under FARA if it undertakes activities on behalf of the [foreign government], or any other foreign government or foreign political party, with an intent to influence a U.S. Government official or agency or a segment of the public concerning the domestic or foreign policy of the United States or the political or public interest, policies, or relations of a foreign government or foreign political party. If any of the facts do change, you should contact the FARA Unit immediately in order that we may reexamine whether your firm has an obligation to register.

If you have any questions regarding this matter, please contact [name deleted] by telephone at (202) 233-0776.

Sincerely,

Brandon L. Van Grack
Chief, FARA Unit