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Report to the Chairman, Subcommittee  
on Oversight of Government  
Management, Committee on  
Governmental Affairs, U.S. Senate

July 1990

# FOREIGN AGENT REGISTRATION

## Justice Needs to Improve Program Administration

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**National Security and  
International Affairs Division**

B-240379

July 30, 1990

The Honorable Carl Levin  
Chairman, Subcommittee on Oversight  
of Government Management  
Committee on Governmental Affairs  
United States Senate

Dear Mr. Chairman:

In response to your request, we have updated our 1980 report<sup>1</sup> on the Department of Justice's administration of foreign agent<sup>2</sup> registration. Our objectives were to determine whether (1) the recommendations made in our 1980 report have been implemented and (2) foreign agents are complying with the law by registering with the Department of Justice, by fully disclosing their activities, and by filing required reports on time. We also reviewed the adequacy of the Justice Department's disclosure criteria and guidance.

In our 1980 report, we recommended that the Attorney General seek legislative authority to (1) require written notification to the Justice Department of all exemption claims prior to any agent activity and (2) give the Justice Department additional enforcement measures (such as administrative subpoena powers, a schedule of civil fines for minor violations, and increases in existing fines).

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**Results in Brief**

The Department of Justice has not implemented the recommendations we made in our 1980 report. As a result, the Department has no information on exemptions and still has limited enforcement authority.

The administration of foreign agent registration has remained a problem. The Justice Department currently maintains files on approximately 775 foreign agents. Our review of Justice's files on a random sample of 46 of these agents indicated that one-half of them had not fully disclosed their activities; over one-half registered initial forms late; and over one-half filed their required semiannual reports late.

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<sup>1</sup>Improvements Needed in the Administration of Foreign Agent Registration (ID-80-51, July 31, 1980).

<sup>2</sup>The term foreign agent means any person who acts or engages or agrees to act as a public relations counsel, publicity agent, or as agent, servant, representative, or attorney for a foreign principal or for any domestic organization subsidized directly or indirectly, in whole or in part, by a foreign principal.



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We also found that the Justice Department's disclosure criteria is unclear. Both foreign agents and the Justice Department officials who review the agents' registration forms lack specific written guidance on what should be reported. The questions on the semiannual supplemental statements are general and do not specifically require the information necessary to satisfy the act's disclosure requirements.

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## Background

The Foreign Agents Registration Act of 1938 was enacted to identify agents engaged in political activities, including the spreading of foreign propaganda on behalf of foreign principals,<sup>3</sup> and to require them to publicly report their activities and finances. Amendments to the act, passed in 1966, were designed to place emphasis on protecting the integrity of the U.S. government's decision-making process and to disclose the activities of foreign agents, including their contacts with executive branch officials.

The 1938 act, as amended, requires foreign agents to disclose their connections with foreign governments, foreign political parties, and other foreign principals, as well as the activities they perform on behalf of such principals in the United States. Justice's regulations implementing the act are found at 28 Code of Federal Regulations, Part 5.

The regulations require that foreign agents file an initial statement with detailed information and exhibits and file a supplemental statement every 6 months for the duration of the foreign principal-agent relationship. According to the regulations, a statement is "detailed" within the meaning of the act when it has that degree of specificity necessary to permit meaningful public evaluation of each of the significant steps taken by a registrant to achieve the purposes of the foreign principal-agent relationship.

The act also provides certain exemptions to registration, such as for diplomatic, humanitarian, commercial, and legal activities. However, foreign agents are not required to notify the Justice Department when they claim such an exemption.

The Department of Justice's Registration Unit, composed of nine professional and four administrative staff, is responsible for administering and

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<sup>3</sup>The term foreign principal means the government of a foreign country, a political party of a foreign country, a person who lives abroad, or any foreign business, partnership, association, corporation, or political organization.

implementing the act. The Registration Unit's responsibilities include (1) identifying unregistered agents, (2) ensuring that agents file reports on time, (3) rendering advisory opinions interpreting the act, (4) reviewing reports to ensure proper form and completeness, and (5) requesting report corrections when errors are found.

## Prior GAO Reports

In 1974, we reported that many agents' statements to the Justice Department were not filed on a timely basis or lacked sufficient detail to adequately describe the registered agents' activities on behalf of their foreign principals.<sup>4</sup> The 1974 report also stated that the Justice Department was not making full use of its authority to enforce the act and related regulations.

In a 1980 follow-up report, we noted that despite Justice's efforts to improve the administration of the act, people were acting as foreign agents without registering, registered agents were not fully disclosing their activities, and officials in the executive branch were often unaware of the act's requirements. Thus, the act's goal of providing the public with sufficient information on foreign agents and their activities was not being completely fulfilled.

## Foreign Agents May Not Be Registering

The Registration Unit identifies unregistered agents by reviewing newspapers, magazines, and the Congressional Quarterly;<sup>5</sup> inspecting registered agent's records; and acting on tips provided from various sources such as government agencies and material filed by registered agents. The unit does not make scheduled reviews of executive agency records or periodic inquiries of agency officials about agent activities because, according to the Chief of the unit, additional staff would be needed for this purpose.

During its review of the Congressional Quarterly for the period October 1988 through October 1989, the Registration Unit identified 70 individuals or firms acting as lobbyists for foreign interests, 13 of which it believed may be obligated to register as foreign agents. Subsequently, the Registration Unit sent these 13 individuals or firms letters

<sup>4</sup>Effectiveness of the Foreign Agents Registration Act of 1938, as Amended, and Its Administration by the Department of Justice (GAO/B-177561, Mar. 13, 1974).

<sup>5</sup>According to the Deputy Chief of the Registration Unit, the Congressional Quarterly is the best source of information on individuals who are lobbying for foreign principals and may be obligated to register as foreign agents.



requesting that they provide (1) a complete statement of who owns and controls the foreign principal, (2) a description of the nature of the activities for or in the interest of the foreign principal, and (3) a copy of the written contract with the principal or a full description of the terms and conditions of each existing or proposed oral agreement. As of June 1990, the Registration Unit had received the requested information but had not completed its analysis to determine whether these individuals or firms had to register under the act. However, according to the Chief of the Registration Unit, preliminary indications are that at least some of them should have registered as foreign agents.

We found that the Registration Unit did not collect information on the number of foreign agents who were claiming an exemption from registering because, according to the Chief of the Unit, the Justice Department still has not taken steps to have the act amended to require written notification of all exemption claims, as we recommended in our 1980 report. Moreover, Justice officials do not believe that the additional information on unregistered foreign agents that might result from an exemption notification requirement would justify the associated costs in increased manpower needs and paperwork. However, Justice has not performed a cost analysis to support this position. We do not believe that the administrative costs of implementing the exemption notification requirement would be exorbitant, and we think it could improve program administration.

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## Inadequate Disclosure in Reporting

Each agent is required to file a semiannual supplemental statement within 30 days after the expiration of each period of 6 months succeeding the original filing of a registration statement. In our 1980 report, we noted that 146 (49 percent) of the 299 supplemental statements that we reviewed had not provided adequate disclosure. Such omissions continue to be a problem.

According to the act, each supplemental statement must contain information on (1) the nature and status of the registrant's business, (2) foreign principals represented, (3) activities performed for foreign principals, (4) related financial data, (5) dissemination of political propaganda, and (6) the filing of certain required exhibits and short-form registration statements. The unit's caseworkers review these statements for adequate disclosure and request additional information from the agents, as necessary.

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Our review of 25 foreign agent files and the supplemental statements that should have been filed between June 1, 1987, and April 1, 1990, showed that about half of the statements did not adequately report the agents' activities, based on criteria previously mentioned. Among the deficiencies we identified were insufficient description of activities; conflicting responses to questions; no listing of contacts, and/or finances; missing supplemental forms; no statement of purpose or position; and lateness in reporting activities.

According to the Unit Chief, inadequate disclosures typically occur when (1) agents are not specific in reporting information, (2) questions on the supplemental statement forms are not specific, and (3) caseworkers lack effective methods to obtain additional information. Unit officials stated that they are taking steps to improve the administration of disclosure reporting by writing or calling individuals to request additional information. They are also conducting more inspections of agents' books and records to assure that registered agents are reporting all their activities and finances.

In our analysis of the supplemental statements, we noted that the questions on the forms were general and did not specifically require information necessary to satisfy the act's disclosure requirements. We also found Justice's regulations implementing the act do not provide adequate information to understand disclosure requirements. The Unit Chief agreed with our analysis. He stated that, if requested the caseworker will give advice to an agent. However, he also stated that the caseworkers reviewing the statements do not have standardized written guidance on specifically how and what a foreign agent should report. Consequently, there is potential for inconsistent reviews from one caseworker to another.

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## **Timeliness of Agent Registration and Reporting Remains a Problem**

Our review of registration statements showed that over one-half of a sample of 28 initial registration statements were not filed by the required dates, and over one-half of a sample of 204 supplemental statements were not filed before the deadlines.

The act requires that people file initial registration forms within 10 days of becoming agents. In 1980, we reported that 61 (77 percent) of the 79 registration forms filed by foreign agents, that we reviewed, did not meet this requirement. The level of registration compliance has continued to be low. Of 28 foreign agent's initial registration statements we reviewed for this report, 19 (68 percent) were not registered on time. Of



these 28 statements, 17 (61 percent) missed the due date by more than 30 days. Furthermore, we could not determine whether seven (25 percent) of the initial statements met the requirement because the material in the files did not show when they began activities for the foreign principal. In summary, 26 (93 percent) of the 28 forms were either not filed on time or did not contain sufficient information to determine their filing status.

Similar problems exist in the filing of supplemental statements. The act requires agents to file supplemental reports within 30 days of the end of each 6-month period. In our 1980 report, we noted that 179 (60 percent) of the 299 supplemental statements reviewed were not filed by the deadline. For the period from June 1, 1987, through April 1, 1990, we reviewed 46 foreign agents' files and found 121 (59 percent) of the corresponding 204 semiannual supplemental statements that were supposed to be filed, were filed late. About 27 (13 percent) of these 204 statements missed the due date by more than 30 days. We could not find the supplemental statements for 23 (11 percent) of the 204 statements due because they were either missing from the files and Justice officials could not find them (3 percent of the statements), or the Justice Department said it had never received them (8 percent of the statements).

Unit officials said that agents frequently register and report late because they lack awareness of or ignore the act's requirements.

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## Follow-Up Procedures

The Registration Unit's follow-up procedures include sending reminder letters, making a phone call, and then mailing a formal notice to each delinquent filer. In addition, a copy of the delinquency notice is sent to the agent's foreign principal.

Registration Unit staff stated that they had not assessed administrative fines against late filers or used subpoena powers because the Justice Department lacks authority to take such administrative actions. According to the Unit's Chief, the authority to levy fines against late filers and summon individuals to appear, testify, or produce records at administrative hearings could improve registration and reporting compliance under the act. We recommended both of these actions in our 1980 report, but the Justice Department did not pursue them.

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## Recommendations

In addition to reaffirming our 1980 recommendations, we further recommend that the Attorney General direct the Registration Unit to take the following actions:

- Develop standard disclosure criteria for reporting under the act; provide specific guidance to agents and agency personnel on the criteria and how information should be reported; and enforce compliance with the criteria.
- Revise the supplemental statement to better reflect the requirements of the act as well as the standard criteria.

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## Matters for Congressional Consideration

The Department of Justice uses the lack of authority as a reason for not taking action to enforce the law but has not sought the needed legislative authority. Therefore, the Congress may wish to consider amending the Foreign Agents Registration Act of 1938, as amended, to give the Department of Justice the authority to:

- Subpoena foreign agents to appear, testify, or produce records at administrative hearings.
- Impose administrative fines for minor violations against those who, after being directly informed of their obligation to report, still fail to do so.

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Appendix I provides details on the scope and methodology of our review.

As requested, we did not obtain formal agency comments on this report; however, we discussed our findings with appropriate Department of Justice officials and incorporated their comments where appropriate.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 40 days from the date it is issued. At that time, we will send copies to the Attorney General and appropriate congressional committees and make copies available to other interested parties upon request.



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This report was prepared under the direction of Allan I. Mendelowitz, Director, Trade, Energy, and Finance Issues. He can be reached on (202) 275-4812 if you have any questions about this report. Other major contributors are listed in appendix II.

Sincerely yours,



Frank C. Conahan  
Assistant Comptroller General

Caplin & Drysdale,  
Chartered

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Caplin & Drysdale,  
Chartered



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Caplin & Drysdale,  
Chartered

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Caplin & Drysdale,  
Chartered



# Scope and Methodology

In developing information for this report, we reviewed the act, the legislative history, and the Justice Department's rules and regulations that address the responsibilities of foreign agents and managers of the registration process.

We also interviewed Department of Justice officials regarding the efforts to improve the administration of foreign agent registration. We reviewed the procedures used by the Registration Unit to identify unregistered agents.

We obtained Justice's listing of 819 foreign agents registered under separate registration numbers as of December 31, 1989. Because some foreign agents registered their suboffices under separate registration numbers, we adjusted the number of registered agents by counting those agents with more than one registration number as one agent. This adjustment resulted in a population size of 776 foreign agents.

To get some indication of whether the registration problems identified in our prior reports still exist, we drew a random sample of 46 of the registered foreign agent files. This size sample was sufficiently large to statistically validate the continued existence of the problems identified in our earlier reports.

We examined records indicating when foreign agent reports were received by the Registration Unit and then comparing that date to report due dates prescribed in the regulations. In assessing the timeliness of agent initial registration, we reviewed 28 initial registration forms filed after 1980. To assess the timeliness of foreign agents' semiannual supplemental forms, we reviewed 46 agent files and the corresponding statements that were supposed to have been filed between June 1, 1987, and April 1, 1990. We limited our review of supplemental statements to those filed after June 1987 to determine whether this is a current problem.

To assess adequacy of disclosure, we reviewed 25 agent files and the agents' required semiannual supplemental statements for the period June 1987 through April 1990.

Our work was conducted from January through June 1990 in accordance with generally accepted government auditing standards.

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# Major Contributors to This Report

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**National Security and  
International Affairs  
Division, Washington,  
D.C.**

Elliott C. Smith, Assistant Director  
Anne M. Pond, Evaluator  
Laura C. Filipescu, Evaluator  
Arthur J. Kendall, Mathematical Statistician  
James M. Fields, Social Science Analyst

Caplin & Drysdale,  
Chartered



Caplin & Drysdale,  
Chartered