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THE FOREIGN AGENTS REGISTRATION ACT

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PREFACE

The following is a background committee print on the Foreign Agents Registration Act.

The print includes a detailed description of the background of the 1938 legislation, as amended, its operation, administration and enforcement, current problems associated therewith, and recommended changes to make the Act more workable. In addition, the print contains a number of other materials on the subject of lobbying and propaganda activities by nondiplomatic representatives, including Justice and State responses to Committee interrogatories, which should prove beneficial during the Subcommittee on International Relations upcoming investigation into the subject—the first such investigation since the one that preceded the 1966 amendments.

The proposed print is the work of a team composed of various members of the American Law Division, Congressional Research Service.

I hope that this document will serve the needs of our committee as well as the needs of the Senate of the United States.

JOHN SPARKMAN, *Chairman,*
Foreign Relations Committee.

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INTRODUCTORY STATEMENT

Ye shall know the truth, and the truth shall make you free.
New Testament, John viii, 32.

A

In common with all laws calling for disclosure, the biblical exhortation lies at the heart of the statutory schemes devised by the Congress to protect the integrity of the decision-making process of the Federal Government: the Federal Regulation of Lobbying Act, 2 U.S.C. 267, and the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611–621. These two pieces of legislation, in some respects complementary and, in others, overlapping,[1] presuppose that the public interest can best be served through disclosure and consequent publicity concerning persons and activities intended to influence governmental actions. Thus, the avowed purpose of the Foreign Agents Registration Act of 1938 was to focus "the spotlight of pitiless publicity" on the activities of foreign agents. House Report No. 1381, 75th Cong., 1st Sess. 2 (1937).

The results after more than thirty years of experience under both Acts clearly indicate that neither biblical promise nor congressional expectations have been fully realized. See, for example, *The Washington Lobby* (2 ed.) Congressional Quarterly, Washington, D.C., 1974. That both of the Federal Government's principal lobbying regulations have to date fallen short of their anticipated goal stems, or so it seems, less from a faulty premise than from a combination of extrinsic and intrinsic problems and shortcomings which have come to light with administrative experience thereunder. At least as concerns the Foreign Agents Registration Act, this is not an unexpected development since, as acknowledged by its chief congressional sponsor, the original 1938 law was an experiment whose modification in light of experience and later developments was not only perceived, but welcomed. Speaking in support of the proposed 1942 revision, Rep. John McCormack, from whom the Act derives its popular name, said:

> The Present bill strengthens the McCormack Act. I was experimenting at that time, and, naturally, when you are experimenting you cannot go as far as you can after you have had experience, and in light of the experience gained from the administration of the McCormack Act, these amendments are necessary for the best interests of our country. 88 *Cong. Rec.* 802 (Jan. 28, 1942).

Since 1938, the Act has been amended several times, including a general revision in 1942 and major amendments in 1966. These legislative changes together with Department of Justice efforts since 1974 to improve administrative procedures and to bolster the staff of the

[1] Under present law, if a foreign agent lobbies before Congress, he must register under both acts.

Registration Unit have produced some positive results. Yet, as the annexed reports and departmental responses to Committee questionnaires indicate, administrative and enforcement problems persist. One of the principal difficulties in administering and enforcing the Act stems from its origins in and early concern with subversive activities. This background together with the popular negative image of foreign agents, makes people who represent foreign principals in legitimate areas reluctant to register. As has been the case for many years, perhaps more than a majority of registrations still result from informal "tips" from officials and private persons rather than from inquiries by potential registrants.

The Act's principal enforcement mechanisms, severe criminal penalties and injunctions, are time-consuming and on occasion inadequate to the changed circumstances that exist in today's world. For example, neither seems especially suited to deal with the practice of foreign agents who come into the country to conduct a "quickie" lobbying and/or propaganda campaign on behalf of their foreign principals and depart these shores. Nor do the criminal penalties appear to be particularly effective in advancing the Act's prime purpose of disclosure. As evident in the Justice Department's answers to the Committee's inquiries, time consuming judicial proceedings undertaken to compel compliance with its requirements are sometimes short-circuited by last minute compliance.

Administration of the Act could be significantly enhanced by the cooperation of other Federal departments and agencies which have responsibilities in allied areas. Notwithstanding recurrent criticisms, the evidence strongly indicates that State and Justice, for example, have yet to settle on procedures which might measureably improve administration of the Act.

Despite some improvement in the last few years, delays attending registration and reporting, features criticized by the General Accounting Office and others, continue at a substantial rate. Justice Department materials and recent litigation suggest that exemptions authorized by the Act are being used to cloak covered activities.

Since resolution of these and a number of other problems which will be described later, entail not insignificant policy shifts, the need for congressional action seems clear. As will be noted more fully later, the problems of chief concern call for (1) renewed emphasis of the law's primary concern for protecting the integrity of the decision-making process of our Government and the right of the public to the identification of the sources of foreign political propaganda with a view toward further deemphasizing its subversive activities past; (2) improved administrative machinery including the use of administrative subpoenas to ensure timely and effective compliance with registration and filing requirements; (3) requiring foreign agents to clear a claimed exemption with the Department of Justice; (4) clarifying existing exemptions, notably the attorney exemption, and establishing safeguards against evasion and abuse; (5) requiring the maintenance of separate books of account and records with respect to agency-related activities; (6) setting a statutory deadline for issuing formal notices of deficiency and noncompliance with the Act's registration and filing requirements; (7) directing all executive departments and

agencies to cooperate with the Justice Department in furthering the purposes of the Act; (8) authorizing the Attorney General to obtain from other agencies of the Government information pertinent to the work provided for in the Act; and (9) requesting similar cooperation by congressional committees whose activities, in the nature of things, are the focal point of foreign lobbying and propaganda efforts.

B

As noted in an article on the subject by Claude-Leonard Davis which appears hereafter—

> Whether clothed with the respectability of the term "public relations" or referred to in such sinister terms as "political warfare" or "psychological warfare," propaganda is a tool for molding opinion and promoting specific action. The control of this tool in the hands of foreign interests is the object of the Act. This sought-after ability to control the propaganda disseminated by agents operating in this country in behalf of foreign principals is intended to result from (1) disclosure of information regarding the source of propaganda disseminated and (2) imposition of penalties for failure to comply with disclosure requirements of the Act. 3 *Georgia Journal of International & Comparative Law* 408 (1973).

The use of foreign agents to influence governmental policies and programs is neither new nor necessarily evil and, by no means, the monopoly of sinister governments. In hearings that preceded the 1966 amendments, then Under Secretary of State George Ball provided some insights into foreign agent activities in behalf of U.S. interests abroad and vice versa. In the early 1840's, for example, President Tyler and his Secretary of State, John C. Calhoun, sent newspaper editor Duff Green to France to promote opposition to and sentiment against the Anglo-French Anti-Slave Treaty. Twenty years later, Secretary of State William Seward sent a churchman and two companions to European capitals where they undertook to promote the Union cause in the Civil War. Hearings Before Senate Committee on Foreign Relations on Activities of Nondiplomatic Representatives of Foreign Principals in the United States, 88th Cong., 1st Sess., Pt. 4, at 3 (1963) (hereafter Hearings).

The use of agents to promote foreign interests on these shores has a similar long-standing history. "Certainly foreign interests have over the years sought to influence the U.S. Congress. . . . The Reciprocity Treaty of 1854 concerning our relations with Canada . . . [was] reputed to have been lobbied through the Congress. . . . Another instance of [foreign] lobbying occurred in connection with the purchase of Alaska, when the Russians employed an ex-Senator . . . and spent considerable sums to lobby through the passage of the Appropriation bill providing for payment of the $7,200,000 purchase price." Hearings at 3–4.

Despite recent charges of efforts by foreign interests to corrupt the legislative process and similar efforts by agents of the United States and of American business to influence foreign political and commercial policies, lobbyists for foreign interests, like their domestic counterparts, can and do serve a "useful role." "Whether acting for foreign governments or other foreign interests, a foreign agent can often serve as an interpreter of systems and habits of thought—as a medium for

bridging the gulf of disparate national experiences, traditions, institutions, and customs. . . . From time to time, an American national acting for a foreign government in a particular problem or dispute has been of great use to the Department of State in explaining its own views to his principal. A conscientious agent can often overcome what is frequently the real impediment to successful understanding—the failure to communicate adequately because of imperfect assumptions as to how the other party thinks about a problem. As long as the official representing the U.S. Government knows with whom he is dealing—and this is the purpose of the Foreign Agents Registration Act—there is no reason why the activities of a foreign agent, advocating a particular point of view to the State Department, should present any dangers to the integrity of American foreign policy." Hearings at 11.

It is hardly surprising that foreign agents in increasing numbers have been appearing in and around the Nation's capital since the end of World War II. The United States came out of the war a military and economic colossus. The size and diversity of its economy has an enormous impact upon the economic well-being of other nations throughout the world. U.S. relief aid has had and for the forseeable future will have significant, perhaps even life or death, implications for the economies of friendly foreign nations. In the words of one commentator—

> Since the end of World War II, the number of foreign agents in the United States has steadily risen. This increase can be traced to various factors, both international and domestic. The number of independent nations having diplomatic relations from the United States has doubled. Since many of the new nations suffer from a lack of experienced personnel, their governments often employ Americans knowledgeable in national affairs to supplement the activities of their diplomatic missions. With the emergence of the United States as the political, financial, and commercial center of the Western world, American governmental decisions have world-wide impact. Nations, as well as large private enterprises, benefit from maintaining reliable sources of information in Washington. Moreover, many governmental programs, such as foreign aid, have made it advisable for recipients to employ permanent advocates to advance their interests. In the private sector, foreign nations have conducted extensive programs to attract both American torists and dollar investments. In each of these areas, the foreign agent plays a significant role. 40 *New York University Law Review* 311 (1965).

Although the use of foreign agents is a time-tested and mutually beneficial practice, recurrent charges of unlawful lobbying by foreign pressure groups demonstrates the continued need to monitor their activities. As revealed during the 1960's investigations into the so-called Sugar Lobby, agent activities can influence official decisions to the point of causing substantial harm to U.S. interests. Moreover, since an agent frequently resorts to the mass media to promote his principal's interests, there is great potential for misleading American public opinion. These and similar considerations underlie the Foreign Agent Registration Act.

C

The Foreign Agents Registration Act of 1938 had its genesis in the lengthy investigation by a special House of Representatives committee into foreign lobbying and foreign propaganda in the United States. Coming as it did on the eve of World War II, the committee understandably and quite expectedly turned up extensive evidence of Nazi inspired and promoted efforts to influence American public opinion. The committee found "incontrovertible evidence . . . to prove that there are many persons in the United States representing foreign governments or foreign political groups, who are supplied . . . with funds and other material to foster un-American activities, and to influence the external and internal policies of this country." House Report No. 1381, 75th Cong., 1st Sess., 1, 2 (1937).

"As a result of such evidence," the committee report continues, "this bill was introduced, the purpose of which is to require all persons who are in the United States for political propaganda purposes—propaganda aimed toward establishing in the United States a foreign system of government, or group action of a nature foreign to our institutions of government, or for any other purpose of a political propaganda nature—to register . . . and to supply information about their political propaganda activities, their employers, and the terms of their contracts." Ibid.

The committee report expressed the hope that "this required registration will publicize the nature of subversive or other similar activities of such foreign propagandist so that the American people may know those who are engaged in this country by foreign agencies to spread doctrines alien to our democratic form of government, or propaganda for the purpose of influencing American public opinion on a political question." Ibid.

As described a few years later by Chief Justice Stone:

> The Act of 1938 requiring registration of agents for foreign principals was a new type of legislation adopted in the critical period before the outbreak of the war. The general purpose of the legislation was to identify agents of foreign principals who might engage in subversive acts or in spreading foreign propaganda, and to require them to make public record of the nature of their employment." *Vierick* v. *United States*, 318 U.S. 236, 241 (1943).

In brief, the Act was framed in the context of subversive activities rather than lobbying and has been generally perceived in that light. This common perception was understandable given the circumstances in which it was conceived. The Act continues to be widely regarded as such despite the intent of Congress in 1966 to shift its focus in the direction of protecting the integrity of governmental process. As indicated, this widespread misapprehension of the existing law's purpose impedes its effective operation.

D

The Foreign Agents Registration Act generally requires persons and firms 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.

Notwithstanding numerous changes since its original passage into law, the Act's stated basic purpose is still—

> . . . to protect the national defense, internal security, and foreign relations of the United States by requiring public disclosure by persons engaging in propaganda activities and other 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 the light of their associations and activities. 22 U.S.C. 611 note.

Accordingly, the purpose of the Act is disclosure and publicity; it does not and it is not intended to prohibit lobbying or propaganda in behalf of foreign interests. The law's philosophical underpinnings was given eloquent expression by Mr. Justice Black who said:

> Resting on the fundamental constitutional principle that our people, adequately informed, may be trusted to distinguish between the true and the false, the bill is intended to label information of foreign origin so that hearers and readers may not be deceived by the belief that the information comes from a disinterested source. *Viereck* v. *United States*, 318 U.S. at 251.

In broad outline, this Act (1) defines who must register with the Department of Justice as a foreign agent, (2) specifies how such agents are to register and report on their activities, (3) exempts certain types of foreign agents from registration, (4) has specific filing and labeling requirements for political propaganda disseminated by registered agents, (5) requires all registered agents to preserve books of account and other records on all their activities and to make these records available for inspection by the officials responsible for enforcing the Act, (6) provides for public examination of all agents' registration statements, reports, and political propaganda filed with the Department, (7) imposes penalties for willful violation of the Act or related regulations, and (8) specifies administrative and judicial enforcement procedures available to the Attorney General in bringing about compliance with the requirements of the Act.

DEFINITIONS

The Foreign Agents Registration Act requires every agent of a foreign principal who engages in political activities to file a registration statement with the Attorney General. The key terms "foreign principal", "agent of a foreign principal", and "political activities" are broadly defined in section 1 of the Act. 22 U.S.C. 611(b), (c), (d). A "foreign principal" is defined as a foreign government, a foreign political party, and person outside of the United States; and an organization having its principal place of business in a foreign country.

An "agent of a foreign principal" is broadly defined as any person who acts as an agent for or who acts under the direction or control of a foreign principal, either directly or indirectly, and who—

> (1) Engages within the United States in political activities for or in the interests of such foreign principal;
>
> (2) Acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;

(3) Within the United States, solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or

(4) Within the United States represents the interest of such foreign principal before any agency or official of the Government of the United States.

Any person who agrees, consents, assumes or purports to act as or who holds himself out to be an agent of a foreign principal is declared to be an agent of a foreign principal.

The term "political activities" is defined as the dissemination of political propaganda and any other activity which the person believes "will . . . prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence any agency or official of the Government . . . or any section of the [American] public . . . with reference to the . . . the domestic or foreign policies of the United States or with reference to the political or public interests . . . of a foreign country or a foreign political party."

The definitions section expressly excludes from the term "agent of a foreign principal," U.S. owned and controlled news media and press services which are engaged in any bona fide news or journalistic activities, which are 80 percent U.S. owned and which are not controlled by an agent required to register.

EXEMPTIONS

In contrast to the definitional exclusion of the news media and press services, the Act expressly exempts from registration and other requirements specified persons on the basis of certain activities which they perform on behalf of foreign principals. Briefly, while these persons are considered to be agents of foreign principals, they are not required to comply with the Act so long as they confine their agent undertakings to certain kinds of activities. Included in the class of persons whose activities take them out from coverage by the Act are foreign diplomats and consular officers, and officials of foreign governments, their staffs and employees as long as they are acting within the slope of their official duties. The exemption from registration thus provided applies to the enumerated class of persons while they are engaged in activities recognized by the Department of State "as being within the scope of the functions of such" offices and positions. 22 U.S.C. 613(a). Departmental regulations extend this exemption to non-American nationals who act as accredited and accepted representatives in or to an international organization in accordance with the provisions of the International Organizations Immunities Act. 28 C.F.R. § 5.303.

One of the most significant exemptions made by the Act is the "commercial exemption." It exempts—

> Any person engaging or agreeing to engage only (1) in private and nonpolitical activities in furtherance of the bona fide trade or commerce of such foreign principal; or (2) in other activities not serving a predominantly foreign interest; or (3) in the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and clothing to relieve human suffering, if such solicitation or

collection of funds and contributions is in accordance with and subject to the provisions of sections 441, 444, 445 and 447–457 of this title and such rules and regulations as may be prescribed thereunder. 22 U.S.C. 613(d).

In order to avail himself of this privilege, the agent must confine his activities to private as well as non-political matters. Departmental regulations provide that activities of an agent of a foreign principal "in furtherance of the bona fide trade or commerce of foreign principal, shall be considered 'private,' even though the foreign principal is owned or controlled by a foreign government, so long as the activities do not directly promote the public or political interests of the foreign government. 28 C.F.R. § 5.304.

In addition to the exemption permitted foreign agents who solicit and collect funds for the described humanitarian purposes, the Act also exempts those agents engaged only in the furtherance of "bona fide religious, scholastic, academic, or scientific pursuits or the fine arts." 22 U.S.C. 613(d)(e).

The Act gives the Attorney General discretionary authority to exempt—

> Any person, or employee of such person, whose foreign principal is a government of a foreign country the defense of which the President deems vital to the defense of the United States while (1) such person or employee engages only in activities which are in furtherance of the policies, public interest, or national defense both of such government and of the Government of the United States, and are not intended to conflict with any of the domestic or foreign policies of the Government of the United States, (2) each communication or expression by such person or employee which he intends to, or has reason to believe will be published, disseminated, or circulated among any section of the public, or portion thereof, within the United States, is a part of such activities and is believed by such person to be truthful and accurate and the identity of such foreign principal is disclosed therein, and (3) such government of a foreign country furnishes to the Secretary of State for transmittal to, and retention for the duration of this subchapter by, the Attorney General such information as to the identity and activties of such person or employee at such times as the Attorney General may require. . . . 22 U.S.C. 613(f).

The final exemption authorized by the act affects attorneys who represent disclosed foreign clients in formal and informal judicial or administrative proceedings. The act, in pertinent part, exempts—

> Any person qualified to practice law, insofar as he engages or agrees to engage in the legal representation of a disclosed foreign principal before any court of law or any agency of the Government of the United States: *Provided*. That for the purposes of this subsection legal representation does not include attempts to influence or persuade agency personnel or officials other than in the course of established agency proceedings, whether formal or informal. 22 U.S.C. 613(g).

Regulations implementing the attorney exemption provide that attempts to influence agency personnel include attempts to influence or persuade with reference to formulating, adopting, or changing do-

mestic 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 foreign political party. 28 C.F.R. § 5.306(a). When engaged in a legal representation of a foreign principal before a U.S. Government agency, an attorney is "required to disclose the identity of his principal . . . to each of the agency's personnel or officials." Ibid.

REGISTRATION

The heart of the Act is the registration section. It provides that no person shall act as an agent of a foreign principal unless he has filed a registration statement with the Attorney General. It further requires that every person who is an agent of foreign principal file a registration statement with the Attorney General. 22 U.S.C. 612.

The Act and implementing regulations require a foreign agent to file with the Department an initial registration statement together with required exhibits, within ten days after the agency relationship is established but before the agent acts. Thereafter, for as long as the relationship continues, the agent is required to file supplemental statements within thirty days after the close of each six month period. Similarly, within ten days after the relationship is established, a short-form registration statement must be filed by each partner, officer, director, associate, employee, and agent of the registrant who engages directly in furthering the interest of the registrant's principal. However, employees and agents of the registrant who render indirect services, such as clerical or secretarial services, are exempt from filing. Finally, the agent must file a final statement of activities within 30 days after the agent-principal relationship is terminated.

The contents of the statement as prescribed by the Act and regulations require a detailed report of all information needed to make disclosure meaningful. This includes, among other things, the registrant's name and business address, his nationality, if he is an individual; if the agent is a corporation, the name, address and nationality of each director; a complete list of the registrant's employees and a comprehensive statement of the nature of his business; a comprehensive statement of the nature of and method of each proposed activity to be engaged in on behalf of the foreign principal; activities engaged in behalf of his principal; the amount, nature, and time of every contribution received from a foreign principal; and a detailed statement of all expenditures of money and other things of value.

PROPAGANDA

The Act further requires each and every registrant to file copies of political propaganda within forty-eight hours of its dissemination. 22 U.S.C. 614. The propaganda materials must be accompanied by a dissemination report which details the places, times, and extent of its dissemination. This material must also be conspicuously labeled or marked with an accurate statement—

> setting forth the relationship or connection between the person transmitting the political propaganda or causing it to be transmitted and such propaganda; that the person transmiting such political propaganda or causing it to be transmitted is registered

> under this subchapter with the Department of Justice, . . . as an agent of a foreign principal, together with the name and address of such agent of a foreign principal and of such foreign principal; that, . . . his registration statement is available for inspection at and copies of such political propaganda are being filed by the Department . . . ; and that registration of agents of foreign principals . . . does not indicate approval by the United States Government of the contents of their political propaganda.

The Act specifically prohibits the dissemination of political propaganda "to any agency or official of the Government (including a Member or committee of either House of Congress)" unless accompanied by a statement clearly indicating that the person transmitting it is a registered foreign agent.

LOBBYING CONGRESS

Similarly, the Act requires that when an agent appears before a congressional committee for or in the interest of his foreign principal, he must file a copy of his most recent registration statement as part of his testimony. 22 U.S.C. 614(f).

BOOKS AND RECORDS

Every registered agent must keep detailed books of account and other records on all activities required to be disclosed under the Act and to preserve such books and records for three years after the termination of the relationship. These books and records must be open to inspection by any official charged with enforcing the Act. It is a crime subject to the Act's severe penalty provision to willfully conceal, destroy, obliterate, multilate or falsify any required book or records.

LIABILITY OF OFFICERS

Under the Act, every officer, director, and person performing the functions of an officer or director of an organization acting as an agent of a foreign principal is responsible for the compliance by that organization with the requirements of the Act. Dissolution of an organization acting as an agent of a foreign principal does not relieve an officer or director of compliance with the provisions of the Act. Failure to comply with this requirement is subject to the Act's penalty provisions. 22 U.S.C. 617.

ENFORCEMENT AND PENALTIES

Enforcement of the Act is by both criminal penalties and injunction. A person who is convicted of willfully violating the Act may be fined up to $10,000 or imprisoned up to 5 years, or both. Similar penalties are authorized in the case of willful false statements and willful omissions of material facts on registration statements and other submissions which are required to be filed by the Act. Violations of the propaganda filing and labeling provisions, the prohibition against contingent fee contracts, and excessive delay—beyond ten

days—in responding to a deficiency notice are misdemeanors punishable by up to $5,000 fine or six months imprisonment or both. 22 U.S.C. 618(a).

In addition to the criminal penalties, the Act authorizes the Attorney General to bring injunctive proceedings to compel compliance with the Act and its implementing regulations. 22 U.S.C. 618(f).

ADMINISTRATION

The Act is administered by the Registration Unit of the Internal Security Section, Criminal Division, Department of Justice. The Unit has the added responsibility of enforcing the provision of the criminal code which prohibits officers and employees of the Government, including Members of Congress, from acting as agents of foreign principals. 18 U.S.C. 219. In addition the Unit administers two statutes more closely allied with subversive activities: the Voorhis Act, 18 U.S.C. § 2386, which requires certain organizations subject to foreign control to register; and the Act of August 1, 1956, 50 U.S.C. §§ 851–57, which generally calls for the registration of certain persons trained in foreign espionage systems.

E

The Congress has legislated in a number of other respects in the area of foreign agent activity. For example, it is a criminal offense for a person, other than a diplomatic or consular official or attache, to act in the United States as an agent of a foreign government without prior notification to the Secretary of State. 18 U.S.C. § 951. Additionally, it is a crime, subject to severe criminal sanctions, for *any* Federal or District of Columbia official or employee either to be or to act as an agent of a foreign principal required to register under the Foreign Agents Registration Act. 18 U.S.C. 219.

The Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 441(e), prohibits political contributions by, and the receipt of political contributions from, a foreign national. The term "foreign national" is defined by the legislation to mean a foreign principal, incorporating by reference the Foreign Agents Registration Act's definition thereof, and "an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence. . . ."

The Constitution prohibits an individual "holding any Office of Profit or Trust" from accepting gifts and decorations by foreign governments without consent of the Congress, Article I, section 9, clause 8. As described by Joseph Story, the reason behind the constitutional prohibition "is founded in a just jealousy of foreign influence of every sort." Story, III *Commentaries on the Constitution of the United States* § 1346 (Da Capo ed. 1970). In 1966, the 89th Congress passed Public Law 89–673, "an Act to grant the consent of Congress to the acceptance of certain gifts and decorations from foreign governments." That law, which is presently codified at title 5 United States Code, section 7342, "prohibits Federal officials from accepting any gift worth more than $50 from foreign governments or their representatives." House Department No. 95–73, 13 (1977).

Finally, both the Senate and the House in recent months have strengthened their respective codes of ethical conduct. Although the relevant Senate and House Rules differ in detail, both generally limit gifts by any person having a direct interest in legislation before Congress or a foreign national to $100. Senate Rule XLIII, as amended; House Rule XLIII, as amended.

F

Concern for the integrity of the decision-making process has caused Congress to enact a variety of legal safeguards designed to protect against *sub rosa* lobbying and propaganda activities by nondiplomatic agents. By far the most important of these is the Foreign Agents Registration Act which, as noted, was intended to bring persons engaged in such activities out into the open so that the Government and the American people would know who they were, where the propaganda came from and who was paying for it. Although the circumstances that led to its passage in 1938 have changed, the need for the Act's safeguards has not. Indeed, the words used by former Foreign Relations Committee Chairman J. W. Fulbright to describe the prevailing situation in opening the 1963 hearings into the subject are just as appropriate today. He said:

> In recent years there have been increasing numbers of incidents involving attempts by agents of foreign principals to influence the conduct of U.S. foreign policy using techniques outside normal diplomatic channels. Various members of this committee have become disturbed by this trend which has been paralleled by an upsurge in the hiring within this country of public relations men, economic advisers, lawyers, and consultants in miscellaneous areas by foreign governments or groups acting in the interest of foreign governments. The tempo of this nondiplomatic activity has picked up in almost direct proportion to our Government's growing political, military, and economic commitments abroad. Hearings, at 2.

Although it forms the centerpiece of the Government's regulatory scheme, experience under the Act continues to lag behind expectations. A review of the materials developed by the investigation to date and set out hereafter, clearly indicates that the responsibility for the present state of affairs can no longer be solely laid at the feet of the personnel of the Registration Unit or supervisory officials in the Department. Despite evidence of some reluctance on the part of department officials to commit resources and energy to fully enforce the Act in the sixties, see, for example. Hearings, at 121 et seq., there seems to be a new spirit abroad in the Unit; its staff has made significant administrative progress since a critical 1974 report by the General Accounting Office. Major current problems seem to indicate that significant legislative changes are needed to make the Act work more efficiently and effectively. These include:

Removal of Impediments to Registration Under the Act.—The Act as originally passed was designed primarily to cope with threats to the national security posed by subversives. Enacted in 1938 (52 Stat. 631), the law was essentially a "wartime measure" designed to deal with the problem of Nazi propaganda efforts in the United States. Following World War II the provisions of the Act increasingly applied to

agents of communist countries. Today, in spite of the 1966 amendments which were intended to shift the focus away from subversion and to spotlight foreign interest lobbying, vestiges of the law's antecedents continue to play hob with its effective operation. "The need for emphasizing the internal security aspects of the Foreign Agents Registration Act has greatly diminished since the Act's passage in 1938. Today, the foreign agent is principally the promoter of a nation's legitimate economic interests. Accompanying this change of purpose has been a change in the methods employed by the agent. While in 1938 agents were engaged in paramilitary activities and in the distribution of emotion packed pamphlets, in 1963, for example, one sixth of all registrations were for government information centers which have as their main function the promotion of tourism and investment. Moreover, since 1938 other statutes have been passed which are specifically designed to deal with potentially subversive behavior. To a great extent the need for the Foreign Agents Registration Act as part of our internal security legislation has been obviated." 40 *New York University Law Review* 311, 313–14 (1965).

As indicated, one of the major purposes of the 1966 Amendments was to change the focus of the Act to place emphasis on protecting "the integrity of the decision-making process of our Government and the public's right to know the source of the foreign propaganda to which they are subjected." S. Rep. No. 143, 89th Cong., 1st Sess. 5 (1965). However, the association of the Act, in the eyes of many, with earlier efforts to curtail foreign intelligence activities has stigmatized the registration process. It is that association which is in large part responsible for the difficulty encountered by those administering the Act in obtaining voluntary compliance by those required to register. The Congress may wish to consider three approaches to accomplishing the removal of that stigma: (1) alteration of language used in the current statute; (2) adjustment of the provisions of the law to separate the concepts of lobbying from the idea of propagandizing with subversive intent; and (3) changing the organizational structure within the Justice Department of those officers assigned the tasks of administering both the Foreign Agents Registration Act and current antisubversive statutes to reflect this separate focus.

The changes in focus already accomplished by the 1966 Amendments can be significantly advanced by simple language changes within the law to eliminate pejorative connotations. "Due to the original criminal/subversive/'traitor' aura surrounding the Act and due to the psychosocial stigma which must attach to being known as a 'foreign agent', any attorney or businessman would probably be hesitant to register under the Act if it could be avoided. This factor might well account for the flurry of reluctant registrations which seems to follow almost any litigation or committee investigation into a particular area of coverage under the Act." 3 *Georgia Journal of International and Comparative Law* 408, 427 (1973). "By placing affected businessmen and professionals in a position to be referred to as something other than a 'foreign agent', the stigma of registration might be lifted with respect to those to whom the term sounds more like an epithet than an outdated choice of words." *Id.*, at 429.

The Justice Department has endorsed such changes, suggesting that the language of the Act is a deterrent to compliance in that it casts

the mere representation of foreign clients in an unfavorable light. Changing the Act's popular name to "Federal Regulation of Foreign Lobbying and Propaganda Act" might constitute a first step in overcoming the reluctance of many to be officially recorded as having complied with the statute. Substitution of the words "promotional material" for the word "propaganda" in selected places may also aid in adapting the language to current needs.

While it has been suggested that the term "agent" be replaced with "representative" as a step toward destigmatizing the law, such a step must be undertaken with caution. This change could have the effect of blurring proper application of principles of the law of agency to the statute—principles which are essential to consistent interpretation of the Act's requirements. The law of agency currently provides a reasonably settled and well understood framework for those who might otherwise be unsure as to the nature of the requisite relationship between representative and principal which requires registration.

The present organizational structure within the Justice Department of those responsible for enforcement of the Act may also contribute to a mistaken popular view of the purpose of the law. Prior to 1973 the Registration Unit was constituted as a Section within the Internal Security Division. Today the Unit is part of the Internal Security Section within the Criminal Division. Both the placement within the criminal sphere and the continued association of the Unit with "internal security" have served to accentuate the feeling among those who comply that they are making admissions with criminal or subversive overtones. An alternative system is to set up the Registration Unit as a separate Office within the Department of Justice, headed by its own Director. The Unit's attention might then be focused entirely upon the task of administering the Act and the ancillary provision of Title 18 regarding "agents" who are officers and employees of the United States (18 U.S.C. 219). Enforcement of the Voorhis Act (18 U.S.C. 2386), dealing primarily with registration of subversive organizations, and the provisions of current law covering registration of those trained in foreign espionage (50 U.S.C. 851–857) could remain the responsibility of the Internal Security Division. It is noteworthy that the Senate Foreign Relations Committee, in assessing the effect of the 1966 Amendments, suggested that "[n]ow that the focus has changed, the committee suggests the Department of Justice reassess its administration of the Act under its Internal Security Division and study the possibility of placing responsibility for it within the Criminal Division which already has charge of similar statutes such as the Federal Lobbying Act." S. Rep. No. 143, 89th Cong., 1st Sess., 5 (1965). While the Registration Unit has in fact become a part of the Criminal Division, it still remains subordinated to the Internal Security Section.

In summary, the new focus given the Act by the 1966 Amendments, while significantly altering the thrust of the statute, has not been widely perceived or appreciated. The stigma associated with being a foreign agent persists. This "remnant" of the original legislation is a significant obstacle to voluntary compliance today, a fact which jeopardizes the ability of the Registration Unit to gain proper disclosure without expending inordinate and often unavailable time and effort in policing the Act.

Administrative Enforcement.—As originally enacted the Act was aimed at foreign subversive activities. By the mid-sixties, Congress had concluded that, "The original target of foreign agent legislation—the subversive agent and propagandist of pre-World War II days—has been covered by subsequent legislation, notably the Smith Act. The place of the old foreign agent has been taken by the lawyer-lobbyist and public relations counsel whose object is not to subvert or overthrow the U.S. Government, but to influence its policies to the satisfaction of a particular client." Senate Report No. 143, 89th Cong., 1st Sess. 4 (1965). The 1966 amendments were designed to modify the Act to reflect this shift in focus, "Too broadly written for today's needs the present act's disclosure provisions have through the years been too narrowly enforced with the emphasis placed on subversive or potentially subversive agents. One of the major purposes of this bill is to reaffirm the change in focus of the act to place primary emphasis on protecting the integrity of the decision-making process of our Government and the public's right to know the source of the foreign propaganda to which they are subjected." *Id.* at 5. Prior to the amendments, the Act provided a single penalty for all violations—5 years imprisonment and/or a $10,000 fine, see 22 U.S.C. 618 (1964). The alteration of the basic thrust of the Act was accompanied by creation of a lower tier of criminal penalties (6 months imprisonment and/or a $5,000 fine), an inspection provision covering registrants, and the availability of injunctive relief. After more than a decade, Congress may wish to consider whether additional investigation and enforcement provisions might more effectively fulfill the primary purpose of the Act.

There is evidence that investigation by the Registration Unit is more effective and timely than FBI investigations:

> By way of experiment, the Registration Unit recently directed two attorneys to proceed to New York to call upon three separate registrants with which the Unit was having problems. They departed in the morning and returned the same day. The following morning an oral report was made followed by a written one. Within a matter of a week, proper statements were submitted and files were brought up to date. In contrast, the same activity of the FBI would have entailed three separate requests, three long memoranda tailored to meet our needs regarding each registrant, and the usual delay caused by routing correspondence through communication channels. A report on any of these cases could not normally have been expected for at least 2 months. Pt. VI, p. — [p. 4].

While under some circumstances the grand jury may be an effective investigation tool it can be cumbersome, expensive and in some instances counterproductive, "In one instance within the last several years, preparations were made for presenting evidence to a grand jury concerning a failure to file a supplemental statement. Several days before the hearing, the registrant filed the required statement. Under such circumstances it would be extremely difficult to convince a grand jury to indict such a registrant for not filing within the prescribed time limit." *Id.* More importantly, use of the grand jury for less serious violations may constitute overkill and utilization where only civil action is contemplated seems improper.

The inspection provisions do provide some assistance but they are limited to those agents who are already registered and theerfore can be of little assistance in an investigation of those who ought to be registered but are not.

With respect to use of the available civil procedures, the Department has stated, concerning one civil case prior to the GAO report:

> . . . However, the action was exceedingly time-consuming and extended over a period of roughly 6 months, even though the case was treated as a preferred cause as required by Section 8(f) of the Act. The staff attorney assigned to the case spent full time on it during the actions in the District Court, the Court of Appeals and prior to the Supreme Court decision. In other matters involving what might be termed routine failures to comply with various obligations imposed by the Act, the automatic resort to injunctive or prosecutive processes would be more time-consuming and more costly than trying to effect compliance by correspondence or visits. It would also, in a way, amount to an overkill. *Id.* at p. — [p. 4].

Congress should consider whether more timely and complete compliance with the Act might be accomplished by providing the Department of Justice with the enforcement authority enjoyed by other agencies responsible for enforcing other statutory schemes where the disclosure of information is important. For example, the investigation limitations imposed by use of the grand jury and the inspection procedure might be overcome by authorizing the Department to summon individuals to appear, testify and/or produce records or other documents. Other agencies have been given such authority, Pt. VI, I.3.(b) citing Internal Revenue Service, see 26 U.S.C. 7602; Securities and Exchange Commission, see 15 U.S.C. 77s; Civil Aeronautics Board, see 49 U.S.C. 1484; Federal Aviation Administration, see 49 U.S.C. 1354; Department of Agriculture, see 7 U.S.C. 210; Federal Trade Commission, see 15 U.S.C. § 49. There is some evidence that the absence of such authority has encumbered past enforcement: "Where the Justice Department has reason to believe that such a group is in fact supported or controlled by a foreign principal, it may try to investigate whether the group is accurately representing its structure. It is hampered, however, by the lack of administrative subpoena powers under FARA." *Congressional Quarterly*, April 16, 1977 at 700.

Congress should also consider the desirability of permitting the Attorney General to assess civil penalties for minor violations as has been done in a number of other administrative context, see *Atlas Roofing Co.* v. *Occupational Safety & Health Review Commission*, 518 F.2d 990, 1003–1008 (5th Cir. 1975) listing federal agency provisions permitting agency assessment of civil penalties including 7 U.S.C. 203 (civil penalty for failure to register a stockyard).

Of course, all of these suggested changes presume continuation of existing enforcement alternatives for more serious violations and for investigations where such procedures have proved effective in the past.

If Congress should decide to vest the Department either with the authority to compel appearance and the production of evidence, or civil penalties, or both, there are other procedural questions that would

have to be answered. For example, given the size of the Registration Unit, it would seem preferable to provide for judicial enforcement of administrative subpoenas and judicial review of the assessment of civil penalties rather than establishing a hearing procedure within the Department. It might also be thought desirable to add a provision authorizing the administration of oaths and affirmations in connection with such adminstrative subpoenas. Finally, in view of agents' concern for confidentiality, see *Congressional Quarterly*, April 16, 1977 at 703, Congress may wish to consider a confidentiality requirement *prior to* a Department determination that the individual or group under investigation should be registered. Obviously, such a requirement should not be worded so as to preclude enforcement once the Department has made a determination that registration is required.

Affirmative Obligation to Apply for an Exemption under FARA.— The Foreign Agents Registration Act, 22 U.S.C. 611 et seq., requires persons and organizations engaging in political propaganda activities in the United States as agents of foreign principals to register with the Government. However, agents of foreign principals who are engaged in certain activities are exempt from the registration requirements. 22 U.S.C. 613. Thus, diplomats and consular officials and their staffs are not required to register so long as they are engaged in activities recognized by the State Department as being within the scope of their official functions. Persons engaged solely in furtherance of the bona fide trade or commerce of the foreign principal are exempt. Those soliciting and collecting funds for specified humanitarian purposes and persons engaged in religious, scholastic, academic, scientific, or, artistic endeavors are also not required to register. Agents of a foreign government the defense of which the President deems vital to the defense of the United States may also, under certain circumstances, be exempt from registering under the Act. Finally, the "attorney's exemption" applies to legal representation before courts or government agencies so long as the agent confines his attempt to influence the course of formal or informal official proceedings.

The effective monitoring and enforcement of the registration requirements has been a problem since the inception of the Act in 1938. Major amendments to the Act occurred in 1966 designed in part to facilitate enforcement. Congressional oversight and a 1974 GAO report revealed, however, that weaknesses remained in the administration of the Act. Limited staff and funding were cited as underlying causes of the problems experienced by the Department of Justice in implementing fully the requirements of the Act.

The nature of the reporting requirements themselves also contribute to the failure to enforce the Act to its fullest extent. Agents who qualify under one of the exemptions are not required to register. However, no formal claim of exemption is required to be made; persons deeming themselves exempt under the terms of the Act simply do not register as foreign agents. Thus, potential registrants often make a determination of their status on their own, without the necessity of prior administrative determination. If their activities are never made known to the Department, their failure to register and the legitimacy of their claimed exemption will never come to light and be subjected to departmental scrutiny.

In an effort to insure that all who should register do, in fact, register, it seems advisable to amend the Act to require from all potential registrants an affirmative request for exemption. Such a requirement will presumably prompt those who are uncertain of their status but who believe an exemption applies to their situation, to seek an official administrative determination rather than proceed on the basis of their own judgment. While existing law does not preclude the imposition of a specific claim for exemption, a statutory requirement, with an accompanying penalty, would arguably strengthen compliance with the Act. Since at present, a majority of registrations result from information received from other sources and not from inquiries of potential registrants as to their obligations under the Act, an affirmative statutory obligation to formally apply for exemption under the Act will undoubtedly increase the number of registrations and result in greater public disclosure of the activities of those acting on behalf of foreign interests. The Department of Justice, in response to inquiries from the Senate Foreign Relations Committee, has stated that enactment of such a provision would greatly assist the Registration Unit in its attempts to insure that all foreign agents are registered.

The imposition of such a requirement will increase the amount of paperwork generated by the Act and necessitate more administrative man-hours in examining, investigating, and determining the merits of applications. The impact on staffing and funding should therefore be studied as it has been the lack of adequate staff and funds which has in the past hampered effective enforcement of the Act. Formal procedures for submitting applications for exemptions should also be implemented. Greater effort by the State Department, particularly in advising visa applicants of the requirements of the Act and informing the Justice Department of notifications under 18 U.S.C. 951 (agents of foreign governments required to notify State Department), will be needed if an exemption application system is to be successful. Apparently, no formal liason mechanism with respect to such matters has been established by the State Department and the Department of Justice.

Attorney-Client Privilege.—"Where legal advice of any kind is sought from a professional legal adviser in his capacity as such, the communications relating to that purpose, made in confidence by the client. are at his instance permanently protected from disclosure by himself or by the legal adviser, except the protection be waived." 8 *Wigmore on Evidence* § 2292 (McNaughton Rev.); see also *McCormick on Evidence* § 87 (2d ed. 1972). The privilege is not limited to clients who are natural persons, *Radiant Burners, Inc.* v. *American Gas Ass'n*, 320 F.2d 314 (7th Cir. 1963). Although in certain criminal contexts the Sixth Amendment right to the assistance of counsel may require recognition of the attorney-client privilege, the privilege is not generally required and is ordinarily viewed as a testimonial privilege available as a matter of common law subject to statutory modification. Moreover, the fact of the existence of the attorney-client relation is not ordinarily privileged. *In re Grand Jury Proceedings*, 517 F.2d 666 (5th Cir. 1975). It is therefore not surprising the United States Supreme Court in *Rabinowitz* v. *Kennedy*, 376 U.S. 605 (1964), held that the Act prior to the 1966 amendments "attorneys representing a

foreign government in legal matters including litigation, are not exempt from registration under the Foreign Agents Registration Act." *Id.* at 610.

The 1966 amendments added subsection 3(g), 22 U.S.C. 613(g), to the Act's exemptions.

> The requirements of section 612(a) of this title shall not apply to the following agents of foreign principals:
>
> * * * * *
>
> (g) Any person qualified to practice law, insofar as he engages or agrees to engage in the legal representation of a disclosed foreign principal before any court of law or any agency of the Government of the United States: *Provided*, That for the purpose of this subsection legal representation does not include attempts to influence or persuade agency personnel or officials other than in the course of established agency proceedings, whether formal or informal.

This provision may well present problems with enforcement of the Act in cases where attorneys are required to register. In a recent case involving an attorney-registrant's refusal to permit inspection on the basis of the attorney-client privilege, the court declared, "an attorney who represents a foreign principal and who has registered as an agent under the Act may validly claim the attorney-client privilege to withhold from disclosure to delegates of the Attorney General documents or portions thereof which are required to be kept under the Act. Whether such documents are properly within the scope of the privilege, however, is for the Court to determine." *Attorney General* v. *Covington & Burling*, Civil Action No. 75–1238, Slip op. at 11–12 (D.D.C. April 23, 1976). During the course of its opinion the court also suggested that Congress might have dealt with the problem otherwise:

> It is easy for the Court to visualize a situation in which a document that would be helpful to the government in determining whether an agent has made an accurate disclosure under the requirements of the Act would, if completely disclosed, tend to reveal a client-attorney confidence. It is more difficult to understand, however, why a foreign principal would object to the disclosure of such a document to a certain few officials of the Justice Department acting as delegates of the Attorney General under the Act. The question is, would the disclosure of a document containing an attorney-client confidence to a few persons, who are primarily interested in whether the agent who has registered under the Act has adequately fulfilled his statutory obligations, have a substantial inhibiting effect on the foreign principal in his communications with his attorney-agent. The Court would agree that it is very unlikely that disclosure to these officials would result in public disclosure of confidential conversations between the foreign interest and its attorney-agent.
>
> The foreign principal may fear, however, that these persons at the Justice Department might, intentionally or not, directly or indirectly, disclose the confidences to persons who might make use of the embarassing, unfavorable or secret information against the principal. In fact, there is no express provision in the Act which would deter an official in the Justice Department from do-

ing this. Nor does there appear to be any statute elsewhere which would do so. Compare 18 U.S.C. § 1905 (1970). Nor does it appear that injunctive relief would be helpful, since a decree probably could not be obtained before the damage was done. In the end, the foreign principal would simply have to rely on the good faith of the Attorney General's delegates at the Justice Department.

Were foreign principals not the clients here, this reliance might suffice. But, however unreasonable it may appear to be, foreign interests might well doubt that officials of the Justice Department would or could keep the information disclosed to them confidential. The Court concludes, then, that to some extent at least the policy supporting the attorney-client privilege would likely be compromised by denying the foreign principal the power to claim the privilege against the disclosure of certain documents to officials of the Justice Department. This is, therefore, a problem which Congress might well have considered when it drafted the statute. *Id.* at 4–5.

In addition to the problems raised in *Covington & Burlington*, there is some evidence that attorneys view their professional status as sufficient to shield them from the requirements of the Act even when engaged in conduct not exempted by the Act. See *Congressional Quarterly*, April 16, 1977 at 700.

In considering legislative alternatives, Congress may wish to revert to the position suggested by *Rabinowitz*, *i.e.*, revocation of any attorney exemption even in cases of representation in legal matters including litigation with possible disclosure exceptions of a very limited nature such as those covering instances where the information involves a foreign principal's defense in criminal proceedings and his communications with his attorney in the preparation of his defense. Another alternative might be to continue the current exemption but to require complete disclosure to the Department of Justice with a confidentiality provision barring further disclosure prior to a Departmental determination that the Act required public disclosure. A third alternative would be to codify the approach of *Covington & Burling*, that is to establish *in camera* procedures in which a court would determine whether there was a valid claim of exemption either for purposes of registration, for purposes of disclosure to the Department, or for purposes of public disclosure under the Act.

If Congress were to expand the Department's authority to require the production of records and documents not only of registrants but also of those whom the Department felt might be covered by the Act, the need to resolve the question of attorney-client privilege should be more pressing.

Need for Greater Inter-Agency Cooperation.—The exchange of information between the Registration Unit at the Justice Department and other Federal agencies, especially the Department of State, is essential to proper administration of the Foreign Agents Registration Act. In its 1974 *Report To The Committee On Foreign Relations*, the General Accounting Office (see Chapter V) stated its conclusion that "the Department [of Justice] should work out an interagency agreement with the Department of State concerning referral and followup of persons who are potentially subject to registration." It is the monitoring of those entering the United States on visas which can best be

done at State and would be of significant aid to the Registration Unit at Justice. The GAO *Report* stated that "[c]onsular officers of the Department of State are expected to determine whether visa applicants' prospective activities may obligate them to register under the Act and, if so, to inform the applicants. However, the consular officers are not required to—and therefore do not—notify the Department [of Justice] of the impending arrival of such persons. The Department [of Justice] therefore cannot follow up to determine such persons' actual obligations and, when necessary, to require registration." The *Report* added that in fiscal 1971 State issued more than 2.4 million visas. Information was not available on the numbers who may have been advised of their possible obligations to register.

In response to the GAO recommendations, the Department of Justice stated its intention to "establish and maintain liaison with Congressional committees and U.S. agencies dealing with foreign matters." See Justice Department Memorandum, Chapter VI at — [2]. Justice further added: "It is our intention to have attorney teams contact congressional committees and U.S. agencies dealing in foreign matters to ascertain whether agents are complying with their disclosure requirements. These teams will set up personal contacts and maintain communication on a continuing basis in order to (1) exchange information concerning the activities of agents of foreign principals in dealing with these committees and agencies, especially with reference to the disclosure of the identities of foreign principals, labeling of propaganda, etc.; and (2) be kept informed of committee hearings that should be monitored when deemed appropriate for the administration of the Act." *Id.* at — [5]. Regarding visa applicants, Justice responded that:

> Relative to the GAO recommendation that an interagency agreement be worked out with the State Department concerning the referral and follow up of persons who are potentially subject to registration as agents of foreign nationals under the provisions of the Foreign Agents Registration Act, efforts have been initiated to establish such a procedure. It has always been our position that solicitation of a registration will be initiated if timely information is furnished as to (1) the identity of the person, (2) an address in the United States where the person may be reached, and (3) the basis on which an obligation to register can be founded. We will initiate the appropriate action on any such information that the Department of State may furnish concerning the proposed activities of visitors to the United States.
>
> In the past, we have received information from various sources concerning speaking and fund raising tours in the United States by foreign nationals; but in many of these cases by the time we sought and obtained information necessary to solicit, the person in question has already departed from the United States. *Id.*, at — [8].

The responses to the Senate Foreign Relations Committee questionnaire (see Chapter VII) from the Justice Department indicate that interagency cooperation has in fact been lacking on a number of occasions. The Department of Justice currently has no authority to compel other departments or agencies to supply information requested by Justice for use in administering the Act. Chapter VII, pt. I, 4(a).

When queried as to specific instances within the last five years in which information requested by Justice has not been forthcoming, the Department responded:

> (1) In 1975 the Registration Unit requested the names and addresses of thirteen (13) Turkish businessmen who had arrived in the United States to lobby Congress in connection with the Cyprus dispute. These individuals spent approximately ten (10) days engaged in political activity; however, we were not provided the information necessary to contact them.
>
> (2) In late 1975 and early 1976 the Department received erroneous information in the form of an affiadavit concerning the present and former status of Amin Hilmy II. Further, the Department of State considered Hilmy's application for privileges and immunities for approximately two months before deciding to grant it. This unnecessary delay forced the Registration Unit to argue a motion in the U.S. District Court concerning Hilmy's status. State was well aware of the date of the argument and in spite of countless requests by the Registration Unit failed to make the decision until 2 weeks after the argument.
>
> (3) In May 1975 the Attorney General by letter requested the Secretary of State to establish a procedure for advising the Registration Unit of individuals who provided the notification under 18 U.S.C. § 951. [That section provides that "[w]hoever, other than a diplomatic or consular officer or attache, acts in the United States as an agent of a foreign government without prior notification to the Secretary of State, shall be fined not more than $5,000 or imprisoned not more than ten years, or both."] This has not been accomplished. Chapter VII, pt. I, 4(b).

In contrast to the above described problems encountered by the Unit are the efforts made by it to inform other agencies of registration statements. Copies of all materials filed by agents of the Soviet Bloc countries are distributed to the C.I.A. In 1975, "Concorde Lobbying" information was forwarded to the Department of Transportation prior to the initiation of civil actions. Other agencies requesting information from the Unit have included the Department of Commerce, Department of Agriculture, U.S. Customs Service, various committees of Congress, as well as the F.B.I. and State. See Chapter VII, pt. I, 8(a) and (b). For a discussion of specific liaison procedures with other agencies, see Chapter VIII. (III).

Contrary to the answer furnished by Justice (supra) to the effect that no procedure for distribution is provided by State regarding notifications under 18 U.S.C. 951, State in its response to Senate Foreign Relations Committee questions claims that copies of notifications are sent to the Registration Unit. See Chapter VIII (8). The State Department does acknowledge, however, that no procedures exist for referrals of prospective registrants under the Act to the Registration Unit: "The Department has not established formal procedures for referring prospective registrants to the Registration Unit because we see no need for formal procedures." Chapter VIII (14). Procedures for notification regarding visa applicants also remain limited. The State Department describes the situation this way: "As they relate to the Foreign Agents Registration Act, present procedures for the processing of visa applications are essentially only of an informational

nature. In this sense, if a consular officer ascertains that an alien's intended activities in the United States are possibly within the scope of the Act, he is required to so inform the alien and advise him to communicate with the Department of Justice . . . Other than the above procedure, there is no existing obligation or mechanism for a consular officer to submit and report, either direct to Justice or through the Department, identifying any individual visa applicant as being possibly subject to the registration requirements of the FARA." Chapter VIII (16). Liaison procedures between State and the Registration Unit are described as consisting of "routine exchanges of information funneled through the Bureau of Intelligence and Research [at State] and providing assistance to the Department of Justice in its responsibilities to enforce the Act." Chapter VIII (18).

In order to formalize procedures for cooperation among agencies, and thereby to achieve some degree of uniformity in the passage of information to the Registration Unit, the Congress should consider amending the current Act to require: (1) that all executive departments and agencies shall administer their programs and activities in a manner to further the purposes of the Act and shall cooperate with the Attorney General to further such purposes; and (2) that the Attorney General, whenever he deems it advisable, may call upon any other department or office of the Government for information pertinent to the work provided for in the Act. An example of similar language in current law may be found in the Fair Housing provisions of Title 42 of the United States Code. 42 U.S.C. 3608(c) provides: "All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary [of HUD] to further such purposes."

Among other possible benefits flowing from the enactment of such a provision is the fact that such language may move other departments and agencies to inquire of persons who participate in their proceedings whether they represent foreign principals and if so, whether they are registered, and ultimately to furnish information thus acquired to the Registration Unit. Such a free flow of information will allow a unit of limited size and resources to monitor the degree of voluntary compliance with the Act and permit it to utilize its enforcement tools effectively.

Disclosure of Identity to Members and Committees of Congress by Agents of Foreign Principals.—Provisions of the Foreign Agents Registration Act require that agents of foreign principals must disclose their identity in certain dealings with Government agencies and officials, including Members and committees of Congress. Section 4(e) of the Act (22 U.S.C. 614(e)) provides that an agent of a foreign principal required to register under the Act may not, for or in the interests of his foreign principal, furnish any political propaganda to any agency or official of the Government, including a Member or committee of the House or Senate, or request from such agency or official any information or advice concerning any matter pertaining to the political or public interests, policies, or relations of a foreign country or of a political party or pertaining to the foreign or domestic policies of the United States unless the propaganda or the request is either

prefaced or accompanied by a statement that the agent is registered under the Act. Section 4(f) of the Act ((22 U.S.C. 614(f)) provides that whenever an agent of a foreign principal required to register under the Act appears before a congressional committee to testify for or in the interests of his foreign principal, he must at the time of his appearance furnish the committee with a copy of his most recent registration statement filed with the Justice Department.

The extent of compliance with the sections of the Act providing for disclosure is uncertain for two main reasons. First, the staff of the Registration Unit is too small to make possible extensive efforts at monitoring hearings, etc.. to insure compliance. And second, not all congressional staffers are aware of the disclosure requirements. The report by the Comptroller General to the Senate Committee on Foreign Relations (*Effectiveness of the Foreign Agents Registration Act of 1938, as Amended, and its Administration by the Department of Justice.* B–177551, at 6. 20) noted:

> The [Justice Department] does not ascertain whether foreign agents adhere to the disclosure and identification requirements. We believe the Department should periodically question registered and exempt agents, selected Government agencies, and/or committees and Members of Congress regarding the extent to which agents are complying with these requirements. This questioning would periodically bring the requirements to the attention of the agencies, Members, and committees and would help the Department determine whether more frequent or increased enforcement effort was needed.

In a memorandum from Glen E. Pommerening, Acting Assistant Attorney General for Administration, responding to the Comptroller General's report, the Justice Department acknowledged that in the past "the small and necessarily desk-bound staff" of the Registration Unit did not provide an efficient method of determining whether agents were identifying their foreign principals in dealing with U.S. agencies and officials. However, the Justice Department noted that in connection with the sugar hearings, the Registration Unit assigned a political analyst to monitor the hearings while staff attorneys responded to congressional inquiries for information from the public registration files of foreign sugar lobbyists. This procedure was found to result in significant improvement in compliance by the registered sugar lobbyists under the Act. The Justice Department memorandum also indicated that the Department intended to have attorney teams contact congressional committees and U.S. agencies dealing in foreign matters to ascertain whether agents are complying with disclosure requirements. These teams would set up personal contacts and maintain communication on a continuing basis in order to exchange information concerning the activities of agents of foreign principals in dealing with these committees and agencies, especially with reference to the disclosure of the identities of foreign principals, labelling of propaganda, etc., and to be kept informed of committee hearings that should be monitored when deemed appropriate for the administration of the Act.

According to the Department of Justice response to the Senate Foreign Relations Committee questionnaire regarding the Act (response to question 14, requesting details concerning steps taken by Justice to

familiarize pertinent congressional committees with the features of the Act that pertain to contacts by agents with Congress):

> To date, attorneys with the Registration Unit have attempted to familiarize Congressional Committees, including Members and staffers, with the requirements of the Foreign Agents Registration Act on an ad hoc basis in connection with inquiries or investigations being conducted by the Unit. Attorneys conducting these matters are usually queried concerning the Act, and respond with information, copies of booklets, etc. A more limited effort has involved visiting committees whose work affects foreign interests for the same purpose, where no investigation is current.

Also according to the Justice response to the Committee questionnaire (response to question 13), it is noted that a registrant who testifies before a congressional committee must report this activity on his supplemental statement. Most registrants now submit copies of their prepared statements. In instances where copies of the testimony are not received, the Registration Unit requests that the registrant submit an amendment with copies of the prepared statement. The Department also noted in its response to the Committee questionnaire (response to question 18) that the Registration Unit conducts random checks of agencies to determine if agents are properly identifying themselves and disclosing the identities of their principals when dealing with Government officials.

In order to increase the extent of compliance with the disclosure provisions of the Act by agents who have dealings with congressional committees, the Congress should consider adoption of a statute, or a rule, providing that at every investigation or hearing held by a committee or subcommittee, inquiry shall be made of every witness as to whether he represents a foreign principal and, if so, whether he is registered under the Act or is exempt from the registration requirements. The statute or rules adopted might also provide that information so obtained be referred to the Registration Unit. In the Senate such a provision might take the form of an amendment to the Legislative Reorganization Act of 1946, c. 753, Title I, § 133A, as added by the Legislative Reorganization Act of 1970, P.L. 91–510, Title I, §§111 (a)(1), 112(a), 113(a), 114(a), 115(a), 116(a), codified in 2 U.S.C. 190a–1 (relating to Senate committee hearing procedure). In the House of Representatives, such a provision might take the form of an amendment to House Rule XI, which governs committee procedures. In addition to adopting a statute or rule providing that inquiry be made during the course of a hearing as to whether a witness is representing a foreign principal, consideration might be given to amendment of existing provisions of law so as to require that in instances when a witness files with the committee in advance of his appearance a statement of his proposed testimony he indicates whether or not he is an agent of a foreign principal and, if so, and if he is registered under the Act, a copy of his most recent registration statement. In the Senate, the approriate provision to amend would be c. 753, Title I, § 133A of the Legislative Reorganization Act of 1946, as added by the Legislative Reorganization Act of 1970, P.L. 91–510, Title I, § 113(a) (codified in 2 U.S.C. 190a–1(c)). In the House, the appropriate provision to amend would be House Rule XI, cl. 2(g)(4).

Statutory Base for Deficiency and Noncompliance Notices.—The Foreign Agents Registration Act requires a foreign agent to submit specific exhibits and statements when he initially registers with the Department and when he acquires new principals. Supplemental statements are required every six months thereafter. A short-form registration is required of all persons directly engaged in foreign agent activities, and a final statement is required thirty days after the agency relationship is terminated. Dissemination reports are also required under certain conditions for those foreign agents who disseminate political propaganda.

The Act and related regulations specify time limits within which these reports and materials must be filed. If the Attorney General determines that a registration statement does not comply with these limits or with the other requirements of the Act, he is to notify the registrant, specifying in what respects the statement is deficient. No person may act as a foreign agent at any time ten days or more after receipt of such a deficiency notice without filing an amended registration statement in compliance with the Act. 22 U.S.C. 618(g).

The 1974 GAO report on the Foreign Agents Registration Act found a high incidence of late filing and a large number of insufficient filings. It also found that filing formal notices of deficiency to noncompliant registrants enhanced compliance as opposed to more informal enforcement efforts which characterized some periods of administration of the Act by the Department. To make the deficiency notice an even more effective enforcement tool, the GAO recommended that the Department immediately and automatically issue formal notices of deficiency when the established filing time limits expire.

GAO also found that the requirement that a person refrain from acting as an agent if he fails to fully comply with a notice of deficiency within ten days after receipt, had not been enforced by the Department by following through with notices of noncompliance and ultimately prosecution, when warranted. It recommended enforcement of this time limit and utilization of the available enforcement tools of noncompliance notices and prosecution, when warranted.

Despite the increased use of deficiency notices, problems apparently still remain in expeditiously issuing such notice. It is, therefore, suggested that the issuance of deficiency and noncompliance notices be statutorily required within a certain time period after the deficiency or noncompliance comes to light.

Opposition to such a proposal may be expected from the Department's Registration Unit. The Department opposed the recommendation of GAO that formal Notices of Deficiency be issued automatically. Questions of manpower aside, the Department felt that excessive use of this form will tend to decrease its effectiveness, especially, in correcting minor deficiencies. While statutorily mandating the issuance of deficiency notices may well increase their use, the existence of a legislative directive may also spur voluntary compliance.

The Department also feels that since few of the deficiencies and instances of noncompliance are willful, some allowance should be made in the matter of time limits in the normal routine of filing. Nevertheless, attorney teams in the field are apparently being utilized to minimize delays in complying with filing limits and are making it possible for the Registration Unit to follow up on Notices of De-

ficiency. Statutory requirements as to deficiency and noncompliance notices need not, however, eliminate informal attempts to secure compliance. Sixty or ninety day time periods within which formal notices must be sent should allow sufficient time for the Unit to attempt informal efforts of enforcement before issuing formal notices. Furthermore, the presence of statutory time limits may well serve as an inducement to voluntary—and timely—compliance with the Act.

Books and Records; Commingling of Funds and Records of Foreign Principals and Their Agents.—According to the Department of Justice response to the Senate Foreign Relations Committee questionnaire regarding the Foreign Agents Registration Act (response to question 2(a)), there are at present no safeguards under the Act to prevent the commingling of the funds and records of a foreign principal with those of the principal's agent. In the event of a commingling of funds and records of a foreign principal and his agent, the Justice Department does not have the authority to examine the books and records of the foreign principal (Justice Department response to Committee questionnaire, question (2)). And, in the event of a commingling of funds and records of a foreign agent and his other clients, the Justice Department does not have the authority to examine the books and records of these clients (Justice Department response to Committee questionnaire, question 2(c)). Furthermore, the Justice Department does not have the authority to summon persons to produce books and records and to give testimony under oath for purposes of enforcing the Act (Justice Department response to Committee questionnaire, question 3(a)). However, an agent of a foreign principal who is registered under the Act is required by section 5 of the Act (22 U.S.C. 615) to keep and preserve books of account and other records with respect to all his activities, the disclosure of which is required under the Act, in accordance with regulations prescribed by the Attorney General. The books and records maintained by a foreign agent under the Act are open at all reasonable times to the inspection of any official charged with the enforcement of the Act (22 U.S.C. 615; 28 C.F.R. § 5.501). The Justice Department has used its authority to inspect the books and records of approximately 180 registered foreign agents since 1966 (Justice Department response to Committee questionnaire, question 20).

Since there are presently no safeguards under the Act to prevent the commingling of the funds and records of a foreign principal with those of the principal's agent, and since the Justice Department apparently has little authority to investigate commingling of funds and records, consideration might be given to amendment of the Act so as (1) to specifically require the maintenance of separate books and records relating to foreign agent activities and (2) to expressly prohibit the commingling of the funds and records of a foreign principal with those of the principal's agent. If such an amendment to the Act is adopted, it would be advisable to provide that in the event of a failure to comply with its requirements, the Attorney General will have the authority to inspect and examine all the books and records of the agent, and that the determination of the Attorney General as to what funds constitute the principal's interest and as to what records are the property of the prinicipal is final.

Continuing to Require Registration of Tourist Promotion Groups.— Under the commercial exemption of section 613 of the Act, agents of foreign principals are not required to register if they are only engaged in "private and nonpolitical activities in furtherance of the bona fide trade or commerce of such foreign principal." 22 U.S.C. 613(d). By longstanding practice, the Department of Justice has required tourist promotion groups or other similar entities which are encompassed within the statutory ambit to register. Such groups do not arrange tours, book flights or perform other services usually associated with a commercial tourist agency. Rather, in most instances they are concerned with the encouragement of tourism in the country involved through media campaigns. All such tourist promotion groups which are known to have offices in the United States are currently registered, file supplemental reports and literature, and are subject to periodic site inspections.

Although the material gathered is for the most part routine and noncontroversial, the Department strongly favors continued registration. Three basic reasons are given. First, it is said that affirmatively requiring registration provides an opportunity to monitor promotional matter which on occasion goes beyond mere tourist promotion and actually concerns itself with encouraging investment abroad or political statements. Thus, not all materials received are labelled or placed on file. But the fact that the materials must be submitted is believed to insure against flagrant departures from simple tourist promotion. Much of the literature review and spot check of local offices is apparently performed by two paralegals under the supervision of professional personnel.

Second, it is asserted that registration affords the Justice Department an opportunity to monitor the expenditures of the registrants. The volume of expenditures can be a barometer of the intensity of the activities being engaged in and signal the necessity for closer scrutiny. In addition, the expenditure figures are utilized by the Department of Commerce in its balance of payment tabulations.

Finally, registration enables the Department to identify related support groups, such as public relations and advertising agencies, which in turn may have incurred an obligation to register. Most often such support groups will be located by means of the expenditure reports being filed.

It would appear that at the heart of the Justice Department's justification for continuing the tourist promotion registration requirement is its presumption that the political and economic objectives of a foreign government are generally inextricably related and that since all the groups now registering are concededly a part of a foreign government operation in this country, it would be unwise if not risky to discontinue the registration requirement.

However, some question may be raised whether the man-hours expended on monitoring and reviewing the considerable volume of materials generated by the tourist promotion groups in fact produces a commensurate informational benefit and whether the manpower effort could be better spent elsewhere. Since lack of adequate staff and funds in the past have been cited as reasons for hampering fully effective enforcement of the Act, this question may deserve further inquiry. For example the types and volume of expenditures here in-

volved have not been shown to be a major aspect of the balance of payments computations and are utilized in part by the Commerce Department to confirm figures obtained elsewhere. Also, the nature of the material generated is that it is *public*. Thus, if there is a political or economic appeal included in an occasional item it appears as likely it will be brought to the attention of the Justice Department through outside sources as it is now brought to light by internal agency surveillance. Further, since many registrations currently result from a variety of sources, is it so unlikely that such visible agents as public relations or advertising firms will not be identified?

The questions raised are not immediately answerable on the present record. In the end, even with all the facts at hand, subtle agency policy judgments may tip the balance of judgment. In the interest of the proper conservation and distribution of scarce administrative resources, however, this would seem to be an area of agency regulation which needs further evaluation.

Political Contributions by Foreign Nationals.—The basic statutory wording of the present prohibition upon political contributions from foreign nationals was adopted as a 1974 amendment to the Federal Election Campaign Act of 1971 (see: P.L. 93–443) and later recodified by the Federal Election Campaign Act Amendments of 1976 (P.L. 94–283) at 2 U.S.C. 441(e). The present prohibition upon contributions by, and the receipt of contributions from, a "foreign national" went into effect on January 1, 1975. Prior to that date, political contributions were prohibited *by* "agents of foreign principals", and *from* such agents, or from a "foreign principal".

The 1976 amendments recodified the prohibition from 18 U.S.C. 613 to the present 2 U.S.C. 441(e). As noted in the Conference Report (House Report No. 94–1057) no substantative change in the provision was intended. The penalties of the section were omitted, however, "to conform with section 328 of the Act" (Conference Report, supra at p. 67). The penalty for violation of the provision was thus changed from $25,000 or not more than 5 years imprisonment or both for knowingly making, soliciting, or accepting a prohibited contribution of any amount (18 U.S.C. 613) to a fine of $25,000 or 300 percent of the illegal contribution or not more than 1 year imprisonment or both for knowingly and willfully making or accepting prohibited contribution of $1,000 or more (2 U.S.C. 441(j)). No specific penalties are provided within the statute for violations of the provisions with regard to contributions which aggregate less than $1,000.

As noted by the Senate Report, Senate Report No. 94–677, 94th Congress, 2d Sess., 2, the 1976 amendments "transfer[] may of the criminal code provisions relating to Federal election campaigns from Title 18, U.S.C., to the 1971 Act" and "gives the Commission [Federal Election Commission] exclusive and primary jurisdiction for the civil enforcement of the Act . . ." Although such authority is placed within the Federal Election Commission, the Campaign Act provides that knowing and willful violations of the provisions of the Act may be referred to the Attorney General for appropriate action.

Although it may be argued that the primary enforcement authority for this provision could have been left with the Department of Justice to deal with the criminal aspects of the offenses, it is apparent that the intent of Congress in enacting the 1976 amendments was to de-empha-

size the criminal penalties for violations of campaign provisions while emphasizing civil enforcement, and even to a greater degree to authorize, methods of encouraging voluntary compliance with the campaign provisions. As stated in the Senate Report on the amendments (Senate Report No. 94–677, supra at p. 7): "If, after investigation, the Commission determines that there is reason to believe a violation of the Act . . . has been committed, or is about to be committed, it is required to make every endeavor to correct or prevent the violation by informal methods prior to instituting any civil action." Similarly, the House Report discussed the intent to shift the emphasis from criminal enforcement to civil enforcement and encouragement of methods of voluntary compliance, as well as to centralize and de-fragment primary enforcement responsibilities of the campaign finance laws:

> Third, originally the Federal campaign laws were enforced solely through the criminal law. The 1971 Act as amended recognized the inadequacies of that approach and provided also for civil actions through the Federal Election Commission and the Department of Justice. The result was that enforcement responsibility was fragmented, and the line between improper conduct remediable in civil proceedings and conduct punishable as a crime blurred. On the occasion of reconstituting the Federal Election Commission the Committee concluded that it was appropriate to simplify and rationalize the present enforcement system.
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> H.R. 12406 places its reliance on civil enforcement, except as to substantial violations committed with a specific wrongful intent.
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> H.R. 12406, following the pattern set in the 1974 Amendments, channels to the Federal Election Commission complaints alleging on any theory, that a person is entitled to relief, because of conduct regulated by this Act, other than complaints directed to the Attorney General and seeking the institution of a criminal proceeding. And, as noted above, the bill also clarifies the point that the Commission has the authority to issue rules and regulations concerning every facet of the Act and not simply those relating to disclosure. In both particulars, H.R. 12406 advances the goal of expert, uniform, non-partisan administration of the law.
>
> In addition to centralizing civil enforcement authority in the Commission, the bill takes one additional step to limit unjustifiable litigation burdens that might otherwise be imposed on the courts and on individuals against whom a complaint has been filed. The Commission is charged with the duty, upon receiving a complaint, to attempt to conciliate the matter for a specified reasonable period of time. (House Report. No. 94–917, 94th Cong., 2d Sess. pp. 3–4)

The Federal Election Commission is authorized by statute to prevent violations of campaign Act "by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved" under the provisions of 2 U.S.C. 437g(a)(5)(A). A conciliation agreement acts as a bar to any further action by the Commission on the matter unless the agreement is violated. If informal methods fail, the Commission may institute civil proceedings for relief "including a permanent or temporary injunction, restraining order, or other appropriate order, including a

civil penalty" up to $5,000 or the amount of the unlawful contribution (2 U.S.C. 437g(a)(5)(B)). For knowing and willful violations of the Act the Commission may refer such apparent violations to the Attorney General for appropriate criminal action (2 U.S.C. 437g (g)(5)(D)). The Commission is also authorized to issue advisory opinions to candidates, committees, or parties concerning a particular fact situation. A person who receives an advisory opinion and acts in good faith in accordance with it, will not be subject to any sanctions under the Act (2 U.S.C. 437f (a) and (b)).

In response to Committee questionnaires, Justice officials claim that the lodging of the responsibility for the new law's enforcement in the Commission, leads to unnecessary fragmentation and undercuts its foreign agent responsibilities. However, given the congressional intent of placing the primary enforcement authority in an independent Federal Election Commission, and emphasing the non-criminal aspects of enforcement of the campaign laws, it would appear that some period of time would be required to evaluate the Commission's performance, and the non-criminal enforcement approach concerning this provision, before a knowledgeable judgment may be made on the efficacy of amending the present provision.

I

TEXT OF THE FOREIGN AGENTS REGISTRATION ACT (FARA)

CHAPTER 11.—FOREIGN AGENTS AND PROPAGANDA

SUBCHAPTER I.—GENERALLY

Sec.

SUBCHAPTER II.—REGISTRATION OF FOREIGN PROPAGANDISTS

EX. ORD. NO. 9176. TRANSFER OF REGISTRATION FUNCTIONS FROM THE SECRETARY OF STATE TO THE ATTORNEY GENERAL

Ex. Ord. No. 9176. May 29, 1942, 7 F.R. 4127, provided:

By virtue of the authority vested in me by Title I of the First War Powers Act, 1941, approved December 18, 1941 (Public Law No. 354, 77th Congress [section 601 et seq. of Title 50, Appendix, War and National Defense], and as President of the United States, it is hereby ordered as follows:

1. All functions, powers and duties of the Secretary of State under the act of June 8, 1938 (52 Stat. 631), as amended by the act of August 7, 1939 (53 Stat. 1244), requiring the registration of agents of foreign principals, are hereby transferred to and vested in the Attorney General.

2. All property, books and records heretofore maintained by the Secretary of State with respect to his administration of said act of June 8, 1938, as amended, are hereby transferred to and vested in the Attorney General.

3. The Attorney General shall furnish to the Secretary of State for such comment, if any, as the Secretary of State may desire to make from the point of view of the foreign relations of the United States, one copy of each registration statement that is hereafter filed with the Attorney General in accordance with the provisions of this Executive order.

4. All rules, regulations and forms which have been issued by the Secretary of State pursuant to the provisions of said act of June 8, 1938, as amended, and which are in effect shall continue in effect until modified, superseded, revoked or repealed by the Attorney General.

5. This order shall become effective as of June 1, 1942.

§ 611. Definitions.

As used in and for the purposes of this subchapter—

(a) The term "person" includes an individual, partnership, association, corporation, organization, or any other combination of individuals;

(b) The term "foreign principal" includes—

(1) a government of a foreign country and a foreign political party;

(2) a person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

(3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

(c) Except [1] as provided in subsection (4) of this section, the term "agent of a foreign principal" means—

(1) any person who acts as an agent, representative, employee, or servant, or any person who acts in any other 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—

(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 public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;

(iii) within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest 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; and

[1] So in original.

(2) any person who agrees, consents, assumes or purports to act as, or who is or holds himself out to be, whether or not pursuant to contractual relationship, an agent of a foreign principal as defined in clause (1) of this subsection.

(d) The term "agent of a foreign principal" does not include any news or press service or association organized under the laws of the United States or of any State or other place subject to the jurisdiction of the United States, or any newspaper, magazine, periodical, or other publication for which there is on file with the United States Postal Service information in compliance with section 3611 of Title 39 [2] published in the United States, solely by virtue of any bona fide news or journalistic activities, including the solicitation or acceptance of advertisements, subscriptions, or other compensation therefor, so long as it is at least 80 per centum beneficially owned by, and its officers and directors, if any, are citizens of the United States, and such news or press service or association, newspaper, magazine, periodical, or other publication, is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by any foreign principal defined in subsection (b) of this section, or by any agent of a foreign principal required to register under this subchapter;

(e) The term "government of a foreign country" includes any person or groups of persons exercising sovereign de facto or de jure political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of any such group and any group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated. Such terms include any faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been recognized by the United States;

(f) The term "foreign political party" includes any organization or any other combination of individuals in a country other than the United States, or any unit or branch thereof, having for an aim or purpose, or which is engaged in any activity devoted in whole or in part to, the establishment, administration, control, or acquisition of administration or control, of a government of a foreign country or a subdivision thereof, or the furtherance or influencing of the political or public interests, policies, or relations of a government of a foreign country or a subdivision thereof;

(g) 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;

(h) 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;

(i) The term "information-service employee" includes any person who is engaged in furnishing, disseminating, or publishing accounts,

[2] So in original. Reference should probably be to section 3685 of Title 39.

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;

(j) The term "political propaganda" includes any oral, visual, graphic, written, pictorial, or other communication or expression by any person (1) which is reasonably adapted to, or which the person disseminating the same believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, or in any other way influence a recipient or any section of the public within the United States with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party or with reference to the foreign policies of the United States or promote in the United States racial, religious, or social dissensions, or (2) which advocates, advises, instigates, or promotes any racial, social, political, or religious disorder, civil riot, or other conflict involving the use of force or violence in any other American republic or the overthrow of any government or political subdivision of any other American republic by any means involving the use of force or violence. As used in this subsection the term "disseminating" includes transmitting or causing to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce or offering or causing to be offered in the United States mails;

(k) The term "registration statement" means the registration statement required to be filed with the Attorney General under section 612 (a) of this title, and any supplements thereto required to be filed under section 612(b) of this title, and includes all documents and papers required to be filed therewith or amendatory thereof or supplemental thereto, whether attached thereto or incorporated therein by reference;

(l) The term "American republic" includes any of the states which were signatory to the Final Act of the Second Meeting of the Ministers of Foreign Affairs of the American Republics at Habana, Cuba, July 30, 1940;

(m) The term "United States", when used in a geographical sense, includes the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States;

(n) The term "prints" means newspapers and periodicals, books, pamphlets, sheet music, visiting cards, address cards, printing proofs, engravings, photographs, pictures, drawings, plans, maps, patterns, to be cut out, catalogs, prospectuses, advertisements, and printed, engraved, lithographed, or autographed notices of various kinds, and, in general, all impressions or reproductions obtained on paper or other materials assimilable to paper, on parchment or on cardboard, by means of printing, engraving, lithography, autography, or any other easily recognizable mechanical process, with the exception of the copying press, stamps with movable or immovable type, and the typewriter;

(o) The term "political activities" means the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other 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;

(p) 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;

(q) For the purpose of section 613(d) of this title, activities in furtherance of the bona fide commercial, industrial or financial interests of a domestic person engaged in substantial commercial, industrial or financial operations in the United States shall not be deemed to serve predominantly a foreign interest because such activities also benefit the interests of a foreign person engaged in bona fide trade or commerce which is owned or controlled by, or which owns or controls, such domestic person: *Provided*, That (i) such foreign person is not, and such activities are not directly or indirectly supervised, directed, controlled, financed or subsidized in whole or in substantial part by, a government of a foreign country or a foreign political party, (ii) the identity of such foreign person is dislosed to the agency or official of the United States with whom such activities are conducted, and (iii) whenever such foreign person owns or controls such domestic person, such activities are substantially in furtherance of the bona fide commercial, industrial or financial interests of such domestic person. (June 8, 1938, ch. 327, § 1, 52 Stat. 631; Aug. 7, 1939, ch. 521, § 1, 53 Stat. 1244; Apr. 29, 1942, ch. 263, § 1, 56 Stat. 248; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Sept. 23, 1950, ch. 1024, title I, § 20 (a), 64 Stat. 1005; Aug. 1, 1956, ch. 849, § 1, 70 Stat. 899; Oct. 4, 1961, Pub. L. 87–366, § 1, 75 Stat. 784; July 4, 1966, Pub. L. 89–486, § 1, 80 Stat. 244; Aug. 12, 1970, Pub. L. 91–375, § 6(k), 84 Stat. 782.)

§ 612. Registration statement; filing; contents.

(a) No person shall act as an agent of a foreign principal unless he has filed with the Attorney General a true and complete registration statement and supplements thereto as required by this section and subsection (b) of this section or unless he is exempt from registration under the provisions of the subchapter. Except as hereinafter provided, every person who becomes an agent of a foreign principal shall, within ten days thereafter, file with the Attorney General, in duplicate, a registration statement, under oath on a form prescribed by the Attorney General. The obligation of an agent of a foreign principal to file a registration statement shall, after the tenth day of his becoming such agent, continue from day to day, and termination of such status shall not relieve such agent from his obligation to file a registration statement for the period during which he was an agent of a foreign principal. The registration statement shall include the following,

which shall be regarded as material for the purposes of this subchapter:

(1) Registrant's name, principal business address, and all other business addresses in the United States or elsewhere, and all residence addreses, if any;

(2) Status of the registrants; if an individual, nationality; if a partnership, name, residence addresses, and nationality of each partner and a true and complete copy of its articles of copartnership; if an association, corporation, organization, or any other combination of individuals, the names, residence addresses, and nationality of each director and officer and of each person performing the functions of a director or officer and a true and complete copy of its charter, articles of incorporation, association, constitution, and bylaws, and amendments thereto; a copy of every other instrument or document and a statement of the terms and conditions of every oral agreement relating to its organization, powers, and purposes and a statement of its ownership and control;

(3) A comprehensive statement of the nature of registrant's business; a complete list of registrant's employees and a statement of the nature of the work of each; the name and address of every foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act; the character of the business or other activities of every such foreign principal, and, if any such foreign principal be other than a natural person, a statement of the ownership and control of each; and the extent, if any, to which each such foreign principal is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party, or by any other foreign principal;

(4) Copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is an agent of a foreign principal; a comprehensive statement of the nature and method of performance of each such contract, and of the existing and proposed activity or activities engaged in or to be engaged in by the registrant as agent of a foreign principal for each such foreign principal, including a detailed statement of any such activity which is a political activity;

(5) The nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received within the preceding sixty days from each such foreign principal, either as compensation or for disbursement or otherwise, and the form and time of each such payment and from whom received;

(6) A detailed statement of every activity which the registrant is performing or is assuming or purporting or has agreed to perform for himself or any other person other than a foreign principal and which requires his registration hereunder, including a detailed statement of any such activity which is a poltical activity;

(7) The name, business, and residence addresses, and if an individual, the nationality, of any person other than a foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act under such circumstances as require his

registration hereunder; the extent to which each such person is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party or by any other foreign principal; and the nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received during the preceding sixty days from each such person in connection with any of the activities referred to in clause (6) of this subsection, either as compensation or for disbursement or otherwise, and the form and time of each such payment and from whom received;

(8) A detailed statement of the money and other things of value spent or disposed of by the registrant during the preceding sixty days in furtherance of or in connection with activities which require his registration hereunder and which have been undertaken by him either as an agent of a foreign principal or for himself or any other person or in connection [3] with any activities relating to his becoming an agent of such principal, and a detailed statement of any contributions of money or other things of value made by him during the preceding sixty days (other than contributions the making of which is prohibited under the terms of section 613 of Title 18) in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office;

(9) Copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all circumstances, by reason of which the registrant is performing or assuming or purporting or has agreed to perform for himself or for a foreign principal or for any person other than a foreign principal any activities which require his registration hereunder;

(10) Such other statements, information, or documents pertinent to the purposes of this subchapter as the Attorney General, having due regard for the national security and the public interest, may from time to time require;

(11) Such further statements and such further copies of documents as are necessary to make the statements made in the registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.

(b) Every agent of a foreign principal who has filed a registration statement required by subsection (a) of this section shall, within thirty days after the expiration of each period of six months succeeding such filing, file with the Attorney General a supplement thereto under oath, on a form prescribed by the Attorney General, which shall set forth with respect to such preceding six months' period such facts as the Attorney General, having due regard for the national security and the public interest, may deem necessary to make the information required under this section accurate, complete, and current with respect to such period. In connection with the information furnished under clauses (3), (4), (6), and (9) of subsection (a) of this section, the registrant shall give notice to the Attorney General of any changes therein within ten days after such changes occur. If the Attorney General, having due regard for the national security and the public

[3] So in original.

interest, determines that it is necessary to carry out the purposes of this subchapter, he may, in any particular case, require supplements to the registration statement to be filed at more frequent intervals in respect to all or particular items of information to be furnished.

(c) The registration statement and supplements thereto shall be executed under oath as follows: If the registrant is an individual, by him; if the registrant is a partnership, by the majority of the members thereof; if the registrant is a person other than an individual or a partnership, by a majority of the officers thereof or persons performing the functions of officers or by a majority of the board of directors thereof or persons performing the functions of directors, if any.

(d) The fact that a registration statement or supplement thereto has been filed shall not necessarily be deemed a full compliance with this subchapter and the regulations thereunder on the part of the registrant; nor shall it indicate that the Attorney General has in any way passed upon the merits of such registration statement or supplement thereto; nor shall it preclude prosecution, as provided for in this subchapter, for willful failure to file a registration statement or supplement thereto when due or for a willful false statement of a material fact therein or the willful omission of a material fact required to be stated therein or the willful omission of a material fact or copy of a material document necessary to make the statements made in a registration statement and supplemental thereto, and the copies of documents furnished therewith, not misleading.

(e) If any agent of a foreign principal, required to register under the provisions of this subchapter, has previously thereto registered with the Attorney General under the provisions of sections 14 to 17 of Title 13, the Attorney General, in order to eliminate inappropriate duplication, may permit the incorporation by reference in the registration statement or supplements thereto filed hereunder of any information or documents previously filed by such agent of a foreign principal under the provisions of said sections.

(f) The Attorney General may, by regulation, provide for the exemption—

(1) from registration, or from the requirement of furnishing any of the information required by this section, of any person who is listed as a partner, officer, director, or employee in the registration statement filed by an agent of a foreign principal under this subchapter, and

(2) from the requirement of furnishing any of the information required by this section of any agent of a foreign principal, where by reason of the nature of the functions or activities of such person the Attorney General, having due regard for the national security and the public interest, determines that such registration, or the furnishing of such information, as the case may be, is not necessary to carry out the purposes of this subchapter. June 8, 1938, ch. 327, § 2, 52 Stat. 632; Apr. 29, 1942, ch. 263, § 2, 56 Stat. 251; Aug. 3, 1950, ch. 524, § 1, 64 Stat. 399; July 4, 1966, Pub. L. 89-486, § 2, 80 Stat. 245, 246.)

§ 613. Exemptions.

The requirements of section 612(a) of this title shall not apply to the following agents of foreign principals:

(a) A duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, while said officer is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer;

(b) Any official of a foreign government, if such government is recognized by the United States, who is not a public-relations counsel, publicity agent, information-service employee, or a citizen of the United States, whose name and status and the character of whose duties as such official are of public record in the Department of State, while said official is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official;

(c) Any member of the staff of, or any person employed by, a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, other than a public-relations counsel, publicity agent, or information-service employee, whose name and status and the character of whose duties as such member or employee are of public record in the Department of State, while said member or employee is engaged exclusively in the performance of activities which are recognized by the Department of State as being within the scope of the functions of such member or employee;

(d) Any person engaging or agreeing to engage only (1) in private and nonpolitical activities in furtherance of the bona fide trade or commerce of such foreign principal; or (2) in other activities not serving predominantly a foreign interest; or (3) in the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and clothing to relieve human suffering, if such solicitation or collection of funds and contributions is in accordance with and subject to the provisions of sections 441, 444, 445 and 447 to 457 of this title, and such rules and regulations as may be prescribed thereunder;

(e) Any person engaging or agreeing to engage only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts;

(f) Any person, or employee of such person, whose foreign principal is a government of a foreign country the defense of which the President deems vital to the defense of the United States while, (1) such person or employee engages only in activities which are in furtherance of the policies, public interest, or national defense both of such government and of the Government of the United States, and are not intended to conflict with any of the domestic or foreign policies of the Government of the United States, (2) each communication or expression by such person or employee which he intends to, or has reason to believe will, be published, disseminated, or circulated among any section of the public, or portion thereof, within the United States, is a part of such activities and is believed by such person to be truthful and accurate and the identity of such person as an agent of such foreign principal is disclosed therein, and (3) such government of a foreign country furnishes to the Secretary of State for transmittal to, and retention for the duration of this subchapter by, the Attorney General such information as to the identity and activities of such person or employee at such times as the Attorney General may require.

Upon notice to the Government of which such person is an agent or to such person or employee, the Attorney General, having due regard for the public interest and national defense, may, with the approval of the Secretary of State, and shall, at the request of the Secretary of State, terminate in whole or in part the exemption herein of any such person or employee;

(g) Any person qualified to practice law, insofar as he engages or agrees to engage in the legal representation of a disclosed foreign principal before any court of law or any agency of the Government of the United States; *Provided*, That for the purposes of this subsection legal representation does not include attempts to influence or persuade agency personnel or officials other than in the course of established agency proceedings, whether formal or informal. (June 8, 1938, ch. 327, § 3, 52 Stat. 632; Aug. 7, 1939, ch. 521; § 2, 53 Stat. 1245; Apr. 29, 1942, ch. 263, § 3, 56 Stat. 254; Oct. 4, 1961, Pub. L. 87–366, § 2, 75 Stat. 784; July 4, 1966, Pub. L. 89–436, § 3, 80 Stat. 246.)

§ 614. Filing and labeling of political propaganda.

(a) Every person within the United States who is an agent of a foreign principal and required to register under the provisions of this subchapter and who transmits or causes to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce any political propaganda for or in the interests of such foreign principal (i) in the form of prints, or (ii) in any other form which is reasonably adapted to being or which he believes will be, or which he intends to be, disseminated or circulated among two or more persons shall, not later than forty-eight hours after the beginning of the transmittal thereof, file with the Attorney General two copies thereof and a statement, duly signed by or on behalf of such agent, setting forth full information as to the places, times, and extent of such transmittal.

(b) It shall be unlawful for any person within the United States who is an agent of a foreign principal and required to register under the provisions of this subchapter to transmit or cause to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce any political propaganda for or in the interests of such foreign principal (i) in the form of prints, or (ii) in any other form which is reasonably adapted to being, or which he believes will be or which he intends to be, disseminated or circulated among two or more persons, unless such political propaganda is conspicuously marked at its beginning with, or prefaced or accompanied by, a true and accurate statement, in the language or languages used in such political propaganda, setting forth the relationship or connection between the person transmitting the political propaganda or causing it to be transmitted and such propaganda; that the person transmitting such political propaganda or causing it to be transmitted is registered under this subchapter with the Department of Justice, Washington, District of Columbia, as an agent of a foreign principal, together with the name and address of such agent of a foreign principal and of such foreign principal; that, as required by this subchapter, his registration statement is available for inspection at and copies of such political propaganda are being filed with the Department of Justice; and that registration of agents of foreign principals required by the subchapter does not indicate approval by the United

States Government of the contents of their political propaganda. The Attorney General, having due regard for the national security and the public interest, may by regulation prescribe the language or languages and the manner and form in which such statement shall be made and require the inclusion of such other information contained in the registration statement identifying such agent of a foreign principal and such political propaganda and its sources as may be appropriate.

(c) The copies of political propaganda required by this subchapter to be filed with the Attorney General shall be available for public inspection under such regulations as he may prescribe.

(d) For purposes of the Library of Congress, other than for public distribution, the Secretary of the Treasury and the Postmaster General are authorized, upon the request of the Librarian of Congress, to forward to the Library of Congress fifty copies, or as many fewer thereof as are available, of all foreign prints determined to be prohibited entry under the provisions of section 1305 of Title 19 and of all foreign prints excluded from the mails under authority of section 343 of Title 18.

Notwithstanding the provisions of section 1305 of Title19 and of section 343 of Title 18, the Secretary of the Treasury is authorized to permit the entry and the Postmaster General is authorized to permit the transmittal in the mails of foreign prints imported for governmental purposes by authority or for the use of the United States or for the use of the Library of Congress.

(e) It shall be unlawful for any person within the United States who is an agent of a foreign principal required to register under the provisions of this subchapter to transmit, convey, or otherwise furnish to any agency or official of the Government (including a Member or committee of either House of Congress) for or in the interests of such foreign principal any political propaganda or to request from any such agency or official for or in the interests of such foreign principal any information or advice with respect to any matter pertaining to the political or public interests, policies or relations of a foreign country or of a political party or pertaining to the foreign or domestic policies of the United States unless the propaganda or the request is prefaced or accompanied by a true and accurate statement to the effect that such person is registered as an agent of such foreign principal under this subchapter.

(f) Whenever any agent of a foreign principal required to register under this subchapter appears before any committee of Congress to testify for or in the interests of such foreign principal, he shall, at the time of such appearance, furnish the committee with a copy of his most recent registration statement filed with the Department of Justice as an agent of such foreign principal for inclusion in the records of the committee as part of his testimony, (June 8, 1938, ch. 327, § 4, 52 Stat. 632; Aug. 7, 1939, ch. 521, § 3, 53 State. 1246; Apr. 29, 1942, ch. 263, § 1, 56 Stat. 255; July 4, 1966, Pub. L. 89–486, § 4, 80 Stat. 246.)

§ 615. Books and records.

Every agent of a foreign principal registered under this subchapter shall keep and preserve while he is an agent of a foreign principal such books of account and other records with respect to all his activi-

ties, the disclosure of which is required under the provisions of this subchapter, in accordance with such business and accounting practices, as the Attorney General having due regard for the national security and the public interest, may by regulation prescribe as necessary or appropriate for the enforcement of the provisions of this subchapter and shall preserve the same for a period of three years following the termination of such status. Until regulations are in effect under this section every agent of a foreign principal shall keep books of account and shall preserve all written records with respect to his activities. Such books and records shall be open at all reasonable times to the inspection of any official charged with the enforcement of this subchapter. It shall be unlawful for any person willfully to conceal, destroy, obliterate, mutilate, or falsify, or to attempt to conceal, destroy, obliterate, mutilate, or falsify, or to cause to be concealed, destroyed, obliterated, mutilated, or falsified, any books or records required to be kept under the provisions of this section. (June 8, 1938, ch. 327, § 5, 52 Stat. 633; April 29, 1942, ch. 263, § 1, 56 Stat. 256; July 4, 1966, Pub. L. 89–486, § 5, 80 Stat. 247.)

§ 616. Public examination of official records; transmittal of records and information.

(a) The Attorney General shall retain in permanent form one copy of all registration statements and all statements concerning the distribution of political propaganda furnished under this subchapter, and the same shall be public records and open to public examination and inspection at such reasonable hours, under such regulations, as the Attorney General may prescribe, and copies of the same shall be furnished to every applicant at such reasonable fee as the Attorney General may prescribe. The Attorney General may withdraw from public examination the registration statement and other statements of any agent of a foreign principal whose activities have ceased to be of a character which requires registration under the provisions of this subchapter.

(b) The Attorney General shall, promptly upon receipt, transmit one copy of every registration statement filed hereunder and one copy of every amendment or supplement thereto, and one copy of every item of political propaganda filed hereunder, to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States. Failure of the Attorney General so to transmit such copy shall not be a bar to prosecution under this subchapter.

(c) The Attorney General is authorized to furnish to departments and agencies in the executive branch and committees of the Congress such information obtained by him in the adminstration of this subchapter, including the names of registrants under this subchapter, copies of registration statements, or parts thereof, copies of political propaganda, or other documents or information filed under this subchapter, as may be appropriate in the light of the purposes of this subchapter. (June 8, 1938, ch. 327, § 6, 52 Stat. 633; Apr. 29, 1942, ch. 263, § 1, 56 Stat. 256; July 4, 1966, Pub. L. 89–486, § 6, 80 Stat. 247.)

§ 617. Liability of officers.

Each officer, or person performing the functions of an officer, and each director, or person performing the functions of a director, of an

agent of a foreign principal which is not an individual shall be under obligation to cause such agent to execute and file a registration statement and supplements thereto as and when such filing is required under subsections (a) and (b) of section 612 of this title and shall also be under obligation to cause such agent to comply with all the requirements of sections 614 (a) and (b) and 615 of this title and all other requirements of this subchapter. Dissolution of any organization acting as an agent of a foreign principal shall not relieve any officer, or person performing the functions of an officer, or any director, or person performing the functions of a director, from complying with the provisions of this section. In case of failure of any such agent of a foreign principal to comply with any of the requirements of this subchapter, each of its officers, or persons performing the functions of officers, and each of its directors, or persons performing the functions of directors, shall be subject to prosecution therefor. (June 8, 1938, ch. 327, § 7, 52 Stat. 633; Apr. 29, 1942, ch. 263, § 1, 56 Stat. 256, Aug. 3, 1950, ch. 524, § 2, 64 Stat. 400.)

§ 618. Enforcement and penalties.

(a) Violations; false statements and willful omissions.

Any person who—

(1) willfully violates any provision of this subchapter or any regulation thereunder, or

(2) in any registration statement or supplement thereto or in any statement under section 614(a) of this title concerning the distribution of political propaganda or in any other document filed with or furnished to the Attorney General under the provisions of this subchapter willfully makes a false statement of a material fact or willfully omits any material fact required to be stated therein or willfully omits a material fact or a copy of a material document necessary to make the statements therein and the copies of documents furnished therewith not misleading, shall, upon conviction thereof be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both, except that in the case of a violation of subsection (b), (e), or (f) of section 614 of this title or of subsection (g) or (h) of this section the punishment shall be a fine of not more than $5,000 or imprisonment for not more than six months, or both.

(b) Proof of identity of foreign principal.

In any proceeding under this subchapter in which it is charged that a person is an agent of a foreign principal with respect to a foreign principal outside of the United States, proof of the specific identity of the foreign principal shall be permissible but not necessary.

(c) Deportation.

Any alien who shall be convicted of a violation of, or a conspiracy to violate, any provision of this subchapter or any regulation thereunder shall be subject to deportation in the manner provided by sections 1251 to 1253 of Title 8.

(d) Nonmailable matter.

The Postmaster General may declare to be nonmailable any communication or expression falling within clause (2) of section 611 (j) of this title in the form of prints or in any other form reasonably

adapted to, or reasonably appearing to be intended for, dissemination or circulation among two or more persons, which is offered or caused to be offered for transmittal in the United States mails to any person or persons in any other American republic by any agent of a foreign principal, if the Postmaster General is informed in writing by the Secretary of State that the duly accredited diplomatic representative of such American republic has made written representation to the Department of State that the admission or circulation of such communication or expression in such American republic is prohibited by the laws thereof and has requested in writing that its transmittal thereto be stopped.

(e) Continuing offense.

Failure to file any such registration statement or supplements thereto as is required by either section 612(a) or section 612(b) of this title shall be considered a continuing offense for as long as such failure exists, notwithstanding any statute of limitation or other statute to the contrary.

(f) Injunctive remedy; jurisdiction of district court; expedition of proceedings.

Whenever in the judgment of the Attorney General any person is engaged in or about to engage in any acts which constitute or will constitute a violation of any provision of this subchapter, or regulations issued thereunder, or whenever any agent of a foreign principal fails to comply with any of the provisions of this subchapter or the regulations issued thereunder, or otherwise is in violation of the subchapter, the Attorney General may make application to the appropriate United States district court for an order enjoining such acts or enjoining such person from continuing to act as an agent of such foreign principal, or for an order requiring compliance with any appropriate provision of the subchapter or regulation thereunder. The district court shall have jurisdiction and authority to issue a temporary or permanent injunction, restraining order or such other order which it may deem proper. The proceedings shall be made a preferred cause and shall be expedited in every way.

(g) Deficient registration statement.

If the Attorney General determines that a registration statement does not comply with the requirements of this subchapter or the regulations issued thereunder, he shall so notify the registrant in writing, specifying in what respects the statement is deficient. It shall be unlawful for any person to act as an agent of a foreign principal at any time ten days or more after receipt of such notification without filing an amended registration statement in full compliance with the requirements of this subchapter and the regulations issued thereunder.

(h) Contingent fee arrangement.

It shall be unlawful for any agent of a foreign principal required to register under this subchapter to be a party to any contract, agreement, or understanding, either express or implied, with such foreign principal pursuant to which the amount or payment of the compensation, fee, or other remuneration of such agent is contingent in whole or in part upon the success of any political activities carried on by such agents. (June 8, 1938, ch. 327, § 8, as added Apr. 29, 1942, ch. 263,

§ 1, 56 Stat. 257, and amended Sept. 23, 1950, ch. 1024, title I, § 20, 64 Stat. 1005; June 27, 1952, ch. 477, title IV, § 402(d), 66 Stat. 414; Aug. 1, 1956, ch. 849, § 1, 70 Stat. 899; July 4, 1966, Pub. L. 89–486, § 7, 80 Stat. 248.)

§ 619. Territorial applicability of subchapter.

This subchapter shall be applicable in the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States. (June 8, 1938, ch. 327, § 9, as added Apr. 29, 1942, ch. 263, § 1, 56 Stat. 257, and amended Proc. No. 2695, July 4, 1946, 11 F. R. 7517, 60 Stat. 1352.)

§ 620. Rules and regulations.

The Attorney General may at any time make, prescribe, amend, and rescind such rules, regulations, and forms as he may deem necessary to carry out the provisions of this subchapter. (June 8, 1938, ch. 327, § 10, as added Apr. 29, 1942, ch. 263, § 1, 56 Stat. 257.)

§ 621. Reports to Congress.

The Attorney General shall, from time to time, make a report to the Congress concerning the administration of this subchapter, including the nature, sources, and content of political propaganda disseminated or distributed. (June 8, 1938, ch. 327, § 11, as added Apr. 29, 1942, ch. 263, § 1, 56 Stat. 258.)

II

FOREIGN AGENTS REGISTRATION ACT: SECTIONAL ANALYSIS

The purpose of the Foreign Agents Registration Act is

> ". . . to protect the national defense, internal security, and foreign relations of the United States by requiring public disclosure by persons engaging in propaganda activities and other 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 the light of their associations and activities.[1]

Section 1 [2] of the Act is a definitional section. It defines among other things the key terms "foreign principal", "agent of a foreign principal", "foreign political party", "political propaganda", and "political activities".

(a) The term "person" includes both natural individuals and legal associations composed of such individuals.

(b) The term "foreign principal" includes—

(1) A government of a foreign country and a foreign political party;

(2) A person outside of the United States, unless it is established that such a person being a natural person is a citizen and domiciled within the United States, or in the case of a legal person is organized under Federal or State law and has its principal place of business within the United States; and

(3) Any combination of persons having its principal place of business in a foreign country.

(c)(1) The term "agent of a foreign principal", with certain exceptions set out in section 3, means any person who acts in any agency capacity for a foreign principal or a person "any of whose activities" are directly or indirectly controlled by a foreign principal *and* who also engages in one of the four following categories of activities:

(i) Domestic political activities for or in the interests of a foreign principal;

(ii) Domestic representational activities, such as a public relations counsel, publicity agent, information-service employee, or political consultant, for or in the interests of a foreign principal;

(iii) Domestic fund raising and associated activities (such as disbursing and lending) for or in the interests of a foreign principal; or

(iv) Domestic representation of a foreign principal before any agency or official of the Government of the United States.

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[1] 22 U.S.C. 611 note.
[2] 22 U.S.C. 611.

(2) Any person who engaged in any agency capacity for a foreign principal, including a volunteer, also is included in the term "agent of a foreign principal".

(d) There are various persons whose activities are excluded from the term "agent of a foreign principal". In particular, the term excludes any news or press service organized under domestic law. Also excluded are any newspaper, magazine, periodical, or other publication which have filed with the United States Postal Service (39 U.S.C. 3685). This exemption applies to all such media organizations which are engaged in any bona fide news or journalistic activities, including necessary financial incidents thereto (e.g., subscriptions), so long as 80 percent of their beneficial ownership is in the hands of U.S. citizens *and* their officers and directors are U.S. citizens. This general exclusion of the media does not apply, however, if the news or press service or the publication is either owned, directed, supervised, controlled, subsidized or financed by, or its policies are determined by a foreign principal which is required to register.

(e) The term "government of a foreign country" includes one or more persons exercising legal or effective jurisdiction over any foreign country, or over any part of a foreign country; any subordinate unit of such a group which has been legally or effectively delegated sovereign functions; and, any faction or body of insurgents whether or not it is recognized by the United States.

(f) The term "foreign political party" includes any organization or combination of individuals in a foreign country, or any unit or branch thereof, which has as a purpose or the activities of which include, political control or influence.

(g) The term "public relations counsel" includes any person directly or indirectly engaged 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.

(h) The term "publicity agent" includes any person directly or indirectly engaged in publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind (e.g., advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, etc.).

(i) The term "information-service employee" includes any person who furnishes, disseminates, or publishes accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, social, cultural, or other benefits, advantages, facts or conditions of any foreign country or foreign political party or any combination of individuals organized or having its principal place of business in a foreign country.

(j) The term "political propaganda" generally includes any communication or expression by any person—

(1) Which is reasonably adapted to, or which the disseminator thereof believes will influence public or private opinion in the United States relative to political or public interests, policies, or relations of a foreign government or foreign political party or U.S. foreign policy, or to promote racial, religious, or social dissension in the United States; or

(2) Which generally promotes any racial, social, political, or religious strife involving the use of force in any other American

republic or the violent overthrow of any American republic. The means by which "political propaganda" thus defined is disseminated is all inclusive, vis: whether by means of the U.S. mails or any means or instrumentality of interstate or foreign commerce.

(k) The term "registration statement" means the requisite registration statement together with all supplements and documents and papers associated therewith.

(l) The term "American republic" includes any of the signatory states to the Final Act of the Second Meeting of the Ministers of Foreign Affairs of the American Republics at Havana, Cuba, July 30, 1940.

(m) For geographical purposes, the term "United States" includes the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States.

(n) The term "prints" generally includes all impressions or reproductions obtained on paper or other material assimilable to paper, on parchment, or on cardboard, by means of printing, engraving, lithography, autography, or any other easily recognizable mechanical process, with the exception of the copying press, stamps with movable or immovable type, and the typewriter.

(o) The term "political activities" means the dissemination of political propaganda or any other activity which is engaged in with the objective of influencing a Government agency or official or any portion of the American public with respect to

(1) Formulating, adopting, or changing the foreign or domestic policies of the United States, or

(2) The political or public interests of a foreign government or a foreign political party

(p) For purposes of the so-called commercial exemption authorized by section 3(d), activities in furtherance of a bona fide commercial, industrial or financial interests by a domestic person who substantially engages in such operations in the United States shall not be deemed to serve predominantly a foreign interest because such activities also benefit a foreign affiliate provided three conditions are met:

(i) The foreign affiliate must not be a foreign government or a foreign political party;

(ii) The identity of the foreign affiliate must be disclosed;

(iii) If the foreign affiliate is dominant, its activities must be substantially in furtherance of the bona fide commercial, industrial or financial interests of its domestic subordinate.

Section 2,[3] the heart of the Act, contains the general registration requirement and enumerates the kinds of information which a registrant is required to supply in the registration statement.

(a) Except for persons who are expressly exempt from registration, no one may act as an agent of a foreign principal unless he (it) registers with the Attorney General. The language of the section calls for "true and complete" submissions both as to registration statements and all needed supplements. The initial registration must be submitted within 10 days of the formation of the agency relationship. A duplicate statement under oath is required to be filed on forms prescribed by the Attorney General. The failure to register continues on

[3] 22 U.S.C. 612.

a daily basis after passage of the specified 10-day period and is not affected by termination of the agency relationship.

Information required to appear on the information statement includes—

(1) Registrant's names, principal business address, and all other business addresses worldwide.

(2) Registrant's status; in the case of an individual, his or her nationality; in the case of a partnership, the partners' names, home addresses, and nationality, together with the articles of copartnership; in the case of corporate and similar organizational persons, the name, home addresses, and nationality of each director and officer or persons performing those functions, together with the articles of incorporation, association, constitution, and bylaws; also, copies of all papers containing the terms and conditions relating to its organization, powers, and purposes; and a statement regarding ownership and control.

(3) A comprehensive statement of the nature of the registrant's business; a listing of all employees and the work performed by each; the name and address of each foreign principal for whom the registrant is performing as an agent; the foreign principal's business and other activities and, where appropriate, a statement of ownership and control; and, the extent to which a foreign principal is controlled or aided by a foreign country or foreign political party, or other foreign principal.

(4) Copies of all written agency contracts and the terms and conditions of all oral agency agreements; a statement describing the work performed or to be performed in accordance with such agency agreement, including a detailed statement of any and all political activities related thereto.

(5) Any and all material benefits received by the registrant in the preceding 60 days by virtue of the agency relationship and all relevant disbursements made by the registrant.

(6) A statement of the registrant's activities for any person, other than a foreign principal, for which he (it) must register, including a detailed statement of any political activity.

(7) The name, business, and home addresses (and nationality in the case of an individual person other than a foreign principal), for whom the registrant is acting in circumstances which are required to be registered: the extent to which each person is controlled or assisted by a foreign country, a foreign political party, or any other foreign principal; and the nature and amount of anything of value received by the registrant from such person, either as compensation or for disbursement, during the preceeding 60 days in any manner connected with the performance of any political activities.

(8) A statement of any money or other valuable item spent or disposed of by the registrant during the preceding 60 days in connection with activities which require his registration and which are undertaken by him as an agent of a foreign principal or in connection with becoming such an agent; a statement of all political contributions made during the preceding 60 days.

(9) Copies of all written agreements and the terms and conditions of all oral agreements, including all modifications of such

agreements. In the absence of an express contract a registrant is required to submit a full statement of the circumstances surrounding his efforts to perform any activities which require him to register.

(10) Any other statements, information, or documents which the Attorney General may require in conformity with national security and the public interests.

(11) Any additional information and materials which are needed to insure the accuracy and correctness of submissions expressly mandated by the Act.

(b) A registered agent is required to file a supplemental statement at six month intervals during the existence of the agency relationship. The supplement, which must be executed under oath and filed within 30 days following the expiration of six months, shall contain all information prescribed by the Attorney General. The primary purpose of this semi-annual report is to provide a complete and current picture of the agent's activities in behalf of a foreign principal. Any change in the status of activities covered by clauses (3), (4), (6), and (9) above, have to be reported within 10 days of the change. The Attorney General is authorized to provide for more frequent filings whenever, in his judgment, it is required by national security and the public interests.

(c) The registration statement and all subsequent submissions are to be executed under oath as follows: If the registrant is an individual, by him personally; if the registrant is a partnership, by a majority of the partners; in all other cases, by a majority of the officers or directors or persons performing officer or director functions.

(d) The act of filing in accordance with the express terms of the Act *per se* does not constitute full compliance therewith or with regulations issued thereunder. Similarly, compliance with filing requirements has no bearing on the Attorney General's views of the contents of the submission nor does it prevent a prosecution for willfully failing deadline or for willfully omitting material facts.

(e) In order to "eliminate inappropriate duplication", the Attorney General may permit the incorporation by reference in a required statement of information submitted in compliance with the Voorhis Act, 18 U.S.C. 2386, by an agent of a foreign principal. The Voorhis Act of 1940, so called, generally requires the registration with the Attorney General of subversive organizations, both domestic and foreign.

(f) The Attorney General may by regulation

(1) Exempt wholly or partially partners, officers, or employees of a registered agent, and

(2) Exempt agents of foreign principals, from having to provide unnecessary information

Section 3 [4] of the Act contains seven classes of exemptions which are available to an agent of a foreign principal. These include;

(a) Accredited diplomatic and consular officials while engaged exclusively in the activities of their offices.

(b) Any official of a foreign government recognized by the United States who is not a public relations counsel, publicity agent, infor-

[4] 22 U.S.C. 613.

mation-service employee, or a U.S. citizen, and whose name, status, and activities are matters of public record maintained by the Department of State. This exemption applies only while foreign officers are engaged in the performance of official functions, however.

(c) Staff and other persons employed by a duly accredited diplomatic or consular officer other than a public-relations counsel, publicity agent, or information-service employee. As with the preceding exemption, this exemption is available only if the name, status and activities of such persons are matters of public record in the possession of the State Department and only with respect to activities within the legitimate scope of their official functions.

(d) Any agent who—

(1) Engages in private and nonpolitical (i.e., trade or commercial) activities, or

(2) Engaged in political activities that do not serve a predominantly foreign interest, or

(3) Collects funds for purposes of relieving human suffering so long as such charitable efforts are in accord with relevant U.S. neutrality laws and regulations.

(e) Any person whose activities are confined to bona fide religious, scholastic, academic, scientific or fine arts purposes.

(f) Any agent, including the employee of an agent, of a government of a foreign country the defense of which the President deems vital to the defense of the United States. This exemption applies—

(1) While the agent is engaged in activities which are of mutual interests to both governments and which do not conflict with any U.S. foreign or domestic policies,

(2) When the agent communicates defense matters of mutual concern which may become public so long as he believes them to be true and he discloses his status as an agent of a foreign principal, and

(3) If the foreign government supplies the Secretary of State, who in turn, supplies the Attorney General, with information concerning the identity and activities of the agent. After notice to the foreign government concerned and when requested or approved by the Secretary of State, the Attorney General may wholly or partly terminate this exemption. The Attorney General is to be guided in these matters by considerations of public interest and national defense.

(g) Any attorney who represents a foreign principal before any court or U.S. agency. This exemption does not apply to efforts to influence or persuade agency personnel or officials other than in the context of established formal or informal legal or administration *proceedings*.

Section 4 [5] of the Act contains provisions relating to the filing and labeling of political propaganda by an agent of a foreign principal. The requirement applies to political propaganda in the form of prints, radio broadcasts, telecasts, or in some other form, which is reasonably adapted to being disseminated among two or more persons, or which the person transmitting the material believes will be, or intends to be, so disseminated.

[5] 22 U.S.C. 614.

(a) Any person who is required to register under the Act and who uses the U.S. mail or any means or instrumentality of commerce to transmit political propaganda in his principal's interests is required to submit two copies of such materials to the Attorney General. The filing, which must be made within two days of the release of the material, must include a signed statement fully describing the place, time and extent of the transmittal in question.

(b) It is a crime to disseminate political propaganda unless it is conspicuously labeled as such and indicates the sender's connection therewith. Other matters required to appear on propaganda material are—

(1) The fact that the sender is a registered agent of a foreign principal and that his registration statement is available for public inspection at the Justice Department;

(2) The name and address of both the agent and his principal;

(3) Notice of the fact of registration does not constitute approval of the contents of the material. The Attorney General is authorized to regulate the manner, form, and language of the disclosure statement accompanying political propaganda. He may also require inclusion if any additional information which he deems to be appropriate in light of the national security requirements and the public interest.

(c) Political propaganda filed with the Justice Department is available for public inspection.

(d) Copies of foreign printed materials which may not be imported by reason of their immoral or criminal, or seductive subject matter may be given to the Library of Congress for purposes other than public distribution. The Secretary of the Treasury and the Postmaster General are authorized to permit the entry of otherwise restricted materials which are intended for governmental purpose or for use by the Library of Congress.

(e) It is a crime for a person who is required to register either to give political propaganda to, or to contact government officials, including members and committees of Congress, concerning policy matters on behalf a foreign principal unless he fully discloses his status as an agent.

(f) A registered agent who appears before a congressional committee for or in the interest of a foreign principal must include a copy of his most recent registration statement as part of his testimony.

Section 5 [6] of the Act deals with certain books and records required to be maintained by registered agents. The books of account, records and other materials of his activities under the Act which an agent is required to maintain are spelled out in regulations issued by the Attorney General. The terms of this section provide that until such time as the regulations become effective, every agent is required to keep all accounts and preserve all written records with respect to his activities as an agent. The Act requires that these books and records to be kept available for inspection by authorized Justice Department personnel. It is a criminal violation to conceal, destroy, obliterate, or falsify any such documents.

[6] 22 U.S.C. 615.

Section 6[7] of the Act generally provides for public examination of statements, political propaganda materials and other documents filed by a registrant—

(a) The times, manner, and place for examining any and all materials filed by an agent are described in regulations. Copies of these materials are available for a reasonable fee. The Attorney General may withdraw such materials from public inspection whenever an agent's activities are no longer of a registerable character.

(b) Copies of all materials filed under the Act are to be made available to the Secretary of State for use in discharging his foreign relations responsibilities. Failure to transmit copies to the Secretary of State in accordance with these provisions is not a bar to criminal prosecution for conduct prohibited by the Act.

(c) Similarly, all information and materials obtained under the Act are to be supplied to executive branch agencies and congressional committees whenever it will further the Act's disclosure and informational purposes.

Section 7[8] makes every officer, director, and person performing the functions of an officer or director of an organization acting as an agent of a foreign principal responsible for compliance by that organization with the requirements of this Act. Dissolution of an organization which is an agent of a foreign principal does relieve an officer or director of complying with the requirements of the Act. The failure of an agents' officers or directors to register and otherwise perform as required by the law subjects them to criminal prosecution.

Section 8[9] of the Act authorizes penalties applicable to various violations of the provisions of the Act.

(a) A person who is convicted of willfully violating the Act may be fined up to $10,000 or imprisoned up to 5 years, or both. Similar penalties apply to willful false statements and to willful omissions of material facts on registration statements and other documents which are required to be filed by the Act. Lesser penalties (up to $5,000 fine and six months imprisonment) are authorized for violations of the propaganda filing and labeling requirements, for filing a deficient registration, and for entering into a prohibited contingent fee arrangement.

(b) Proof of the identity of the foreign principal is not a necessary element any proceeding under the Act.

(c) An alien who is convicted of either violating or conspiring to violate the Act, is subject to deportation in accordance with the provisions of 8 U.S.C. 1251–1253.

(d) The Postmaster General is authorized to declare nonmailable any political propaganda—

(1) Which promotes strife and violence in an American republic and;

(2) When requested to do it by the representative of the nation concerned. The latter is required to notify the Postmaster General that such propaganda violates his nation's laws.

(e) The failure to file a registration statement or supplements is a continuing offense notwithstanding any statute of limitations.

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[7] 22 U.S.C. 616.
[8] 22 U.S.C. 617.
[9] 22 U.S.C. 618.

(f) The Attorney General is authorized to seek injunctive relief in order to prevent or to halt activities in violation of the Act. The federal district courts which have jurisdiction over such actions may issue a temporary or permanent injunction, restraining order, and any other order which they may deem proper. These proceedings are required to be expedited in every way.

(g) It is unlawful for a registrant to continue to act as an agent of a foreign principal for more than 10 days after being notified of a deficiency in his registration statement unless the deficiency is corrected within the 10-day period.

(h) It is also unlawful for a registered agent to enter into a contingent fee contract with a foreign principal, i.e., a contract which makes the agent's compensation dependent upon the success of political activities which he is required to perform.

Section 9 [10] states that the Act applies in the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States.

Section 10 [11] authorizes the Attorney General to issue all regulations necessary to carry out the Act.

Section 11 [12] directs the Attorney General to make periodic reports to the Congress concerning the administration of the Act and the nature, sources and content of political propaganda that is filed with him.

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[10] 22 U.S.C. 619.
[11] 22 U.S.C. 620.
[12] 22 U.S.C. 621.

III

FARA REGULATIONS

TITLE 28 [C.F.R.]—JUDICIAL ADMINISTRATION

PART 5—ADMINISTRATION AND ENFORCEMENT OF FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED

Sec.

AUTHORITY: The provisions of this Part 5 issued under sec. 1, 56 Stat. 248, 257; 22 U.S.C. 620.

SOURCE: The provisions of this Part 5 contained in Order No. 376–67, 32 F.R. 6362, Apr. 22, 1967, unless otherwise noted.

§ 5.1 Administration and enforcement of the Act.

(a) The administration and enforcement of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611–621), is subject to the general supervision and direction of the Attorney General, assigned to, conducted, handled, and supervised by the Assistant Attorney General in charge of the Criminal Division (§ 0.60(b) of this chapter).

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(b) The Assistant Attorney General is authorized to prescribe such forms, in addition to or in lieu of those specified in the regulations in this part, as may be necessary to carry out the purposes of this part.

(c) Copies of the Act, and of the rules, regulations, and forms prescribed pursuant to the Act, and information concerning the foregoing may be obtained upon request without charge from the Registration Unit, Criminal Division, Department of Justice, Washington, D.C. 20530.

[Order No. 376–67, 32 FR 6362, Apr. 22, 1967, as amended by order No. 523–73, 38 FR 18235, July 9, 1973; Order No. 568–74, 39 FR 18646, May 29, 1974]

§ 5.2 Inquiries concerning application of the Act.

Any inquiry concerning the application of the Act to any person should be addressed to the Registration Unit and should be accompanied by a detailed statement containing the following information:

(a) The identity of the agent and the foreign principal involved;

(b) The nature of the agent's activities for or in the interest of the foreign principal;

(c) A copy of the existing or proposed written contract with the foreign principal, or a full description of the terms and conditions of each existing or proposed oral agreement.

[Order No. 376–67, 32 FR 6362, Apr. 22, 1967, as amended by Order No. 563–74, 39 FR 18646, May 29, 1974]

§ 5.3 Filing of a registration statement.

All statements, exhibits, amendments, and other documents and papers required to be filed under the Act or under this part shall be submitted in duplicate to the Registration Unit. Filing of such documents may be made in person or by mail, and they shall be deemed to be filed upon their receipt by the Registration Unit.

[Order No. 376–67, 32 FR 6362, Apr. 22, 1967, as amended by Order No. 523–73, 38 FR 18235. July 9, 1973]

§ 5.4 Computation of time.

Sundays and holidays shall be counted in computing any period of time prescribed in the Act or in the rules and regulations in this part.

§ 5.100 Definition of terms.

(a) As used in this part:

(1) The term "Act" means the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611–621).

(2) The term "Attorney General" means the Attorney General of the United States.

(3) The term "Assistant Attorney General" means the Assistant Attorney General in charge of the Criminal Division, Department of Justice, Washington, D.C. 20530.

(4) The term "Secretary of State" means the Secretary of State of the United States.

(5) The term "Registration Unit" means the Registration Unit, Internal Security Section, Criminal Division, Department of Justice, Washington, D.C. 20530.

(6) The term "rules and regulations" includes the regulations in this part and all other rules and regulations presscribed by the At-

torney General pursuant to the Act and all registration forms and instructions thereon which may be prescribed by the regulations in this part or by the Assistant Attorney General.

(7) The term "registrant" means any person who has filed a registration statement with the Registration Unit, pursuant to section 2(a) of the Act and § 5.2.

(8) Unless otherwise specified the term "agent of a foreign principal" means an agent of a foreign principal required to register under the Act.

(9) The term "foreign principal" includes a person of any of whose activities are directed or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal as that term is defined in section 1(b) of the Act.

(10) The term "initial statement" means the statement required to be filed with the Attorney General under section 2(a) of the Act.

(11) The term "supplemental statement" means the supplement required to be filed with the Attorney General under section 2(b) of the Act at intervals of 6 months following the filing of the initial statement.

(12) The term "final statement" means the statement required to be filed with the Attorney General following the termination of the registrant's obligation to register.

(13) The term "short form registration statement" means the registration statement required to be filed by certain partners, officers, directors, associates, employees, and agents of a registrant.

(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.

(c) The term "agency" as used in sections 1(c), 1(o), 1(q), 3(g), and 4(e) of the Act shall be deemed to refer to every unit in the executive and legislative branches of the Government of the United States, including committees of both Houses of Congress.

(d) The term "official" as used in section 1(c), 1(o), 1(q), 3(g), and 4(e) of the Act shall be deemed to include Members and officers of both Houses of Congress as well as officials in the executive branch of the Government of the United States.

(e) The terms "formulating, adopting, or changing," as used in section 1(o) of the Act shall be deemed to include any activity which seeks to maintain any existing domestic or foreign policy of the United States. They do not include making a routine inquiry of a Government official or employee concerning a current policy or seeking administrative action in a matter where such policy is not in question.

(f) The term "domestic or foreign policies of the United States," as used in sections 1 (o) and (p) of the Act, shall be deemed 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.

[Order No. 376–67, 32 FR 6362, Apr. 22, 1967, as amended by Order No. 523–73, 38 FR 18235, July 9, 1973]

§ 5.200 Registration.

(a) Registration under the Act is accomplished by the filing of an initial statement together with all the exhibits required by § 5.201 and the fiiling of a supplemental statement at intervals of 6 months for the duration of the principal-agent relationship requiring registration.

(b) The initial statement shall be filed on Form DJ–301.

§ 5.201 Exhibits.

(a) The following described exhibits are required to be filed for each foreign principal of the registrant:

(1) *Exhibit A.* This exhibit, which shall be filed on Form DJ–306, shall set forth the information required to be disclosed concerning each foreign principal.

(2) *Exhibit B.* This exhibit, which shall be filed on Form DJ–304, shall set forth the agreement or understanding between the registrant and each of his foreign principals as well as the nature and method of performance of such agreement or understanding and the existing or proposed activities engaged in or to be engaged in, including political activities, by the registrant for the foreign principal.

(b) Any change in the information furnished in Exhibit A or B shall be reported to the Registration Unit within 10 days of such change. The filing of a new exhibit may then be required by the Assistant Attorney General.

(c) Whenever the registrant is an association, corporation, organization, or any other combination of individuals, the following documents shall be filed as Exhibit C:

(1) A copy of the registrant's charter, articles of incorporation or association, or constitution, and a copy of its bylaws, and amendments thereto;

(2) A copy of every other instrument or document, and a statement of the terms and conditions of every oral agreement, relating to the organization, powers and purposes of the registrant.

(d) The requirements to file any of the documents described in paragraph (c) (1) and (2) of this section may be wholly or partially waived upon written application by the registrant to the Assistant Attorney General setting forth fully the reasons why such waiver should be granted.

(e) Whenever a registrant, within the United States, receives or collects contributions, loans, money, or other things of value, as part of a fund-raising campaign, for or in the interests of his foreign principal, he shall file as Exhibit D a statement so captioned setting forth the amount of money or the value of the thing received or collected, the names and adresses of the persons from whom such money or thing of value was received or collected, and the amount of money or a description of the thing of value transmitted to the foreign principal as well as the manner and time of such transmission.

[Order No. 376–67, 32 FR 6362, Apr. 22,1967, as amended by Order No. 523–73, 38 FR 18235, July 9, 1973]

§ 5.202 Short form registration statement.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, each partner, officer, director, associate, employee, and agent of a registrant is required to file a registration statement under the

Act. Unless the Assistant Attorney General specifically directs otherwise, this obligation may be satisfied by the filing of a short form registration statement.

(b) A partner, officer, director, associate, employee, or agent of a registrant who does not engage directly in activity in furtherance of the interests of the foreign principal is not required to file a short form registration statement.

(c) An employee or agent of a registrant whose services in furtherance of the interests of the foreign principal are rendered in a clerical, secretarial, or in a related or similar capacity, is not required to file a short form registration statement.

(d) Whenever the agent of a registrant is a partnership, association, corporation, or other combination of individuals, and such agent is not within the exemption of paragraph (b) of this section, only those partners, officers, directors, associates, and employees who engage directly in activity in furtherance of the interests of the registrant's foreign principal are required to file a short form registration statement.

(e) The short form registration statement shall be filed on Form DJ–305. Any change affecting the information furnished with respect to the nature of the services rendered by the person filing the statement, or the compensation he receives, shall require the filing of a new short form registration statement within 10 days after the occurrence of such change. There is no requirement to file exhibits or supplemental statements to a short form registration statement.

§ 5.203 Supplemental statement.

(a) Supplemental statements shall be filed on Form DJ–302.

(b) The obligation to file a supplemental statement at 6-month intervals during the agency relationship shall continue even though the registrant has not engaged during the period in any activity in the interests of his foreign principal.

(c) The time within which to file a supplemental statement may be extended for sufficient cause shown in a written application to the Assistant Attorney General.

§ 5.204 Amendments.

(a) An initial, supplemental, or final statement which is deemed deficient by the Assistant Attorney General must be amended upon his request. Such amendment shall be filed upon Form DJ–307 and shall identify the item of the statement to be amended.

(b) A change in the information furnished in an initial or supplemental statement under clauses (3), (4), (6), and (9) of section 2(a) of the Act shall be by amendment, unless the notice which is required to be given of such change under section 2(b) is deemed sufficient by the Assistant Attorney General.

§ 5.205 Termination of registration.

(a) A registrant shall, within 30 days after the termination of his obligation to register, file a final statement on Form DJ–302 with the Registration Unit for the final period of the agency relationship not covered by any previous statement.

(b) Registration under the Act shall be terminated upon the filing of a final statement, if the registrant has fully discharged all his obligations under the Act.

(c) A registrant whose activities on behalf of each of his foreign principals become confined to those for which an exemption under section 3 of the Act is available may file a final statement notwithstanding the continuance of the agency relationship with the foreign principals.

[Order No. 376–67, 32 FR 6362, Apr. 22, 1967, as amended by Order No. 523–73, 38 FR 18235, July 9, 1973]

§ 5.206 Language and wording of registration statement.

(a) Except as provided in the next sentence, each statement, amendment, exhibit, or notice required to be filed under the Act shall be submitted in the English language. An exhibit may be filed even though it is in a foreign language if it is accompanied by an English translation certified under oath by the translator before a notary public, or other person authorized by law to administer oaths for general purposes, as a true and accurate translation.

(b) A statement, amendment, exhibit, or notice required to be filed under the Act should be typewritten, but will be accepted for filing if it is written legibly in ink.

(c) Copies of any document made by any of the duplicating processes may be filed pursuant to the Act if they are clear and legible.

(d) A response shall be made to every item on each pertinent form, unless a registrant is specifically instructed otherwise in the form. Whenever the item is inapplicable or the appropriate response to an item is "none," an express statement to that effect shall be made.

§ 5.207 Incorporation by reference.

(a) Each initial, supplemental, and final statement shall be complete in and of itself. Incorporation of information by reference to statements previously filed is not permissible.

(b) Whenever insufficient space is provided for response to any item in a form, reference shall be made in such space to a full insert page or pages on which the item number and inquiry shall be restated and a complete answer given. Inserts and riders of less than full page size should not be used.

§ 5.208 Disclosure of foreign principals.

A registrant who represents more than one foreign principal is required to list in the statements he files under the Act only those foreign principals for whom he is not entitled to claim exemption under section 3 of the Act.

§ 5.209 Information relating to employees.

A registrant shall list in the statements he files under the Act only those employees whose duties require them to engage directly in activities in furtherance of the interests of the foreign principal.

§ 5.210 Amount of detail required in information relating to registrant's activities and expenditures.

A statement is "detailed" within the meaning of clauses 6 and 8 of section 2(a) 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 agency relation.

§ 5.211 Sixty-day period to be covered in initial statement.

The 60-day period referred to in clauses 5, 7, and 8 of section 2(a) of the Act shall be measured from the time that a registrant has incurred an obligation to register and not from the time that he files his initial statement.

§ 5.300 Burden of establishing availability of exemption.

The burden of establishing the availability of an exemption from registration under the Act shall rest upon the person for whose benefit the exemption is claimed.

§ 5.301 Exemption under section 3(a) of the Act.

(a) A consular officer of a foreign government shall be considered duly accredited under section 3(a) of the Act whenever he has received formal recognition as such, whether provisionally or by exequatur, from the Secretary of State.

(b) The exemption provided by section 3(a) of the Act to a duly accredited diplomatic or consular officer is personal and does not include within its scope an office, bureau, or other entity.

§ 5.302 Exemptions under sections 3 (b) and (c) of the Act.

The exemptions provided by sections 3 (b) and (c) of the Act shall not be available to any person described therein unless he has filed with the Secretary of State a fully executed Notification of Status with a Foreign Government (Form D.S. 394).

§ 5.303 Exemption available to persons accredited to international organizations.

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.

§ 5.304 Exemptions under sections 3(d) and (e) of the Act.

(a) As used in section 3(d), the term "trade or commerce" shall include the exchange, transfer, purchase, or sale of commodities, services, or property of any kind.

(b) For the purposes of section 3(d) of the Act, activities of an agent of a foreign principal as defined in section 1(c) of the Act, in furtherance of the bona fide trade or commerce of such foreign principal, shall be considered "private," even though the foreign principal is owned or controlled by a foreign government, so long as the activities do not directly promote the public or political interests of the foreign government.

(c) For the purpose of section 3(d) of the Act, the disclosure of the identity of the foreign person that is required under section 1(q) of the Act shall be made to each official of the U.S. Government with whom the activities are conducted. This disclosure shall be made to

the Government official prior to his taking any action upon the business transacted. The burden of establishing that the required disclosure was made shall lie upon the person claiming the exemption.

(d) The exemption provided by section 3(e) of the Act shall not be available to any person described therein if he engages in political activities as defined in section 1(o) of the Act for or in the interests of his foreign principal.

[Order No. 376–67, F.R. 6362, Apr. 22, 1967, as amended by Order No. 463–71, 36 F.R. 12212, June 29, 1971]

§ 5.305 Exemption under section 3(f) of the Act.

The exemption provided by section 3(f) of the Act shall not be available unless the President has, by publication in the FEDERAL REGISTER, designated for the purpose of this section the country the defense of which he deems vital to the defense of the United States.

§ 5.306 Exemption under section 3(g) of the Act.

For the purpose of section 3(g) of the Act—

(a) Attempts to influence or persuade agency personnel or officials other than in the course of established agency proceedings, whether formal or informal, shall include only such attempts to influence or persuade 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; and

(b) If an attorney engaged in legal representation of a foreign principal before an agency of the U.S. Government is not otherwise required to disclose the identity of his principal as a matter of established agency procedure, he must make such disclosure, in conformity with this section of the Act, to each of the agency's personnel or officials before whom and at the time his legal representation is undertaken. The burden of establishing that the required disclosure was made shall lie upon the person claiming the exemption.

[Order No. 376–67, 32 F.R. 6362, Apr. 22, 1967, as amended by Order No. 463–71, 36 F.R. 12212, June 29, 1971]

§ 5.400 Filing of political propaganda.

(a) The two copies of each item of political propaganda required to be filed with the Attorney General under section 4(a) of the Act shall be filed with the Registration Unit.

(b) Whenever two copies of an item of political propaganda have been filed pursuant to section 4(a) of the Act, an agent of a foreign principal shall not be required, in the event of further dissemination of the same material, to forward additional copies thereof to the Registration Unit.

(c) Unless specifically directed to do so by the Assistant Attorney General, a registrant is not required to file two copies of a motion picture containing political propaganda which he disseminates on behalf of his foreign principal, so long as he files monthly reports on its dissemination. In each such case this registrant shall submit to the Registration Unit either a film strip showing the label required by section 4(b) of the Act or an affidavit certifying that the required label has been made a part of the film.

[Order No. 376–67, 32 F.R. 6362, Apr. 22, 1967, as amended by Order No. 523–73, 38 F.R. 18235, July 9, 1973; Order No. 568–74, 39 F.R. 18646, May 29, 1974]

§ 5.401 Dissemination report.

(a) A Dissemination Report shall be filed with the Registration Unit for each item of political propaganda that is transmitted, or caused to be transmitted, in the U.S. mails, or by any means or instrumentality of interstate or foreign commerce, by an agent of a foreign principal for or in the interests of any of his foreign principals.

(b) The Dissemination Report shall be filed on Form DJ–310.

(c) Except as provided in paragraph (d) of this section, a Dissemination Report shall be filed no later than 48 hours after the beginning of the transmittal of the political propaganda.

(d) Whenever transmittals of the same political propaganda are made over a period of time, a Dissemination Report may be filed monthly for as long as such transmittals continue.

(e) A Dissemination Report shall be complete in and of itself. Incorporation of information by reference to reports previously filed is not permissible.

[Order No. 376–67, 32 F.R. 6362, Apr. 22, 1967, as amended by Order No. 568–74, 39 F.R. 18646, May 29, 1974]

§ 5.402 Labeling political propaganda.

(a) Within the meaning of this part, political propaganda shall be deemed labeled whenever it has been marked or stamped conspicuously at its beginning with a statement setting forth such information as is required under section 4(b) of the Act.

(b) An item of political propaganda which is required to be labeled under section 4(b) of the Act and which is in the form of prints shall be marked or stamped conspicuously at the beginning of such item with a statement in the language or languages used therein, setting forth such information as is required under section 4(b) of the Act.

(c) An item of political propaganda which is required to be labeled under section 4(b) of the Act but which is not in the form of prints shall be accompanied by a statement setting forth such information as is required under section 4(b) of the Act.

(d) Political propaganda as defined in section 1(j) of the Act which is televised or broadcast, or which is caused to be televised or broadcast, by an agent of a foreign principal, shall be introduced by a statement which is reasonably adapted to convey to the viewers or listeners thereof such information as is required under section 4(b) of the Act.

(e) An agent of a foreign principal who transmits or causes to be transmitted in the U.S. mails or by any means or instrumentality of interstate or foreign commerce a still or motion picture film which contains political propaganda as defined in section 1(j) of the Act shall insert at the beginning of such film a statement which is reasonably adapted to convey to the viewers thereof such information as is required under section 4(b) of the Act.

(f) For the purpose of section 4(e) of the Act, the statement that must preface or accompany political propaganda or a request for information shall be in writing.

§ 5.500 Maintenance of books and records.

(a) A registrant shall keep and preserve in accordance with the provisions of section 5 of the Act the following books and records:

(1) All correspondence, memoranda, cables, telegrams, teletype messages, and other written communications to and from all foreign principals and all other persons, relating to the registrant's activities on behalf of, or in the interest of any of his foreign principals.

(2) All correspondence, memoranda, cables, telegrams, teletype messages, and other written communications to and from all persons, other than foreign principals, relating to the registrant's political activity, or relating to political activity on the part of any of the registrant's foreign principals.

(3) Original copies of all written contracts between the registrant and any of his foreign principals.

(4) Records containing the names and addresses of persons to whom political propaganda has been transmitted.

(5) All bookkeeping and other financial records relating to the registrant's activities on behalf of any of his foreign principals, including canceled checks, bank statements, and records of income and disbursements, showing names and addresses of all persons who paid moneys to, or received moneys from, the registrant, the specific amounts so paid or received, and the date on which each item was paid or received.

(6) If the registrant is a corporation, partnership, association, or other combination of individuals, all minute books.

(7) Such books or records as will disclose the names and addresses of all employees and agents of the registrant, including persons no longer acting as such employees or agents.

(8) Such other books, records, and documents as are necessary properly to reflect the activities for which registration is required.

(b) The books and records listed in paragraph (a) of this section shall be kept and preserved in such manner as to render them readily accessible for inspection pursuant to section 5 of the Act.

(c) A registrant shall keep and preserve the books and records listed in paragraph (a) of this section for a period of 3 years following the termination of his registration under § 5.205.

(d) Upon good and sufficient cause shown in writing to the Assistant Attorney General, a registrant may be permitted to destroy books and records in support of the information furnished in an initial or supplemental statement which he filed 5 or more years prior to the date of his application to destroy.

§ 5.501 Inspection of books and records.

Officials of the Criminal Division and the Federal Bureau of Investigation are authorized under section 5 of the Act to inspect the books and records listed in § 5.500(a).

[Order No. 376–67, 32 FR 6362, Apr. 22, 1967, as amended by Order No. 523–73, 38 FR 18235, July 9, 1973]

§ 5.600 Public examination of records.

Registration statements, Dissemination Reports, and copies of political propaganda filed under section 4(a) of the Act, shall be available for public examination at the Registration Unit on official business days, from 10 a.m. to 4 p.m.

§ 5.601 Copies of records available.

(a) Copies of registration statements and Dissemination Reports may be obtained from the Registration Unit upon payment of a fee at the rate of 10 cents per copy of each page of the material requested.

(b) Information as to the fee to be charged for copies of registration statements and Dissemination Reports and the time required for their preparation may be obtained upon request to the Registration Unit.

(c) Payment of the fee shall accompany an order for copies, and shall be made in cash, by U.S. postal money order, or by certified bank check made payable to the Treasurer of the United States Postage stamps will not be accepted.

[Order No. 376–67, 32 FR 6362, Apr. 22, 1967, as amended by Order No. 523–73, 38 FR 18235, July 9, 1973]

§ 5.800 Ten-day filing requirement.

The 10-day filing requirement provided by section 8(g) of the Act shall be deemed satisfied if the amendment to the registration statement is deposited in the U.S. mails no later than the 10th day of the period.

§ 5.801 Activity beyond 10-day period.

A registrant who has within the 10-day period filed an amendment to his registration statement pursuant to a Notice of Deficiency given under section 8(g) of the Act may continue to act as an agent of a foreign principal beyond this period unless he receives a Notice of Noncompliance from the Registration Unit.

[Order No. 376–67, 32 FR 6362, Apr. 22, 1967, as amended by Order No. 523–73, 38 FR 18235, July 9, 1973]

IV

FARA REGISTRATION STATEMENT AND OTHER FILING FORMS

Budget Bureau No. 43-R209.6
Approval expires October 31, 1976

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

FORM OBD-63
10-24-75

FOR REGISTRATION STATEMENT

Pursuant to Section 2 of the Foreign Agents Registration Act of 1938, as amended.

INSTRUCTION SHEET - READ CAREFULLY

1. *Read Act and Rules.* Registrant should carefully read the Act and the Rules thereunder before filling in this form.

2. *Typewritten.* The completed form should be typewritten but will be accepted for filing if written legibly in ink.

3. *Copies.* Copies of attachments to registration forms made by any duplicating process may be filed if clear and legible. Official registration forms so copied will not be accepted for filing.

4. *Answer.* Unless otherwise specifically instructed in this form, a registrant shall answer every item on this form.

5. *Inserts.* Inserts and riders of less than full page size shall not be used. Whenever insufficient space is provided for response to any item, reference shall be made in such space to a full insert page or pages on which the item number and inquiry shall be restated and a complete answer given.

6. *Filing.* Two copies of this statement, including all exhibits and attachments, shall be filed with the Registration Unit, Internal Security Section Crimnal Division, Department of Justice, Washington, D.C. 20530. Both copies must be sworn to before a notary public or other officer authorized to administer oaths. A third copy should be retained by the registrant.

NOTE: Omit this instruction sheet when filing this statement.

FORM OBD-63
Budget Bureau No. 43-R209.6
Approval Expires Oct. 31, 1976

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

REGISTRATION STATEMENT

Pursuant to Section 2 of the Foreign Agents Registration Act of 1938, as Amended

I - REGISTRANT

1. Name of the registrant.

2. Business address.

3. If the registrant is an individual, furnish the following information:

   (a) Residence address.

   (b) Date and place of birth.

   (c) Present citizenship.

   (d) If present citizenship not acquired by birth, state when, where and how acquired.

   (e) Occupation.

4. If the registrant is not an individual, furnish the following information:

   (a) Type of organization: Committee ☐ Association ☐ Partnership ☐
   Corporation ☐ Other (specify) _____

   (b) Date and place of organization.

   (c) Address of principal office.

   (d) Name of person in charge.

   (e) Locations of branch or local offices in United States.

   (f) If a membership organization, give number of members.

(g) List all partners, officers, directors or persons performing the functions of an officer or director of the registrant.

Name	*Residence Address*	*Position*	*Citizenship*

(h) Which of the above named persons renders services directly in furtherance of the interests of any of the foreign principals?

(i) Describe the nature of the registrant's regular business or activity.

(j) Give a complete statement of the ownership and control of the registrant.

5. List all employees who render services to the registrant directly in furtherance of the interests of any of the foreign principals in other than a clerical, secretarial, or in a related or similar capacity.

Name	*Residence Address*	*Nature of Services*

FORM OBD-63
(Rev. 10-24-75)

II - FOREIGN PRINCIPAL

6. List every foreign principal[1] for whom the registrant is acting or has agreed to act.

Name of Foreign Principal	*Principal Address*

III - ACTIVITIES

7. In addition to the activities described in any Exhibit B to this statement, will you engage or are you now engaging in activity on your own behalf which benefits any or all of your foreign principals? Yes ☐ No ☐

If yes, describe fully

IV - FINANCIAL INFORMATION

8. *(a)* RECEIPTS - MONIES

During the period beginning 60 days prior to the date of your obligation to register to the time of filing this statement, did you receive from any foreign principal named in Item 6 any contribution, income or money either as compensation or for disbursement or otherwise? Yes ☐ No ☐

If yes, set forth below in the required detail and separately for each such foreign principal an account of such monies.[2]

Name of Foreign Principal	*Date Received*	*Purpose*	*Amount*

Total

[1] The term "foreign principal" includes a foreign government, foreign political party, foreign organization, foreign individual and, for the purpose of registration, an organization or an individual any of whose activities are directly or indirectly supervised, directed, controlled, financed or subsidized in whole or in major part by a foreign government, foreign political party, foreign organization or foreign individual.

[2] A registrant is required to file an Exhibit D if he collects or receives contributions, loans, money, or other things of value for a foreign principal, as part of a fund raising campaign. There is no printed form for this exhibit. See Rule 201 (e).

(b) RECEIPTS - THINGS OF VALUE

During the period beginning 60 days prior to the date of your obligation to register to the time of filing this statement, did you receive from any foreign principal named in Item 6 any thing of value[3] other than money, either as compensation, or for disbursement, or otherwise? Yes ☐ No ☐

If yes, furnish the following information:

Name of Foreign Principal	Date Received	Description of thing of value	Purpose for which received

9. (a) DISBURSEMENTS - MONIES

During the period beginning 60 days prior to the date of your obligation to register to the time of filing this statement, did you spend or disburse any money in furtherance of or in connection with your activities on behalf of any foreign principal named in Item 6? Yes ☐ No ☐

If yes, set forth below in the required detail and separately for each such foreign principal an account of such monies, including monies transmitted, if any, to each foreign principal.

Date	To Whom	Purpose	Amount

(b) DISBURSEMENTS - THINGS OF VALUE

During the period beginning 60 days prior to the date of your obligation to register to the time of filing this statement, did you dispose of any thing of value[3] other than money in furtherance of or in connection with your activities on behalf of any foreign principal named in Item 6? Yes ☐ No ☐

If yes, furnish the following information:

Date	Name of person to whom given	On behalf of what foreign principal	Description of thing of value	Purpose in giving

(c) DISBURSEMENTS - POLITICAL CONTRIBUTIONS

During the period beginning 60 days prior to the date of your obligation to register to the time of filing this statement, did you make any contribution of money or other thing of value from your own funds and on your own behalf in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for political office? Yes ☐ No ☐

If yes, furnish the following information:

Date	Amount or thing of value	Party or Candidate	Identify location of election, convention, etc. if any

[3] Things of value include but are not limited to gifts, interest free loans, expense free travel, favored stock purchases, exclusive rights, favored treatment over competitors, "kickbacks," and the like.

FORM OBD-63
(Rev. 10-24-75

V - POLITICAL PROPAGANDA

(Section 1 (j) of the Act defines "political propaganda" as including any oral, visual, graphic, written, pictorial, or other communication or expression by any person (1) which is reasonably adapted to, or which the person disseminating the same believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, or in any other way influence a recipient or any section of the public within the United States with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party or with reference to the foreign policies of the United States or promote in the United States racial, religious, or social dissensions, or (2) which advocates, advises, instigates, or promotes any racial, social, political, or religious disorder, civil riot, or other conflict involving the use of force or violence in any other American republic or the overthrow of any government or political subdivision of any other American republic by any means involving the use of force or violence.)

10. Will the activities of the registrant on behalf of any foreign principal include the preparation or dissemination of political propaganda as defined above? Yes ☐ No ☐

IF YES, RESPOND TO THE REMAINING ITEMS IN THIS SECTION V.

11. Identify each such foreign principal.

12. Has a budget been established or a specified sum of money allocated to finance your activities in preparing or disseminating political propaganda? Yes ☐ No ☐

If yes, identify each such foreign principal, specify amount and for what period of time.

13. Will any public relations firms or publicity agents participate in the preparation or dissemination of such political propaganda material? Yes ☐ No ☐

If yes, furnish the names and addresses of such persons or firms.

14. Will your activities in preparing or disseminating political propaganda include the use of any of the following:

☐ Radio or TV broadcasts
☐ Motion picture films
☐ Advertising campaigns
☐ Pamphlets or other publications
☐ Magazine or Newspaper articles
☐ Letters or telegrams
☐ Press releases
☐ Lectures or speeches
☐ Other (specify)_____

15. Will the political propaganda be disseminated among any of the following groups:

☐ Public Officials
☐ Civic groups or associations
☐ Legislators
☐ Libraries
☐ Government agencies
☐ Educational institutions
☐ Newspapers
☐ Nationality groups
☐ Editors
☐ Other (specify)_____

16. Indicate language to be used in political propaganda:

☐ English
☐ Other (specify)_____

VI - EXHIBITS AND ATTACHMENTS

17. *(a)* The following described exhibits shall be filed in duplicate with an initial registration statement:

Exhibit A - This exhibit, which is filed on Form DJ-306, sets forth the information required to be disclosed concerning each foreign principal named in Item 6.

Exhibit B - This exhibit, which is filed on Form DJ-304, sets forth the information concerning the agreement or understanding between the registrant and the foreign principal.

(b) An Exhibit C shall be filed when applicable. This exhibit for which no printed form is provided consists of a true copy of the charter, articles of incorporation, association, constitution, and bylaws of a registrant that is an organization. A waiver of the requirement to file an Exhibit C may be obtained for good cause shown upon written application to the Assistant Attorney General, Internal Security Division, Department of Justice, Washington, D.C. 20530. See Rule 201 (c) and (d).

(c) An Exhibit D shall be filed when applicable. This exhibit for which no printed form is provided sets forth an account of money collected or received as a result of a fund raising campaign and transmitted for a foreign principal. See Rule 201 (e).

(d) A Short Form Registration Statement shall be filed for each person named in Items 4 (h) and 5.

The undersigned swear(s) or affirm(s) that he has (they have) read the information set forth in this registration statement and the attached exhibits and that he is (they are) familiar with the contents thereof and that such contents are in their entirety true and accurate to the best of his (their) knowledge and belief, except that the undersigned make(s) no representation as to the truth or accuracy of the information contained in attached Short Form Registration Statement, if any, insofar as such information is not within his (their) personal knowledge.

(Type or print name under each signature)

_____

_____

(Both copies of this statement shall be signed and sworn to before a notary public or other person authorized to administer oaths by the agent, if the registrant is an individual, or by a majority of those partners, officers, directors or persons performing similar functions who are in the United States, if the registrant is an organization.)

_____

_____

Subscribed and sworn to before me at _____

_____ this _____ day of _____, 19____.

_____

(Signature of notary or other officer)

My commission expires _____, 19____

DOJ-1973-08

OMB No. 43-R0215
Approval Expires Oct. 31, 1981

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

SHORT-FORM REGISTRATION STATEMENT

Under the Foreign Agents Registration Act of 1938, as amended

Each partner, officer, director, associate, employee and agent of a registrant is required to file a short form registration statement unless he engages in no activities in furtherance of the interests of the registrant's foreign principal or unless the services he renders to the registrant are in a secretarial, clerical, or in a related or similar capacity.

1. Name	Registration No.
2. Residence Address	3. Business Address
4. Date and Place of Birth Present Citizenship	5. If present citizenship was not acquired by birth, indicate when, where, and how acquired.

6. Occupation:

7. What is the name and address of the individual or organization whose registration made it necessary for you to file this statement?

Name Address

8. List every foreign principal of the individual or organization named in Item 7.

9. Indicate your connection with the individual or organization named in Item 7:

☐ partner ☐ director ☐ employee

☐ officer ☐ associate ☐ agent

☐ other (specify)_____

10. Describe in detail all services which you have rendered or will render to the individual or organization named in Item 7. If you are no longer rendering such services, indicate period of past services. (If space is insufficient, a full insert page must be used.)

11. Do any of the above described services include political activity as defined in the footnote below?
☐ Yes ☐ No

If yes, fully describe such political activity

12. The services described in Item 10 are to be rendered on a

☐ full time basis ☐ part time basis ☐ special basis

13. What compensation are you receiving or will receive for above services?

☐ Salary: Amount $_____ per_____ ☐ Commission at _____% of_____

☐ Fee: Amount $_____ ☐ Other thing of value _____

14. What compensation or thing of value have you received to date for above services?

Date	*From Whom Received*	*Amount*

15. During the period beginning 60 days prior to the date of your obligation to register to the time of filing this statement, did you make any contributions of money or other things of value from your own funds or possessions and on your own behalf in connection with an election to political office or in connection with any primary election, convention, or caucus held to select candidates for political office? Yes ☐ No ☐

If yes, furnish the following information:

Date	*Amount of thing of value*	*Name of political organization*	*Name of candidate*

_____ _____
Date of Signature Signature

Subscribed and sworn to before me at _____

this_____day of_____, 19___.

_____
Signature of notary or other officer

My commission expires_____, 19___

Footnote: Political activities as defined in Section 1(o) of the Act means the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other 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 political or public interests, policies, or relations of a government of a foreign country or a foreign political party.

FORM OBD - 67
JAN 1977

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

OMB No. 43-R0216
Approval expires Oct. 31, 1981

EXHIBIT A

TO REGISTRATION STATEMENT

Under the Foreign Agents Registration Act of 1938, as amended

Furnish this exhibit for EACH foreign principal listed in an initial statement and for EACH additional foreign principal acquired subsequently.

1. Name and address of registrant

2. Registration No.

3. Name of foreign principal

4. Principal address of foreign principal

5. Indicate whether your foreign principal is one of the following type:

☐ Foreign government

☐ Foreign political party

☐ Foreign or ☐ domestic organization: If either, check one of the following:

☐ Partnership ☐ Committee

☐ Corporation ☐ Voluntary group

☐ Association ☐ Other (specify) _____

☐ Individual - State his nationality _____

6. If the foreign principal is a foreign government, state:

a) Branch or agency represented by the registrant.

b) Name and title of official with whom registrant deals.

7. If the foreign principal is a foreign political party, state:

a) Principal address

b) Name and title of official with whom the registrant deals.

c) Principal aim

8. If the foreign principal is not a foreign government or a foreign political party,

a) State the nature of the business or activity of this foreign principal

b) Is this foreign principal

Owned by a foreign government, foreign political party, or other foreign principal ..... Yes ☐ No ☐

Directed by a foreign government, foreign political party, or other foreign principal.... Yes ☐ No ☐

Controlled by a foreign government, foreign political party, or other foreign principal.. Yes ☐ No ☐

Financed by a foreign government, foreign political party, or other foreign principal... Yes ☐ No ☐

Subsidized in whole by a foreign government, foreign political party, or other foreign principal ..... Yes ☐ No ☐

Subsidized in part by a foreign government, foreign political party, or other foreign principal ..... Yes ☐ No ☐

9. Explain fully all items answered "Yes" in Item 8(b). (If additional space is needed, a full insert page may be used.)

10. If the foreign principal is an organization and is not owned or controlled by a foreign government, foreign political party or other foreign principal, state who owns and controls it.

Date of Exhibit A	Name and Title	Signature

FORM OBD-65
7-27-76
FORMERLY DJ-304

Budget Bureau No. 43-R435
Approval Expires Oct. 31, 1977

UNITED STATES DEPARTMENT OF JUSTICE
Washington, D.C. 20530

EXHIBIT B

TO REGISTRATION STATEMENT
Under the Foreign Agents Registration Act
of 1938, as amended

INSTRUCTIONS: A registrant must furnish as an Exhibit B copies of each written agreement and the terms and conditions of each oral agreement with his foreign principal, including all modifications of such agreements; or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is acting as an agent of a foreign principal. This form shall be filed in duplicate for each foreign principal named in the registration statement and must be signed by or on behalf of the registrant.

Name of Registrant	Name of Foreign Principal

Check Appropriate Boxes:

1. ☐ The agreement between the registrant and the above-named foreign principal is a formal written contract. If this box is checked, attach two copies of the contract to this exhibit.

2. ☐ There is no formal written contract between the registrant and foreign principal. The agreement with the above-named foreign principal has resulted from an exchange of correspondence. If this box is checked, attach two copies of all pertinent correspondence, including a copy of any initial proposal which has been adopted by reference in such correspondence.

3. ☐ The agreement or understanding between the registrant and foreign principal is the result of neither a formal written contract nor an exchange of correspondence between the parties. If this box is checked, give a complete description below of the terms and conditions of the oral agreement or understanding, its duration, the fees and the expenses, if any, to be received.

4. Describe fully the nature and method of performance of the above indicated agreement or understanding.

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

Budget Bureau No. 43-R425.1
Approval Expires Oct. 31, 1976

DISSEMINATION REPORT

INSTRUCTIONS: Report must be submitted in duplicate to the Registration Unit, Internal Security Section, Criminal Division, Department of Justice, Washington, D.C. 20530. The original must be signed by or on behalf of the registrant. All items in this form must be answered, unless the answer is "none" or "not applicable," in which case such an entry shall be made in the appropriate space. If additional space is needed for any item, attach supplemental sheet identifying each item.

1. NAME OF REGISTRANT	2. REGISTRATION NO.

3. NATURE OF MATERIAL *(A concise account of the nature of the propaganda material filed)*

4. TITLE OF MATERIAL, IF ANY	5. NAME OF FOREIGN PRINCIPAL ON WHOSE BEHALF THIS MATERIAL WAS TRANSMITTED.

6. MEANS OF TRANSMISSION	7. DATES OF TRANSMISSION	8. TOTAL COPIES TRANSMITTED

9. LIST ADDRESSES FROM WHICH THIS MATERIAL WAS TRANSMITTED:	10. LIST STATES AND TERRITORIES OF THE UNITED STATES TO WHICH MATERIAL WAS TRANSMITTED:

11. TYPES OF RECIPIENTS *(Give number of organizations in each group)*

LIBRARIES _____

PUBLIC OFFICIALS _____

NEWSPAPERS _____

PRESS SERVICES OF ASSOCIATIONS _____

EDUCATIONAL INSTITUTIONS _____

CIVIC GROUPS _____

OTHER *(specify)* _____

12. LIST NAMES AND ADDRESSES OF PERSONS OR ORGANIZATIONS RECEIVING 100 COPIES OR MORE:

13. IF THE MATERIAL TRANSMITTED WAS A FILM OR RADIO OR TELEVISION SCRIPT, FURNISH THE FOLLOWING INFORMATION:

NAME OF STATION, ORGANIZATION, OR THEATER USING *(including City and State)*	DATE OR DATES BROADCAST OR SHOWN	ESTIMATED ATTENDANCE *(for films)*

14. HAVE TWO COPIES OF THIS MATERIAL BEEN FILED WITH THE DEPARTMENT OF JUSTICE? YES ☐ NO ☐

15. HAS THIS MATERIAL BEEN LABELED AS REQUIRED BY THE ACT? YES ☐ NO ☐

DATE OF REPORT	NAME AND TITLE	SIGNATURE

DOJ

FORM OBD-69
10-17-75

OMB
No. 43-R236.5
Approval Expires Oct. 31, 1981

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

Form OBD-68
(Rev 10-14-76)
Formerly DJ-307
for

AMENDMENT TO REGISTRATION STATEMENT

Pursuant to the Foreign Agents Registration Act of 1938, as amended.

1. Name of Registrant	2. Registration No.

3. This amendment is filed to accomplish the following indicated purpose or purposes:

- ☐ To correct a deficiency in
  - ☐ Initial Statement
  - ☐ Supplemental Statement for _____
- ☐ To give notice of change in an exhibit previously filed.
- ☐ To give a 10-day notice of a change in information as required by Section 2(b) of the Act.
- ☐ Other purpose (specify) _____

4. If this amendment requires the filing of a document or documents, please list -

5. Each item checked above must be explained below in full detail together with, where appropriate, specific reference to and identity of the item in the registration statement to which it pertains. If more space is needed, full size insert sheets may be used.

The undersigned swear(s) or affirm(s) that he has (they have) read the information set forth in this amendment and that he is (they are) familiar with the contents thereof and that such contents are in their entirety true and accurate to the best of his (their) knowledge and belief.

(Both copies of this amendment shall be signed and sworn to before a notary public or other person authorized to administer oaths by the agent, if the registrant is an individual, or by a majority of those partners, officers, directors or persons performing similar functions who are in the United States, if the registrant is an organization.)

_____

_____

_____

Subscribed and sworn to before me at _____

this _____ day of _____, 19____ _____
(Notary or other officer)

My commission expires _____

DOJ

V

"EFFECTIVENESS OF THE FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED, AND ITS ADMINISTRATION BY THE DEPARTMENT OF JUSTICE." REPORT TO THE COMMITTEE ON FOREIGN RELATIONS, UNITED STATES SENATE, BY THE COMPTROLLER GENERAL OF THE UNITED STATES

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C.

B–177551.

The Honorable J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations,
United States Senate.

DEAR MR. CHAIRMAN: In response to your request of November 21, 1972, and subsequent discussions with your Committee, we have reviewed certain aspects of the Foreign Agents Registration Act of 1938, as amended, and the administration of the act by the Department of Justice. Our report discusses the (1) effects of the 1966 amendments on the numbers and types of registrants, (2) timeliness and sufficiency of the information filed by registrants, and (3) monitoring and enforcement actions taken by the Department.

As your Committee requested, we have not given the Department an opportunity to formally review and comment on the report. However, we discussed our findings with cognizant Department officials and considered their comments in preparing the report.

Release of this report will be made only if you agree or publicly announce its contents. We want to direct your attention to the fact that this report contains recommendations to the Attorney General. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions he has taken on our recommendations to the House and Senate Committees on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report. Your release of this report will enable us to send it to the four Committees for the purpose of setting in motion the requirements of section 236.

As agreed to by the Committee, we are sending copies of this report to the Attorney General.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

COMPTROLLER GENERAL'S REPORT TO THE COMMITTEE ON FOREIGN RELATIONS, UNITED STATES SENATE

Effectiveness of the Foreign Agents Registration Act of 1938, As Amended, and Its Administration by the Department of Justice

DIGEST

Why the Review Was Made

The Senate Committee on Foreign Relations asked GAO to review the Foreign Agents Registration Act, as amended, and to point out areas needing additional corrective action. This report covers

- the effects of the 1966 amendments on the number and types of registered foreign agents;
- an appraisal of the sufficiency and timeliness of the information filed by registered agents in fulfilling the purposes of the act; and
- an analysis of the monitoring and enforcement actions taken by the Department of Justice.

Basic facts

The Foreign Agents Registration Act requires persons and organizations engaging in political propaganda activities in the United States as agents of foreign principals to register with the Government. The Department has administered the act since 1942.

In 1962, the Committee began an indepth study, and subsequently held hearings on, the activities of nondiplomatic representatives of foreign principals in the United States. The study and hearings led to the enactment of major amendments to the act in 1966.

Findings and Conclusions

Number and types of registered foreign agents

The number of registrations decreased from an all-time high of 511 in January 1966 to 446 in December 1968. As of December 1972 registrations had gradually increased to 481 and remained at about that level during 1973. Because the 1966 amendments both narrowed and broadened the definition of those persons or organizations subject to registration, GAO was unable to positively attribute the overall increase and decrease to their enactment. (See p. 91.)

The number of registered agents engaged in legal services decreased from 102 in calendar year 1965 to 53 in 1972 (48 percent) and those in press, film, and literary services decreased from 98 to 60 (39 percent).

During the same period the number of registered agents engaged in travel, tourism, and information services increased from 112 to 171 (53 percent) and the number on trade promotion and economic development activities increased from 49 to 70 (43 percent). (See p. 93.)

Changes in other fields showed a 5-percent decrease for registrants categorized as representatives, advisors, and commercial agents; a 6-percent increase for those in political activities and fund raising; and a 9-percent increase for those categorized as public relations and advertising agents.

Timeliness and sufficiency of information filed

A foreign agent must submit specific exhibits and statements when he initially registers with the Department and when he acquires new principals. Supplemental statements are required every 6 months thereafter.

A short-form registration is required of all person directly engaged in foreign agent activities, and a final statement is required 30 days after the agent-principal relationship is terminated.

Dissemination reports are also required under certain conditions for those foreign agents who disseminate political propaganda. The act and related regulations specify the time limits within which each of these documents must be submitted.

GAO's review of public registration files for 45 randomly selected foreign agents [1] showed that:

- 261 (67 percent) of 392 required statements and exhibits were not received by the Department within prescribed time limits.
- 157 (33 percent) of 476 dissemination reports were not received by the Department within prescribed time limits.
- 154 (70 percent) of the 22 supplemental statements were incomplete or lacked sufficient detail to adequately describe agents' activities on behalf of foreign principals. (See p. 93.)

Department officials said that, although the supplemental statements should have been prepared correctly, overall the statements were not misleading. They said the questions may have confused certain registrants or registrants were simply careless in preparing the statements.

Late, incomplete, or uninformative registration material does not meet the full and adequate public disclosure requirements of the act and related regulations.

Because the cases reviewed were randomly selected, GAO believes the deficiencies found represent a general problem with registered agents' activities.

The Department's monitoring and enforcement actions

Since enactment of the 1966 amendments, the Department has not adequately monitored foreign agents' activities nor adequately enforced the act and related regulations. The Department has appeared reluctant to use available enforcement tools to insure compliance, although there has been some recent improvement.

The Department has no assurance that foreign agents are properly identifying themselves and disclosing the identities of their foreign principals when dealing with Government agencies and officials, including committees and Members of Congress. (See p. 105.)

Despite the enforcement tools available as a result of the 1966 amendments, the Department's enforcement actions have been limited mainly to sending letters to the agents and, in dealing with agents of foreign governments, requesting diplomatic assistance from the Department of State.

The Department has made little use of its authority to

- issue formal notices of deficiency and noncompliance and

[1] About 5 percent of the 883 registered agents who were active at one time or another after the 1966 amendments became effective October 2, 1966.

- inspect the books and records of registered foreign agents. (See pp. 100, 101 and 102.)

Some recent improvement in inspection has been noted. However, despite numerous instances of agents' noncompliance with the act, the Department has applied for only one court-ordered injunctive remedy. (See pp. 97–98.)

Department officials said it is policy to prosecute alleged violators of the act and the regulations only in clear cases of recalcitrant noncompliance. (See pp. 97–98.)

During the last 10 years, staffing in the Department's Registration Section—which monitors and enforces the act—has decreased despite significant increases in its administrative workload. Staffing problems are the underlying cause for the Department's inability to monitor and enforce provisions of the act. (See p. 98.)

Recommendations

GAO recommends that the Attorney General:

- Establishes a system which would bring all foreign agent files up to date and require that filings be made on time. (See p. 97.)
- Review supplemental statements to identify and revise all questions which confused the registrants, to reduce or eliminate the high incidence of insufficient responses. (See p. 97.)
- Assess the Registration Section's needs, including those for more staff, and establish a review system to insure that the Department carries out its registration and enforcement activities effectively. (See pp. 105–106.)

Chapter 1

INTRODUCTION

On November 21, 1972, the Chairman, Senate Committee on Foreign Relations, asked GAO to review certain aspects of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611–621), and to point out areas needing additional corrective action. The Committee was specifically interested in:

The effects of the 1966 amendments on the number and types of registered foreign agents.

An appraisal of the sufficiency and timelines of the information filed by registered agents in fulfilling the purposes of the act.

An analysis of the monitoring and enforcement actions taken by the Department of Justice.

Foreign Agents Registration Act

The purpose of the Foreign Agents Registration Act is:

"... to protect the national defense, internal security, and foreign relations of the United States by requiring public disclosure by persons engaging in propaganda activities and other 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 the light of their associations and activities."

The act (1) defines who must register with the Department as a foreign agent, (2) specifies how such agents are to register and report on their activities, (3) exempts certain types of foreign agents from registration, (4) has specific filing and labeling requirements for political propaganda disseminated by registered agents, (5) requires all registered agents to preserve books of account and other records on all their activities and to make these records available for inspection by the officials responsible for enforcing the act, (6) provides for public examination of all agents' registration statements, reports, and political propaganda filed with the Department, (7) imposes penalties for willful violation of the act or related regulations, and (8) specifies certain administrative and judicial enforcement procedures available to the Attorney General in having foreign agents comply with the act.

Amendments to the act

Since 1938, the act has been amended several times, including a general revision in 1942 and major amendments in 1966. The 1942 revisions (56 Stat. 248), (1) stated the act's purpose to include protecting U.S. foreign policy as well as national defense and internal security, (2) established a new requirement that all political propaganda disseminated in the United States by foreign agents be labeled as such, (3) added a definition of political propaganda for the first time, and (4) formally transferred responsibility for administering and enforcing the act from the Department of State to the Department of Justice.

The 1966 amendments (Public Law 89–486), enacted after an extensive study and hearings by the Committee beginning in 1962, were designed to strengthen the basic purposes of the original act. The 1966 amendments

Revised the definitions of "foreign principal" and "agent of a foreign principal" and defined the new terms "political consultant" and "political activities"; all of these changes were aimed at better focusing the act on those individuals attempting to influence Government policies through political activities;

Made stricter requirements for foreign agents' disclosure of political activities and expenditures;

Broadened the commercial exemption to exempt all private and nonpolitical activities with a bona fide commercial purpose and other activities not serving predominately a foreign interest, even though they might be political in nature;

Required foreign agents to disclose their status as agents and to identify their foreign principals when contacting committees or Members of Congress or Government officials on policy matters in behalf of their principals;

Required a foreign agent appearing for, or in the interest of, his principal before a congressional committee to file his latest registration statement as part of his testimony;

Authorized an injunctive remedy for the Attorney General, in addition to the criminal sanctions in the act, when compliance with the act or the regulations is considered inadequate; and

Outlawed contingent fee contracts between agents and foreign principals based on the agents' success in political activities.

Public Law 89–486 also added new sections to title 18 U.S.C. (crimes and criminal procedures) to (1) prohibit campaign contributions for or in behalf of a foreign principal in connection with any election to public office or in connection with any primary election or convention to select candidates for any political office in the United States and (2) prohibit Government officers and employees from acting as agents of foreign principals.

Administration of the act

The act is administered by the Registration Unit of the Internal Security Section, Criminal Division.[1] Since 1942, when the Department began administering the act, more than 2,400 individuals and organizations have registered as agents of foreign principals, including more than 400 since the 1966 amendments become effective. As of December 31, 1972, 482 agents were registered.

Scope of Review

We made our review at the headquarters offices of the Departments of Justice and State in Washington, D.C. We examined the legislative history of the act, with particular emphasis on the amendments enacted by Public Law 89–486 in 1966; studied the Attorney General's rules and regulations for administering the act; examined Department files and records, including the public and nonpublic registration files of selected foreign agents; and interviewed appropriate officials and personnel of the Department and of the Visa Office, Department of State.

Chapter 2

Effects of the 1966 Amendments on the Number and Types of Registrants

After 1966, the number of registrations steadily decreased through December 1968. However, since then, the number of registrations has been increasing.

The greatest decreases were in the number of registered agents engaged in legal services (down 48 percent between calendar years 1965 and 1972) and those in press, film, and literary services (down 39 percent during the same period). On the other hand, the number of registered agents engaged in travel, tourism, and information services increased 53 percent between calendar years 1965 and 1972 and the number in trade promotion and economic development increased 43 percent.

Other changes were: a 5-percent decrease in registrants categorized as representatives, advisors, and commercial agents; a 6-percent increase for those in political activities and fund raising; and a 9-percent increase for those categorized as public relations and advertising agents.

Whether an individual or organization has to register as a foreign agent is determined by whether activities on behalf of the foreign

[1] Effective March 1973, the functions and duties of the former Internal Security Division were transferred to the Department's Criminal Division. Accordingly, the former Registration *Section* became a *unit* within the Internal Security Section of the Criminal Division.

principal (1) fall within the meaning of agent of a foreign principal as defined in section 1(c) of the act (22 U.S.C. 611(c)) and (2) are not exempt from registration under section 3 of the act (22 U.S.C. 613). A person may be a foreign agent as defined in section 1(c) but be exempt from registration under section 3.

The 1966 amendments redefined the exemptions and agent of a foreign principal. These changes were designed to focus the Act on those who attempt to influence public opinion and/or U.S. Government policies.

Under the new definition of agent of a foreign principal, collecting information for or reporting information to a foreign principal were no longer activities requiring registration. Thus, news agencies and foreign correspondents whose foreign principals were controlled or owned by a foreign government no longer had to register.

The word "attorney" was also eliminated in the new definition. This change, along with changes in the exemptions under section 3, removed the registration requirement for attorneys performing normal professional services for foreign clients or agents of foreign principals before U.S. courts or Federal agencies, provided that they make full disclosure of the identity of their principal and they do not attempt to lobby or influence agency personnel or officials.

We believe the above changes relating to news media and attorneys account for some of the decreases in the number and type of registrants.

Effect on Number of Active Registrations

At the beginning of 1966 registrations had reached an all-time high of 511. This was due, in part, to a U.S. Supreme Court ruling in March 1964 that attorneys engaged in certain activities on behalf of foreign principals were required to register.

The number of registrations dropped steadily to 446 at the end of 1968; then it rose again until it reached 481 in December 1972. The Department told us in November 1973 that the total number of registrants had remained fairly constant during the year. Because the 1966 amendments both narrowed and broadened the definition of those persons or organizations subject to registrations, we were unable to positively attribute the overall increase and decrease to their enactment.

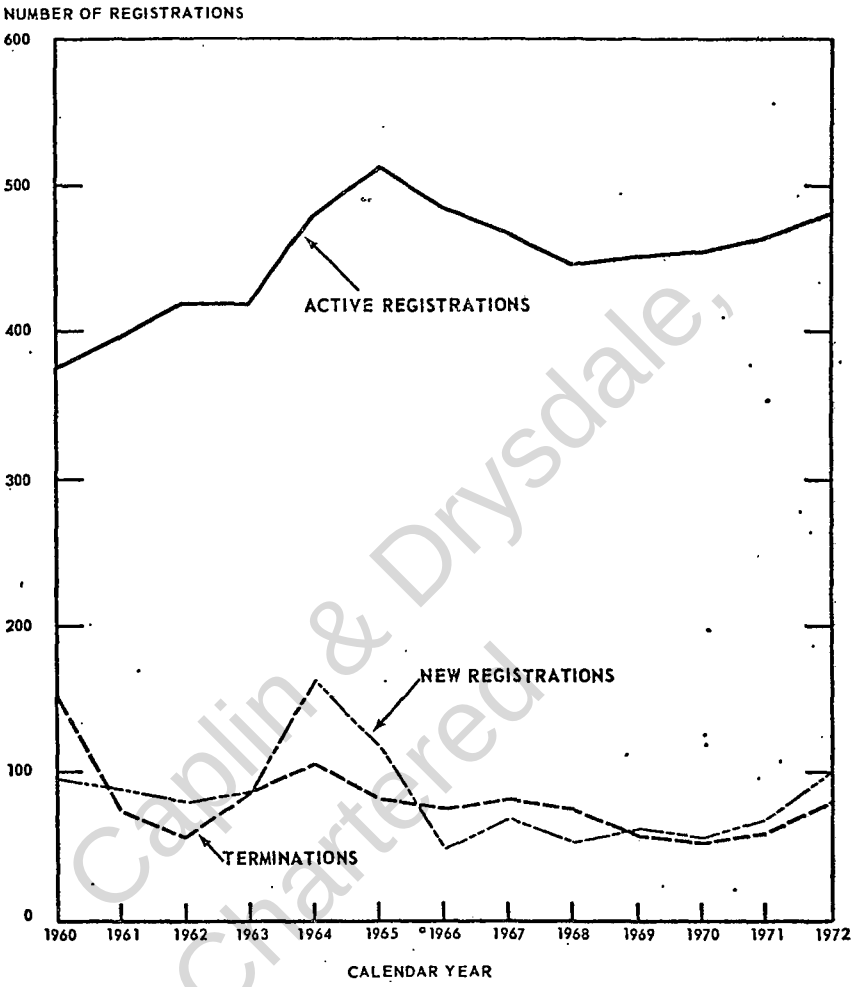
The registration activity from 1960 through 1972 is illustrated by the graph on the following page.

Effect on Registered Agents' Activities

For comparison, we classified foreign agents' activities into eight categories.[2] Although the number of agents registered between calendar years 1965 and 1972 changed by more than 30 percent in four of the eight categories, the overall change was less than 1 percent.

[2] The Department does not believe that classifying agents by activities is needed for adequately administering the Act.

NEW REGISTRATIONS AND TERMINATIONS DURING
CALENDAR YEARS 1960–1972 AND ACTIVE REGISTRATIONS
AT THE END OF CALENDAR YEARS 1960–1972



* Effective date of 1966 Amendment

The number of registrants engaged in travel, tourism, and information services increased gradually from 112 during 1965 to 136 in 1971, then jumped to 171 during 1972. The number engaged in trade promotion and economic development activities increased gradually from 49 in 1965 to 70 in 1972. We believe these increases were caused by foreign countries' recent efforts to attract U.S. tourist, trade, and investment dollars.

The number of registrants performing legal services decreased from 102 in 1965 to 48 in 1969 and increased to 53 in 1971, remaining the same in 1972. The number of registered agents engaged in press, film, and literary services decreased from 98 in 1965 to 60 in 1972.

The following table compares the number of agents in each category in 1965 with the number in 1972.

Category	Number of agents		Increase or decrease (−)	
	1965	1972	Number	Percent
Travel, tourism, and information services	112	171	59	53.0
Public relations and advertising	97	106	9	9.0
Legal services	102	53	−49	−48.0
Representatives, advisers, and commercial agents	88	84	−4	−5.0
Press, film, and literary services	98	60	−38	−39.0
Trade promotion and economic development	49	70	21	43.0
Political activities and fund raising	36	38	2	6.0
All others	29	24	−5	−17.0
Total	[1] 611	[1] 606	−5	−.8

[1] This figure is larger than the number of active registrants because some agents performed more than one type of activity.

Chapter 3

Timeliness and Sufficiency of Information Filed by Registrants

A total of 883 registered agents were active at one time or another between October 2, 1966—the effective date of the 1966 amendments—and December 31, 1972. Of these, 474 registered before October 2, 1966, and 409 registered on or after that date. To appraise the timeliness and sufficiency of information filed after the effective date, we randomly selected the public files of 45 (about 5 percent) of the 883 registrants.

Our review showed that (1) 261 (67 percent) of the 392 required statements and exhibits were not received by the Registration Section within the specified time limitations, (2) 157 (33 percent) of the 476 dissemination reports were not received by the Department within the prescribed time limits and (3) 154 (70 percent) of the 222 supplemental statements were incomplete or lacked sufficient detail to adequately describe the registered agents' activities on behalf of their foreign principals.

Registration requirements

To register, a foreign agent must file with the Registration Section an initial registration statement, together with required exhibits, within 10 days after the agent-principal relationship is established.

Then, for the duration of this relationship, the agent must file supplemental statements within 30 days after the expiration of each 6-month period. Also, within 10 days after the relationship is established, a short-form registration statement must be filed by each partner, officer, director, associate, employee, and agent of the registrant who engages directly in furthering the interests of the registrant's foreign principal. Employees and agents of the registrant who render indirect services, such as clerical or secretarial services, are exempt from this filing.

Amendments to the statements must also be filed when (1) any changes occur in the information previously filed or (2) the Registration Section determines that information submitted is erroneous or lacking in sufficient detail for proper disclosure. Finally, the agent must file a final statement of activities within 30 days after the agent-principal relationship is terminated.

The act also requires that, under certain conditions, two copies of political propaganda material be filed with the Registration Section—along with a dissemination report setting forth the places, times, and extent of the dissemination—within 48 hours after beginning distribution. This material must also be conspicuously labeled or marked with an accurate statement containing certain information specified in the act, including the fact that the person transmitting the propaganda is registered as a foreign agent. Our review showed that the labeling requirement is being met.

Appraisal of timeliness

A significant proportion of the 45 agents' required filings were late. For example, of the 21 initial registration statements reviewed (filed by agents who initially registered after the effective date of the 1966 amendments), 16 were received after the 10-day deadline. Of these 16, 10 were more than 90 days late and 1 was received more than 6 years after the agent had to register under the act. Of the 222 supplemental statements reviewed, 135 were received after the 30-day deadline; 1 statement purporting to cover a 6-month period of activity was received about 16 months late.

Late filing deprives the Government and the general public of information needed to appraise foreign agents' activities and to take timely and appropriate action whenever it is felt that an agent's activities are not in the United States' best interests.

The following schedule summarizes the information we found for the 45 cases.

Type of material	Time limit for filing (days)	Number reviewed	Number filed on time	Could not determine timeliness [1]	Filed late		Number of days late			
					Number	Percent	1 to 7	8 to 30	31 to 90	Over 91
Initial registration statements	10	21		5	16		1		5	10
Exhibits	10	74	3	17	54		2	1	17	34
Short-form registration statements	10	60	2	11	47		2	6	13	26
6-mo supplemental statement	30	222	87		135		60	44	15	16
Final statements	30	15	1	5	9			1	3	5
Total		392			261	67				
Initial propaganda dissemination reports	[2] 48	476	319		157	33	76	65	16	

[1] Material reviewed did not show when the agents' activities started and/or terminated.

[2] Hours.

We also noted a few instances when a single supplemental statement was being used to report activities for more than one 6-month reporting period; one such statement covered more than a 40-month period.

Some reasons for late filings were: (1) newly elected officers of the registered organization were unaware of their responsibilities under the act, (2) office management changed and employees were unfamiliar with the reporting routine, (3) forms supplied by the Department were mislaid, (4) statements were returned to the agent because they were improperly prepared, (5) the agent was out of the country or away from the office on business when the statements were due, and (6) financial reporting periods did not coincide with the due dates for the 6-month statements and agents delayed filing until this financial information was available.

The Department administratively encourages registrants to file required material on time; however, as discussed in chapter 4, such efforts often go unheeded and fall far short of the stronger and more effective enforcement measures available to the Department.

Appraisal of sufficiency

Except for supplemental statements, the statements in the 45 agents' files were generally complete and correct. However, of the 222 supplemental statements we reviewed, 154 were incomplete or lacked sufficient detail to adequately describe the registered agents' activities.

The supplemental statement contains 27 questions, some requiring detailed narration. These questions are to obtain information on (1) the registrant's business status, (2) foreign principals represented, (3) activities performed for foreign principals, (4) an accounting of financial data, (5) dissemination of political propaganda, and (6) the filing of certain required exhibits and short-form registration statements.

Filing an incomplete or false statement may subject registrants to criminal prosecution. To successfully prosecute such a case, willful intent must be proven; we found no evidence in the files to indicate willful intent on the part of the registrants.

Of the supplemental statements reviewed, 96 had unanswered questions and 103 had contradictory answers. For example, one agent stated, in response to a question, that he had not engaged in political activities on behalf of his foreign principal. However, in response to another question he stated that he had disseminated political propaganda, which the act defines as a political activity. Sometimes registrants answered a question as being inapplicable although the question clearly applied to the type of activity in which the registrant was engaged.

We were unable to determine why so many supplemental statements contained unanswered questions or contradictory answers. Department officials informed us that, although they agreed that the supplemental statements should have been prepared correctly, they did not believe the unanswered questions or contradictory answers caused the overall statements to be misleading. They said the questions may have been confusing to certain registrants or the registrants were simply careless.

Although registrants can be requested to amend incomplete or inaccurate statements, the files we reviewed contained amendments for

only a few of the deficient statements. Department officials informed us that an amendment is requested only when the attorney reviewing the supplemental statement believes the information reported or omitted does not provide adequate public disclosure. They stated that, when answers to certain questions are omitted, incomplete, or contradictory but do not make the statement misleading, they remind the registrant at the time the next filing is due to be more careful in completing his statement.

Twenty-five supplemental statements, submitted by 7 of the 45 agents, contained 1 or more questions which, in our opinion, were not answered in sufficient detail to adequately describe the agents' activities. The inadequate answers were confined to questions requesting (1) detailed information concerning the registrant's activities on behalf of his foreign principal and (2) a detailed explanation of the registrant's disbursements on behalf of his foreign principal.

The registrants later amended 6 of the 25 statements for all questions lacking sufficiently detailed answers; 3 of the 25 statements were only partially amended.

Department officials said 14 of the 19 supplemental statements we believed needed more detailed answers should have been amended. They said the remaining 5 supplemental statements were detailed enough.

Conclusions

We believe the high incidence of late filing and the large number of insufficient supplemental statements indicate general conditions needing correction.

The Department of Justice needs to bring all foreign agent files up to date and insure that registration material is filed on time. Also, the Department should revise all questions in the supplemental statements which confuse the registrants, to reduce or eliminate inadequate responses.

Recommendations to the Attorney General

We recommend that the Attorney General establish a system which would bring all foreign agent files up to date and require that filings be made on time. We recommend also that the supplemental statements be reviewed to identify and revise all questions which appear to be confusing to the registrants in order to reduce or eliminate the high incidence of omitted, incomplete, and inconsistent responses.

Chapter 4

Analysis of Monitoring and Enforcement Actions

Since October 1966, the Department has not adequately monitored foreign agents' activities nor adequately enforced the act and related regulations. The Department has appeared reluctant to use available enforcement tools to insure compliance, although there has been some recent improvement.

The Department has no assurance that foreign agents are properly identifying themselves and disclosing the identities of their foreign

principals when dealing with Government agencies and officials, including committees and Members of Congress.

Despite the enforcement tools available to it as a result of the 1966 amendments, the Department's enforcement actions have been limited mainly to sending letters to the agents and, in dealing with agents of foreign governments, requesting diplomatic assistance from the Department of State. The Department has made little use of its authority to (1) issue formal notices of deficiency and noncompliance and (2) inspect foreign foreign agents' books and records. Some recent improvement in the latter area has been noted. Moreover, despite numerous instances of agents' noncompliance with the act, the Department has applied for only one court-ordered injunctive remedy.

Department officials told us it is Department policy to prosecute alleged violators only in clear cases of recalcitrant noncompliance.

During the last 10 years, staffing in the Registration Section—which monitors and enforces the act—has decreased despite signifiicant increases in its administrative workload. Staffing problems are, in our opinion, the underlying cause for the Department's inability to monitor agents and enforce the act.

Staffing in the Registration Section

In July 1962 a preliminary study [3] by the Senate Foreign Relations Committee's staff revealed that:

> "Five years ago [in 1957] when its files contained 307 active foreign agents' statements, the Justice Department registration section operated with 14 employees, 8 of them attorneys. Today [in 1962], with 404 active statements (a 33-percent heavier workload than 5 years ago), the registration section has only 13 employees, 7 of whom are lawyers (only 5 are currently at work, the other 2 are on extended leaves)."

This situation has not improved in the last 10 years. As of December 31, 1972, the Registration Section's files contained 481 active foreign agents' statements (a 20-percent increase over that reported in 1962); however, the Registration Section had only 9 employees, 5 of them attorneys (a decrease of 4 employees overall, 2 of them lawyers).

Because of the increased workload and the personnel reductions, Section personnel have had less time to adequately review foreign agents' registration material and monitor their activities. This situation, in our opinion, has also contributed to the minimal enforcement efforts discussed below.

Inability to Monitor Compliance With Identification Requirements

The Department does not determine whether all foreign agents are properly identifying themselves and their foreign principals when dealing with Government agencies and officials. The act provides that:

> "It shall be unlawful for any person within the United States who is an agent of a foreign principal required to register under the provisions of this Act to transmit, convey, or otherwise furnish to any agency or official of the Government (including a member or committee of either House of Congress) for or in the interests of such foreign principal any political propaganda or

[3] Committee print on "Nondiplomatic Activities of Representatives of Foreign Governments" (87th Cong., 2d sess.)

to request from any such agency or official for or in the interests of such foreign principal any information or advice with respect to any matter pertaining to the political or public interests, policies or relations of a foreign country or of a political party or pertaining to the foreign or domestic policies of the United States *unless the propaganda or the request is prefaced or accompanied by a true and accurate statement to the effect that such person is registered as an agent of such foreign principal under this Act.* (Emphasis supplied.)

"Whenever any agent of a foreign principal required to register under this Act appears before any committee of Congress to testify for or in the interests of such foreign principal, he shall, at the time of such appearance, furnish the committee with a copy of his most recent registration statement filed with the Department of Justice as an agent of such foreign principal for inclusion in the records of the committee as part of his testimony."

The Department's regulations for administering the act require that all agents exempt from registration under the so-called commercial and attorney exemption provisions of sections 3 (d) and (g) of the act disclose the identities of their foreign principals to each Government official with whom they conduct business. The agent claiming the exemption must also establish that he made the required disclosure.

The Department does not ascertain whether foreign agents adhere to the disclosure and identification requirements. We believe the Department should periodically question registered and exempt agents, selected Government agencies, and/or committees and Members of Congress regarding the extent to which agents are complying with these requirements. This questioning would periodically bring the requirements to the attention of the agencies, Members, and committees and would help the Department determine whether more frequent or increased enforcement effort was needed.

Lack of Followup Procedure to Insure Registration of Agents of Foreign Principals Coming Into the United States on Visas

The Departments of Justice and State do not have an interagency procedure for following up on persons coming into the United States on visas who may have an obligation to register as agents of foreign principals.

Consular officers of the Department of State are expected to determine whether visa applicants' prospective activities may obligate them to register under the act and, if so, to inform the applicants. However, the consular officers are not required to—and therefore do not—notify the Department of the impending arrival of such persons. The Department therefore cannot follow up to determine such persons' actual obligations and, when necessary, to require registration.

In issuing visas, consular officers are guided by the Department of State's Foreign Affairs Manual which states that:

"If statements obtained from the alien in connection with his visa application suggest that he may be subject to the registration requirement * * * [of the Foreign Agents Registration Act] the consular officer should inform him accordingly and advise him that registration forms may be obtained, after arrival in the United States, from the Department of Justice, Washington, D.C."

The Chief of the Registration Section informed us that he was unaware of the above procedure. He stated that, although such a procedure is beneficial, the Department would need certain information—such as anticipated mailing addresses in the United States and the names of apparent foreign principals—in order to follow up on aliens.

The Department of State issued more than 2.4 million visas in fiscal year 1971. However, information simply was not available on the numbers who may have been advised of their possible obligations to register.

We believe the Department should work out an interagency agreement with the Department of State concerning referral and followup of persons who are potentially subject to registration.

Enforcement of the Act

The Department ordinarily obtains agents' compliance through normal "low tone" administrative procedures. When these procedures are not effective, the Department warns the foreign agents of the more drastic measures available to it under the act. However, the Department has seldom used such measures, even when the circumstances clearly warranted their use.

For example, since 1966, the Department has used its injunctive remedy authority only once. Most of the Department's enforcement actions have been limited to sending letters to the agents requesting compliance with the act and requesting assistance from the Department of State in cases involving agents of foreign governments. According to the Chief of the Registration Section, enforcement of the act has been mostly by threat of injunction and/or prosecution, rather than actual use of these remedies. He stated also that the registration act is considered a "compliance" act rather than a "criminal" act, even though it does provide criminal sanctions for willful violations. He stated further that the Department does not prosecute or attempt to prosecute foreign agents except in clear cases of recalcitrant noncompliance. Following is a discussion of the Department's enforcement actions since the 1966 amendments.

Evaluation of notice or deficiency procedure

The 1966 amendments provided that:

> "If the Attorney General determines that a registration statement does not comply with the requirements of this Act or the regulations issued thereunder, he shall so notify the registrant in writing, specifying in what respects the statement is deficient. It shall be unlawful for any person to act as an agent of a foreign principal at any time ten days or more after receipt of such notification without filing an amended registration statement in full compliance with the requirements of this Act and the regulations issued thereunder."

Department regulations provide that a formal notice of deficiency be sent to a registered agent who fails to respond to a request for correction of a deficiency in his registration statement. The agent has 10 days after receiving the notice to file the requested material. The notice states that, if the agent fails to comply within that 10-day period, it will be unlawful for him to act as an agent on behalf of any foreign principals.

The regulations provide further that, if the agent responds to the notice but does not fully comply with the requirements stated in the notice, the agent will be issued a notice of noncompliance prohibiting him from acting as a foreign agent until he has fully complied with the previously issued notice of deficiency. If the agent fully complies with the notice of deficiency, he is issued a notice of compliance permitting him to resume his activities on behalf of his foreign principals.

Violation of the above provision is a misdemeanor; if convicted, the agent can be fined not more than $5,000 or imprisoned for not more than 6 months or both.

Registration Section personnel informed us that, between October 1966 and August 1971, they issued few, if any, formal notices of deficiency because certain former chiefs of the Section and a former Assistant Attorney General, Internal Security Division, wanted to enforce the filing provisions of the act with a "low tone." We could not determine the number of notices of deficiency issued before August 1971.

In contrast, 40 formal notices of deficiency were issued between August 1971 and December 1972. We examined the 31 notices issued in 1972. For each case we determined (1) what enforcement actions occurred both before and after the notices were issued and (2) the nature and ultimate disposition of the deficiences involved.

The 31 notices involved 27 registered agents and 69 deficiencies: 58 failures to file required registration statements and other material, 9 failures to amend previously filed material, and 2 failures to disclose required information.

The Department had tried to obtain compliance, usually through strongly worded letters before issuing the 31 notices. The agents ignored most of these attempts.

Issuing formal notices of deficiency to the agents was more effective than the letter approach. At the time of our review in May 1973, the deficiencies cited in 27 of the 31 notices had been corrected or resolved to the satisfaction of the Department within 2 to 55 days after the notices were issued. The four remaining notices—all issued in November 1972 or earlier—were still outstanding.

It is unlawful for an agent to continue acting on behalf of his foreign principal if he fails to fully comply with a notice of deficiency within 10 days after receiving it. The Department has not enforced this requirement by following through with notices of noncompliance and ultimately prosecution, when warranted. Besides the 4 notices still outstanding, 20 of the deficiencies cited above were corrected after the 10-day period had expired; 9 were corrected in 11 to 19 days and 11 in 20 to 55 days.

Sending notices of deficiency seems to have brought about much more effective compliance than has been experienced previously. To make the notice an even more effective enforcement tool we believe the Department should (1) immediately and automatically issue formal notices of deficiency when the established filing time limits expire and (2) enforce the prescribed 10-day period for correcting deficiencies by following through with notices of noncompliance and, when warranted, prosecution.

Limited use of authority to inspect foreign agents' books and records

The act requires every registered agent to keep detailed books of account and other records on all activities required to be disclosed

under the act and to preserve such books and records for 3 years following termination of his registration as an agent. These books and records must be open to inspection by any official charged with enforcing the act; the willful concealment, destruction, obliteration, mutilation, or falsification of such books and records, or any attempt to do so, is unlawful.

The Department's regulations for administering the act specify the types of books and records agents must preserve and the manner of doing so; they also authorize Internal Security Division officials and special agents of the Federal Bureau of Investigation to make the inspections authorized by the act.

Despite these extensive recordkeeping requirements, only limited use has been made of them since 1966 in insuring foreign agents' compliance with the act. The records show that no inspections were made from April 1967 to December 1970. In December three inspections were scheduled and completed by March 1971.

The Department has relied heavily on the requirement that all submitted registration statements and supplements be executed under oath by the registrant. Although this requirement may provide the Department with an additional basis for prosecuting an agent who is found to have willfully made a fraudulent statement, there is little assurance that a fraudulent statement would be detected without inspecting the agent's books and records.

The Department knows that it should use this enforcement tool, as evidenced by an August 1967 memorandum from the Chief of the Registration Section to the Assistant Attorney General, Internal Security Division, which stated that:

> "Come September [1967] it will be just about five months since we have conducted any personal examinations of the books and records of any person registered under the Foreign Agents Registration Act, *and this despite the representations we have made to the Senate Foreign Relations Committee that we would conduct these personal inspections on a regular and continuing basis.* Actually there have not been too many matters that appeared to require examination, but a few things have now arisen which I believe warrant *personal visits.*" (Italic supplied.)

The Section's file, which contained the above-quoted memorandum, also contained an earlier memorandum, dated April 7, 1967, from one of the Section's attorneys to the Section Chief in which it was recommended that the books and records of two particular registered agents be inspected pursuant to the act. In justifying his recommendations, the attorney stated that:

> "On November 25, 1964, * * * [the first foreign agent mentioned] filed a registration statement listing * * * [a government tourist agency] as foreign principal. The registrant stated that they were engaged in creating and placing advertising in United States media to attract tourism from the United States * * *. *Despite numerous letters we wrote to the registrant not a single supplement has been filed.*
>
> * * * * *
>
> "The [second-mentioned] registrant *has recently made inconsistent statements and has been dilatory and evasive* * * *." (Italic supplied.)

These two foreign agents' books and records were not inspected. Instead, more letters were sent to the agents, who ignored them.

The Section Chief eventually made a personal visit to the first agent early in 1968 to obtain compliance. The agent continued to be delinquent in filing periodic registration statements, and the Department terminated its registration in March 1971 even though the final statement was deficient. This termination was the result of a memorandum prepared by the same Section attorney who had previously recommended inspection in April 1967. That memorandum stated that:

> "The registrant has failed to answer item 11 [of its final statement]. However, it would be a waste of time to try to get an answer. That firm is one of the worst in my area. 4 letters were needed to induce them to file a final statement."

The Department's files on the second agent showed a long history of late filing. The Department had conducted a grand jury inquiry in the early 1960s concerning the agent's failure to disclose required information, and in 1964 the Section had inspected the agent's books and records. A second inspection—the one recommended in April 1967—was not made and the Department's files on this agent contained no information about it.

The files showed further that this agent had been sent formal notices of deficiency in November 1971 and May 1972 and had again been recommended for inspection in September 1972. This inspection was approved but was not made for reasons not evident in the Department's files nor known to Department personnel we interviewed.

In March 1973, an inspection of the agent's books and records was again recommended and approved. This inspection was completed in May 1973.

In March 1971, a newly appointed Section Chief began a more aggressive enforcement policy, which he described in a May 1971 memorandum to the Deputy Assistant Attorney General, Internal Security Division:

> "As you know *I am placing more emphasis on these Section 5 inspections than did my predecessors, and* * * * [the then Assistant Atorney General, Internal Security Division] has indicated that since such inspections are investigative in nature they should be conducted by Special Agents of the [Federal] Bureau [of Investigation] rather than by our attorneys. In view of this, I would recommend that in all future requests to the Bureau for Section 5 inspections we include a specific request that we be notified immediately by phone regarding any difficulties encountered by the Bureau in the course of their Section 5 inspections in order that we may, if we wish, consider some form of immediate legal action. In this connection, *we are attempting to determine just what actions may be available to us in the event a registrant refuses to produce his records for an inspection under Section 5.*" (Emphasis supplied.)

Department records show that, during the 2 years from April 1971 through March 1973, 15 inspections were requested and approved—a sharp contrast with the previous 4 years. Of these 15, 3 were made by Registration Section attorneys and the remaining 12 were referred to the Bureau.

The probability that the Bureau actually made one inspection requested in February 1972 appears doubtful because, although the

Bureau contacted the agent's attorney several times, it could not gain access to the agent's books and records. Despite this noncompliance, no legal action had been taken against the agent. Department records showed that the agent was registered as an importer, seller, and distributor within the United States of Communist political propaganda for foreign principals in China, North Vietnam, Hong Kong, and Macau.

All but one inspection made from December 1970 through March 1973 *identified or confirmed deficiencies in agents' registration statements or provided information which resulted in termination of the agents' registration.*

Although the Department has stepped up its use of inspection as an enforcement measure, we believe inspection should be further expanded to include routine checks on the accuracy and reliability of information reported by other registered agents and not be limited to just those agents suspected of violating the act. Also, when agents do not permit access to authorized officials, we believe swift judicial remedies should be sought.

We also found that, although agents must preserve their books and records for 3 years after their registrations have ended, former registrants' books and records had never been inspected to determine the accuracy and reliability of the information they reported.

Therefore, the Department should also consider inspecting selected former registered foreign agents. This not only would have a deterrent effect but would furnish the Department with information on the need for scheduling more frequent investigations during active periods of an agent-principal relationship.

Enforcement of final statement filing requirement

A registrant must file a final statement within 30 days after his agent-principal relationship is terminated. Failure to file the required statement may subject the agent to enforcement and penalty provisions of the act.

In calendar year 1972, the Department terminated the registrations of 87 agents; however, 16 of these agents did not file final statements. The Department took followup action, primarily in the form of correspondence with the agents, to obtain 10 of the 16 statements. It took no followup action to obtain the rest.

The reasons for termination were that 7 agents' activities were determined to be either exempt from registration or no longer within the scope of the act; 4 agents either returned to their foreign countries or their activities were exclusively outside the United States; 4 agents went out of business; and 1 agent ended its relationship with its foreign principal.

We believe the Department should not have terminated these 16 registrations. Enforcement action should be taken against registered agents and their officers and directors who fail to file required final statements and such agents' registrations should be terminated only after these statements have been properly executed and filed.

Without final statements the public registration files are incomplete, which negates the full public disclosure objective of the act.

Coordination of enforcement effects with the Department of State

The Department of Justice coordinates its enforcement efforts with the Department of State with respect to agents of foreign governments. This coordination is reasonably effective.

The Department notifies State when certain registrations are being initially solicited and when they are being terminated. It occasionally contacts State for advice on the advisability of soliciting certain registrations.

When an agent fails to comply with the registration requirements, the Department often asks State to contact the foreign embassy of the country involved in an effort to persuade the agent to comply with the filing requirements. The Department normally exhausts all possible diplomatic means of persuading agents to comply with the act before issuing formal notices of deficiency, seeking injunctive remedies, or prosecuting agents under the penalty provisions.

The Department contacts State on a variety of other matters, including requests for determining the diplomatic status of apparent foreign agents whose registrations may be solicited and requests for translations of material filed with the Department by foreign agents.

A total of 44 requests for assistance were directed to State from July 1972 to April 1973 regarding 29 agents. These requests involved such matters as agents' failure to register under the act, file required supplemental and other statements, and correct deficiencies in filed statements. Our review showed that (1) 21—about 75 percent—of the 29 foreign agents eventually submitted the required registration material or corrected filed statements, (2) 4 agents' registrations were still deficient, and (3) the initial registrations of the remaining 4 foreign agents were pending.

We could not ascertain the extent to which State's assistance contributed to the 21 agents' compliance with the act because available records did not positively indicate that the agents had complied as a result of State's diplomatic contacts. The Chief of the Registration Section informed us, however, that, although he had never attempted to measure State's effectiveness on a case-by-case basis, he believed that, overall, State had been very cooperative and had been instrumental in obtaining agents' compliance.

Conclusions

The Department has been unable to adequately monitor foreign agents' activities. Therefore, it has had no assurance that foreign agents are properly identifying themselves and disclosing the identities of their foreign principals when dealing with Government agencies and officials, including committees and Members of Congress. Nor can the Department be sure that those persons that have an obligation to register do so.

The Department has made little effort to enforce the act and related regulations and, until recently, has been reluctant to use the available enforcement tools in insuring foreign agents' full compliance.

Contributing to the Department's monitoring and enforcement problems are its failure to (1) allocate enough resources to adequately monitor foreign agents' activities and (2) prosecute alleged violators of the act and related regulations except in clear cases of recalcitrant noncompliance.

Recommendations to the Attorney General

We recommend that the Attorney General assess the needs of the Registration Section, including its need for more staff, and establish

a review system to insure that the Department carries out its registration and enforcement activities effectively. In establishing this system he should consider

Periodically asking registered and exempt agents, Government agencies, and committees or Members of Congress about the extent to which agents are complying with the act's identification and disclosure requirements;

Working out an interagency agreement with State concerning the referral and followup of persons who are potentially subject to registration as agents of foreign principals;

Immediately and automatically issuing formal notices of deficiency when established filing time limits have expired and enforcing the prescribed 10-day period for correcting deficiencies cited in the notices;

Expanding its use of the inspection authority to routinely check on the accuracy and reliability of information reported by current and former registered foreign agents and not limiting inspections to those agents suspected of violating the act and, when agents do not permit access to authorized officials, seeking swift judicial remedies; and

Taking enforcement actions against registered agents and their officers and directors who fail to file required final registration statements and terminating such agents' registrations only after the statements have been properly executed and filed.

APPENDIX

PRINCIPAL OFFICIALS OF THE DEPARTMENT OF JUSTICE RESPONSIBLE FOR THE ADMINISTRATION OF THE ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office	
	From—	To—
Attorney General:		
William B. Saxbe	January 1974	Present.
Robert H. Bork (acting)	October 1973	January 1974.
Elliot L. Richardson	May 1973	October 1973.
Richard G. Kleindienst	June 1972	May 1973.
Richard G. Kleindienst (acting)	March 1972	June 1972.
John N. Mitchell	January 1969	February 1972.
Ramsey Clark	March 1967	January 1969.
Ramsey Clark (acting)	October 1966	March 1967.
Nicholas deB. Katzenbach	February 1965	October 1966.
Assistant Attorney General, Internal Security Division: [1]		
A. William Olson	June 1972	March 1973.
A. William Olson (acting)	April 1972	June 1972.
Robert C. Mardian	November 1970	April 1972.
J. Walter Yeagley	August 1959	November 1970.
Chief, Registration Section: [1]		
Justin J. O'Shea	March 1972	March 1973.
Justin J. O'Shea (acting)	November 1971	March 1972.
James C. Hise	March 1971	November 1971.
James L. Weldon	November 1968	January 1971.
Nathan B. Lenvin	June 1955	October 1968.
Assistant Attorney General, Criminal Division: [1] Henry E. Peterson	February 1972	Present.
Deputy Assistant Attorney General, Criminal Division: Kevin T. Maroney.	April 1973	Do.
Chief, Internal Security Section:		
John H. Davitt	April 1973	Do.
Kevin T. Maroney (acting)	March 1973	April 1973.
Chief, Registration Unit: Justin J. O'Shea	March 1973	Present.

[1] Effective Mar. 26, 1973, the functions and duties of the Internal Security Division were transferred to the Department's Criminal Division. Accordingly, the registration section became a unit within the Internal Security Section of the Criminal Division.

VI

MEMORANDUM CONCERNING ACTION TAKEN, OR PLANNED TO BE TAKEN, BY THE DEPARTMENT OF JUSTICE TO MEET THE PROBLEMS DISCUSSED BY THE COMPTROLLER GENERAL'S REPORT TITLED "EFFECTIVENESS OF THE FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED, AND ITS ADMINISTRATION BY THE DEPARTMENT OF JUSTICE" (B-177551)

UNITED STATES DEPARTMENT OF JUSTICE,
Washington, D.C., June 26, 1974.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, United States Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for a detailed statement concerning the actions taken, or planned to be taken, by the Justice Department to meet the problems discussed in the Comptroller General's report titled "Effectiveness of the Foreign Agents Registration Act of 1938, as Amended, and its Administration by the Department of Justice" (B-177551).

We concur in general with the criticisms and recommendations made in the report and share GAO's concern regarding the need for more effective administration of the Foreign Agents Registration Act. In the past, only limited staff and funds have been available to carry out foreign agent registration and enforcement activities.

We have assessed the need for a larger staff in the Registration Unit with the result that four new attorneys have been recruited and assigned to the Unit. The legal staff in the Registration Unit will then consist of eight attorneys, including the Chief and Deputy Chief. Additional legal personnel will be assigned as needed. Also, a former special agent of the FBI with a background in accounting has already been assigned to the Registration Unit as an analyst and another of the attorneys assigned has an extensive Internal Revenue Service background.

To comply with the recommendations of the report, we plan to establish attorney teams in the Registration Unit to (1) conduct ongoing examinations of the records of registrants, (2) establish and maintain liaison with Congressional committees and U.S. agencies dealing with foreign matters, (3) ascertain whether agents are complying with their obligations to disclose the identities of their foreign principals when dealing with U.S. officials and agencies, (4) follow up by personal inspection the issuance of Notices of Deficiency to determine whether activity of the agent continued beyond the 10 day

limit, and (5) call on and consult with registrants having problems in complying with the Act.

Now that the legal staff in the Registration Unit has been initially increased to eight attorneys, it is our intention to form three two-man attorney teams to carry out the above described objectives. These teams will alternate in spending 1 month in field work and 2 months in office duties. Thus, there will be a team in the field each month conducting examinations of records and other contact services. Having such examinations conducted by Registration Unit attorneys will also insure prompt reporting of the inspection results and prompt initiation of any action required under the Act.

EXAMINATION OF RECORDS

In early 1971, the newly appointed Section Chief of the Registration Unit began a more aggressive enforcement policy of emphasizing and increasing the inspection of records. Because of his small staff, however, the FBI was requested to make the inspections pursuant to Rule 501 under the Act. While no criticism is intended of the FBI, the results of this policy have not proved satisfactory because (1) the FBI agents do not have first-hand experience and expertise in the administration of the Act; (2) the memoranda requesting the inspections must be detailed and tailored for the guidance of the agents, which necessarily increases the paperwork that must be done by the staff attorney; (3) long delays are caused by processing both the requests and reports through the various channels of communication; and (4) there is no personal meeting with or appraisal of the registrant by the staff attorney.

An illustration representative of the above conditions is set forth on page 28 of the report concerning a request made of the FBI to inspect the records of a registered distributor of political propaganda. This registrant discontinued his business because of advanced age and illness. The delay in this case was occasioned principally by the slow process of channelling information and directions back and forth between the Registration Unit and the FBI. At present, an effort is being made to resolve this problem by dealing with the son of the registrant.

The delays in this case were not occasioned by any willful intent to avoid examination, rather the delays resulted from the fact that (1) the records were stored at various locations, (2) only part of these records pertained to the registrant's activity as a registered agent, (3) the FBI had to deal with two attorneys and finally the registrant's son, and (4) the FBI did not wish to examine records at the registrant's home. All of these developments had to be reported through channels and instructions directed back through the same channels. It is also the judgment of the Registration Unit at this time that prosecutive action against the registrant, whom we understand is in extremely ill health, would not be warranted on humanitarian grounds.

In connection with GAO's findings on examination of records, page 18 refers to the fact that the Department has made little use of its authority and "has applied for only one court-ordered injunctive remedy." This is true. Likewise, page 28 of the report recommends "seeking swift judicial remedies" when registrants refuse to comply with their

obligations under the Act to make records available. The circumstances of the above injunctive action constituted a proper and necessary action. However, the action was exceedingly time-consuming and extended over a period of roughly 6 months, even though the case was treated as a preferred cause as required by Section 8(f) of the Act. The staff attorney assigned to the case spent full time on it during the actions in the District Court, the Court of Appeals and prior to the Supreme Court decision. In other matters involving what might be termed routine failures to comply with various obligations imposed by the Act, the automatic resort to injunctive or prosecutive processes would be more time-consuming and more costly than trying to effect compliance by correspondence or visits. It would also, in a way, amount to an overkill.

These judicial processes absorb more time of staff attorneys in preparing for and in prosecuting such actions than is necessary in the routine manner of effecting compliance. In one instance within the last several years, preparations were made for presenting evidence to a grand jury concerning a failure to file a supplemental statement. Several days before the hearing, the registrant in question filed the required statement. Under such circumstances it would be extremely difficult to convince a grand jury to indict such a registrant for not filing within the prescribed time limit.

We believe that routine failures to comply with due dates will be decreased as the attorney teams make their presence known among registrants whose only dealing with the Department in the past has been through correspondence.

By way of experiment, the Registration Unit recently directed two attorneys to proceed to New York to call upon three separate registrants with which the Unit was having problems. They departed in the morning and returned the same day. The following morning an oral report was made followed by a written one. Within a matter of a week, proper statements were submitted and files were brought up to date. In contrast, the same activity by the FBI would have entailed three separate requests, three long memoranda tailored to meet our needs regarding each registrant, and the usual delay caused by routing correspondence through communication channels. A report on any of these cases could not normally have been expected for at least 2 months.

The above was an isolated experimental measure which tends to buttress our belief that having teams of attorneys in the field at all times will promote timely compliance by registrants and will also show that a greater number of examinations of records can be conducted efficiently or expeditiously when done by the person having daily experience with the administration of the Act.

IDENTITY DISCLOSURE TO U.S. OFFICIALS

In the past, the small and necessarily desk-bound staff we maintained in the Registration Unit provided no efficient method by which to determine whether certain agents were identifying their foreign principals when dealing with U.S. agencies and officials, as required by the Act. During the course of the last several sugar

hearings, the Registration Unit assigned its political analyst to monitor those hearings while the attorneys responded to the inquiries and requests of the committee members and other members of Congress for information from the public registration files of foreign sugar lobbyists. It was noted that this procedure resulted in a significant improvement in compliance by the registered sugar lobbyists under the Act.

It is our intention to have attorney teams contact congressional committees and U.S. agencies dealing in foreign matters to ascertain whether agents are complying with their disclosure requirements. These teams will set up personal contacts and maintain communication on a continuing basis in order to (1) exchange information concerning the activities of agents of foreign principals in dealing with these committees and agencies, especially with reference to the disclosure of the identities of foreign principals, labelling of propaganda, etc.; and (2) be kept informed of committee hearings that should be monitored when deemed appropriate for the administration of the Act.

NOTICES OF DEFICIENCY

Section 8(g) of the Act provides that when the Attorney General determines that a registration statement does not comply with the requirements of the Act, he shall so notify the registrant in writing and it shall be unlawful for the agent to act 10 days or more after receipt of such notification unless he has corrected the deficiency. The Act does not refer to a "formal notice of deficiency."

This "formal notice of deficiency" form was originally devised as a departure from regular correspondence with registrants who in past years were careless in responding to normal requests. However, until early 1971, this method was rarely employed. In 1971, the Registration Unit began the practice of forwarding copies of this Notice to the foreign principals for their information. The notice to the foreign principal resulted in a more prompt compliance by the agent and also resulted in a noticeable decrease in the use of the form. The practice at present is to follow up a one-time request with a warning that a formal notice will be issued for a failure to respond. This procedure has resulted in more prompt compliance.

Relative to the recommendation concerning the automatic issuance of formal Notices of Deficiency, it is our opinion that excessive use of this form will tend to decrease its effectiveness, especially its use in correcting minor deficiencies.

It is also our experience that in most instances the delays in filings, which include the correction of deficiencies, are due principally to human nature's bent to ignore time limits and deadlines. The GAO report itself found no evidence to indicate willful intent by registrants who submitted incomplete statements. Because of this, it is our experience that some allowance should be made in the matter of time limits, when necessary, in the normal routine of filings. It is our intention, however, with the aid of the proposed attorney teams in the field, to correct and minimize delays in complying with filing limits. These teams also will, for the first time, make it possible for us to follow up on Notices of Deficiency to obtain evidence of any violation for the purpose of prosecution.

FINAL STATEMENTS

The GAO report has recommended taking enforcement action against registrants and their officers who fail to file final statements and also terminating such registrations only after proper final statements have been filed. It should be noted in this connection that the Act itself does not refer to a "final statement." This is an administrative method provided by Rule 205 under the Act.

In the normal routine of administering registration at the present time, we comply with this rule before termination of a registration is effected. There are circumstances, however, where insistence upon the filing of a final statement before termination is effected would amount to an exercise in futility. For example, when a registrant returns to residence in his native country without filing a final statement, no purpose would be served in maintaining such a registration in an active status until a final statement is obtained. In some of these cases, attempts have been made to obtain a final statement by correspondence with the registrant, but such requests have been usually ignored principally because the person was beyond the jurisdiction of the United States. In such cases, at least in the last several years, we have terminated these registrations on the basis of administrative convenience and inserted a notice in the public file explaining the basis for the termination.

Many other similar instances involved registered foreign exile groups whose ephemeral nature together with constant changes of officers and addresses caused difficulty in obtaining routine filings much less a final statement. When the FBI was unable to locate either the officers or the organization itself, the registration was terminated for administrative reasons and so noted in the public file.

In instances where shortly after the filing of a supplemental statement the agency either ends, e.g., by agreement or by death, or an exemption becomes available, it has been our practice to treat the last statement as a final statement and thus terminate the registration. Notice of this action is also inserted in the public file.

VISA APPLICANTS

Relative to the GAO recommendation that an interagency agreement be worked out with the State Department concerning the referral and follow up of persons who are potentially subject to registration as agents of foreign nationals under the provisions of the Foreign Agents Registration Act, efforts have been initiated to establish such a procedure. It has always been our position that solicitation of a registration will be initiated if timely information is furnished as to (1) the identity of the person, (2) an address in the United States where the person may be reached, and (3) the basis on which an obligation to register can be founded. We will initiate the appropriate action on any such information that the Department of State may furnish concerning the proposed activities of visitors to the United States.

In the past, we have received information from various sources concerning speaking and fund raising tours in the United States by foreign nationals; but in many of these cases by the time we sought and

obtained information necessary to solicit, the person in question had already departed from the United States.

Regarding the recommendation made on page 17 of the GAO report, particularly with reference to the 10 day limit for the filing of initial registration statements, it should be pointed out that in many instances neither the agent nor the Department of Justice is aware of the obligation to register until the 10 days period is about to or has elapsed. When we receive knowledge of an agent's obligation to register, even though the time limit for filing has passed, solicitation action is then initiated. The fact that one initial statement was filed more than 6 years after the obligation was incurred, as stated on page 14 of the report, indicates that we must have insisted that this statement be filed in accordance with the provisions of Section 2(a) of the Act, which makes such an obligation a continuing one, notwithstanding any statute of limitations.

In addition to the reasons for late filings detailed on page 15 of the GAO report, it should be noted that we receive many requests for extensions of due dates which are granted, provided there is a proper basis for the extension, such as illness, mail delay or loss, or for some of the reasons indicated in the GAO report. The granting of the extension of due dates necessarily results in delayed or late filings.

The additional recommendation set forth on page 17 of the GAO report also included the suggestion that the registration forms be reviewed to identify and revise all questions therein which appear to be confusing to registrants so as to eliminate the high incidence of omitted, incomplete and inconsistent responses. Following the 1966 amendments to the Act, the registration forms were completely revised. It was the intention in developing the new forms to ease the reporting task for registrants. To this end the forms for the first time used a check off system for certain information; explanatory footnotes were inserted to avoid previous misunderstandings; and, to reduce the constant confusion by registrants on the meanings of the terms "political activity" and "political propaganda," the Act's definitions of these terms were inserted in appropriate places in the forms for the guidance of the registrants. Apparently, many registrants and some of their attorneys either did not read these definitions or, having read them, failed to understand them. These two particular terms continue to be a source of constant confusion to registrants and their attorneys, even in personal conferences with our staff.

It is our intention to completely revise all of the registration forms in accordance with the experience we have gained from their use and from the comments and suggestions we solicit from representative sections of registrants. Lack of staffing has been responsible for its postponement but with the additions to the legal staff, this project will be initiated as soon as practicable.

In summary, we believe that our increase in staff, both legal and clerical, will provide us with the means to comply with the recommendations of the report.

We will be pleased to provide any additional information at your request.

Sincerely,

GLEN E. POMMERENING,
Acting Assistant Attorney General for Administration.

VII

DEPARTMENT OF JUSTICE RESPONSES TO SENATE FOREIGN RELATIONS COMMITTEE QUESTIONNAIRE REGARDING THE FOREIGN AGENTS REGISTRATION ACT

I. Enforcement and Administration

1. Provide a summary of all significant court cases since enactment of the 1966 amendments to the Foreign Agents Registration Act (hereafter referred to as the Act) and describe the implications of each case to the administration and enforcement of the statute.

SIGNIFICANT COURT CASES SINCE ENACTMENT OF THE 1966 AMENDMENTS TO THE ACT

	Agent	Type of offense	Disposition and implications
Year:			
1971	Irish Northern Aid Committee.	Refusal to allow inspection	Court ordered defendants to allow inspection of books and records.
1975	Covington & Burling	do	Court upheld attorney-client privilege and is in process of conducting an in camera inspection to determine whether documents are within scope of privilege. Department of Justice may appeal.
1975	DGA International	Contingent fee contracts	Consent decree: DGA agreed to amend and remove contingent fee provisions from present and future contracts when acting as agents of foreign principals in political activities.
1975	International Public Relations Co., Ltd. d/b/a Concorde News Bureau.	do	Consent decree: IPR agreed to amend and remove contingent fee provisions from present and future contracts when acting as agents of foreign principals in political activities.
1975	Daniel J. Edelman, Inc.—Edelman International Corp.	Failure to register	Consent decree: Prohibited Edelman from acting as an agent unless complete and timely registration statements were filed.
	John Martin Meek	do	Subsequently dropped as a party from this action.
1975	Liberian Services, Inc	Action: Enjoining department from requiring registration.	Court dismissed complaint.
1976	Hajji A. R. Ahmad v. Ford.	Action: Enjoining department from refusing to accept registration statement.	Preliminary injunction denied, case dismissed for lack of compliance with rules of procedure.
1976	Trinidad and Tobago Industrial Development Corp. and Trinidad and Tobago Tourist Board.	Failure to file timely supplemental statements. Failure to label.	Summary judgment granted prohibiting registrant from acting as agent unless and until it complies with filing and labeling requirements in a timely manner. Officers enjoined from failing to cause registrant to comply and from failing to institute program to insure compliance. Gives department leverage over recalcitrant filers, upheld constitutionality of act, department's enforcement discretion and rejected necessity of proving obligation to register of persons who are already registered.
	Clyde S. Namsoo	Liability of officer for above	
1976	Arab Information Center	Failure to label. Refusal to allow inspection of books and records.	Pending.
	Amin Hilmy II	Failure to register	State Department recognized privileges and immunities.

SIGNIFICANT COURT CASES SINCE ENACTMENT OF THE 1966 AMENDMENTS TO THE ACT—Continued

	Agent	Type of offense	Disposition and implications
Year—Continued			
1976	United States-Japan Trade Council. Noel Hemmendinger, Allen Taylor, Hisashi Okada, Japan Trade Promotion Center, Tatsuro Goto, and Eiji Ishii.	False reporting of registration material. Misleading labeling of propaganda. Misrepresentations before congressional committees and governmental agencies.	This action was the first injunctive case brought under the 1966 amendments which alleged a fraudulent course of conduct by registered agents and was the result of a routine inspection. The 3-count complaint involved the filing of false and misleading registration documents over a protracted period false and misleading labeling of propaganda material and misrepresentation of the identity of agent's foreign principal before congressional committees. All defendants, without admitting or denying the allegations, consented o a court decree which provides the relief sought by the Department. This included ancillary relief calling for defendants to take out an advertisement in the Wall Street Journal and the personal notification of thousands of individuals and and certain Federal legislators of this action together with an offer to supply amended registration documents which accurately reveal defendants' activities and identify foreign principals. It is hoped that this law suit will serve notice on the foreign agent community that the Department expects truthful and detailed reporting of their activities and that vigorous enforcement of the Act can be expected.
1976	The Irish People, Inc.	Failure to register	Pending.

2. (a) Describe the safeguards to prevent the commingling of funds and records of foreign principals with those of the principal's agent.

There are no safeguards to prevent the commingling of funds and records of foreign principals with those of the principal's agent.

(b) Does the Department of Justice have the authority to examine the books and records of a foreign principal in the event of a commingling of funds and records of the principal and agent?

The Department of Justice does not have the authority to examine the books and records of a foreign principal in the event of a commingling of funds and records of the principal and agent.

(c) Does the Department of Justice have the authority to examine the books and records of the other clients of a foreign agent in the event of a commingling of funds and records of these clients and the foreign agent?

The Department of Justice does not have the authority to examine the books and records of the other clients of a foreign agent in the event of a commingling of funds and records of these clients and the foreign agent.

3. (a) Do Department of Justice officials have the authority to summon persons to produce records and give testimony under oath for purposes of enforcing the Act? If not, has the Department sought such authority?

Department of Justice officials do not have the authority to summon persons to produce books and records and give testimony under oath for purposes of enforcing the Act. The Department has not previously sought such authority.

(b) What agencies have such authority and for what purposes?

The following agencies have such authority for the stated purpose:

AGENCY	PURPOSE
Internal Revenue Service	Audits of Tax Returns
Securities & Exchange Commission	Audits of Statements
Civil Aeronautics Board	Investigation of Violations of the Federal Aviation Act, or Regulations or Orders
Federal Aviation Administration	Investigation of Violations of the Federal Aviation Act, or Regulations or Orders
Department of Agriculture	Investigation of Violations of the Packers and Stockyards
Federal Trade Commission	Investigation of Violations of and Compliance with the Federal Trade Commission Act. (A copy of 15 U.S.C. § 49 is attached)

This is not an all-inclusive list since most Federal agencies which are guided by the Administrative Procedures Act have such authority.

TITLE 15.—COMMERCE AND TRADE

§ 49. Documentary evidence; depositions; witnesses.

For the purposes of sections 41 to 46 and 47 to 58 of this title the Commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the Commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the Commission may sign subpoenas, and members and examiners of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the Commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the Attorney General of the United States, at the request of the Commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of sections 41 to 46 and 47 to 58 of this title or any order of the Commission made in pursuance thereof.

The Commission may order testimony to be taken by deposition in any proceeding or investigation pending under said sections at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Such

testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission as hereinbefore provided.

Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. (Sept. 26, 1914, ch. 311, § 9, 38 Stat. 722; Oct. 15, 1970, Pub. L. 91–452, title II, § 211, 84 Stat. 929.)

4. (a) What authority does the Department of Justice have to compel other departments or agencies to supply information requested by Justice for use in administering the Act?

(a) The Department of Justice has no authority to compel other departments or agencies to supply information requested by Justice for use in administering the Act.

(b) Please supply details of any instances within the last five years where a department or agency has been uncooperative in providing information requested by the Department of Justice related to the administration of the Act.

The Department of State has been uncooperative in providing information requested by the Department in regard to the administration of the Act in the following instances:

(1) In 1975 the Registration Unit requested the names and addresses of thirteen (13) Turkish businessmen who had arrived in the United States to lobby Congress in connection with the Cyprus dispute. These individuals spent approximately ten (10) days engaged in political activity; however, we were not provided the information necessary to contact them.

(2) In late 1975 and early 1976 the Department received erroneous information in the form of an affidavit concerning the present and former status of Amin Hilmy II. Further, the Department of State considered Hilmy's application for privileges and immunities for approximately two months before deciding to grant it. This unnecessary delay forced the Registration Unit to argue a motion in the U.S. District Court concerning Hilmy's status. State was well aware of the date of the argument and in spite of countless requests by the Registration Unit failed to make the decision until 2 weeks after the argument.

(3) In May 1975 the Attorney General by letter requested the Secretary of State to establish a procedure for advising the Registration Unit of individuals who provided the notification under 18 U.S.C. § 951. This has not been accomplished.

5. What criteria are used in determining whether an agency relationship exists in fact when an organization purports to represent the interests of American citizens who engage in political or public relations activities which benefit a foreign country or political party?

In the absence of evidence to the contrary, the Department accepts the organization's contention that it represents the interests of American citizens when it engages in political or public relations activities which benefit a foreign country or political party. Where there is reason to doubt the accuracy of such a contention, the Department can and does request the FBI to conduct an ap-

propriate investigation to determine whether the organization has incurred an obligation under the Act.

6. (a) What provisions of Federal laws and regulations govern fund-raising activities within the United States of either foreign or American citizens which are for political or related purposes abroad?

(a) The provisions of federal law governing the raising of funds, within the United States by American citizens or foreigners, which are used for political or related purposes abroad include 22 U.S.C. 441(a), 22 U.S.C. 448 and 22 U.S.C. 611 *et seq.*

Solicitation and collection of funds and contributions by persons within the United States which are made on behalf of a foreign government are illegal only if the President has issued a proclamation in accordance with 22 U.S.C. 441(a), naming that foreign state as being in a state of war with another foreign state. 22 U.S.C. 448(b) allows for solicitation and collection of funds and contributions to be used for medical aid assistance, or for food and clothing to relieve human suffering by any person or organization which is not acting for or on behalf of a "proclaimed" government.

Additionally, a person or organization that engages in fund-raising activities within the United States for political or related purposes abroad is required to register under the Foreign Agents Registration Act and disclose the nature of his activities. 22 U.S.C. 611(c) provides that an agent of a foreign principal is "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 . . . within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interests of such foreign principal." Therefore, such a person would be required to register under the Act, unless the funds and contributions solicited are to be used only for medical aid and assistance, or for food and clothing to relieve human suffering.

(b) What criteria are used to determine whether funds being raised in the U.S. for use abroad are to be used for political or for charitable purposes?

Unless information is brought to our attention, the Registration Unit has no mechanism for determining whether funds raised in the United States for use abroad are to be used for political or for charitable purposes.

7. (a) Describe the working arrangements between the Registration Division and the FBI and provide copies of all regulations relating to those arrangements.

The Registration Unit works with the FBI by means of memoranda requesting the Bureau to conduct investigations and inspections or to forward information in its possession. Once the investigation is started, personnel in the Unit deal directly with the Bureau supervisor responsible for coordinating the investigation. Unit personnel do not work directly with FBI field personnel except in unusual circumstances. Rule 501 promulgated under the Act authorizes the FBI, as well as Registration Unit personnel, to inspect the books and records which a registrant is required to

keep under Section 5 of the Act. There are no regulations relating to these arrangements.

(b) For the last five years, how many investigations were initiated by the Registration Division and by the FBI respectively?

In the period of time between 1972 and the present, 65 investigations have been initiated by the Registration Unit. This figure does not include numerous requests for assistance in locating registrants who have moved without providing a new address. The Registration Unit has no way of providing the number of investigations initiated by the FBI under the Act.

8. (a) What distribution to departments or agencies other than the Department of State is normally made of registration statements and other materials which the Act requires to be filed? Quantify to the extent possible.

The Unit distributes less than 50 registration statements and other materials required to be filed under the Act to the United States Information Agency. In addition, the Unit distributes copies of all materials filed by agents of the Soviet Bloc countries to the CIA. At the present time there are 75 agents representing these countries.

When special situations arise, the Unit distributes information in its possession to the interested agency. In 1975, information developed in the "Concorde lobbying" cases was distributed to the Department of Transportation prior to the initiation of the civil actions. Further, information developed in the Unit's inquiry into the obligations of Park Tong Sun was forwarded to the Department of Agriculture.

(b) For five years, how many requests for information were received from other departments or agencies, by department or agency?

In the past five years the Unit has received requests for information from the following:

1. Federal Bureau of Investigation
2. Department of Commerce
3. Various Committees of Congress
4. Department of State
5. Department of Agriculture
6. U.S. Customs Service

It is not possible to quantify the number of requests without conducting a review of each of the Departmental files.

9. How many new registration statements have been filed within the last year as a result of initiatives taken by the Department of Justice?

Of the 112 new registration statements filed from July 1975 through July 1976, approximately 30 were filed as a result of initiatives taken by the Unit.

10. Describe the procedure for analyzing and disseminating information concerning propaganda and public relations materials filed pursuant to the Act.

Political propaganda and other materials (non-political propaganda) are received by the Registration Unit for evaluation by various methods:

(1) Political propaganda is submitted by a registrant in compliance with the provisions of Section 4 of the Foreign Agents Registration Act;

(2) Materials (booklets, brochures, advertisements, films, broadcast scripts, etc.) are submitted by a registrant in response to a request sent with the semi-annual supplemental statements a registrant must file;

(3) Materials are requested after such items are mentioned in registrant's supplemental or initial registration statement;

(4) Materials are brought to the attention of the Unit by some outside source, and copies are requested for review by the Unit;

(5) Political propaganda items are observed in public source material, such as newspaper advertisements, or magazine articles which refer to materials available for distribution.

All materials are reviewed and evaluated as to their contents in relation to Section 1(j) of the Foreign Agents Registration Act. If the materials are intended or designed to influence a recipient in the manner set forth in the Act, then the registrant is advised of the provisions of Section 4 of the Act if he is not already complying with these requirements, or in the case of a non-registrant, the person or organization disseminating the material is considered as a possible registrant and the necessary facts are gathered to determine if there is an obligation to register.

Political propaganda and other printed materials are maintained in the Unit's Public Office, and are available for inspection by the public, on request. In addition, this material is analyzed and summarized annually for inclusion in the Attorney General's Report to Congress, which is also available to the public.

One copy of each item of political propaganda received by this Unit, and copies of dissemination reports, are routinely forwarded to the Department of State. In addition, copies of all dissemination reports filed by agents of Soviet foreign principals are forwarded to the USIA. This Agency will also make periodic inquiries regarding the dissemination of political propaganda by other nations.

11. What, if any, measure is there of the extent to which the disclosure requirements of Rule 304(c) and Rule 306(b) are followed?

The Unit makes every effort to monitor on a random basis the extent to which the disclosure requirements of Rule 304(c) and Rule 306(b) are followed. For example, in the Concorde cases, aspects of non disclosure were discovered through random inquiries; however, due to the number of agencies involved and the size of the Unit staff, it is not possible to constantly monitor the extent to which all such disclosures are being made.

12. How many enforcement actions have been taken by the Justice Department within the last five years: (1) at the administration level and, (2) at the judicial level, by type of offense or alleged offense involved (i.e., failure to register, failure to label propaganda, etc.)? What was the disposition of each of these actions? List the agents involved in these actions.

(1) The Department takes enforcement actions on a daily basis at the administration level. In those cases the Department corresponds with registrants informing them of deficiencies in their statements and directing them to file amended statements providing the correct information. These requests are complied with by the registrants in almost all circumstances. A check of the

correspondence files will show the number and nature of the problems handled in this manner; however, as the Administration Procedure Act does not apply to this statute, failure to correct deficiencies on a voluntary basis compels the Department to institute judicial action in order to insure full compliance.

(2) In the last five years, the Department has been involved in eleven separate enforcement actions at the judicial level. (See answer to question #1 for specific information). Nine have been instituted by the Department. while in two cases, the Attorney General was named as a party defendant.

13. Does the Department of Justice require that testimony by registered agents before Congressional committees be made available by such agents to the Department?

A registrant who testifies before a Congressional committee, must report this activity on his supplemental statement. The majority of registrants now submit copies of their prepared statements. In cases where copies of such testimony are not received, the Unit requests the registrant to submit an amendment with the copies of the prepared statement.

14. Provide details concerning steps taken by Justice to familiarize pertinent Congressional committees with the features of the Act that pertain to contacts by agents with Congress.

To date, attorneys with the Registration Unit have attempted to familiarize Congressional Committees, including members and staffers, with the requirements of the Foreign Agents Registration Act on an ad hoc basis in connection with inquiries or investigations being conducted by the Unit. Attorneys conducting these matters are usually queried concerning the Act, and respond with information, copies of booklets, etc. A more limited effort has involved visiting committees whose work affects foreign interests for the same purpose, where no investigation is current. Finally, in both the Concorde and U.S. Japan Trade Council cases the registrants involved were required as part of the settlements to affirmatively bring to the attention of relevant Congressmen and committees the facts underlying the government's complaints filed in court.

15. (a) What steps are taken when propaganda or similar material which is not labeled as required by law is brought to the Department's attention?

Two procedures are followed when propaganda or similar material which is not labeled as required by law is brought to the Unit's attention:

(1) If this is a first offense, the Unit writes the registrant a letter explaining Section 4 of the Act and provides a sample label and/or meets with the registrant to resolve any difficulties.

(2) In cases of repeated offenses, the Unit institutes a civil action enjoining the registrant from acting on behalf of the foreign principal until it complies with the requirements of the Act. As a part of this action, the Unit asks for affirmative relief which requires the registrant to place an advertisement stating the prior advertisement should have contained the proper label which is set forth and that this advertisement is being placed as a result of a civil action instituted by the Department of Justice.

(b) How often are such instances discovered or brought to the Department's attention?

The exact number of such instances would be difficult to determine; however, the Congress and the public do write to the Department frequently. Further, the Unit's political analysts monitor the *New York Times*, *The Washington Post*, and other newspapers and periodicals to insure that the labeling requirements of the Act are being observed by those placing advertisements in such publications.

16. (a) How many public foreign agents' files have been examined, since the 1974 GAO report, (B–17751)?

Since the 1974 GAO report, the Unit has conducted 166 inspections of registrant's books and records pursuant to Section 5 of the Act.

(b) How many of the public files contained statements, exhibits and reports which were not submitted within the prescribed time limits?

A survey of approximately twenty percent (20%) of the current registration public files indicated nearly all had failed to file some material on a timely basis.

(c) How many of the public files contain inadequate information concerning the activities to be performed for a principal?

Where a registrant's registration or supplemental statements contain inadequate information concerning the activities to be performed or actually performed the Unit requires the registrant to submit an amendment setting forth the activities in detail.

(d) What is being done to insure that foreign agents are filing their documents on time?

The Unit has attempted to take periodic surveys of the public files, independent of the Section 5 program, to determine the extent of late filings. In reviewing supplemental statements, dissemination reports and other materials filed by registrants, the attorneys and political analysts monitor the date of filing. Further, the Unit has instituted a procedure requiring registrants to request extensions in writing setting forth a justification for the granting of any extension.

17. What procedures does the Department follow to assure itself that all foreign agents are, indeed, registering?

In order to insure that all foreign agents are registering, the Unit conducts random checks of other agencies. The Unit also monitors public source material and follows up on information received primarily from the FBI and concerned citizens.

18. Does the Department have any system to assure that foreign agents are properly identifying themselves and disclosing the identities of their principals when dealing with Government officials?

The Unit conducts random checks of other agencies to determine if agents are properly identifying themselves and disclosing the identities of their principals when dealing with Government officials. One major source of insuring the registration of all agents and whether they are properly identifying their principal is the notification to the Department of State required by 18 U.S.C. § 951. However, despite repeated requests by Justice, the Department of State has failed to implement a program to advise Justice of notifications received pursuant to 18 U.S.C. § 951.

19. How many times since 1966 has the Department issued formal notices of deficiency and noncompliance? In what cases? What was the disposition of each case?

A thorough review of the Department's records revealed that 62 formal notices of deficiency and 5 formal notices of noncompliance had been issued in the period from 1966 to date.

The following is a list of the registrants who received formal notices of deficiency:

August 10, 1971—ACDM Agency, Inc.
(name changed to Europican Marketing, Inc.)
September 22, 1971—Cannon Advertising Associates, Inc.
November 3, 1971—Arau Associates, Inc.
November 4, 1971—Michael A. Segarra
November 18, 1971—The Lewis Company, Ltd.
November 17, 1971—Curtis J. Hoxter, Inc.
December 1, 1971—Compendium Consultants, Inc.
December 28, 1971—Mutch Haberman Howard, Inc.
(Material was not filed due to the fact the registrant filed in bankruptcy)
January 18, 1972—The Costa Rica Board of Trade
January 21, 1972—Taussig Associates
January 21, 1972—Margaret Herbst
January 24, 1972—David Rosen—d/b/a China Publications
January 25, 1972—Harold D. Cooley
January 25, 1975—Shaw, Pittman, Potts, Trowbridge & Madden
January 31, 1972—Cannon Advertising Associates, Inc.
February 3, 1972—J. Collier Adams
February 16, 1972—W. Frary von Blomberg
February 22, 1972—The Lewis Company, Ltd.
March 3, 1972—George Peabody & Associates, Inc.
March 3, 1972—Cosmos Parcels Express Corporation;
Rumanian Export Parcels Corporation
March 23, 1972—Jamaica Progressive League
May 3, 1972—Robert R. Brauer
May 3, 1972—Partido Union National Dominicana
(Material was not filed since information available to the Department showed registrant was inactive from July 1, 1969)
May 23, 1972—Curtis J. Hoxter, Inc.
May 23, 1972—Europican Marketing, Inc.
May 30, 1972—Partido Revolucionario Dominicano, New York
July 7, 1972—Stephen Goerl Associates, Inc.
(Material was not filed since the only officer of the corporation had retired in Austria and the corporate records were no longer available)
July 7, 1972—Taussig Associates
July 7, 1972—Rosenfeld, Sirowitz & Lawson, Inc.
July 6, 1972—Tribune Films, Inc.
August 2, 1972—Wyse Advertising, Inc.
August 2, 1972—International Gift Parcel, Inc.
September 1, 1972—The Lewis Company, Ltd.
September 1, 1972—Sales Northwest of Australia
September 12, 1972—South West African People's Organization (SWAPO)
November 9, 1972—Frente de Libertacao de Mocambique
November 28, 1972—Partido Revolucionario Dominicano, San Juan
November 28, 1972—Partido Revolucionario Dominicano, Central Committee
November 28, 1972—Wyse Advertising, Inc.
March 28, 1973—Caribbean Travel Association
March 28, 1973—Industrecon Associates, Inc.
April 24, 1973——Zimbabwe African National Union
April 24, 1973—The Lewis Company, Ltd.
May 8, 1973—Wyse Advertising, Inc.
(Material was not filed)
October 3, 1973—Partido Democrata Popular, New York
October 3, 1973—Mandabach & Simms, Inc.

October 3, 1973—AC & R Public Relations, Inc.
October 3, 1973—African National Congress of South Africa
October 3, 1973—Cannon Advertising Associates, Inc.
October 4, 1973—George Peabody & Associates, Inc.
October 16, 1973—Dailey & Associates
October 24, 1973—Richter & Mracky-Bates, Inc.
January 3, 1974—Curtis J. Hoxter, Inc.
January 16, 1974—Europican Marketing, Inc.
January 24, 1974—Dailey & Associates
January 28, 1974—Probe International, Inc.
February 25, 1974—Richard Kassatly
April 9, 1974—Davis Public Relations, Inc.

Failure to File Requested Document

November 4, 1974—Curtis J. Hoxter, Inc.
November 21, 1974—Colombian Government Tourist Office
January 25, 1975—Bulgarian Tourist Office
January 5, 1976—Kobe Trade Information Office

All of these registrants filed the requested documents with the exception of the four mentioned above and the five listed below who received formal notices of noncompliance as a result of their failure to file.

Notice of Noncompliance

September 15, 1971—ACDM Agency, Inc. (name changed to Europican Marketing, Inc.)
February 24, 1972—Cannon Advertising Associates, Inc.
March 14, 1972—George Peabody & Associates, Inc.
May 17, 1972—Robert R. Brauer
March 22, 1974—Richard Kassatly

Following the receipt of these notices of noncompliance the respective registrants filed the documents required to bring their registrations into compliance with the provisions of the Act.

20. In response to a 1974 GAO report (B–17751), the Department indicated that it would establish teams of attorneys to conduct ongoing examinations of the records of registrants. How many times since 1966 has the Department utilized its authority to inspect the books and records of registered foreign agents?

The Department has utilized its authority to inspect the books and records of approximately 180 registered foreign agents since 1966; 166 of these inspections occurred following the issuance of the 1974 GAO report.

21. What is the official policy of the Department with respect to the prosecution of alleged violators of this Act and its regulations?

The official policy of the Department with respect to the prosecution of alleged violators of this Act and its regulations is to institute the appropriate legal action in cases of repeated and/or flagrant violations of the Act. In the majority of cases, the institution of civil actions is the appropriate course; however, where the circumstances justify it, criminal action will be instituted.

22. Has the Department established a specific system or procedure which would bring all foreign agent files up to date and which would require that filings be made on time?

As indicated in our response to Question 16(d) the Unit is monitoring all materials filed and is requiring that requests for extensions of time be in writing and set forth a justification for the delay.

23. What has the Department done to review the supplemental statements to reduce or eliminate the high incidence of insufficient responses?

The Unit reviews all supplemental statements filed and requires the registrants to amend any statement which fails to adequately describe its activities or financial information.

24. Has the Department established an internal review system to insure that the Department carries out its registration and enforcement activities effectively?

Following the issuance of the GAO Report on March 13, 1974 the Department conducted a most thorough review of its procedures in the administration and enforcement of the Act to insure the Unit carries out its registration and enforcement activities effectively. For example, inspections are now conducted on a routine basis. Within three years all registrants should be inspected without regard to whether the agents are suspected of violating the Act.

The Department brought a civil action in the Covington & Burling case to gain access to all required documents, some of which were being withheld under a claim of privilege.

The Department has sought to establish a referral system for potential registrants with the Department of State, however, these efforts have been largely non-productive.

25. How is the Registration Unit now constituted within the organizational structure of the Justice Department? How was it constituted in the past? What has been the level of funding for the last five years of this Unit?

The Registration unit is a part of the Internal Security Section within the Criminal Division of the Department. Prior to March 1973 the Unit was a Section in the Internal Security Division.

No separate budget has been established at this time for the Registration Unit. Of approximately $931,000 earmarked for the Internal Security Section $409,000 is allocated for the Registration Unit. (See question IV 9.(c).)

II. Problems of Scope of Coverage

1. (a) List the agents of foreign principals whose objective is tourist promotion who are now registered under the Act.

The Registration Unit does not maintain a listing of agents by category of activity. However, the Attorney General's Report provides a list of all agents according to geographical area or nationality field which includes the type of activity engaged in on behalf of the foreign principals.

(b) What public policy purposes are served by the registration of agents involved in tourist promotion?

The public policy purposes served by the registration of agents involved in tourist promotion are:

(1) Provides an opportunity to monitor promotional material which on occasion goes beyond mere tourist promotion and actually concerns itself with encouraging investment abroad or political statements. At the present time materials which relate to purely tourist matters are neither labeled nor placed on file;

however, copies are requested for periodic review to insure that they do not depart from tourist promotion. Without such registration there would be no effective way to insure compliance with the Act.

(2) Similarly such registrations provide the opportunity to monitor the expenditures of these registrants and to locate related support groups who in turn may have incurred an obligation to register. In addition, the figures related to expenditures are utilized by the Department of Commerce in balance of payments computations.

2. What practical enforcement problems arise from the current definition of "political consultant"?

There are, at the present time, no practical enforcement problems with respect to the definition of political consultant.

3. What problems have arisen concerning the applicability of the commercial exemption to "publicity agent" and "public relations counsel"?

Frequently, these categories of registrants are engaged in the promotion of foreign airlines, ship and railroad travel by means of dissemination of promotional materials whereas the government agencies which directly engage in the actual activities of providing the means of travel are exempt from the registration provisions of the Act pursuant to Section 3(d) and Rule 304(b). This appears to be illogical, therefore, it may be appropriate to reconsider the 3(d) exemption for government entities.

4. What investigative powers does the Department of Justice have to inquire into the legitimacy of an attorney's claim to an exemption under section 3(g)?

The Department of Justice prefers, whenever possible, to resolve an attorney's claim for exemption under 3(g) at the administrative level. However, in those instances where this cannot be accomplished, the Department may investigate directly or through the FBI the validity of such claim. If such investigation should tend to reveal a willful evasion of the statute then a Grand Jury investigation would be recommended.

5. (a) What types of exemptions are available to agents of a foreign principal whose principal is a foreign government?

All exemptions under Section 3 are available to agents whose principal is a foreign government. However, difficulty is encountered in applying the 3(d) exemption to individuals and firms which provide support services to government owned airlines, ships and railroads.

(b) List the foreign countries which have registered agents and the purpose for which each is registered.

See current Report of the Attorney General to the Congress of the United States on the Administration of the Foreign Agents Registration Act of 1938, as amended, for calendar year 1975, which is in print and will be forwarded with a supplemental list of agents who have registered since January 1976.

6. (a) What are the requirements, if any, for filing a specific claim for exemption under the Act? If no specific claim for exemption is required, how are such cases handled and how can the Department be assured that all those who should register do, in fact, register?

(a) Rule 300 provides that the burden of establishing the availability of an exemption from registration rests upon the person for whose benefit the exemption is claimed. In those instances where a potential registrant who has not been solicited for registration independently determines he is exempt, there is no requirement that he secure the concurrence of the Department in this determination. The Registration Unit relies on information from the FBI, other departments and agencies, Congress, media, public source documents and concerned citizens to insure that all agents are registered who should be registered. When it is determined that an agent has failed to register, there is a requirement that he file a report setting forth all activities occurring from the time he initially incurred his obligation to register. Consideration should be given to amending the Act to require that all agents request exemptions in writing and to the imposition of civil fines on those who act on behalf of foreign principals without requesting such exemption.

(b) Does existing law preclude imposition of a specific claim for exemption?

Existing law does not preclude imposition of a specific claim for exemption.

(c) Does the Justice Department foresee any difficulties with (1) requiring foreign agents to notify the Department of any claim they may have with respect to an exemption and (2) imposing a civil penalty on all foreign agents which fail to notify the Department of such a claim?

No, see response to 6(a) above. Enactment of provisions of this nature would greatly assist the Registration Unit in its attempts to insure that all foreign agents are registered.

7. Are trade or industrial concerns which are owned or controlled by a foreign government treated differently than privately-owned trade or industrial concerns for the purposes of the section 3(d) commercial exemption? If so, what types of problems are encountered? Give several specific examples.

Yes, if a trade or industrial concern is truly private, the 3(d) exemption applies. If the trade or industrial concern is not privately owned then other test factors must be utilized, such as, the major product test, i.e. the extent to which such trade or industrial activity directly promotes the public or political interest of the foreign government. The problems encountered include the difficulty in defining major product vis a vis the Gross National Product of a foreign country (.01%, 10% or 30% of GNP?) and the difficulty of deciding at what point a product is identified as "major" if the ultimate purpose of the enterprise is to increase sales. Another factor to be considered in determining whether a public interest is promoted is the impact of the activity on the balance of payments between the U.S. and the foreign country involved.

8. (a) Does any provision of Federal law require the reporting of the acceptance from a foreign government by U.S. Government personnel of transportation or other expenses for travel abroad?

No federal law directly requires the reporting of the acceptance of transportation or other expenses for travel abroad by U.S.

Government personnel from a foreign government. 5 U.S.C. § 7342 deals with receipt and disposition of foreign gifts and decorations generally.

It should be noted that 22 U.S.C. § 611(c)(1)(iii) defines an agent of a foreign principal as being "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 within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal." While this provision would require an agent of a foreign principal to report the payment of transportation or other expenses abroad for U.S. Government personnel enjoying such a gratuity, it does not obligate the government employee to make a report under the Act.

(b) What regulations exist within the executive branch concerning acceptance of such gratuities by U.S. Government personnel?

Executive Order 11222 of May 8, 1965 sets forth standards of conduct for government employees. Regulations regarding the acceptance of gifts, entertainment and favors by government personnel can be found at 5 C.F.R. 735.202, 735.203, and 735.305. Specifically, 5 C.F.R. 735.202(f) allows for the receipt of travel expenses where no United States Government payment or reimbursement is made, unless prohibited by law. Reporting requirements by employees are found at 5 C.F.R. 735.401 through 735.411.

Each agency has the power to establish its own regulations regarding additional standards of ethical conduct and reporting requirements, and to implement the requirements of law and the Executive Order. 5 C.F.R. 735.104.

(c) Would a private U.S. organization which exists for the purpose of facilitating and financing travel to a foreign country by Americans to promote goodwill for the country in the U.S., and whose activities are financed by either the government or a private group in that country, be required to register under the Act?

Such an organization would be required to register under the Act because its activities would fall within the definition of an "agent of a foreign principal." 22 U.S.C. § 611(c)(1)(iii) provides that an agent of a foreign principal is "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 person within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal." Under this definition, the financing of travel would be considered as an "other thing of value"; hence, an organization of the type described would be required to register.

(d) What, if any, requirements are there for disclosure by members of the news media whose travel expenses are paid for by a foreign government or other foreign entity?

There are no requirements for disclosure by members of the news media whose travel expenses are paid for by a foreign government or other foreign entity.

9. (a) What statutes are applicable to the recruitment in the U.S. of persons to serve in foreign (non-U.S.) military or paramilitary operations?

The principal statute concerning the subject of recruitment within the United States for foreign military or paramilitary operations is contained in Title 18, Chapter 45 (Foreign Relations), of the United States Code. Specifically, 18 U.S.C. § 959(a) provides in part that:

Whoever, within the United States . . . hires or retains another to enlist . . . in the service of any foreign . . . state . . . as a soldier . . . shall be fined not more than $1,000 or imprisoned not more than three years, or both.

Thus, Section 959 prohibits the enlistment or recruitment within the United States of any person for service in the armed forces of a foreign country. Section 958 prohibits a United States citizen from accepting and exercising a commission in a foreign service in a war against a foreign nation with which the United States is at peace. Section 960 prohibits the launching of a military or naval expedition from the United States against any nation with which the United States is at peace.

18 U.S.C. § 951 prohibits a person, other than a diplomatic or consular officer or attache, from acting in the United States as an agent of a foreign government unless he gives prior notification to the Secretary of State.

A person in violation of this section may be fined not more than $5,000 or imprisoned not more than ten years, or both.

The provisions of 22 U.S.C. § 611 et seq., the Foreign Agents Registration Act, are applicable to recruiters within the United States of persons for foreign military operations, because one who recruits may fall within the definition of an "agent of a foreign principal." Section 611(c) (i), (ii), (iii).

(b) Would a person involved in recruiting in the U.S. for such purposes be required to register under FARA?

A person who recruits in the United States on behalf of a foreign principal is required to register under the Foreign Agents Registration Act. 22 U.S.C. § 611(c) defines an agent of a foreign principal. There are several ways in which a person involved in recruiting falls within this definition.

A recruiter most likely is acting at the order, request, or under the direction of a foreign principal while performing the individual elements involved in recruiting. Therefore, such a person would be considered an agent of a foreign principal, and since he could not qualify for any specified exemption, he would be required to register pursuant to Section 2. Specifically, he may be acting as an information—service employee, Section 1(c) (1) (ii), or disbursing money or other things of value to recruits within the United States on behalf of his foreign principal, Section 1(c) (1) (iii).

Additionally, a recruiter may be engaging within the United States in political activities, Section 1(c) (1) (i), on behalf of a foreign principal.

(c) If so, are any such agents now registered? Were any such agents registered in connection with the recent civil war in Angola?

No persons involved in recruiting within the United States for foreign military operations are now registered under the Foreign Agents Registration Act. It should be noted that there are currently fifty-five cases under investigation by the FBI relating to recruitment within the United States for service in foreign military operations. Most of these investigations are being conducted under the Neutrality Act. It would be inappropriate to comment specifically on any current investigative efforts.

10. Is a person who plans a public relations campaign on behalf of a foreign government or political entity required to register although no action is taken by that person in the actual implementation of such a plan?

A person who plans a public relations campaign on behalf of a foreign government or political entity may be required to register although no action is taken by that person in the actual implementation of such a plan. Section 2 of the Act provides that every person who becomes an agent of a foreign principal shall register with the Department. The implementation or success of such activity are not the criteria used to determine whether an obligation to register has been incurred.

11. Is it necessary for an individual or firm to be paid or subsidized by foreign funds in order to be termed a "foreign agent" under section 1 of the FARA?

It is not necessary for an individual or firm to be paid or subsidized by foreign funds in order to be termed a foreign agent under Section 1 of the Act. Howeved, payment or subsidy are elements which can be used in proving direction or control by a foreign principal.

12. What provisions of law govern political contributions from foreign sources to candidates for office in the U.S. and which office in the Department has the responsibility for enforcement? What changes have been made in the law within the last five years and what was the justification for these changes?

Title 2 U.S.C. § 441e of the Federal Election Campaign Act amendments, effective May 11, 1976, governs political contributions from foreign sources to candidates for office in the United States. This Section makes it unlawful for a foreign national to make any contribution in connection with an election for political office, or for any person to solicit or accept any such contribution from a foreign national. "Foreign national" means (1) a foreign principal as defined by Section 1(b) of the Foreign Agents Registration Act, excluding citizens of the United States, or (2) an individual not a citizen of the United States and not lawfully admitted for permanent residence, as defined by Section 101(a)(20) of the Immigration and Nationality Act. (8 U.S.C. § 1101(a)(20).)

2 U.S.C. § 411j provides the penalty for violations of Section 441e. While Section 441e states that it is unlawful for a foreign national to make any contribution, section 441j provides for a fine in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure made, imprisonment of not more than one year, or both, for any knowing and wilfull violation of a provision of the Federal Elec-

tion Campaign Act which involves the making, receiving, or reporting of any contribution or expenditures having a value in the aggregate of $1,000 or more during a calendar year. It appears that a foreign national or a recipient is insulated from prosecution as long as he limits his political contributions or the receipt thereof to an aggregate of less than $1,000 per year.

As the law stands now, enforcement lies with the Federal Election Commission. It has the power to investigate complaints, enter into conciliation agreements, and institute civil actions. The Commission *may* refer an apparent knowing and willful violation to the Attorney General. The Attorney General must report within sixty days to the Commission of any action taken by the Department of Justice regarding the apparent violation. The Registration Unit of the Internal Security Section of the Criminal Division would generally have jurisdiction over this statute if a case were referred by the Federal Election Commission to the Attorney General. Under some circumstances, however, when a pattern of payments having a broad impact on official corruption exists, the case would be referred to the Public Integrity Section at the specific direction of the Assistant Attorney General, Criminal Division. In the alternative the Commission may choose to dispose of a violation by an administrative "conciliation agreement" that imposes a penal fine under 2 U.S.C. 437g(a)(6)(A) or it may impose such a disposition through a civil suit pursuant to 2 U.S.C. 437g(a)(7).

Prior to the recent amendments to the Federal Election Campaign Act, the provisions of 2 U.S.C. 441e were embodied in Title 18 U.S.C. § 613. This law was enacted as part of the 1966 amendments to the Foreign Agents Registration Act and provided that it would be unlawful for agents of foreign principals to make contributions in connection with elections for political office, or for anyone to knowingly solicit, accept, or receive any such contribution from an agent of a foreign principal or from a foreign principal itself. The penalty for violating this Section was a fine of not more than $5,000 or imprisonment up to five years, or both.

This statute was amended, effective January 1, 1975. The term "foreign national" was used instead of "agent of a foreign principal." 18 U.S.C. § 613 reads the same as the present 2 U.S.C. § 441e except that included in it was a penalty provision, imposing a fine of not more than $25,000 or up to five years imprisonment, or both. Until the passage of 2 U.S.C. § 441e, a contribution in any amount by a foreign national violated the law. Now, while the wording of Section 441e indicates that any contribution made by a foreign national in connection with an election for political office is unlawful, Section 441e concerns itself only with contributions or expenditures having a value in the aggregate of $1,000 or more during a single year. Further, the statute of limitations was reduced from 5 years to 3 years.

The Registration Unit of the Internal Security Section formerly had jurisdiction over Title 18 U.S.C. § 613, in conjunction with its enforcement of the Foreign Agents Registration Act. With the enactment of Title 2 U.S.C. § 441e, jurisdiction at the first instance has switched to the Federal Election Commission which

enjoys a great deal of investigatory and civil/administrative enforcement powers.

The justification for the 1975 amendment of 18 U.S.C. § 613 was that it broadened the class of persons covered. The 1966 version of 18 U.S.C. § 613 was directed at "agents of foreign principals," but did not cover direct contributions by foreign principals. The 1975 statute also provided stricter penalty provisions raising the $5,000 fine limit to $25,000. However, as pointed out above, the statute of limitations was reduced from 5 years to 3 years.

From our vantage point, there appears to be no justification for the May 11, 1976 change in this statute. First, the Commission has the potential to impede prosecutions through the rendering of advisory opinions (2 U.S.C. 437f) or through the taking of some form of affirmative, but purely non-criminal action pursuant to its enforcement powers (2 U.S.C. 437g). The effect of transferring this statute has been to lessen the criminal penalty to a misdemeanor, while at the same time increasing the burden of proof. Secondly, the expressed intent of Section 441e has been weakened by providing penalties in Section 441j only for contributions by foreign nationals exceeding an aggregate of $1,000 per year. This Section also allows persons to accept contributions of up to $1,000, from foreign nationals, with impunity, while 18 U.S.C. § 613 prohibited the receipt of any contributions and 2 U.S.C. § 441e provides that it is illegal to receive any contribution from a foreign national.

The fact that the statute is tinged with overtones of national security and deals with a select and unusual type of political contribution speaks most eloquently for its restoration to the status of an ordinary Federal felony under the responsibility of the Department of Justice.

III. Relations With Other Departments and Agencies

1. Describe in detail, by agency, the process by which Justice and State and other interested agencies consult on matters involving the Act. Specifically: (a) Is there some type of joint working group?

There is no joint working group.

(b) How frequent is there written communication between the departments concerning the Act? Telephone communication?

During the period from 1971 through 1976 there were 223 memoranda exchanged between the Registration Unit and the Department of State. There is no log maintained for telephone communications between Justice and State.

(c) What is the normal conduit, i.e., Foreign Agents Division to State Department officers, FBI to State security, etc.?

In requesting information concerning matters involving the Act, the normal conduit is by memoranda from the Chief, Registration Unit to the Liaison Officer at State. In unique situations letters may be forwarded from the Assistant Attorney General, Criminal Division to the Legal Adviser or from the Attorney General to the Secretary of State. Registration Unit personnel

also consult with representatives from State by telephone or in conferences.

The process by which the Registration Unit and the FBI coordinate their respective activities has been set forth in response to Question I 7(a).

Contacts with agencies other than State and the FBI have no established procedure. However, the initial contact is normally made by a telephone call to the General Counsel's office, with follow up discussions occurring in personal conferences or telephone communications.

2. What type of feedback comes from State concerning its particular needs and concerns?

State provides little feedback concerning its needs and concerns. Occasionally State will provide comments on new registration statements. Following a review of the Attorney General's Report, State will provide the names of individuals or firms engaged in activities on behalf of foreign governments who may have incurred an obligation to register under the Act.

3. (a) How many times has the State Department asked Justice to investigate a matter involving foreign agents within the last five years?

During the last five years, the State Department has requested Justice to investigate three matters involving foreign agents:

(b) What was the specific request in each case?

The specific requests were:

(1) Radio of Free Asia ---------- 1971
(2) Organizations Associated with the Reverend Sun Myong Moon ---------- 1976
(3) Taiwanese Student Activities ---------- 1976

(c) What was the average length of time required to report back to State?

The length of time required to transmit a report back to State depends on the complexity of the investigation.

(d) To whom are such reports transmitted in State and in Justice?

Such reports are normally transmitted from the Assistant Attorney General, Criminal Division to the Legal Adviser, Department of State and vice versa.

4. (a) Describe the functions served by the CIA concerning activities of the principals of foreign agents or other aspects concerning administration of the Act which are within the jurisdiction of that agency.

The Registration Unit is not in a position to describe the functions served by the CIA concerning activities of the principals of foreign agents or other aspects concerning administration of the Act which are within the jurisdiction of that agency.

(b) Does the CIA routinely provide the Justice Department with information relative to the administration of this Act?

To the best of the Registration Unit's knowledge, the CIA does not routinely provide it with information relative to the administration of the Act. The CIA may routinely provide information to the FBI or the Department of State which may then be forwarded to the Registration Unit.

5. Describe the liaison procedures concerning Justice Department inquiries to the Internal Revenue Service about activities or organizations which have religious or educational tax-exempt status and which involve foreign interests.

No formal liaison procedures exist between the Internal Revenue Service and the Registration Unit. If the Unit requires information about activities or organizations which have religious or educational tax exempt status and which involve foreign interests, a letter is prepared for the signature of the Assistant Attorney General, Criminal Division and addressed to the Commissioner, Internal Revenue Service, requesting any available information. This procedure complies with the requirements of Section 301.6103(a) 1(g), Title 26, C.F.R., a copy of which is attached.

(g) *Inspection of returns by U.S. attorneys and attorneys of Department of Justice.* A return in respect of any tax described in paragraph (a)(2) of this section shall be open to inspection by a U.S. attorney or by an attorney of the Department of Justice where necessary in the performance of his official duties. The application for inspection shall be in writing and shall show (1) the name and address of the person for whom the return was made, (2) the kind of tax reported on the return, (3) the taxable period covered by the return, and (4) the reason why inspection is desired. The application shall, where the inspection is to be made by a U.S. attorney, be signed by such attorney, and, where the inspection is to be made by an attorney of the Department of Justice, be signed by the Attorney General, Deputy Attorney General, or an Assistant Attorney General. The application shall be addressed to the Commissioner of Internal Revenue, Washington, D.C. 20224, with a copy addressed to the internal revenue officer (the district director or the director of the service center) with whom the return was filed.

(h) *Use of returns in grand jury proceedings and in litigation.* Returns made in respect of any tax described in paragraph (a)(2) of this section, or copies thereof, may be furnished by the Secretary or the Commissioner or the delegate of either to a U.S. attorney or an attorney of the Department of Justice for official use in proceedings before a U.S. grand jury, or in litigation in any court, if the United States is interested in the result, or for use in preparation for such proceedings or litigation. The original return will be furnished only in exceptional cases, and then only if it is made to appear that the ends of justice may otherwise be defeated. Returns or copies thereof will be furnished without written application therefor to U.S. attorneys and attorneys of the Department of Justice for official use in the prosecution of claims and demands by, and offenses against, the United States, or the defense of claims and demands against the United States or officers or employees thereof, in cases arising under the internal revenue laws or related statutes which were referred by the Department of the Treasury to the Department of Justice for such prosecution or defense. In all other cases, written application for a return or copies thereof shall be made to the Commissioner of Internal Revenue, Washington, D.C. 20224, with a copy addressed to the internal revenue officer (the district director or the director of the service center) with whom the return was filed. The application shall be in writing and shall show (1) the name and address of the person for whom the return was made, (2) the kind of tax reported on the return, (3) the taxable period covered by the return, and (4) the reason why the return or a copy thereof is desired. Such application shall be signed by the U.S. attorney if the return or copy is for his use, or by the Attorney General, the Deputy Attorney General, or an Assistant Attorney General if the return or copy is for the use of an attorney of the Department of Justice. For provisions relating to the certification of copies of returns, see § 301.6103(a)–2. If a return, or copy thereof, is furnished pursuant to this paragraph, it shall be limited in use to the purpose for which it is furnished and is under no condition to be made public except to the extent that publicity necessarily results from such use. Neither the original nor a copy of a return desired for use in litigation in court

will be furnished if the United States is not interested in the results, but this provision is not a limitation on the use of copies of returns by the persons entitled thereto. See paragraphs (e) and (f) of this section for use; in proceedings to which the United States is a party, of information obtained by executive departments and other Federal Government establishments from inspection of returns. If a U.S. attorney or an attorney of the Department of Justice has obtained a copy of a return under paragraph (g) of this section an application for the use of such return in a situation specified in this paragraph shall not be necessary. Returns shall not be made available to the Department of Justice for purposes of examining prospective jurors except that this shall not prohibit the answering of an inquiry, from the Department of Justice, as to whether a prospective juror has or has not been investigated by the Internal Revenue Service.

6. (a) To whom is the material required to be sent to the Secretary of State under section 6(b)?

Material required to be sent to the Secretary of State under Section 6(b) of the Act is mailed to:

The Director
Bureau of Intelligence and Research
Department of State, Room 8662
Washington, D.C. 20520

(b) What is the procedure for forwarding these materials?

The Unit separates the copy of the material when it is received from a registrant and mails it to State.

(c) How soon after the material is received in Justice is it forwarded to State?

Material received from a registrant is forwarded to State within two weeks of its receipt.

IV. Statistical and Related Data

1. How many registrants by major category of activity are currently registered under the Act compared with the number registered at the time of the enactment of the 1966 amendments?

The Unit has not compiled a list of registrants by majority category of activity; however, if such data is necessary for your study, the Unit will conduct a manual compilation of such data.

2. How many pieces of political propaganda are received and analyzed annually compared with the period prior to the 1966 amendments? What has been the trend in the quantity of political propaganda filed over the last ten years?

There are no records existing which contain figures on the number of political propaganda items received by the Registration Unit prior to 1966. Records are available from 1967 to the present, however, and these figures are as follows:

1967	12,422	1972	20,189
1968	17,781	1973	12,240
1969	14,292	1974	13,500
1970	18,709	1975	15,037
1971	26,019	1976	14,873

There is no readily discernible explanation for the sudden rise recorded in 1971, and the rapid decrease in items received in 1973.

3. How many inquiries concerning activities of agents or possible agents were received by Justice within the last year from:

(a) Other government departments and agencies;

(b) Members of Congress and Congressional Committees;
(c) Members of the news media; and
(d) General public?

The Registration Unit responded to approximately 4,000 telephone and walk-in inquiries during calendar year 1976, concerning activities of agents or possible agents of foreign principals. In addition, the Unit responded to the following classes of written inquiries concerning some subjects during 1976:

Departments and Agencies	4
Congressional	18
News Media	3
General Public	68
Rule 2	30

Further, the Unit has responded to the following letters protesting a determination that Tricontinental Film Center may have incurred an obligation to register and the Unit's attempts to gather information concerning the activities of the Southern Africa Committee in order that a determination of its obligation could be made:

Transcontinental Film Center:	
Congressional	10
General Public	249
Southern Africa Committee:	
Congressional	4
General Public	6

4. List the registrants who have filed, under Rule 201(e), a statement of fund-raising within the U.S. within the last five years.

The following is a list of currently active registrants who are engaged in fund raising activities within the United States:

Agent	Foreign principal	Report of fund raising
Columbus Lighthouse Committee of America	Columbus Lighthouse Committee (Dominican Republic).	Exhibit D filed.
Irish Northern Aid Committee, Bronx, N.Y.	Northern Aid Committee, Belfast	Do.
The Jamaica Progressive League, Inc.	The People's National Party, Kingston	None.

In addition, the following is a list of terminated registrants who initially indicated they would be engaged in fund raising activities within the United States:

Agent	Foreign principal	Report of fund raising
Comite Central del Partido Revolucionario Dominicano en U.S.A.	Luis Homero Lajura Burgos, Santo Domingo.	None—paper organization never sanctioned by the PRD in the Dominican Republic.
Committee for the Free Republic of South Moluccas, Inc.	Republic of South Moluccas in Exile, Hague, Holland.	None.
Friends of Abaco Foundation	Abaco Independence Movement, Abaco.	Exhibit D filed.
Hilton Goldman	Haliga L'Haganah Yehudit L'Yisroel (Meir Kahane).	Do.
Irish Northern Aid Committee, Pittsburgh, Pa.	Irish Northern Aid Committee, New York.	Listed total contributions forwarded in response to item 15.
The Jewish Agency—American Section, Inc.	The Executive for the Jewish Agency for Israel, Jerusalem.	None.
United Hellenic Front	Pan-Hellenic Liberation Movement, Ontario.	Reported a total of $17,050 raised from 1971 to 1974 but did not identify individual contributors due to "the repressive nature of the junta in Greece."
Valley Contractors, Inc.	Parti Quebecois, Canada	Engaged in no activities.

5. List the registrants, and the foreign principal involved, in each instance, who terminated their registration in the year following enactment of the 1966 amendments to FARA.

The following is a list of registrants, and the foreign principals involved, whose registrations were terminated in the year following the enactment of the 1966 amendments to the Foreign Agents Registration Act:

AGENTS	FOREIGN PRINCIPAL
Bernie Klein Technical Advertising, Inc.	Wm. Brese, Administrator Government of the Province of Alberta Canada, Department of Industry & Development Los Angeles, California
Partido Revoluclonario Dominicano, Seccional de San Juan, Puerto Rico	Prof. Juan Bosch G., President
	Dr. Rafael Molina Urena Secretary General
	Dr. Luis E. Lembert, Asst. Secretary General
	PRD, Santo Domingo, Dominican Republic
Rawle & Henderson	Republic of Venezuela
Ernest Schein	Distribuidora de Azucareras S.A., Bogota, Colombia
	Ingenios Independientes LTDA, Cali, Colombia
	Compania Azucarera del Valle Colombia
Shirley L. Green	Government of Canada, Ottawa (National Film Board)
Nachman & Feldstein	V/O Prodintorg, USSR
Lem Jones Associates, Inc.	Command Council of the Revolution of of Iraqi-Kurdistan, Lausanne, Switzerland
Joel T. Camche	Commissioner General for Spain, New York World's Fair
C.V.G. SIDERURGICA DEL ORINOCO, Pittsburgh Office Gramhma, Jones & Rolph	C.V.G. Siderurgica del Orinoco C.A., Caracas Venezuela
	Japanese Consulate General, San Francisco
Lawrence Hunt	British Consulate General, New York
Hans Groenhoff	Bahamas Ministry of Tourism
Radio Sweden	Sveriges Radio A.B., Stockholm Sweden
Arnold F. Shaw	Comite de Productores de Azucar of Peru
	Confederation of Workers of Peru, Lima
Forer & Rein	Government of Kenya
	Hungarian Legation
Stanley Z. Siegel	Kingdom of Tonga, Nukualofa
Amram, Hahn & Sundlun	Embassy of the Government of Tunisia
Bruce P. Jackson	Arthur Bonhomme, Ambassador
French Chamber of Commerce of the U.S.	French Government, Paris
Barbara Ann Marr	Information Department, Soviet Embassy
Henry S. Bloch	Ministry of Finance, Government of Jamaica
Tower International Corp.	Hungarian Foreign Trading Enterprises—"FTE" MEDIMPEX, Budapest
Levin, Kreis, Ruskin & Gyory	Regional Cooperation for Development (R.C.D.) Shipping Committe, Istanbul, Turkey
American International Business Research Corporation	Ambassador Hyun Chul Kim, Republic of Korea

AGENTS—Continued	FOREIGN PRINCIPAL—Continued
Gerhart H. Seger	German Information Center, New York
Torch Agency, Inc.	V. O. Mezhdunarodnaja Kniga, Moscow, USSR
Huynh Sanh Thong	Dia-Viet Nationalist Party of Viet Nam, Paris, France
Sudler & Hennessey, Inc.	Swiss National Tourist Office
Inter-Government Philatelic Corp.	Postal Administration of East Africa (Kenya, Uganda & Tanzania)
	Government of Ghana, Acra
	Government of the Maldive Islands, Colombo, Ceylon
	Government of Pakistan, Karachi
	Government of South Viet Nam, Saigon
	Government of Cyprus, Nicosia
	Republic of Dahomey, Cotonou
	Government of Nigeria, Lagos
	Republic of Togo, Lome
S. S. Koppe & Company, Inc.	Vneshtorgreklama, All Union Advertising Agency, Moscow
	Rolimpex, Warsaw
John F. Davidson	Embassy of Republic of Korea
Carl Levin Associates, Inc.	Director General, Ministry of Posts, Jerusalem
Israel Philatelic Agency in America, Inc.	President of India, New Delhi, Consulate General, New York
World Wide Philatelic Agency, Inc.	Bureau of Posts, Telegraphs & Telephones, Republic of Tunisia
	Directorate General of Posts, Republic of China, Taipei
	Deutsche Bundespost, represented by Federal Minister of Posts and Telecommunications, Bonn
Harold L. Oram, Inc.	Dr. Kofi A. Busia, Deputy Chairman of the Political Committee of the National Council of Ghana
Liberian Philatelic Agency	Post Office Department Monrovia
Gotham-Vladimir Advertising, Inc.	Government of Venezuela, Direccion de Turismo, Caracas
	Japan External Trade Organization
	Japan Trade Center
Wilmer, Cutler & Pickering	The Government of the Bahamas, Nassau
Chapman, DiSalle & Friedman	Union Nacional de Productores de Azucar, S.A. de C.V., Mexico
Ronald Spurga	USSR State Committe on Broadcasting & T.V.
Pehle, Riemer, Luxford & Naiden	Banco Nacional do Desenvolvimiento Economico, Rio de Janeiro
Susan W. Lemma	Embassy of the USSR in the United States; Soviet Life Magazine
Tangent Films, Inc.	Service of Press & Information Ministry of Foreign Affairs, Paris
Seymour S. Guthman	Syndicat des Distellateurs et Producteurs de Sucre de Madagascar
Aaron H. Barken	Government of Uganda, Minister of Finance
Artley, Inc.	Ministry of Tourism & Information, Government of the Republic of Turkey, Ankara
Virgil E. Chenea	Bahamas Ministry of Tourism Nassau
Joseph Brownfield	Monimpex Foreign Trading Co., Budapest
Grant Advertising, Inc.	Bahamas, Ministry of Tourism Nassau

AGENTS—Continued	FOREIGN PRINCIPAL—Continued
British Broadcasting Corporation Regional Office	British Broadcasting Corp. Broadcasting House London W–1 England
Ruder & Finn International, Inc.	United States-Japan Trade Council, Washington, D.C.
Ruder & Finn International, Inc.	George Rukidi III, Omukama of Toro
	Minister of Justice, Uganda Rukurato Drafting Committe, Kingdom of Toro, Uganda
	Ministry of Minerals and Water Resources, Government of Uganda
	Personal Legal Advisor to His Highness Prince Aserate Kassa, Governor General of Eritrea
Putney, Twombly, Hall & Skidmore	State Bank of Czechoslovakia, Prague
	Pragoexport Foreign Trade Corp., Prague
	Zivnostenska Banka, Prague
	Kovo Foreign Trade Corp., Prague
Robert J. Blum	Verlag Hans Hoeppner, Hamburg
	Transportmaschinen Export-Import Deutcher Innen Und Aussenhandel, Berlin
Edwin G. Martin	Australian Meat Board
Nathaniel M. McKitterick	Embassy of Japan
Nelson D. Martins	Mr. Alfred R. Rego, Dominican Consul, Rhode Island
Wachtell, Manheim & Grouf	Republic of Austria, Vienna
	Pakistan International Airlines
	Consulate General of the Republic of Colombia
	Colombian National Airlines
Sharretts, Paley & Carter	Embassy of Socialist Republic of Rumania
Arent, Fox, Kintner, Plotkin & Kahn	Western Nigeria Housing Corp., Ibadan
	European Broadcasting Union, Geneva, Switzerland
	Republic of Zambia, Lusaka
	Canadian Broadcasting Corp., Ontario
Dunnington, Bartholow & Miller	Kingdom of Saudi Arabia, Saudi Arabian Educational Mission
Barber & Baar Associates, Inc.	Jamaica Industrial Development Corporation
Hardy & Sharpe	Petroleos Mexicanos, Mexico
Hamilton Wright Organization, Inc.	Ministerio de Hacienda, Government of Bolivia, La Paz
Dina Dellale	Asociacion de Azucareros de Guatemala, Guatemala City
	Camara de Azucareros de Costa Rica, San Jose
	Asociacion Azucarera Salvadorena, San Salvador
	Compania Azucarera Hondurena, S.A., San Pedro Sula
	Nicaragua Sugar Estates, Ltd., Managua
The Gilbert Jonas Co., Inc.	Embassy of the Republic of Viet Nam
Novack & Richter	State of Israel, Consul General
Jiri Hochman	RUDE PRAVO, Prague
Purrington & McConnell	United States of Brazil, Lloyd Brasileiro
Haiti Government Tourist Bureau, Chicago	Government of Haiti, Port-au-Prince
Fund for the Relief of Jordan	The Hashemite Kingdom of Jordan, Amman
Davor Culic	Tanjug News Agency, Belgrad
Georgi A. Kuznetsov	"TRUD" and "SOVIET CULTURE," Newspapers, USSR

6. How many persons are exempt under each of the following sections: 3(a), 3(b), 3(c), 3(d), 3(e), 3(f), 3(g)? Under Rule 303?

It should be noted at the outset that possibly thousands of persons make an independent determination that they are exempt from the registration provisions without any consultation with the Department of Justice.

This is a breakdown of the numbers of persons granted exemptions under the following sections of the Act:

3(a) 8
3(b) 3
3(c) 0
3(d) 128
3(e) 30
3(f) 1
3(g) 124
Rule 303–0

There also have been 184 persons who have not been required to register or have had their registration terminated either because the activity they engaged in was not the type for which registration was required or no agency relationship with a foreign principal was found to exist.

7. How many dissemination reports were filed within the last year compared with the year proceding the 1966 amendments under Rule 401?

The only record of dissemination reports filed prior to 1967 indicates that 4,658 dissemination reports were filed in 1963. It should be noted that prior to 1964 there were no official forms used for making dissemination reports, but that the registrants submitted the information required in their own format. Records kept since 1967 disclose as follows:

1967 ----------3, 577	1972 ----------7, 387
1968 ----------4, 663	1973 ----------6, 259
1969 ----------5, 362	1974 ----------5, 650
1970 ----------6, 944	1975 ----------5, 725
1971 ----------8, 753	1976 ----------6, 985

Note that the figures for dissemination reports filed follows approximately the same pattern as the numbers of political propaganda items received. (See response to Question IV 2).

8. What, if any, measure exists of the extent to which political propaganda films or tapes are shown or used by TV or radio broadcast stations or other mass media?

There is no way to accurately measure the extent to which TV and radio broadcasters make actual use of the political propaganda tapes and films disseminated by registrants. The usual procedure for registrants who engage in this activity is to send the material to broadcasters whose names are on their mailing list. (Sources/Compilers of such mailing lists are not known.) This material is unsolicited, and is for the broadcaster to use at his discretion. In only a small percentage of the cases reported to this Unit are the registrants advised by a broadcaster that the material was actually used.

9. (a) How many people work full time in the administration and enforcement of the Act?

The Registration Unit is presently staffed by seven attorneys, one investigator, two political analysts, one legal technician, five clerk-stenographers and one clerk-typist.

(b) How many man years are spent in enforcement by part-time personnel (FBI agents, court trials, etc.)?

The Department does not have available any computation of the number of man years spent in enforcement of the Act by part-time personnel (FBI agents, court trials, etc.)

(c) What are the estimated total annual costs for administration and enforcement within Justice?

The estimated total annual costs for administration and enforcement of the Act by the Internal Security Section is approximately $409,000.

(d) What is the cost for issuance of the annual report, including preparation, printing, etc.?

The cost for issuance of 200 copies of the annual report for 1974 was $2,003 while the cost for 400 copies of the annual report for 1975 was $3,328. It should be noted that the change in the number of copies ordered was to satisfy the increased demand by the media and the public which was generated in part by the Unit's more aggressive enforcement policy.

10. Provide copies of all directives, regulations, and other departmental procedures relative to administration and enforcement of the Act.

Other than the rules promulgated by the Attorney General, which are contained in the enclosed booklet, there are no formal directives or other Departmental procedures relative to the administration and enforcement of the Act.

11. Would the Department provide the Committee with an up-to-date list of all registrants still considered active, their principals, and a short description of the types of activities to be performed on behalf of these principals?

The Attorney General's Report to the Congress on the Administration and Enforcement of the Foreign Agents Registration Act, as amended, for calendar year 1975 is enclosed herewith.[1] Registrants who have terminated in the period from January 1, 1976 to the present are indicated in red. Attached is a list of registrants who have filed new registration statements and active registrants who acquired additional foreign principals during the above mentioned period.

ANTIGUA & BARBUDA

Registered: March 16, 1976.
Trubin, Sillcocks, Edelman
& Knapp—2669
376 Park Avenue
New York, New York 10022
Government of Antigue (Ministry of Economic Development, Industry, Trade & Commerce).

[1] Omitted.

(Legal and other Services)

Registered: December 28, 1976.
Gordon Lattey—2742
101 Park Avenue
New York, New York 10017
Antigua/Barbuda Information Office.

(Tourist Promotion)

ARAB REPUBLIC OF EGYPT

Registered: June 9, 1976.
Pendleton & Robinson—2696
306 Sixth Street, N.W.
Washington, D.C. 20001
Arab Japanese Promotion Company.

(Legal and other Services)

Registered: October 27, 1976.
Marilyn Edith Perry—2731
211 East 70th Street
New York, New York 10021
League of Arab States, Cairo.

(Public Relations/Publicity)

ARGENTINA

Registered: December 29, 1976.
Nu-Line Advertising Service, Inc.—2743
200 West 58th Street
New York, New York 10019
Telam, S.A., Buenos Aires.

(Advertising)

AUSTRALIA

Registered: January 25, 1977.
E. A. Jaenke & Associates, Inc.—2748
1735 Eye Street, NW.
Suite 610
Washington, D.C. 20006
Australian Wool Corporation, Victoria.

AUSTRIA

Registered: July 1, 1976.
Edward I. Masterman—2704
225 Frankling Street
Boston, Massachusetts 02110
Federal Republic of Austria

(Legal and other Services; Representative/Importation of Steel)

BRITISH HONDURAS

Registered: June 8, 1976—Terminated June 8, 1976.
Thomas H. Miner & Associates, Inc.—2695 (T)
135 South LaSalle Street
Chicago, Illinois 60603
Belize Ministry of Trade & Industry, Belmopan.

(Consultants)

CANADA

Registered: January 5, 1976.
Surrey, Karasik & Morse—2649
1156th 15th Street, NW.
Washington, D.C. 20005
Canadian Pacific, Ltd., Quebec.
Canadian National Railways, Quebec.

(Legal and other Services)

Registered: February 5, 1976—Terminated: February 5, 1976.
ICPR—2657 (T)
9255 Sunset Boulevard
The Eighth Floor
Los Angeles, California 90069
Information Division, Department of External Affairs, Ottawa.
Registered: February 5, 1976.
Sidley & Austin—2658
1730 Pennsylvania Avenue, NW.
Washington, D.C. 20006
Canadian Pacific Limited, Montreal.
Canadian National Railways, Montreal.

(Legal and other Services)

Registered: February 18, 1976.
Arent, Fox, Kintner, Plotkin & Kahn—2261
1815 H Street, NW.
Washington, D.C. 20006
Potash Corporation of Saskatchewan.

(Legal and other Services)

Registered: July 17, 1976.
Public Relations Ltd.—2709
3 Parkway
Philadelphia, Pennsylvania—19102
Canadian Consulate, Department of External Affairs, Government of Canada, Ontario.

(Public Relations)

Registered: July 20, 1976.
Sage Gray Todd & Sims—2711
140 Broadway
New York, New York 10005
The Royal Bank of Canada.

(Legal and other Services)

Registered: September 28, 1976.
Judy Davidson McCarthy—2723.
66 West 9th Street
New York, New York 10025
Saint John Port Development Commission, New Brunswick

(Public Relations)

CAYMAN

Registered: September 15, 1976.
Samuel B. Crispin & Associates, Inc.—2720
464 South Dixie Highway
Coral Gables, Florida 33146
Cayman Islands Department of Tourism.

(Advertisting; Tourist Promotion)

CHILE

Registered: June 9, 1976.
Pendleton & Robinson—2696
306 6th Street, NW.
Washington, D.C. 20001
Embassy of Chile.

(Legal and other Services)

Registered: June 29, 1976—Terminated: June 29, 1976.
Benjamin Mira—2702 (T)
808 17th Street, N.W.
Room 911
Washington, D.C. 20577
Ministry of Economy, Embassy of Chile.

(Political Activities)

DOMINICAN REPUBLIC

Registered: November 4, 1976.
Felipe J. Vicini—2732
Isabel La Catolica 48
Santo Domingo
Dominican Republic
Instituto Azucarero Dominicano (Dominican Sugar Institute).

EL SALVADOR

Registered: December 29, 1976.
Nu-Line Advertising Service, Inc.—2743
200 West 58th Street
New York, New York 10019
Instituto Salvadorena de Turismo, San Salvador.

(Advertising)

FINLAND

Registered: June 18, 1976.
Pat E. Patricof—2700
319 E. 50th Street
New York, New York 10022
Karl Jokilehto, Director, Finland National Tourist Office.

(Tourist Promotion)

FRANCE

Registered: February 25, 1976.
Pierre G. Fabian—2663
683 Fifth Avenue
New York, New York 10022
Nice—Congress.

Registered: March 23, 1976.
Delta Recording Corporation—2672
1564 Broadway
New York, New York 10036
Foreign Ministry of France, Paris.

(Recording & Distribution Services)

Registered: May 3, 1976.
Thomas F. Morrow—2689
78 Vendome
Grosse Point Farms, Michigan 48236
French Industrial Development Agency.

(Consultant)

Registered: May 6, 1976.
NAME CHANGE—'76
Kennedy, Webster & Gardner—2690
888 17th Street, N.W.
Suite 810
Washington, D.C. 20006
(Formerly: Paul Gardner, Jr.)
Banque Nationale de Paris.

(Legal and other Services)

Registered: May 28, 1976.
Aeroport De Paris—2693
Etablissement Public Autonome
One World Trade Center
Suite 2551
New York, N.Y. 10048
French Government, Paris.

(Tourist & Trade Promotion)

Registered: July 22, 1976.
Port of Le Havre Authority—2710
One World Trade Center
Suite 2551
New York, New York 10048
French Government Ministry of Equipment, Paris.

(Industrial and Shipping Promotion)

Registered: November 23, 1976.
Rinfret Associates, Inc.—2736
641 Lexington Avenue
New York, New York 10022
Air France.

(Consultant on Impact of Potential Concorde Flights Serving John F. Kennedy International Airport)

Registered: January 1, 1977.
Winston & Strawn—2745
1730 Pennsylvania Avenue, N.W.
Suite 1040
Washington, D.C. 20036
Government of France, Paris.

GERMANY

Registered: April 1, 1976.
Theodore Kagham—2677
300 Mercer Street
New York, New York 10003

German Information Center, New York—Press and Information Office of the City of West Berlin.

(Public Relations Consultant)

Registered: August 19, 1976.
Botein, Hays, Sklar & Herzberg—2716
200 Park Avenue
New York, New York 10017
Unitechna Aussenhandelsgesellschaft m.b.H. (Export Co., Inc.), Berlin.

(Legal and other Services)

Registered: January 19, 1977.
ARRCO International, Ltd.—2747
6723 Whittier Avenue
McLean, Virginia 22101
IWKA, Industrie-Werke Karlsruhe Augsburg.

GHANA

Registered: June 29, 1976—Terminated: October 8, 1976.
Christofer Ashton Volz—2701 (T)
200 Parker Avenue
Easton, Pennsylvania 18042
Nabb Brothers Limited, Accra.

(Representative)

GREAT BRITAIN

Registered: June 1, 1976.
Michael L. Lehrman—2694
3012 Cortland Place, N.W.
Washington, D.C. 20008
The Plessey Company, Ltd.

(Consultant)

GREECE

Registered: January 28, 1976.
The Lampert Agency, Inc.—2656
770 Lexington Avenue
New York, New York 10021
Greek National Tourist Organization, Athens.
Registered: October 18, 1976.
Kimon A. Doukas—2725
799 Park Avenue
New York, New York 10021
Naval Reserve Officers Group, Graduates of the Polytechnic, Athens.

GUYANA

Registered: April 8, 1976.
John G. Gelinas Associates, Inc.—2681
62 Johnson Road
Scarsdale, New York 10583
Republic of Guyana.

(Public Relations)

Registered: July 13, 1976.
Marcos von Goihman—2707
6700 Belcrest Road
Suite 625
Hyattsville, Maryland 20782
Guyana Airways Corporation.

(Travel Consultant)

HONG KONG

Registered: August 3, 1976.
Arthur J. Tarley—2713
165 Ridge View Drive
Cincinnati, Ohio 45215
Berkshire Limited, Hong Kong.

(Procurement of Military Equipment)

INDONESIA

Registered: December 17, 1976.
Hill & Knowlton, Inc.
633 Third Avenue
New York, New York 10017
Republic of Indonesia.

(Public Relations)

INTERNATIONAL

Registered: March 10, 1976.
Sheldon Ritter—2666
Crown Communciations, Inc.
655 Madison Avenue
New York, New York 10021
Ethiopian Airlines; East African Airways.

(Public Relations/Tourist Promotion)

Registered: April 19, 1976
Madeline Blanche Papo—2684
19345 Bush Road
Chelsea, Michigan 48118
K. L. M. Royal Dutch Airline.

(Sales Representative)

Registered: August 28, 1976
Erling D. Naess—2717
P. O. Box 1008
Hamilton 5, Bermuda
International Association of Independent Tanker Owners (INTERTANKO). Norway.

(Chairman/Representative)

Registered: November 22, 1976—Terminated: November 22, 1976.
Thor Jorgen Jahre—2737 (T)
Radhusgaten 25
Oslo 1, Norway
International Association of Independent Tanker Owners (INTERTANKO).

(Legislative Representative)

IRELAND

Registered: July 12, 1976.
Alexander International Development Consultants—2706
P. O. Box 33
Glenolden, Philadelphia 19036
United Ulster Unionist Movement, Belfast.
Ulster Loyalist Coordinating Committee, Belfast

(Consultant, Representative)

Registered: April 27, 1976.
Harshe-Rotman & Druck, Inc.-2687
300 East 44th Street
New York, New York 10017
Israel Ministry of Tourism.

(Public Relations)

JAMAICA

Registered: April 1, 1976
Inns of Jamaica Reservations, Ltd.—2678
700 Brickell Avenue
Suite 702
Miami, Florida 33131
Inns of Jamaica, Miami.

(Tourist Promotion/Reservation Services)

Registered: August 17, 1976.
Lee Rutherford—2680
210 East 63rd Street
Apartment 4-B
New York, New York 10021
The Jamaica Bauxite Institute, Kingston.

(Public Relations)

JAPAN

Registered: March 25, 1976.
Capital Counselors, Inc.
1700 K Street, N.W.
Suite 607
Washington, D.C. 20006
Japan Arteriosclerosis Research Foundation, Tokyo.

(Public Relations/Legislative Representative)

Registered: June 15, 1976.
The International Marketing Center, Ltd.—2698
666 N. Lake Shore Drive
Chicago, Illinois 60611
Japan Trade Center, Chicago.

(Consultant/Public Relations)

Registered: July 1, 1976.
David L. Hanlon—2705
c/o Embassy of Japan
2520 Massachusetts Avenue, N.W.
Washington, D.C. 20008
Embassy of Japan.

(Research Consultant/Speech Editing)

Registered: October 8, 1976.
Rodney E. Armstrong—2724
Box 66
Lambertville, New Jersey 08530
Toyota Motor Sales, Ltd.
Toyota Motor Sales (USA), Ltd.

(Public Affairs Consultant)

KENYA

Registered: February 25, 1976.
H. Max Ammerman—2664
3301 New Mexico Avenue, N.W
Suite 250
Washington, D.C. 20016
Republic of Kenya, Washington, D.C.

(Legal and other Services)

KOREA

Registered: January 16, 1976.
Korea Trade Center, Dallas—2652
2050 Stemmons Freeway
Suite 155
World Trade Center
Dallas, Texas 75207
Korea Trade Promotion Corporation.

(Official Trade Promotion Office)

Registered: February 13, 1976.
Korea Trade Center, San Francisco—2660
Two Embaracadero Center
Suite 660
San Francisco, California 94111
Korea Trade Promotion Corporation.

(Official Trade Promotion Office)

Registered: April 22, 1976.
Korea Electronics & Machinery Industries Promotion Office—2685
355 West Olive Avenue
Suite 215
Sunnyvale, California 94086
The Fine Instruments Center, Seoul.

(Industrial Promotion)

Registered: April 23, 1976.
Korean Traders Association, Inc.—2686
460 Park Avenue
New York, New York 10022
Korean Traders Association, Seoul.

(Trade & Commerce Promotion)

Registered: May 3, 1976.
Edward Hymoff—2688
P.O. Box 250
Centuck Station
Yonkers, New York 10710
Information Office, Republic of Korea, Office of the Permanent Observer to the United Nations.

(Public Relations; Publicity)

LEBANON

Registered: November 18, 1976.
Palestine Liberation Organization, Washington Office—2733
Sheraton Carlton Hotel
16th and K Streets, N.W.
Washington, D.C. 20009
Palestine Liberation Organization, Beirut.

(Political Activities)

LIBERIA

Registered: September 15, 1976.
Liberian Services, Inc.—2719
103 Park Avenue
New York, New York 10017
Republic of Liberia, Monrovia.

(Maritime Consultants and Fee Collection)

LIBYA

Registered: October 27, 1976.
Marilyn Edith Perry—2731
211 East 70th Street
New York, New York 10021
Permanent Mission of the Libyan Arab Republic to the United Nations.

(Public Relations/Publicity)

MEXICO

Registered: January 9, 1976.
William B. Cobb, Jr.—2651
1156 15th Street, N.W.
Suite 329
Washington, D.C. 20005
Mexican National Tourist Council.

(Tourist Promotion)

Registered: July 17, 1976.
Daniel J. Edelman of New York, Inc.—2708
711 Third Avenue
New York, New York 10017
Mexican Business Council.

(Public Relations)

Registered: December 7, 1976.
Edward Gottlieb & Associates, Ltd.—2739
633 Third Avenue
New York, New York 10017
FONATUR/CANCUN, Piso.

(Public Relations)

NEW ZEALAND

Registered: January 8, 1976.
Robert P. Lynn, Esquire—2650
11 Dupont Circle, N.W.
Washington, D.C. 20036
New Zealand Wool Board, Wellington.

(Representative)

Registered: March 23, 1976.
Leffingwell/Associates, Inc.—2671
P.O. Box 4034
Honolulu, Hawaii 96813

Air New Zealand Limited.

(Public Relations; Publicity)

NICARAGUA

Registered: October 5, 1976.
MacKenzie McCheyne, Inc.—2721
345 Park Avenue
New York, New York 10022
Government of Nicaragua, Managua.

(Public Relations/News Service)

NIGERIA

Registered: June 9, 1976.
Pendleton & Robinson—2696
306 Sixth Street, N.W.
Washington, D.C. 20001
Embassy of Nigeria.

(Legal and other Services)

Registered: June 29, 1976—Terminated: October 8, 1976.
Christofer Ashton Volz—2701 (T)
200 Parker Avenue
Easton, Pennsylvania 18042
O. Eziyi & Brothers, Aba, E.C.S.

(Representative)

OMAN

Registered: September 21, 1976.
Frank Tillman Durdin—2722
Sultanate of Oman Information Office
370 Lexington Avenue
Suite 2211
New York, New York 10017
Ministry of Information & Culture, Sultanate of Oman, Muscat.

(Information and Publicity Adviser)

PANAMA

Registered: October 27, 1976.
Marilyn Edith Perry—2731
211 East 70th Street
New York, New York 10021
Consulate General of Panama.

(Public Relations/Publicity)

PERU

Registered: October 27, 1976.
Herman William Brann—2730
9 East 40th Street
New York, New York 10016
Peruvian Government.

(Communications Systems Consultant)

PHILIPPINE REPUBLIC

Registered: April 6, 1976—Terminated: May 5, 1976.
Letitia Baldrige Enterprises, Inc.—2679 (T)
909 Third Avenue
New York, New York 10022
Manila Hotel Corporation.

(Public Relations)

Registered: January 4, 1977.
Association of South East Asian
Nations (ASEAN) Promotional Chapter,
West Coast, U.S.A.—2744
ASEAN Permanent Committee on Tourism, Dept. of Tourism, Manila.

(Tourist Promotion)

POLAND

Registered: July 20, 1976.
Combat Organization Free Poland—2712
P.O. Box 768
Madison Square Station
New York, New York 10010
The President and Government of the Republic of Poland in exile, London.

(Political Activities)

Registered: October 27, 1976.
Marilyn Edith Perry—2731
211 East 70th Street
New York, New York 10021
Embassy of the Polish People's Republic.

(Public Relations/Publicity)

(Advisor/Marketing & Liaison)

RHODESIA

Registered: March 12, 1976.
African National Council of Zimbabwe, North America Branch—2667
159 West 33 Street
Suite 805
New York, New York 10001
African National Council of Zimbabwe, Salisbury.

(Political Activities)

SAUDI ARABIA

Registered: January 27, 1976.
M. B. Preeman, d/b/a The Preeman Company—2655
807 Arizona Avenue
Santa Monica, California 90401
Saleh and Abdulaziz Abahsain Companu, Inc.
Registered: March 23, 1976.
Cambridge Reports, Inc.—2670
12–14 Mifflin Place
Cambridge, Massachusetts 02138
Saudi Arabian Information Office.

(Public Opinion Survey Analysis)

Registered: March 31, 1976.
Daniel Bryce O'Brien—2675
1156 15th Street, N.W.
Suite 1022
Washington, D.C. 20005
Royal Government of Saudi Arabia.

Registered: March 31, 1976.
Hassan Y. Yassin—2676
1156 15th Street, N.W.
Washington, D.C. 20005
Royal Embassy of Saudi Arabia.

Registered: December 1, 1976.
Morgan-Newman Associates, Inc.—2738
1629 K Street, N.W.
Suite 701
Washington, D.C. 20006
Government of Saudi Arabia, c/o Ministry of Industry and Electricity, Riyadh.

(Industrial Development)

SINGAPORE

Registered: August 3, 1976.
Arthur J. Tarley—2713
165 Ridge View Drive
Cincinnati, Ohio 45215
C. S. Brading & Associates, Pte. Ltd., Singapore.

(Procurement of Military Equipment)

SOUTH WEST AFRICA

Registered: November 17, 1976.
Psychographic Communications, Ltd.—2735
502 Park Avenue
New York, New York 10022
National Convention of Namibia, Windhoek.

(Marketing and Communications Consultants)

Registered: August 31, 1976.
Burns & Jacoby—2718
445 Park Avenue
New York, New York 10022
National Unity Democratic Organization, Windhoek.

(Legal and other Services)

Registered: February 24, 1976.
Kuaima Isaac Riruako—2662
Apt. 3-C
291 Martens Street
Brooklyn, New York 11226
National Unity Democratic Organization.
National Convention of Namibia.

(Political Activities)

SPAIN

Registered: May 10, 1976.
O'Connor & Hannan—2691
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
Ministry of Foreign Affairs, Madrid.

(Public Relations)

Registered: August 5, 1976.
Dentsu Corporation of America—2714
1114 Avenue of the Americas
New York, New York 10036
Spanish National Tourist Office, New York.

(Advertising)

ST. LUCIA

Registered: March 15, 1976.
St. Lucia Tourist Board—2668
220 East 42nd Street
Room 408
New York, New York 10017
St. Lucia Tourist Board, Castries.

(Official Tourist Office)

SWAZILAND

Registered: February 12, 1976—Terminated: March 31, 1976.
Eugene J. Quindlen—2659 (T)
2300 Calvert Street, N.W.
Washington, D.C. 20008
Swaziland Sugar Association, Mbabane.

(Legislative Representative)

Registered: March 31, 1976.
J. M. Chambers & Company, Inc.—2674
2300 Calvert Street, N.W.
Washington, D.C. 20008
Swaziland Sugar Association.

(Legislative Representative)

SWITZERLAND

Registered: April 13, 1976.
D.C. Association for Retarded
Citizens, T/A Occupational
Training Center—2683
405 Riggs Road, N.E.
Washington, D.C. 20011
European Free Trade Association, Geneva.

(Mailing Services)

Registered: May 19, 1976.
American Trade and Finance Company—2692
2001 Jefferson Davis Highway
Arlington, Virginia 22202
Swiss Association of Machinery Manufacturers (VSM), Government of Switzerland.

(Consultant)

Registered: October 27, 1976.
Marilyn Edith Perry—2731
211 East 70th Street
New York, New York 10021
Swiss Tourist Office.

(Public Relations/Publicity)

THAILAND

Registered: August 3, 1976.
Arthur J. Tarley—2713
165 Ridge View Drive
Cincinnati, Ohio 45215
Berkshire (Thailand) Limited, Bangkok.

(Procurement of Military Equipment)

Registered: November 17, 1976.
Thailand Board of Investment—2734 New York Office
5 World Trade Center
New York, New York 10048.
Government of Thailand.

(Investment Promotion)

TURKEY

Registered: March 5, 1976.
Kenneth J. Gray—2665
1901 N. Fort Myer Drive
Rosslyn, Virginia 22209
Turkish Industrialists & Businessmen Association.

(Public Relations/Representative)

UNION OF SOVIET SOCIALIST REPUBLIC (U.S.S.R.)

Registered: May 19, 1976.
American Trade and Finance Company—2692
2001 Jefferson Davis Highway
Arlington, Virginia 22202
VFW-FOKKER mbH.

(Consultant)

Registered: June 12, 1976—Terminated: December 2, 1976.
Mary Jane Silvin—2697(T)
1706 18th Street, N.W.
Washington, D.C. 20009
Embassy of U.S.S.R.

(Editor)

Registered: June 18, 1976—Terminated: August 12, 1976.
Kerby Ann Boland—2699(T)
1706 18th Street, N.W.
Washington, D.C. 20036
Embassy of U.S.S.R.

(Editor)

Registered: August 12, 1976.
Energo Vital Corporation—2715
1300 Market Street
Wilmington, Delaware 19801
V/O Licensintorg, Moscow.

VENEZUELA

Registered: October 18, 1976.
Public Affairs Analysts, Inc.—2726
1 Dag Hammarskjold Plaza
Suite 1819
New York, New York 10017
Venezuelan Mission to the United Nations, Dr. Simon Alberto Consalvi, Ambassador to the U.N.

(Public Relations)

Registered: October 18, 1976.
Martin Ryan Haley & Associates, Inc.—2727
40 Central Park South
New York, New York 10019
Venezuelan Mission to the United Nations, Dr. Simon Alberto Consalvi, Ambassador to the United Nations.
(Public Relations)

Registered: October 20, 1976.
Joseph Napolitan Associates, Inc.—2728
121 Chestnut Street
Springfield, Massachusetts 01103
Venezuelan Mission to the United Nations, Dr. Simon Alberto Consalvi, Ambassador to the United Nations.
(Public Relations)

Registered: October 18, 1976.
F. Clifton White & Associates, Inc.—2729
P.O. Box 1605
Greenwich, Connecticut 06830
Venezuelan Mission to the United Nations, Dr. Simon Alberto Consalvi, Ambassador to the United Nations.
(Public Relations)

YUGOSLAVIA

Registered: December 27, 1976.
Bowman & Conner—2741
1055 Thomas Jefferson Street, NW.
Washington, D.C. 20007
Yugosalv Chamber of Economy, Belgrade.
Impol Aluminum Corporation, Slovenia.

(Legal and other Services)

12. In your past annual reports, the Department indicated that some agents had not complied with certain disclosure provisions when dealing with Congress. However, the reports failed to indicate who these agents were. Could you provide a list covering the last five years of those agents the Department has reason to believe have not properly identified themselves when dealing with Congress?

A review of Department files failed to disclose a list of the Agents mentioned in the Annual Report for calendar year 1970. The Department did send letters to the Speaker of the House and President of the Senate in 1970 advising them of the provisions of Section 4 of the Act which had particular relevance to the work of Congress and the appearances of witnesses before its committees and suggesting that these provisions be brought to the attention of the various committees. In the last five years, the Unit has not maintained a list of those agents which the Department has reason to believe have not properly identified themselves when dealing with Congress. When information comes to the Unit's attention concerning any such activity by a registrant, the Unit advises the registrant of its obligations. However, it should be noted that one of the causes of action in the civil action brought against the public relations firms Daniel J. Edelman, Inc. and Edelman International Corp. alleged the defendants had failed to properly label material which was disseminated to the United States Congress on behalf of Aerospatiale, its ultimate foreign principal.

13. The Department's annual report fails to include the terms and conditions of any written or oral contract between the registrant and the foreign principal, or in the absence of a contract, a full statement of all the circumstances surrounding their relationship. The report also fails to disclose the money or valuable gifts which the registrant dispenses while pursuing his activities. Why is the above information excluded from the Department's annual report?

The Department has in the past included the amount of money received by each registrant from the respective foreign principals. However, Congress and the Attorney General apparently agreed in the early 1960's that the costs involved in time required to accumulate this information and in additional printing expense could not be justified in view of the fact that this information was readily available in the public files maintained by the Registration Unit.

The Registration Unit forwards copies of documents filed by registrants to members of Congress and Congressional staff members upon request.

14. It is the Committee's understanding that the Department of Justice considers its index of current registrants an internal document and does not make it available to the public. Is this the policy of the Department? If so, why?

There are several indices of current registrants maintained by the Registration Unit. The primary index of information is contained in a rotary drum cabinet and consists of thousands of individual index cards containing the names and addresses of registrants, date of filing, etc. These cards are maintained to assist unit personnel in locating requested files. Index cards are maintained for all active and terminated primary and short form registrants.

In addition there is one copy of a 3 part loose leaf nationality index which is also updated daily and which contains a listing of all primary agents representing foreign principals within a specific country.

Finally, there is another loose leaf directory which lists all primary agents in alphabetical order and their foreign principals.

With the exception of the rotor card index, the remaining two indices systems are available for public review.

No copies of the nationality book are provided since they total more than 700 pages and are updated daily. However if a request is submitted for a reasonable number of pages they will be reproduced at 10 cents per page.

Copies of the alphabetical directory which is approximately 100 pages in length, will be furnished upon request and payment of 10 cents per page.

It should be noted however, that the Attorney General's Report which contains the latter two indices is available to anyone upon request.

VIII

DEPARTMENT OF STATE RESPONSE TO SENATE FOREIGN RELATIONS COMMITTEE'S QUESTIONNAIRE REGARDING THE FOREIGN AGENTS REGISTRATION ACT

1. Provide a summary of the various categories of persons entitled to diplomatic and other privileges and immunities, along with a list of the appropriate laws and treaties granting this immunity.

The major categories of persons entitled to diplomatic and other privileges and immunities are (1) diplomatic officers and non-diplomatic staff personnel and members of their families forming part of their households; (2) consular officers and employees and, in some cases, members of their families and (3) representatives to and officers and employees of international organizations and, some cases, members of their families.

In the case of diplomatic mission personnel and their families, the primary legal bases for the enjoyment of privileges and immunities are the Vienna Convention on Diplomatic Relations of 1961 (TIAS 7502, 23 UST 3227, 500 UNTS 95), which entered into force for the United States on December 13, 1972, and the Federal Immunities Statute, originally enacted in 1790, codified in 22 USC § 252–255. Under the domestic statute (which the State Department has sought in successive Congresses to have repealed as an anachronism,) all diplomatic officers and their family members and private servants, and all non-diplomatic staff members of a foreign diplomatic mission in the United States are entitled to full immunity from legal process, both criminal and civil. Under the Vienna Convention, diplomatic officers and their families enjoy complete immunity from criminal jurisdiction, but only limited immunity from civil and administrative jurisdiction. So-called "administrative and technical staff" members (e.g., typists, communicators, etc.) and their families receive full criminal immunity, but civil and administrative immunity only with respect to acts performed in the performance of their official functions. The Vienna Convention provides service staff (cooks, janitors, chauffeurs, etc.) with only official acts immunity from both criminal and civil jurisdiction (their family members receiving no immunities). Private servants would enjoy no immunities under the Vienna Convention. Since, however, the Justice Department has ruled that the entry into force of the Vienna Convention did not supersede the earlier enacted Federal Statute, both continue to apply, thus providing diplomatic mission personnel with benefits flowing from both.

In addition to the above-cited treaty and federal statute, there are assorted laws and regulations having some impact on the enjoyment of privileges and immunities by diplomatic mission personnel and dependents. For example, 26 U.S. Code § 893 grants an

exemption from payment of federal income tax to wages, fees and salaries of alien employees of foreign governments and international organizations. The Customs Regulations applicable to importations by diplomatic, consular and other privileged personnel grant special duty-free privileges under prescribed circumstances (19 CFR § 148.81 *et seq.*). Internal Revenue Ruling 296 sets forth foreign government personnel entitlement to certain federal excise tax exemptions. Special legislation has been enacted to guarantee diplomatic benefits for representatives of non-governmental bodies such as the European Economic Communities, which maintain missions in the United States. (See P.L. 92–499, October 18, 1972.) Lastly, local laws and regulations and/or customary practice extend various privileges to resident diplomatic and other official personnel as an expression of international comity or a recognition of customary international law.

Respecting consular personnel and their dependents, the primary sources of privileges and immunities are the multilateral Vienna Convention on Consular Relations of 1963 (TIAS 6820, 21 UST 325, 596 UNTS 487, largely a declaration of customary law on consular relations, which entered into force for the United States on December 24, 1969, and various bilateral treaties concluded during the last century with aproximately 74 countries. (These bilateral treaties treat specific consular privileges and immunities in varying degrees and it is necessary to examine each to ascertain the scope of its coverage of a particular issue.) The Vienna Convention provides fiscal privileges for consular personnel similar, albeit more limited, than those accorded to diplomatic personnel. Immunities accorded consular personnel under this treaty, however, are sharply more restricted. As a general rule, consular officers and consular employees are granted only "official acts" immunities. Their family members are accorded no immunities whatsoever. Exceptions to this rule are found in specific bilateral treaties, especially those concluded within the last decade. Specific conventions illustrating such exceptional rules are those between the United States and the Soviet Union, 1968 (TIAS 6503), Poland, 1973 (TIAS 7642), Hungary, 1973 (TIAS 7641). Romania, 1973 (TIAS 7643) and Bulgaria, 1975 (TIAS 8067). There is no federal statute extending immunities to consuls, but, as in the case of diplomats, local regulations and practice affect the benefits which this class of foreign officials receive.

Privileges and immunities accorded international organization personnel are governed by U.S. legislation in the form of the Public International Organizations Immunities Act, P.L. 79–291, 22 U.S.C. § 288, and both bilateral and multilateral agreements on privileges and immunities of specific organizations. The Headquarters Agreement between the United States and the United Nations (November 21, 1947, 61 Stat. 3416, TIAS 1676) determines that organization's entitlement to benefits in the United States. Under Section 15 thereof, diplomatic representatives of the UN receive the same privileges and immunities accorded to diplomatic envoys accredited to the United States. In addition to the Headquarters Agreement, the United Nations, representatives thereto

as well as officials and employees thereof, receive privileges and immunities under P.L. 79–291 and the multilateral Convention on Privileges and Immunities of the United Nations (21 UST 1418: TIAS 6900), which entered into force for the United States on April 29, 1970. The Organization of American States, which like the United Nations is headquartered in the United States, also has concluded a headquarters agreement with the United States under which diplomatic representatives to the OAS, including Permanent Observers of non-member States, receive the same privileges and immunities as diplomatic representatives accredited to the United States. The OAS, as a recognized public international organization, and its officers and employees, also enjoy the benefits of P.L. 79–291.

International organizations, to which the United States is not a party and which, therefore, do not qualify for the benefits of P.L. 79–291, must be accorded benefits by special legislative enactments. Examples of such organizations are the Organization of African Unity and the European Space Research Organization. (See 22 USC § 288 *et seq.*)

2. Provide a list of: (a) the names of all duly accredited diplomatic officers, their wives, and family. (Blue Book); (b) the names of the administrative, clerical, and service personnel of diplomatic missions. (White list); (c) the names of the persons afforded privileges and immunity under section 15 of the Headquarters Agreement between the United States and the United Nations; (d) the names of the persons afforded privileges and immunity under the bilateral agreement between the U.S. and the Organization of American States; (e) the names of those persons associated with the North Atlantic Treaty Organization which are granted privileges and immunity; (f) the individuals afforded privileges and immunities under section 7 of the International Organizations Immunities Act; and (g) any consular officers or other individuals that are afforded full or limited privileges and immunities.

2. (a) The current "Diplomatic List" is attached (Tab 1).[1] It is commonly referred to as the "Blue Book." It contains the names of duly accredited diplomatic officers and their spouses. It does not list other dependents and we have no convenient way of supplying that information unless we extracted this information from the individual forms completed by each diplomatic officer when he or she is accredited to the United States.

(b) The booklet "Employees of Diplomatic Missions" is attached (Tab 2). It is commonly known as the "White List." It contains the employees of diplomatic missions who are not listed in the "Diplomatic List."

(c) The most recent list of officers of Permanent Missions to the United Nations entitled to diplomatic privileges and immunities is attached (Tab 3). It is current as of April 1976.

(d) The Directory of the Organization of American States is attached (Tab 4). That Directory lists persons who are entitled to diplomatic privileges and immunities. However, the Directory

[1] This and subsequent enclosures are omitted.

also lists the United States permanent mission who are, of course, not entitled to privileges and immunities. It also lists a very few persons whose duties are such (clerical etc.) that the United States has not extended diplomatic status to them.

(e) To be supplied.

(f) There are approximately 12,000 individuals at the United Nations, the OAS, and other international organizations who are afforded the limited privileges and immunities granted under Section 7 of the International Organizations Immunities Act. The Department of State does not maintain listings of such persons, but if needed by the Committee, lists could possibly be made available by the Department's requesting them of some two dozen international organizations in this country.

(g) The list of Foreign Consular Officers in the United States is attached (Tab. 5).

3. What is the criteria and the procedure utilized by the State Department to grant a person privileges and immunities?

Privileges and immunities are accorded to members of foreign missions who have been accredited or recognized by the United States according to their official positions and rank, and in accordance with applicable treaty and other legal provisions. (See answer to Question 1, *supra.*) Persons accredited to international organizations are recognized by the United States in accordance with standing procedures between the Department of State and the organization concerned. Privileges and immunities are withdrawn when the individual ceases to occupy a position entitling him to the same, or if he or she is declared *persona non grata* or otherwise determined by the Secretary of State to be unsuitable (e.g., because of a pattern of abuse) for continued enjoyment of privileges and immunities.

4. What is the policy for recognition of privileges and immunities with respect to individuals with observer status or members of missions to the U.N.? (Cite regulations or furnish copies of policy memoranda.)

See attached circular diplomatic note, dated July 30, 1968, addressed to all missions to the United Nations.[2] Observer missions and individual observers generally receive no privileges and immunities. If an observer is also accredited as a member of his country's mission to the United States or the United Nations, the individual officer is accorded the privileges and immunities appropriate to his position within the mission. An exception to this rule exists in the case of Permanent Observers to the OAS, whose privileges and immunities are based upon federal legislation (P.L. 93–149) and the Agreement with the Organization of American States Relating to Privileges and Immunities (TIAS 8089, March 20, 1975).

5. Is this policy applied equally without regard to whether the observer or Mission might be characterized as "friendly" or "unfriendly" to U.S. interests? In the event of a dispute with respect to the recognition of privileges and immunities, what mechanism exists for resolving the dispute? How many such cases arose during the last five years?

[2] Omitted.

On how many occasions was the proponent of privileges and immunities afforded an opportunity to present his views in person? Identify and be specific to the legal administration. Which ones and why?

Privileges and immunities for observer missions are considered on the basis of the degree of recognition of the organization, the extent of official activities, and the demonstrated need for such benefits. Disputes regarding privileges and immunities normally relate to whether an individual assigned to a specific category is actually performing tasks warranting the enjoyment of these special benefits. Both the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations contain Protocols on the Compulsory Settlement of disputes. Under these Protocols any disputes arising out of the interpretation or application of the Conventions fall within the compulsory jurisdiction of the International Court of Justice.

During the last five years the Vienna Conventions' mechanisms for solving disputes over privileges and immunities have not been used. All questions relating to immunities for individual officials of foreign governments have been handled on an *ad hoc* basis. The Department does not maintain records of the number of cases handled, since in many cases an issue is resolved by the Department's issuance of a written certification of immunity status or by a written or oral confirmation to appropriate authorities or members of the public that a particular individual has a certain type or degree of immunity. If a proponent of immunity wishes to express his position, either in writing or in person, he is afforded every opportunity to do so. Normally, however, his mission communicates with the Department of State through usual diplomatic channels.

6. Has the Department ever reversed itself with respect to an application for privileges and immunities? If so, why? (Cite examples.)

The Department has on occasion changed its position with respect to granting privileges and immunities to a particular foreign government official. Such action is based upon the acquisition of new information concerning the official activities of the individual, activities which warrant either a further extension or a curtailment of the applicable privileges and immunities.

7. Have privileges and immunities ever been accorded a defendant in a civil or criminal case subsequent to the filing of the complaint or indictment? If so, why?

Yes. In one recent case, a defendant, who at the time the suit was filed was an employee of a foreign diplomatic mission, failed to cite diplomatic immunity as a defense to a civil action (automobile accident case) until after the matter had been set for trial and after the defendant had filed a counterclaim. Once the defendant learned of her entitlement to immunity, her Embassy formally requested the Department to certify that fact to the presiding court. The Department complied with that request, thus providing the basis for a dismissal. The Department did, however, subsequently request the employee's embassy to waive her immunity to allow the action to proceed to resolution on the merits, and this request is pending at this time.

Another case involving a suit by the Justice Department's Foreign Agents Registration Unit was dismissed after the court was notified by the Department of State that a request by the defendant country's mission to the United Nations for his accreditation as a resident diplomatic representative of that mission to the United Nations had been granted. Thus the defendant became entitled to immunity for that period of time in which he remains in diplomatic status.

8. What system does the Department of State employ for receiving notifications pursuant to 18 U.S.C. § 951? Furnish copies of pertinent regulations. Are copies of these notifications disseminated to the Department of Justice Registration Unit for their information and possible monitoring vis-a-vis the Foreign Agents Registration Act? If not, why not?

Notifications received by the Department pursuant to 18 U.S.C. 951 are recorded in the Department's central files where they may be electronically retrieved. In addition, copies of the notification are sent to the appropriate regional bureau, the Bureau of Intelligence and Research, the Office of the Legal Adviser and the Registration Unit in the Department of Justice. The Department has not promulgated regulations concerning 18 USC 951 although it is in the process of doing so. The Department receives reports from the Department of Justice on individuals who have registered with them under the Foreign Agents Registration Act. We consider receipt of that information to be adequate compliance with 18 USC 951.

9. Has the Department of State through the Office of Legal Adviser or other entity ever advised present or prospective registrants or those solicited for information with respect to registration directly or indirectly regarding State's interpretation or application of the Foreign Agents Registration Act.

The Department occasionally receives inquiries from the public concerning both the Foreign Agents Registration Act and 18 USC 951. Such inquiries are ordinarily referred to the Office of the Legal Adviser where they are answered. If the request asks for the Department's interpretation on application of the Foreign Agents Registration Act or 18 USC 951, that information is provided unless it would not be appropriate to do so—such as in a criminal proceeding.

The Department has, needless to say, taken steps to issue regulations under 18 USC 951 to prevent a recurrence.

We know of no instances in which the Department has been engaged in civil litigation concerning 18 USC 951.

There have been other successful prosecutions under 18 USC 951, most notably *U.S.* v. *Butenko*—(384 F. 2d 554, vacated in 394 U.S. 165; on remand 318 F. Supp. 66). We do not have a complete list of prosecutions under 18 USC 951. Only the Department of Justice would be able to provide that to you.

10. Has the Department of State ever been requested to submit an affidavit or to testify in any grand jury, civil action, criminal or other proceeding on behalf of the government or any defendant regarding the Department of State's responsibilities under Section 951? Identify each proceeding and witness, give a general statement as to the posi-

tion taken by the State Department witness, and the results in each case including the outcome of the litigation.

The most recent case was *U.S.* v. *Bryne, et al.* (Eastern District of Pennsylvania, No. 75–773).

In that case the defendants were charged with conspiracy to violate, and violations of, 18 USC 951 and the Munitions Control Act. The specific charges were that they had exported more than 400 rifles to the Irish Republican Army and had acted as agents of the IRA without having notified the Secretary of State as required by 18 USC 951. The Department provided affidavits that the named defendants had not registered under section 951 which were used to obtain the indictment.

At the trial conducted in June of this year, a Foreign Service Officer, Mr. Lars Hydle, testified with respect to the nature of the Irish Republican Army so that the prosecution could establish that the IRA was a "body of insurgents" and thus within the definition of "foreign government" contained in 18 USC 11 which is the applicable definition for 18 USC 951. In addition, the Department provided detailed affidavits from numerous officers stating that files within their custody did not contain any records of registration by the defendants. The defense engaged in extensive discovery and acquired nearly everything in the Department's recent files dealing with 18 USC 951.

The Court dismissed the charges under 18 USC 951 after the government had presented its case. The chief reason for the dismissal was the lack of a State Department regulation prescribing standards and prescribing that all registrations must be forwarded to a single office. In the absence of such regulations, the court was persuaded that the government could not establish, with sufficient certainty, that the defendants had, in fact, not registered.

The defendants were convicted on the other counts, however, and were sentenced to one year.

11. Have privileges and immunities ever been accorded to any entity or individual registered under the Foreign Agents Registration Act subsequent to a request by the Registration Unit to examine books and records pursuant to 22 U.S.C. § 615? If so, why? (Cite examples.)

See answer to question 7.

12. What limitations are imposed on the activities of personnel eligible for the exemptions afforded by 22 U.S.C. § 613(a), (b), (c)?

Persons exempted from registration under 22 USC § 613(a), (b) and (c) are subject to the normal restrictions on non-official activities of representatives of foreign governments and international organizations. These restrictions are contained in applicable conventions, such as the two Vienna Conventions cited above, and are also found in customary practice. Generally, foreign representatives in this category are prohibited from engaging in outside professional or commercial activity for personal gain and may not interfere in the internal affairs of the receiving country.

13. Is (a) Legislative or Executive Branch lobbying (b) dissemination of political propaganda (including speaking tours) or (c) political fund raising a permissible activity for those claiming exemptions under 22 U.S.C. § 613 (a), (b), (c)?

Generally not.

14. What procedures exist for referrals of prospective registrants under the Foreign Agents Registration Act to the Registration Unit?—List instances where referral has been made in the last five years. (Be specific.)

The Department has not established formal procedures for referring prospective registrants to the Registration Unit because we see no need for formal procedures. Most inquiries concerning registration are referred to attorneys in the Office of the Legal Adviser who are familiar with provisions of the Act and with 18 USC 951 and who refer prospective registrants to the Registration Unit. Additionally, most officers of the Department are aware of the existence of the Act and the fact that it is administered by the Department of Justice. Thus if a call were made to a desk officer concerning the requirements of registration, the officer would refer the individual to either the Legal Adviser's Office or the Justice Department or both.

The Office of the Legal Adviser estimates that it receives about two inquiries a month concerning FARA or 18 USC 951. Most inquiries come from law firms, or other professional associations, who are representing foreign clients and have questions about compliance with the law.

15. Has any official of the Department of State ever expressed an opinion contrary to that of the Department of Justice with respect to the propriety of the bringing of any action (administrative or judicial) under the Foreign Agents Registration Act? If so, on what basis? (Cite examples; be specific.)

The Department of State has not, to our knowledge, expressed an opinion contrary to that of the Department of Justice with respect to the propriety of bringing any action under the Foreign Agents Registration Act. The Department has, however, had very frank discussions with the Department of Justice as to whether the activities of certain individuals and institutions are within the scope of functions which qualify for exemptions under sections 3(a)(b) and (c) of the Act. Such discussions have occurred, for example, with respect to the activities of Turkish businessmen and legislators who visited this country under the auspices of the Turkish Government and who met with members of Congress. and the activities of certain trade missions and tourist offices. These discussions led officials of the two agencies to agree that an understanding should be reached which would set out the range of activities which are recognized by the Department of State as within the proper functions of an individual who is entitled to exemption from registration under Section 3(a), (b) and (c) of the Act. The Departments have not yet concluded that understanding.

16. One of the criteria contained in the GAO Report (B–177551) concerns the unavailability of information in the Department of Justice bearing on possible Foreign Agents Registration Act obligations by visa applicants. What procedures have been established by the Department of State to facilitate this information being promptly disseminated to the Department of Justice Registration Unit for appropriate action?

As they relate to the Foreign Agents Registration Act, present procedures for the processing of visa applications are essentially only of an informational nature. In this sense, if a consular officer ascertains that an alien's intended activities in the United States are possibly within the scope of the Act, he is required to so inform the alien and advise him to communicate with the Department of Justice. This procedure is contained in interpretive note material provided to consular officers in the Visa Handbook (22 CFR 41.10 Note 9 and 22 CFR 42.124 Note 1).

Other than the above procedure, there is no existing obligation or mechanism for a consular officer to submit any report, either direct to Justice or through the Department, identifying any individual visa applicant as being possibly subject to the registration requirements of the FARA.

17. Which offices within the Department handle matters with respect to the Foreign Agents Registration Act? What are the procedures followed by these offices?

The offices within the Department which principally handle matters relating to the Foreign Agents Registration Act are the Office of the Legal Adviser and the Bureau of Intelligence and Research. The role of the Office of the Legal Adviser has already been described. The Office of Intelligence Liaison in the Bureau of Intelligence and Research is responsible for ensuring that proper liaison is maintained between the Federal Bureau of Investigation and the Department of State. Their duties also include responsibility for distributing FARA information to the appropriate bureaus of the Department. For example, when the Justice Department advises us that X has registered as a representative of a foreign principal from Y country, the Bureau of Intelligence and Research would convey that information to the Y country desk officer for their information and appropriate distribution. The Bureau also serves as a focal point for the Department with respect to the Foreign Agents Registration Act and any problems that may arise under the Act.

18. Describe the liaison procedures between the State Department and the Justice Department with respect to the Foreign Agents Registration Act?

The main liaison procedures between the Department of State and the Department of Justice have been described in previous answers. In sum, they consist of routine exchanges of information funneled through the Bureau of Intelligence and Research and providing assistance to the Department of Justice in its responsibilities to enforce the Act.

19. Which offices within the Department determine whether an individual or entity qualifies for an exemption under section 3 of the Foreign Agents Registration Act?

The decision is made by the Office of the Legal Adviser acting in consultation with the regional bureau concerned.

20. Does the Department have a clear and precise policy which it follows in carrying out its responsibilities with respect to the Foreign Agents Registration Act?

We believe the policy and procedures which we have described are clear and precise. We have experienced no major difficulties

with these policies or procedures. We recognize, however, that we must promulgate regulations with respect to 18 USC 951—as described in our answer to question 10.

21. How does the Department utilize the information compiled by the Justice Department under the Foreign Agents Registration Act?

As described above, the Bureau of Intelligence and Research disseminates the information compiled by the Justice Department to the interested offices in the Department. The use made of that information varies, of course, with the situation. Some information is quite useful in understanding the activities of foreign governments in this country, particularly their political propaganda, and financial activities. In other instances, the information is merely filed or destroyed.

22. How, if at all, is the information compiled by the Justice Department disseminated within the Department of State?

See earlier answers.

23. How are requests for information concerning the FARA handled by the Department?

See answer to question 14.

24. Are applicants for visas informed by State Department officials about the provisions of the FARA and their responsibilities with respect thereto?

As they relate to the Foreign Agents Registration Act, present procedures for the processing of visa applications are essentially only of an informational nature. In this sense, if a consular officer ascertains that an alien's intended activities in the United States are possibly within the scope of the Act, he is required to so inform the alien and advise him to communicate with the Department of Justice. This procedure is contained in interpretive note material provided to consular officers in the Visa Handbook (22 CFR 41.10 Note 9 and 22 CFR 42.124 Note 1).

Other than the above procedure, there is no existing obligation or mechanism for a consular officer to submit any report, either direct to Justice or through the Department, identifying any individual visa applicant as being possibly subject to the registration requirements of the FARA.

IX

RELATED STATUTES

A. Elections and Political Activities

CHAPTER 14 OF TITLE 2, UNITED STATES CODE

§ 441e. Contributions by foreign nationals

(a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

(b) As used in this section, the term "foreign national" means—

(1) a foreign principal, as such term is defined by section 611 (b) of Title 22, except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 1101(a)(20) of Title 8.

Pub. L. 92-225, Title III, § 324, as added Pub. L. 94-283, Title I, § 112(2), May 11, 1976, 90 Stat. 493.

§ 441j. Penalties

(a) Any person, following May 11, 1976, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than 1 year, or both. In the case of a knowing and willful violation of section 441b(b)(3) of this title, including such a violation of the provision of such section as applicable through section 441c(b) of this title, of section 441f of this title, or of section 441g of this title, the penalties set forth in this section shall apply to a violation involving an amount having a value in the aggregate of $250 or more during a calendar year. In the case of a knowing and willful violation of section 441h of this title, the penalties set forth in this section shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more is involved.

(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or chapter 96

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of Title 26, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 437g of this title which specifically deals with the act or failure to act constituting such offense and which is still in effect.

(c) In any criminal action brought for a violation of a provision of this Act, or of a provision of chapter 95 or chapter 96 of Title 26, the court before which such action is brought shall take into account, in weighing the seriousness of the offense and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 437g of this title;

(2) the conciliation agreement is in effect; and

(3) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.

Pub.L. 92–225, Title III, § 329, as added Pub.L. 94–283, Title I, § 112(2), May 11, 1976, 90 Stat. 494.

POLITICAL CONTRIBUTIONS FROM FOREIGN NATIONALS—LEGISLATIVE HISTORY AND INTERPRETATION

Federal statutory law presently prohibits political contributions by, and the receipt of political contributions from, a foreign national under the provisions of 2 U.S.C. § 441e:

2 U.S.C. § 441e. Contributions by foreign nationals.

(a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

(b) As used in this section, the term "foreign national" means—

(1) a foreign principal, as such term is defined by section 611(b) of Title 22, except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 1101(a)(20) of Title 8.

(P.L. 92–225, title III, § 324, as added by P.L. 94–283, title I, § 112(2), May 11, 1976, 90 Stat. 493.)

The present wording of the prohibition was initially adopted as a 1974 amendment to the Federal Election Campaign Act of 1971 (P.L. 93–443) and later recodified at 2 U.S.C. § 441e (P.L. 94–283). The prohibition upon contributions by, and the receipt of contributions

from, a "foreign national" went into effect on January 1, 1975. Prior to that date, political contributions were prohibited *by* "agents of foreign principals," and *from* such agents, or from a "foreign principal."

The prohibition on foreign political contributions originated as a 1966 amendment to the Foreign Agents Registration Act of 1938 (52 Stat. 631, June 8, 1938, ch. 327), and was codified at 18 U.S.C. § 613 (P.L. 89–486, § 8a, July 4, 1966, 80 Stat. 248). The provisions of that statute were as follows:

> **§ 613. Contributions by agents of foreign principals.**
>
> Whoever, being an agent of a foreign principal, directly or through any other person, either for or on behalf of such foreign principal or otherwise in his capacity as agent of such foreign principal, knowingly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or
>
> Whoever knowingly solicits, accepts, or receives any such contribution from any such agent of a foreign principal or from such foreign principal—
>
> Shall be fined not more than $5,000 or imprisoned not more than five years or both.
>
> As used in this section—
>
> (1) The term "foreign principal" has the same meaning as when used in the Foreign Agents Registration Act of 1938, as amended, except that such term does not include any person who is a citizen of the United States.
>
> (2) The term "agent of a foreign principal" means any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal or of a person any substantial portion of whose activities are directly or indirectly supervised, directed, or controlled by a foreign principal.
>
> (Added Pub. L. 89–486, § 8(a), July 4, 1966, 80 Stat. 248.)

Basically, the purpose of the 1966 amendment was to tighten up the restrictions and the regulations pertaining to foreign agents. Congress was particularly concerned that the lobbying efforts of such agents who overtly or covertly represented foreign principals were an undue influence and an unwarranted interference with the internal affairs of this country. The Senate Committee on Foreign Relations, in Senate Report No. 143, 89th Congress, 1st Sess., April 1, 1965, P. 15, said the following pertaining to political contributions:

> Section 8 (a) would amend chapter 29 of United States Code, Title 18, by adding a new section relating to political contributions by agents of foreign principals.
>
> The new section would prohibit such agents from making or promising to make in their capacity as agents contributions in connection with any election . . .

In addition, the House of Representative's Committee on the Judiciary, in House Report No. 1470, 89th Congress, 2d sess. May 3, 1966, p. 12 stated that:

> This provision (sec. 613 to be added to Title 18, United States Code) is not contingent upon registration [of an agent]; it applies to all who fall within the definition of "agent of a foreign principal". . .

It should be noted that from the technical language of the statute, and from the two explanations cited above from the congressional reports, that the pre-1975 title 18 U.S.C. § 613 apparently prohibited the *making* of a political contribution only from those persons who "fall within the definition of agent of a foreign principal" (H. Rept No. 1470, supra), and then only such agents who make contributions "in their capacity as agents" (S. Rept. No. 143, supra). Although § 613 apparently only prohibited agents of foreign principals from making political contributions, and did not prohibit the principals themselves from making such contributions, the wording of the second paragraph of the statute specifically prohibited anyone from soliciting, accepting, or *receiving* any contribution from any foreign principal as well as from the agent of the principal.

The term "foreign principal" in the 1966 statute had the same meaning as used in the Foreign Agents Registration Act of 1938, as amended, except that the term did not apply to any citizen of the United States, regardless of his domicile or residence. It should be noted that the present definition of "foreign national" used in 2 U.S.C. § 441e, as that language was first adopted in 1974 by P.L. 93-443 also includes the term "foreign principal" as defined by the Foreign Agents Registration Act of 1938, as amended, except that it also does not include any citizen of the United States regardless of domicile or residence.

The term "foreign principal" is defined within the Foreign Agents Registration Act of 1938 at 22 U.S.C. § 611(b):

> (b) The term "foreign principal" includes—
>
> (1) a government of a foreign country and a foreign political party;
>
> (2) a person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
>
> (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

Questions arose under the former statute with regard to the term "foreign principal," as it applied to "a person outside of the United States." There was confusion as to whether it would be lawful to accept a contribution from a person who was not a citizen of the United States but who was either temporarily, physically "inside" of the United States, or who was a resident alien of the U.S. Although the legislative history of the Foreign Agents Registration Act did not speak directly to this point, it appears that the concept of "domicile" was intended to be the determining factor as to whether a person was "outside of the United States." In an additional complication, it should be

noted that the Department of Justice had taken the position that the term "foreign national" and "foreign principal" were not synonymous, and that a person outside of the United States was not a "foreign principal" unless such person had an agent in the U.S.

As noted, the legislative history of the Foreign Agents Registration Act did not clarify all the questions surrounding the former prohibition, however, it did appear to establish that the concept of "domicile," rather than temporary physical presence or residence, was the determining factor as to whether a person was outside of the United States. The Foreign Agents Registration Act was passed originally in 1938 in the critical period before the outbreak of World War II. The purpose of that Act was to "identify agents of foreign principals who might engage in subversive acts or in spreading foreign propaganda, and require them to make public record of the nature of their employment." (*Viereck* v. *United States*, 318 U.S. 236, 241 [1943]). The Act was introduced in the House as H.R. 1591, 75th Congress, 1st Session. On August 2, 1937, H.R. 1591 passed the House of Representatives with no debate. (81 *Cong. Rec.* 8037–8038). The definition of "foreign principal" at that time was:

> . . . the government of a foreign country, a political party of a foreign country, a *person not a resident of the United States*, or any foreign business or political organization. (Emphasis added.)

This bill was reported out of the Senate Foreign Relations Committee with amendments (83 *Cong. Rec.* 6608), and passed the Senate, as amended, on May 18, 1938 (83 *Cong. Rec.* 7052–53) with no floor discussion. The Senate amendments re-defined the term "foreign principal" as follows:

> . . . the government of a foreign country, a political party of a foreign country, *a person domiciled abroad*, or any foreign business, partnership, association, corporation, or political organization. (Emphasis added.)

The conference report on H.R. 1591 was subsequently agreed to by the Senate (83 *Cong. Rec.* 7620) and the House of Representative (83 *Cong. Rec.* 7648). This bill, as reported out of conference, was sent to the President and approved as Public Law No. 583. The definition of "foreign principal" in the 1938 Foreign Agents Registration Act included the wording of the Senate amendments, that is, . . . *a person domiciled abroad.* (52 Stat. 631).

In addition to the absence of discussion on the floor concerning this Act, the House Report (No. 1381, 75th Cong., 1st Session), the Senate Report (No. 1783, 75th Cong., 3rd Session), and the Conference Report (H. Rpt. 2510, 75th Cong., 3rd Session) did not contain discussions as to the interpretation, or reasons for the Senate change, of the definition of "foreign principal". It appears obvious, however, from the plain wording of the original Act, that as for persons falling within the definition of "foreign principal," the determining factor was the domicile of such person regardless of the temporary physical location or residence of the person.

The Foreign Agents Registration Act was amended in 1942 by Public Law No. 532, 77th Congress, 2d Session. (56 Stat. 248). These amendments changed the definition of "foreign principal" from "a person domiciled abroad" as stated in the original Act, to, as presently

stated, "a person outside of the United States, unless it is established that such person is an individual and is a citizen of and domiciled within the United States." The legislative history of these amendments, however, shows that such amendments did not intend to narrow the definition to exclude persons from coverage who were previously covered by the Act.

These amendments were made by S. 2399, 77th Congress, 2d Session. The original bill which made these definitional changes was H.R. 6269 which had passed both Houses but was sent back by the President for certain revisions not effecting the change in the definition of "foreign principal" made in H.R. 6269. As an explanation for the definitional change of "foreign principal," H. Report No. 1547 (77th Cong., 2d Session) explained:

> By virtue of section 1(b)(3) a shift of the difficult burden of proof respecting domicile, which is now present in the existing act is provided for.

Thus, although the burden of proof was shifted, the determining factor in the phrase "outside of the United States", apparently remained the concept of domicile. As stated in the House Report No. 1547 on the 1942 Amendments, no substantive change was intended by the amendments:

> It cannot be emphasized too strongly that these amendments do not change the fundamental approach of the statute, . . . nor are they designed substantially to broaden its coverage to include classes of persons who are not now required to register; nor do they greatly increase the size of the existing act and its regulations.
>
> What may appear to be enlargements of the present definitions of "foreign principal" and "agent of a foreign principal" are in reality (except in one or possibly two instances) only attempts to render these definitions more precise by expressing what is now implicit in them.

Thus, although the definition of foreign principal was changed in this manner, the legislative history of the amendment demonstrates clearly that no narrowing of the original act was intended, and that the concept of "domicile," rather than temporary physical presence, or residence, remained the determining factor in the phrase "outside of the United States." The amendments had merely shifted the burden of proof with regard to a person's domicile. In the original Act, the fact of "domicile abroad" had to be shown by the Government in proving a person was a foreign principal under the Act. Now, the person charged as a foreign principal under the Foreign Agents Registration Act as a person outside of the United States, is apparently required to prove both United States citizenship and domicile within the United States to fit within the exclusion. It should be noted that for the purposes of prohibited political contributions by individuals, both under the former and present statute, the fact of United States citizenship, regardless of domicile or residence, specifically exempts such individual from the prohibition upon political contributions.

In 1974 the statute regarding foreign political contributions was amended by P.L. 93-443, 88 Stat. 1263, October 15, 1974, § 101(d), "to make the restrictions established by such section apply directly to

foreign nationals" (House Report No. 93–1239, 93d Congress, 2d Session, July 30, 1974, p. 17) and to specifically apply such prohibition to "an individual who is not a citizen of the United States and who is not lawfully admitted into the United States for permanent residence" (H. Rept. No. 93–1239, supra at p. 18).

As noted above, under the former statute, the Department of Justice had interpreted the provision in such a manner as to require that a foreign national have an "agent" within the United States to be considered a "foreign principal" under the prohibition:

> The Department's view is that to be a foreign principal within the meaning of section 613 it is essential to have an agent acting or operating within the United States. Therefore, in the opinion of the Department, the mere acceptance of a political contribution from a "foreign national" without evidence to establish that such foreign national is a "foreign principal" having an agent within the United States would not constitute a violation of the statute. (Letter from L. Fred Thompson, Director of the Office of Federal Elections, General Accounting Office, March 26, 1974, 120 *Cong. Rec.* 8782, March 28, 1974; see: Memorandum on "Interpretation of 18 U.S.C. 613", Henry E. Peterson, A. William Olson, Department of Justice, February 7, 1973).

In amending 18 U.S.C. § 613 by P.L. 93–443, Congress clarified its intent that the prohibition apply to foreign nationals regardless of whether such persons have agents within the United States. A provision similar to the House bill version (see: H.R. 16090, as reported) which was eventually adopted in conference, (see: Conference Report, S. Rept. No. 93–1237, 93d Cong., 2d Session, p. 59), was offered, and agreed to, in the Senate as a floor amendment to S. 3044 by Senator Bentsen. The discussion of that provision, the terms of which are defined in the same manner as those of the present prohibition, displayed Congress' intent to apply the statute to any individual who is neither a citizen of, nor admitted for permanent residence in, the United States regardless of the temporary location of the individual or whether the individual has an "agent" within the United States:

> Under the previous order, the pending business is the amendment of the Senator from Texas (Mr. Bentsen), amendment No. 1083. The amendment will be stated.
>
> The legislative clerk proceeded to read the amendment.
>
> The amendment is as follows:
>
> On page 76, between lines 2 and 3, insert the following:
> "(2) (A) No candidate may knowingly solicit or accept a contribution for his campaign—
> "(i) from a foreign national, or
> "(ii) which is made in violation of section 613 of this title.
> "(B) For purposes of this paragraph, the term 'foreign national' means—
> "(i) a 'foreign principal' as that term is defined in section 611(b) of the Foreign Agents Registration Act of 1938, as amended, other than a person who is a citizen of the United States; or
> "(ii) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act".
> On page 76, line 3, strike out "(2)" and insert in lieu thereof "(3)".
> On page 76, line 6, immediately after "(1)", insert "or (2)".
>
> Mr. BENTSEN. Mr. President, my amendment is very simple. The amendment would ban the contributions of foreign nationals to

campaign funds in American political campaigns. The amendment specifically excludes resident immigrants living in this country. It in no way stops the contributions of American nationals living overseas who are U.S. citizens. They would be able to contribute to American political campaigns.

Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BENTSEN. Mr. President, all of us have heard the stories, I am sure, in recent months of the enormous amounts of money contributed in the last political campaign by foreign nationals. We have heard of the hundreds of thousands of dollars sloshing around from one country to another, going through foreign banks, being laundered through foreign banks; and we have heard allegations of concessions being made by the Government to foreign contributors. I do not know whether those allegations are true or not. I am not trying to prejudge them. That would be up to the courts to determine. I am saying that contributions by foreigners are wrong, and they have no place in the American political system. The law is ambiguous and confusing. The Department of Justice was asked to make an interpretation. Congress thought it had taken care of the matter long ago, but the Department of Justice said that the law, when it refers to foreign principals, applied only to those who had agents within this country. Therefore, this left a giant loophole for contributions to be made by foreign individuals. It allowed huge sums to flow into the coffers of American political candidates in 1972 and it is essential that we have legislation to clarify the situation.

Mr. President, I ask unanimous consent to have printed in the Record a letter from L. Fred Thompson, Director of the Office of Federal Elections at the General Accounting Office, addressed to me, wherein he indorses the enactment of clarifying legislation to ban contributions by foreign nations.

There being no objection, the letter was ordered to be printed in the Record as follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., March 26, 1974.

Hon. LLOYD BENTSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BENTSEN: Through recent informal contacts with a member of your staff we have learned of your interest in offering a floor amendment to S. 3044, 93rd Congress, 2d Session, which would clarify Congress' intent regarding section 613 of Title 18, United States Code.

This provision prohibits political contributions by any agent of a foreign principal and also prohibits the solicitation, acceptance, or receipt of any such contribution from any agent of a foreign principal or from the foreign principal directly. The responsibility for enforcing 18 U.S.C. 613 rests with the Attorney General of the United States.

In the course of our administration of the Federal Election Campaign Act of 1971, as the supervisory officer responsible for presidential campaigns, we made several referrals of apparent instances of foreign contributions to the Attorney General. We have been advised by the Department of Justice that the term "foreign principal" as used in section 613 does not have the same meaning as "foreign national." The Department's view is that to be a foreign principal within the meaning of section 613 it is essential to have an agent acting or operating within the United States. Therefore, in the opinion of the Department, the mere acceptance of a political

contribution from a "foreign national" without evidence to establish that such foreign national is a "foreign principal" having an agent within the United States would not constitute a violation of the statute.

In view of the statutory interpretation placed on the existing law by the Department of Justice, it is our opinion that to prohibit foreign contributions to U.S. political campaigns the statute should be amended to expressly bar a candidate, or an officer, employee, or agent of a political committee, or any person acting on behalf of any such candidate or political committee from knowingly soliciting, accepting, or receiving any contribution from any "foreign national." For this purpose the term "foreign national" should be defined to include:

(1) any person who is a "foreign principal" or an "agent of a foreign principal" as presently defined in 18 U.S.C. 613;

(2) any individual who is neither a citizen nor a permanent resident of the United States; and

(3) any partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

In testimony last June before the Senate Rules and Administration Committee, Phillip S. Hughes, who was then Director of the Office of Federal Elections, stated his view that restrictions should be placed on political contributions by foreign nationals and, at the very least, that Congress should clarify what it intended to prohibit when it enacted 18 U.S.C. 613. (See Hearings before the Senate Committee on Rules and Administration on S. 372 and other Federal election reform bills, 93rd Cong., 1st sess. 262–264.) I believe that Mr. Hughes' testimony at that time continues to represent the position of this office, as well as the Comptroller General, on the issue of political contributions by foreign nationals.

We endorse your efforts to have the Senate consider an appropriate amendment to 18 U.S.C. 613 at the time it begins floor debate on S. 3044. We will be pleased to provide further information or assistance on this subject if you desire.

Sincerely yours,

L. FRED THOMPSON,
Director.

Mr. BENTSEN. Mr. President, I wish to point out that last June, in testimony before the Committee on Rules and Administration, Mr. Phillip Hughes, who was then Director of the Office of Federal Elections, stated his views that restrictions should be placed on political contributions by foreign nationals.

President Nixon as well in his recent message on campaign financing and the reform of campaign financing called for a ban on contributions by foreign nationals.

My amendment would accomplish that good by making clear that the present ban on contributions by foreign principals extends to foreign nationals as well; and without this ban American elections will continue to be influenced by contributions of foreign nationals.

I do not think foreign nationals have any business in our political campaigns. They cannot vote in our elections so why should we allow them to finance our elections? Their loyalties lie elsewhere; they lie with their own countries and their own governments.

Many in this country have expressed concern over the inroads of foreign investment in this country, over the attempts by foreigners to control U.S. business. Is it not even more important to try to stop some of these foreigners from trying to control our politics? I think this limitation would accomplish that purpose.

One additional point I should like to mention relates to foreign citizens living in the United States as resident immigrants. My amendment would exempt foreigners with resident immigrant status from the ban on contributions by foreigners. There are many resident immigrants in the United States who have lived here for years and who spend most of their adult lives in this country; they pay American taxes and for all intents and purposes are citizens of the United States except perhaps in the strictest legal sense of the word. These individuals should not be precluded from contributing to the candidate of their choice under the limitations of $3,000 in S. 3044 as well as S. 372 which passed the Senate last summer.

Let me say a word about implementation of the amendment. The responsibility will be placed on the candidate or the committee established on behalf of the candidate to refuse donations proffered by foreigners. Some will say that this places an unnecessary burden on the candidate or his committee. I would point out that present disclosure and reporting laws require the name of the donor, his mailing address, occupation and principal place of business on all contributions over $10. It will then be up to the committee or the candidate receiving a donation from abroad to refuse the contribution coming from a foreigner. Thus there is no additional recordkeeping requirement. Having to determine whether a contribution coming from abroad comes from a foreign national or from an American citizen living abroad may be an inconvenience but is minor compared to the loophole it closes.

I know the amendment is not foolproof. There are ways to get around just about every campaign finance measure we bring about but my amendment goes a long way toward getting at the problem.

I repeat that the principal of my amendment has the support of President Nixon. It is my understanding that the Senate Watergate Committee is digging into contributions by foreign nationals and its final report will probably suggest reforms on the present status of the statutes pertaining to foreign contributions.

American political campaigns should be for Americans and a large loophole would be closed by my amendment. I urge the Senate to adopt the amendment.

Mr. President, I reserve the remainder of my time.

Mr. COOK. Mr. President, will the Senator yield to me for 3 minutes?

Mr. BENTSEN. I am delighted to yield to the Senator from Kentucky.

Mr. COOK. Mr. President, first I would like to have the Senator from Texas give me the privilege of being a cosponsor of the amendment. I ask unanimous consent that I may be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, I think the Senator from Texas raises an interesting point and we should look at it in reverse. Let us look at the mandate of Congress. Let us look at our creation of the special subcommittee in the Committee on Foreign Relations

to investigate the signficance of the corporate conglomerate on international affairs. Let us look at the influence that American corporations attempt to exert on other governments. Let us look at it from the standpoint that we in this country are absolutely rather chagrined, and sometimes horrified, at the extent of America's influence on foreign governments. There are attempts to change governments; there are attempts to bolster a particular candidate at a time the time of an election; and there is the situation we have seen in several situations in South America. Congress is investigating a matter under the leadership of the distinguished Senator from Idaho (Mr. Church) in regard to Chile.

I would say that the significance of all of this is that the United States and those influences in the United States that are of world-wide significance should frankly mind their own business when it comes to the political significance of other countries. In effect, we are saying that those people abroad should mind their own business when it comes to making contributions to political campaigns in the United States.

Am I correct in my basic philosophy?

Mr. BENTSEN. I agree wholeheartedly with the Senator from Kentucky.

Mr. COOK. May I ask the Senator a question? I think this is important. In no way is the Senator from Texas excluding an American national who finds himself by reason of his corporate employment living in Japan, Australia, or anywhere else in the world. Is he excluding that individual from writing his individual check and sending it to a political organization of his choice in the United States in any election?

Mr. BENTSEN. In no way is he precluded from that. He is an American citizen living overseas and he can participate. The American political process should be left to American nationals.

Mr. COOK. I do not think the public knows, and it should be in the Record, that in the vicinity of 2 million Americans, who by reason of employment, study, and many, many other situations existing in the commercial world, are located overseas and live there for long periods of time. They are American citizens; their children are American citizens. They maintain voting facilities. The Voting Rights Act of 1965 broadened that ability for American nationals who live overseas to vote.

In no way is the Senator from Texas saying that these people are in any way impeded in making a contribution to the political process in their country.

Mr. BENTSEN. The Senator from Kentucky is absolutely right.

Mr. COOK. I thank the Senator from Texas.

Mr. CANNON. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CANNON. I have no quarrel with the basic purpose of this amendment, which is directed toward contributions from abroad to influence political campaigns, but I think it should properly be pointed out that last year in this country there were, as aliens lawfully here, 4,643,457 people. That is a pretty substantial number of people who were here properly in this country, and we per-

mit them to come here for many things other than to come here to be residents.

So I want to be sure the Senator knows exactly what he is doing because a substantial number of those people are in his own State of Texas, who are lawfully in this country, who are not here as permanent residents, and the only people who would be excluded from this provision are people who are here as permanent residents.

I may say the Immigration people themselves say there is some question in their minds as to the propriety of the language in this particular case. I have no particular brief with it, but I know last year there were 4,633,457 registered aliens in this country. Those people were here in this country lawfully, but by this amendment the Senator is going to preclude many of those people from participating in the elective process by making contributions, and he is also going to impose on the candidate the question of whether he knew or ought to have known that those people were not properly admitted here for permanent residence at the time they made contributions to his campaign. I would venture to say that a mailing campaign that was put out would result in that person's mail going to hundreds of people in his own State, including the great State of Texas, who would not be eligible to make contributions under this particular amendment, if it is adopted.

I simply want to point that out so Senators will know what they are doing.

As one of my distinguished colleagues pointed out a few minutes ago, we have to get money from somewhere for these campaigns. I remember an old song from a few years ago that was titled "Pennies From Heaven." I am sure we realize that money does not come from heaven to carry out political campaigns.

So, by the Senator's excluding contributions from people who are lawfully in this country, but who are not here as permanent residents, he is creating an undue and an unnecessary burden on the persons who are running for office as well as the persons who are here in this country, and properly so, who would be affected by the amendment.

As I said initially, I support the thrust or the purpose for which the amendment was originally drawn and intended, but I think, frankly, that it goes further than would be intended by Members of this body if they were here to hear the discussion on it. I am sure it would impose some undue burdens on any person who might run for political office, as well as for certain people who are properly here.

If the Senator were to restrict the amendment to money coming from abroad, from foreign nationals abroad, or foreign nationals living abroad, or foreign contributions of any sort, I would completely agree with him, because I think that is not correct.

Mr. BENTSEN. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, this amendment was carefully

drawn to try to exclude certain people who might be legally in this country passing through here as tourists. I do not think they have any legitimate role to play in the political process of this country, nor do illegal aliens in this country. That privilege to contribute ought to be limited to U.S. citizens and to those who have indicated their intention to live here, are here legally, and are permanent residents. Those people would be and should be allowed to make political contributions in this country.

I think one statement ought to be made in response to the comment made by the Senator from Nevada. It has been stated that no candidate may knowingly solicit or accept such contributions, so he must knowingly have done it in order to be in violation.

(120 *Cong. Rec.* 8782–8784, March 28, 1974)

An amendment offered as a substitute to Senator Bentsen's amendment was offered by Senator Griffin. This amendment would have prohibited candidates from receiving any contributions which were drawn on a foreign bank, in addition to the prohibition on contributions from foreign nationals. This amendment, attempting to prohibit the practice of "laundering" contributions through foreign banks alleged to have occurred during the 1972 presidential campaign, was not adopted by the Senate (120 *Cong. Rec.* 8786). Discussing his amendment, Senator Griffin argued:

It seems to me that if we really want to do something about this problem, we should take this additional step and also provide that a foreign bank cannot be used as a means of funneling money into a campaign in the United States. I know that all Americans who live overseas do not have checking accounts in U.S. banks, but I assume that most of them do. If they do not, they might in some other way establish an account in a U.S. bank. I think the matter of being able to investigate, outweighs the disadvantages which would accrue. (120 *Cong. Rec.* 8785 (3/24/74).)

Arguing against this provision, Senator Bentsen explained:

I can understand the concern of the Senator from Michigan with trying to stop this laundering of accounts through foreign banks, but if you are just trying to do that, and you have someone who is trying to move a large sum of money through a foreign bank, they will be able, as I understand it, to take that to their bank, buy a money order on a U.S. bank, if they wanted to, or buy an American Express check, if they wanted to, and circumvent what the Senator is trying to do very easily. (120 *Cong. Rec.* 8785 (3/28/74).)

In rejecting this amendment as a substitute to Senator Bentsen's amendment, the legislative intent to permit U.S. citizens living abroad to contribute to political campaigns by means of a check drawn on a foreign bank was demonstrated:

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. BENTSEN. I cannot yield with the limited time I have.

Mr. GOLDWATER. Can I have 2 minutes for a question?

Mr. CANNON. I yield 2 minutes.

Mr. GOLDWATER. How would this affect a person living in Mexico who is an American, working there, who votes by ab-

sentee ballot, who has an account in a Mexican bank, with no checking account in an American bank?

Mr. BENTSEN. This amendment does not affect that. If he is an American national living overseas in any foreign country he is allowed to contribute.

Mr. GOLDWATER. Even if the draft is made on a foreign bank?

Mr. BENTSEN. Yes, the distinguished Senator from Michigan has something on that. My amendment does not affect it.

Mr. COOK. Mr. President, if the Senator will yield, may I say to the Senator from Arizona that we will face the very situation he is talking about with the submission of the amendment by the Senator from Michigan. This is not a matter which involves the present amendment in its present form.

Mr. GRIFFIN. Mr. President, I send an amendment to the desk in the nature of a substitute, which is a modified version of my printed amendment No. 1087.

The PRESIDING OFFICER. The clerk will read the amendment.

The amendment to the amendment is as follows:

In lieu of the language proposed to be inserted by amdt. No. 1083 insert the following:

"PROHIBITION OF CONTRIBUTIONS AND EXPENDITURES BY FOREIGN INDIVIDUALS

"SEC. 304. Section 613 of title 18, United States Code, is amended—

"(a) by adding to the section caption the following: 'or drawn on foreign banks';

"(b) by inserting immediately before 'Whoever' at the beginning of the first paragraph the following: '(a)'; and

"(c) by adding at the end thereof the following new subsection:

"'(b) No person may make a contribution in the form of a written instrument drawn on a foreign bank. Violation of the provision of this subsection is punishable by a fine not to exceed $5,000, imprisonment not to exceed five years, or both.'."

On page 71, line 16, strike out "304." and insert in lieu thereof "305.".

On page 76, between lines 2 and 2, insert the following new paragraph:

"(2) No candidate may knowingly solicit or accept a contribution for his campaign—

"(A) from any person who—

"(i) is not a citizen of the United States, and

"(ii) is not lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act; or

"(B) which is made in violation of section 613 of this title.".

On page 76, line 3, strike out "(2)" and insert in lieu thereof "(3)".

On page 76, line 6, immediately after "(1)", insert "or (2)".

On page 78, line 19, immediately after "611,", insert "613,".

On page 78, line 87, strike out "by adding at the end" and insert in lieu thereof "by striking out the item relating to section 613 and inserting in lieu".

On page 78, below line 22, immediately above the item relating to section 614, insert the following:

"613. Contributions by agents of foreign principals or drawn on foreign banks.".

Mr. GRIFFIN. Mr. President, at the outset, I want to say that I strongly support the amendment offered by the Senator from Texas (Mr. BENTSEN). It is almost identical to a portion of my amendment 1087, which I had submitted for printing. I checked with the Parliamentarian as to the best way to present my version, and he suggested that the best way would be in the form of a substitute.

The major portion of my amendment is identical in purpose to the amendment of the Senator from Texas in that it prohibits contributions to campaigns by foreigners and by aliens who have not been admitted for permanent residence in the United States.

I agree with him that, by and large, our political process should be in the hands of those who are citizens and have the right to vote. Actually, our amendment does not really close it up that much. It acknowledges and permits contributions by those who have been admitted for permanent residence. So even though they do not have the right to vote in that instance, they would have the right to make financial contributions.

But my amendment goes further. It also prohibits a contribution in the form of a check written on a foreign bank. The distinguished Senator from Texas, in his argument for his amendment, referred to foreign banks. I would agree with the concern that he expressed by that reference. However, the amendment as he has presented it does not touch the matter of foreign banks.

I realize that some persons will make the argument that it is going to be inconvenient, particularly for American citizens who live abroad, if they cannot write their checks on foreign banks. However, I think that it is also important to underscore the fact that obviously U.S. law does not reach and cannot control foreign banks. We cannot, by the court process of the United States, investigate a foreign bank. We cannot examine its accounts. We cannot have access to its checks.

Some of the stories of abuse that we have been exposed to have involved Mexican banks and other foreign banks. They have involved unnumbered accounts in Swiss banks.

It seems to me that if we really want to do something about this problem, we should take this additional step and also provide that a foreign bank cannot be used as a means of funneling money into a campaign in the United States. I know that all Americans who live overseas do not have checking accounts in U.S. banks, but I assume that most of them do. If they do not, they might in some other way establish an account in a U.S. bank. I think the matter of being able to investigate, outweighs the disadvantages which would accrue.

That is the argument pure and simple. I think this would be an improvement of the amendment of the Senator from Texas. Perhaps he might want to accept it. If he does, and there is no opposition, we could then go to a vote on his amendment as amended.

Mr. BENTSEN. Mr. President, I yield 3 minutes to the distinguished Senator from Kentucky.

Mr. COOK. Mr. President, I would hope that the Senator from Texas will not agree to take that language as an amendment to his amendment.

Last year I had occasion, while I was in Mexico—as a matter of fact, as a member of the Mexican-American Interparliamentary Meeting—to go to the University of Guadalajara, I spoke to a number of American students. I was amazed to learn that there is a retirement community of American citizens there. They have taken up residence there, having retired on social security. It has not been so long ago that all of us had occasion to view, on television,

retirees in Spain and Ireland. Those people are living in those countries because it is cheaper to live there than in the United States. They do not have two checking accounts. They have bank accounts in the country in which they are now residing as American citizens. They do not have an account in the First National Bank of Dallas and also one in the Bank of Guadalajara. They cannot afford it. They have one account.

I agree with the Senator from Michigan that we do have a problem with major contributions. We do have problems with substantial checks. I am quite sure we will not receive a great many contributions from Americans who live throughout the world by reason of the advantages of their retirement situations. But it would be a terrible crime to deny them the opportunity if, in fact, they want it. It would be a terrible situation for an individual who is retired.

The Guadalajara community is largely a military retirement facility. It would be a shame, for those individuals who send in checks of $5, $10, or $15 as contributions to the political process in their country to be told that they were illegal contributions; to be told that if they wanted to make that kind of small contribution, they would have to open an account in an American bank. Obviously, they would not do that.

There are one or two instances where there have been large contributions that have come from foreign banks that were accepted. But I say that the way to resolve this problem is to be totally and completely open so that we will not deprive thousands of Americans of the right to vote.

Mr. CANNON. Mr. President, I have just been advised that the State Department estimates, from its consuls and other officers abroad, that 1,750,000 U.S. citizens are living abroad, not including the military and not including tourists.

Mr. COOK. Mr. President, if we are up to well over 2 million, we cannot say that all of those 2 million are going to write a check for $25 or $50 on, say, a Mexican bank. They may write checks for $5, $10, or $50. But we are really denying the biggest percentage of them of that right, and we cannot resolve a bad situation as it now presents itself.

If we pass this bill—and I say this to the distinguished Senator from Michigan—we will know one thing. If such a check came from an individual, if the candidate accepted it, and the amount of the check was in excess of $1,000, then we would know that the candidate was subject to the penalties of the bill if he accepted it.

It seems to me we should not go totally and completely overboard and destroy the incentive of 2 million Americans who live abroad and want to contribute to the electoral process, Therefore, I strongly oppose the amendment of the distinguished Senator from Michigan.

I thank the Senator from Texas for yielding me this time.

The PRESIDING OFFICER. The Senator from Michigan has 5 minutes remaining.

Mr. GRIFFIN. Mr. President, I shall respond to the argument of the Senator from Kentucky in this way: I recognize that there

could be inconvenience for some. I point out, however, that the military personnel who live abroad on U.S. bases would have U.S. banking facilities. Also, in most cases, embassy personnel and diplomatic personnel would have such economic facilities at their disposal.

I am convinced in my own mind that a great many of those persons who live abroad would have access to banks in the United States. I suggest that in any campaign that I know anything about, the percentage of contributions that would come in to a campaign from Americans living abroad, who could draw their checks only on foreign banks, would be small.

It is a question of balance in the situation, and I realize that reasonable men can differ. And if there has been enough evidence of abuse, enough concern aroused so far as the American people are concerned, I believe that it would be a healthy thing to do to make sure that all of the institutions which are handling and accounting for the money are subject to the laws and the jurisdiction of the United States, where the elections are held.

Mr. COOK. Mr. President, will the Senator from Texas yield me 30 seconds?

Mr. BENTSEN. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. BENTSEN. I must say that the Senator from Kentucky has been so persuasive I will yield him 3 additional minutes.

Mr. COOK. I thank the Senator; I will not use nearly all that time.

Mr. President, I have no idea, and I really do not think the Senator from Michigan has any idea, either, how many people in the northern rural areas of our border States between the United States and Canada may find that a Canadian community is much closer to their residence, their farm, or wherever they live along that border line, so that they may well do business with a Canadian bank. There may conceivably be some families up there who have never done business with an American bank, because of its location.

Let us take the plains areas of North Dakota, or the areas of northern Michigan, the Senator's State.

Mr. GRIFFIN. I was going to suggest taking Michigan.

Mr. COOK. I am wondering, really, how many people who live along the common border of the United States and Canada do business and have done business for years and years with Canadian institutions. What we are really saying by this bill is, "If you want to do it, drive the 40 miles to an American bank, open an account, write out your check for $10, and then close your account, because you are not going to deal with that place because of its inconvenience, and go back to your own bank that you are now doing business with."

Mr. GRIFFIN. Mr. President, if I may respond most respectfully to a Senator who comes from a State within the very center of the United States, responding as a Senator who does live in a State which borders all along the Canadian line, my amendment

does not bother me one bit whatsoever insofar as that concern expressed by the Senator from Kentucky. I concede there might be a few contributions that would not come into the campaign as a result of what I am doing, but I really do not think the mischief or inconvenience is all that great. I do not think there is a lot to be gained in terms of building confidence in our election process and in other respects generally called reform, in taking the step which I have suggested.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. BENTSEN. I can understand the concern of the Senator from Michigan with trying to stop this laundering of accounts through foreign banks, but if you are just trying to do that, and you have someone who is trying to move a large sum of money through a foreign bank, they will be able, as I understand it, to take that to their bank, buy a money order on a U.S. bank, if they wanted to, or buy an American Express check, if they wanted to, and circumvent what the Senator is trying to do very easily.

I think what the Senator's amendment would really do is make it inconvenient for 2 million Americans living overseas who might not want to take the time and trouble to overcome its restrictions by going to a U.S. bank, by trying to prevent some person from trying to resort to skullduggery, when, Mr. President, it would not prevent it, and I maintain that the Senator's amendment would not accomplish what he intends.

Mr. COOK. Mr. President, I think, on the basis of one or two episodes which have occurred, we are trying to decide whether we should interfere with the balance of all international transactions, and say that as a result, this transaction by an American citizen must have the added restriction that it must be through an American institution.

We are saying that American banks cannot have international relations in their banking departments, which obviously every major bank in the United States has, and they make daily transfers of deposits back and forth. Yet we are saying that this individual who wants to contribute to the American political process as an American citizen will have this added problem that he must face. I must say I really think it is an onerous one, and I again hope that the amendment of the Senator from Michigan will be defeated.

Mr. GRIFFIN. Mr. President, is there time remaining?

The PRESIDING OFFICER. The Senator from Michigan has 2 minutes remaining. The Senator from Texas has 1 minute.

Mr. GRIFFIN. Mr. President, I wish to focus again on the major reason why this amendment should be accepted. That is that Mexican banks, Swiss banks with numbered accounts, and other foreign banks are not subject to the laws of the United States. It is not possible to investigate a campaign situation and require a foreign bank to reveal canceled checks or otherwise provide an accounting for what has happened in that bank. I think that the time has come when the American people expect Congress to pro-

vide for control by the laws of the United States over the facilities and institutions that are going to handle the funneling of campaign contributions. I hope the amendment will be agreed to.

Mr. BENTSEN. Mr. President, I would reluctantly oppose the substitute for my amendment proposed by the Senator from Michigan, despite the very noble objectives the Senator from Michigan has outlined. The Senator from Kentucky has convinced me that this would result in substantial inconvenience to a couple of million Americans living overseas, and yet would not accomplish the objective the Senator from Michigan is trying to accomplish in this regard. Therefore, I would urge the Senate to defeat the substitute amendment proposed by the Senator from Michigan.

The PRESIDING OFFICER. Who yields time? The Senator from Michigan has 1 minute remaining.

Mr. GRIFFIN. I yield it back, Mr. President.

The PRESIDING OFFICER (Mr. McClure). All remaining time having been yielded back, the question is on agreeing to the substitute amendment of the Senator from Michigan. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale) and the Senator from Rhode Island (Mr. Pastore) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Beall), the Senator from Pennsylvania (Mr. Schweiker), and the Senator from Arizona (Mr. Fannin) are necessarily absent.

I also announce that the Senator from Oregon (Mr. Hatfield) is absent on official business.

I further announce that the Senator from Vermont (Mr. Aiken) is absent due to illness in the family.

I further announced that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "nay."

The result was announced—yeas 23, nays 66, as follows:

[No. 95 Leg.]

YEAS—23

Allen	Dole	Mansfield
Bartlett	Dominick	Packwood
Bayh	Griffin	Pearson
Bellmon	Gurney	Taft
Bennett	Hansen	Thurmond
Brock	Helms	Weicker
Cotton	Hollings	Young
Curtis	Hruska	

NAYS—66

Abourezk	Hart	Muskie
Bentsen	Hartke	Nelson
Bible	Haskell	Nunn
Biden	Hathaway	Pell
Brooke	Huddleston	Percy
Buckley	Hughes	Proxmire
Burdick	Humphrey	Randolph
Byrd,	Inouye	Ribicoff
Harry F., Jr.	Jackson	Roth
Byrd, Robert C.	Javits	Scott, Hugh
Cannon	Johnston	Scott,
Case	Kennedy	William L.
Chiles	Long	Sparkman
Church	Magnuson	Stafford
Clark	Mathias	Stennis
Cook	McClellan	Stevens
Cranston	McClure	Stevenson
Domenici	McGovern	Symington
Eagleton	McIntyre	Talmadge
Eastland	Metcalf	Tower
Ervin	Metzenbaum	Tunney
Fong	Montoya	Williams
Goldwater	Moss	

NOT VOTING—11

Aiken	Fulbright	Mondale
Baker	Gravel	Pastore
Beall	Hatfield	Schweiker
Fannin	McGee	

So Mr. Griffin's amendment was rejected.

(120 *Cong. Rec.* 8784–8786, (March 28, 1974).)

The provisions agreed to by Congress in the Conference Report, S. Rept. No. 93–1237, was signed into law, Public Law 93–443, on October 15, 1974. This provision, codified at 18 U.S.C. § 613, which prohibited contributions by, and the receipt of contributions from, "foreign nationals" became effective on January 1, 1975 (see: P.L. 93–443, section 410(a)):

§ 613. Contributions by foreign nationals

Whoever, being a foreign national, directly or through any other person, knowingly make any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or

Whoever knowingly solicits, accepts, or receives any such contribution from any such foreign national, shall be finded not more than $25,000 or imprisoned not more than 5 years or both.

As used in this section, the term "foreign national" means—

(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. § 611(b), except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence,

as defined by section 101(a) (20) of the Immigration and Nationality Act (8 U.S.C. § 1101(a) (20)).

The present provision prohibiting political contributions from or by foreign nationals was re-codified at 2 U.S.C. § 441e by Public Law 94–283, title I, § 112(2), May 11, 1976, 90 Stat. 493. As noted by the Conference Report agreed to by the Congress, House Report No. 94–1057, 94th Congress, 2d Session, p. 67:

> Section 324 [of the campaign Act, as added by the Senate bill and the House amendment] is the same as section 613 of title 18, United States Code [as amended by P.L. 94–443], except that the penalties were omitted in order to conform with section 328 of the Act.

GIFTS FROM FOREIGN GOVERNMENTS

In addition to the statutory prohibition upon the receipt of political contributions from foreign nationals, the United States Constitution prohibits Federal officers and employees from receiving any gifts or emolument "of any kind whatever" from a foreign state, king, or prince without specific congressional consent. This constitutional provision, at Article 1, Section 9, clause 8, states:

> No Title of Nobility shall be granted by the United States: And no person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress accept of any present, Emolument, Office or Title, of any kind whatever, from any King, Prince, or foreign State.

Thus, a Federal official who attempts to circumvent the statutory prohibition upon receiving political contributions from foreign nationals by receiving instead a "gift," or a contribution to an "office account" from any official or agent of a foreign government, may encounter this constitutional prohibition which was intended to protect against "foreign influence of every sort" (see: Story, *Commentaries on the Constitution of the United States*, Vol. III, pp. 215–216).

As to this prohibition, it has been noted by the Comptroller General: "it seems clear from the wording of the constitutional provision that the drafters intended the prohibition to have the broadest possible scope and applicability" (49 Comp. Gen. 820). Consistent with the broad scope intended of this provision, the terms of the prohibition have been interpreted broadly to include gifts or emoluments "of any kind whatever" (see: 24 Op. Atty Gen. 116, 118; 49 Comp. Gen. 820; 34 Comp. Gen. 331, 334; 37 Comp. Gen. 138, 140) and to include within the term "foreign state" persons or organizations who in some way represent "official" foreign interests (see: 24 Op. Atty Gen. 116; 44 Comp. Gen. 130; and Opinion of the Comptroller General of the United States, B–180472. March 4, 1974 finding that the British Broadcasting Company came within the term "foreign state").

Thus, congressional consent, generally in the form of private or public bills (see: 5 U.S.C. § 7342, giving limited consent to acceptance of gifts of minimal value; *Hinds' and Cannon's Precedents of the House of Representatives*. Vol. VII, § 1889; S. Rept. 89–1160 to accompany S. 2463, the "Foreign Gifts and Decorations Act," p. 1), would apparently be required before any gift, present or emolument "of any kind

whatever" may be accepted by a Federal official from a foreign government, or from an organization or person representing or acting as an instrumentality of a foreign state.

JACK MASKELL,
Legislative Attorney, American Law Division.

DECEMBER 1, 1976.

B. CONFLICT OF INTEREST

CHAPTER 11 OF TITLE 18, UNITED STATES CODE

§ 219. Officers and employees acting as agents of foreign principals

Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

Nothing in this section shall apply to the employment of any agent of a foreign principal as a special Government employee in any case in which the head of the employing agency certifies that such employment is required in the national interest. A copy of any certification under this paragraph shall be forwarded by the head of such agency to the Attorney General who shall cause the same to be filed with the registration statement and other documents filed by such agent, and made available for public inspection in accordance with section 6 of the Foreign Agents Registration Act of 1938, as amended.

Added Pub.L. 89–486, § 8(b), July 4, 1966, 80 Stat. 249.

C. FOREIGN RELATIONS

CHAPTER 45 OF TITLE 818, UNITED STATES CODE

§ 951. Agents of foreign governments

Whoever, other than a diplomatic or consular officer or attaché acts in the United States as an agent of a foreign government without prior notification to the Secretary of State, shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

June 25, 1948, c. 645, 62 Stat. 743.

D. FOREIGN GIFTS AND DECORATIONS

U.S. CONST., ART. I, SEC. 9, CH. 8.

§ 144. Titles of nobility and gifts from foreign states

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

§ 145. Foreign gifts and decorations

Consent has been granted to officers and employees of the government, under enumerated conditions, to accept certain gifts and decorations from foreign governments (Pub. L. 89–673; 80 Stat. 952, Oct. 15, 1966), and the adoption of this act largely has obviated the practice of passing private bills to permit the officer or employee to retain the award. However, where the Speaker (who is one of the officers empowered by the law to approve retention of decorations by Members of the House) was himself tendered an award from a foreign government, a private law (Private Law 91–244) was enacted to permit him to accept and wear the award so that he would not be in the position of reviewing his own application under the provisions of the law.

Opinions of Attorneys General:

Gifts from Foreign Prince (1902), 24 Op. Atty. Gen., 117; Foreign Diplomatic Commission (1871), 13 Op. Atty. Gen., 538; Marshal of Florida (1854), 6 Op. Atty. Gen. 409.*

CHAPTER 73 OF TITLE 5, UNITED STATES CODE.

§ 7342. Receipt and disposition of foreign gifts and decorations

(a) For the purpose of this section—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title;

(B) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or of the District of Columbia;

(C) a member of a uniformed service;

(D) the President;

(E) a Member of Congress as defined by section 2106 of this title; and

(F) a member of the family and household of an individual described in subparagraphs (A)–(E) of this paragraph;

(2) "foreign government" means a foreign government and an official agent, or representative thereof;

(3) "gift" means a present or thing, other than a decoration, tendered by or received from a foreign government; and

(4) "decoration" means an order, device, medal, badge, insignia, or emblem tendered by or received from a foreign government.

(b) An employee may not request or otherwise encourage the tender of a gift or decoration.

(c) Congress consents to—

(1) the accepting and retaining by an employee of a gift of minimal value tendered or received as a souvenir or mark of courtesy; and

(2) the accepting by an employee of a gift of more than minimal value when it appears that to refuse the gift would be likely to cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States.

*H. Doc. No. 416, 93d Congress, 2d Session, *Constitution, Jefferson's Manual, and Rules of the House of Representatives* 57 (1975).

However, a gift of more than minimal value is deemed to have been accepted on behalf of the United States and shall be deposited by the donee for use and disposal as the property of the United States under regulations prescribed under this section.

(d) Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the agency, office or other entity in which the employee is employed and the concurrence of the Secretary of State. Without this approval and concurrence, the decoration shall be deposited by the donee for use and disposal as the property of the United States under regulations prescribed under this section.

(e) The President may prescribe regulations to carry out the purpose of this section. Added Pub.L. 90–83 § I(45)(C), Sept. 11, 1967, 81 Stat. 208.

The following is section 515 of the Foreign Relations Authorization Act, Fiscal Year 1978 (H.R. 6689). At the time of printing this Act was awaiting the signature of the President. When signed, this section will replace the existing Foreign Gifts and Decorations Act.

FOREIGN GIFTS AND DECORATIONS

SEC. 515. (a)(1) Section 7342 of title 5, United States Code, is amended to read as follows:

"§ 7342. Receipt and disposition of foreign gifts and decorations

"(a) for the purpose of this section—

"(1) 'employee' means—

"(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

"(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

"(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

"(D) a member of a uniformed service;

"(E) the President and the Vice President;

"(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

"(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1954) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

"(2) 'foreign government' means—

"(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

"(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

"(C) any agent or representative of any such unit or such organization, while acting as such;

"(3) 'gift' means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

"(4) 'decoration' means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

"(5) 'minimal value' means a retail value in the United States at the time of acceptance of $100 or less, except that—

"(A) on January 1, 1981, and at 3 year intervals thereafter, 'minimal value' shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

"(B) regulations of an employing agency may define 'minimal value' for its employees to be less than the value established under this paragraph; and

"(6) 'employing agency' means—

"(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e), and (g)(2)(B) shall be carried out by the Clerk of the House;

"(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate;

"(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

"(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

"(b) An employee may not—

"(1) request or otherwise encourage the tender of a gift or decoration; or

"(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

"(c)(1) The Congress consents to—

"(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

"(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

"(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

"(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by the employing agency.

"(2) Within 60 days after accepting a tangible gift of more than nominal value (other than a gift described in paragraph (1)(B)(ii)), an employee shall—

"(A) deposit the gift for disposal with his or her employing agency; or

"(B) subject to the approval of the employing agency, deposit the gift with that agency for official use.

Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e).

"(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

"(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use or forwarding to the Administrator of General Services for disposal in accordance with subsection (e).

"(e) Gifts and decorations that have been deposited with an employing agency for disposal shall be (1) returned to the donor, or (2) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

"(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

"(2) Such listings shall include for each tangible gift reported—

"(A) the name and position of the employee;

"(B) a brief description of the gift and the circumstances justifying acceptance;

"(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

"(D) the date of acceptance of the gift;

"(E) the estimated value in the United States of the gift at the time of acceptance; and

"(F) disposition or current location of the gift.

"(3) Such listings shall include for each gift of travel or travel expenses—

"(A) the name and position of the employee;

"(B) a brief description of the gift and the circumstances justifying acceptance; and

"(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

"(4) In transmitting such listings for the Central Intelligence Agency, the Director of Central Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

"(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

"(2) Each employing agency shall—

"(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

"(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

"(C) take any other actions necessary to carry out the purpose of this section.

"(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $5,000.

"(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

"(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

"(k The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on January 1, 1978.

(b)(1) After September 30, 1978, no appropriated funds, other than funds from the "Emergencies in the Diplomatic and Consular Service" account of the Department of State may be used to purchase any tangible gift of more than minimal value (as defined in section 7342(a)(5) of title 5, United States Code) for any foreign individual unless such gift has been approved by the Congress.

(2) Beginning October 1, 1977, the Secretary of State shall annually transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing details on (1) any gifts of more than minimal value purchased with appropriated funds which were given to a foreign individual during the previous fiscal year, and (2) any other gifts of more than minimal value given by the United States Government to a foreign individual which were not obtained using appropriated funds.

E. Gifts From Foreign Nationals

HOUSE RULE XLIII

4. A Member, officer, or employee of the House of Representatives shall not accept gifts (other than personal hospitality of an individual or with a fair market value of $35 or less) in any calendar year aggregating $100 or more in value, directly or indirectly, from any person (other than from a relative of his) having a direct interest in legislation before the Congress or who is a foreign national (or agent of a foreign national). Any person registered under the Federal Regulation of Lobbying Act of 1946 (or any successor statute), an officer or director of such registered person, and any person retained by such registered person for the purpose of influencing legislation before the Congress shall be deemed to have a direct interest in legislation before the Congress.[1]

SENATE RULE XLIII

"1. (a) No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts having an aggregate value exceeding $100 during a calendar year directly or indirectly from any person, organization, or corporation having a direct interest in legislation before the Congress or from any foreign national unless, in an unusual case, a waiver is granted by the Select Committee on Ethics. In determining whether an individual has accepted any gift or gifts having an aggregate value exceeding $100 during a calendar year from any person, organization, or corporation, there may be deducted the aggregate value of gifts (other than gifts described in subparagraph (c)) given by such individual to such person, organization, or corporation during that calendar year.

"(b) For purposes of subparagraph (a), only the following shall be deemed to have a direct interest in legislation before the Congress:

"(1) a person, organization, or corporation registered under the Federal Regulation of Lobbying Act of 1946, or any successor statute, a person who is an officer or director of such a registered

[1] Code of Official Conduct. Rule XLIII of the Rules of the House of Representatives. 95th Congress. Commitee on Standards of Official Conduct, U.S. House of Representatives. Washington, D.C.

lobbyist, or a person who has been employed or retained by such a registered lobbyist for the purpose of influencing legislation before the Congress; or

"(2)a corporation, labor organization, or other organization which maintains a separate segregated fund for political purposes (within the meaning of section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b)), a person who is an officer or director of such corporation, labor organization, or other organization, or a person who has been employed or retained by such corporation, labor organization, or other organization for the purpose of influencing legislation before the Congress.

"(c) The prohibitions of subparagraph (a) do not apply to gifts—

"(1) from relatives;

"(2) with a value of less than $35;

"(3) of personal hospitality of an individual; or

"(4) from an individual who is a foreign national if that individual is not acting, directly or indirectly, on behalf of a foreign corporation, partnership or business enterprise, a foreign trade, cultural, educational or other association, a foreign political party or a foreign government.

"2. For purposes of this rule—

"(a) the term 'gift' means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received, but does not include (1) a political contribution otherwise reported as required by law, (2) a loan made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid), (3) a bequest, inheritance, or other transfer at death, (4) a bona fide award presented in recognition of public service and available to the general public, (5) a reception at which the Member, officer, or employee is to be honored, provided such individual receives no other gifts that exceed the restrictions in this rule, other than a suitable memento, (6) meals, beverages, or entertainment consumed or enjoyed, provided the meals, beverages, or entertainment are not consumed or enjoyed in connection with a gift of overnight lodging, or (7) anything of value given to a spouse or dependent of a reporting individual by the employer of such spouse or dependent in recognition of the service provided by such spouse or dependent; and

"(b) the term 'relative' has the same meaning given to such term in paragraph 7(j) of rule XLII.

"3. If a Member, officer, or employee, after exercising reasonable diligence to obtain the information necessary to comply with this rule, unknowingly accepts a gift described in paragraph 1, such Member, officer, or employee shall, upon learning of the nature of the gift and its source, return the gift or, if it is not possible to return the gift, reimburse the donor for the value of the gift.

"4. (a) Notwithstanding the provisions of this rule, a Member, officer, or employee of the Senate may participate in a program, the principal objective of which is educational, sponsored by a foreign

government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the Select Committee on Ethics has determined that participation in such program by Members, officers, or employees of the Senate is in the interests of the Senate and the United States.

"(b) Any Member who accepts an invitation to participate in any such program shall notify the Select Committee in writing of his acceptance. A Member shall also notify the Select Committee in writing whenever he has permitted any officer or employee whom he supervises (within the meaning of paragraph 12 of rule XLV) to participate in any such program. Prior to the beginning of any such program, the chairman of the Select Committee shall place in the Congressional Record a list of all individuals participating; the supervisors of such individuals, where applicable; and the nature and itinerary of such program.

"(c) No Member, officer, or employee may accept funds in connection with participation in a program permitted under subparagraph (a) if such funds are not used for necessary food, lodging, transportation, and related expenses of the Member, officer, or employee.*

*As amended, April 1, 1977, 123 Cong. Rec. S5397 (daily ed.).

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