



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section Washington, DC 20530

November 15, 2024

Via FedEx

[Requestor]
[U.S. Company A] LLC
[Address]

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

Dear [Requestor]:

We write in response to your letter dated October 3, 2024 (the “Letter”),¹ requesting an advisory opinion, pursuant to 28 C.F.R. § 5.2, on whether you must register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. §§ 611-21 (“FARA”), for certain advice and other assistance you are providing to [Individual], the leader of a government in exile and a planned candidate for president of [Foreign Country A]. Based on the representations in your Letter, and for the reasons discussed below, we have determined that you are obligated to register for the proposed activities.

Background

According to the Letter, [Individual] was born and [underwent other developments] in [Foreign Country B] as a child but eventually brought to the United States.² He was raised from that point in [U.S. City], and continues to reside there today.³ He is a citizen of both the United States and [Foreign Country A].⁴

The Letter indicates that [Individual] is the President of the [Foreign Country A] Government in Exile.⁵ Since April 22, 2022, that entity has proclaimed itself as the transitional government of [Foreign Country A].⁶ Although [Individual] is based in the United States, elements of the

¹ Letter from [Requestor] to the FARA Unit (Oct. 3, 2024) (received on October 16, 2024).

² *Id.* at 1.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ [citation to weblog.]

“Government in Exile”⁷ are located in [Foreign Country A]. Internet posts attributed to [Individual] indicate that he has interacted with U.S. officials and world leaders in his capacity as President of the government in exile.⁸ [Individual] is also the leader of the [Foreign Political Party], a [Foreign Country A] political party, and a candidate for the presidency of [Foreign Country A] in elections that were scheduled for [Date in 2024], but may be postponed.⁹

Your background, according to the Letter, is as an author and cyber-security manager in government and in the private sector.¹⁰ You state that you have a book under development about [Foreign Country C] as a threat in [multiple spheres].¹¹ You are located in the United States and your advisory services are offered through a limited liability company, [U.S. Company A] LLC.¹² You also report that you are the host of a television program called [Television Show] that is under development and slated to begin airing on [Streaming Service] in early 2025.¹³ In addition, you are the founder of a poll on [Social Media Service] regarding [Foreign Country C] that [has attracted a certain number of followers and types of organizations].¹⁴

You indicate that you were introduced to [Individual] in 2021 and that you are advising him on ways to “elevate” his “brand here in the U.S. and in [Continent Abroad].”¹⁵ You explain that the activities you are currently performing or will perform both here and abroad as part of that advisory role are as follows:

- In the future, introduce [Individual] to politicians on Capitol Hill[.]
- Increase his political brands through social media messaging, speaking engagements, and article development, and TV appearances[.]
- Provide strategic insight on how to replace [Foreign Country C]’s brand preference in [Foreign Country A] after the presidential election, assuming he wins. In the event [of] an electoral loss, [. . .] continue to work toward

⁷ Letter at 1.

⁸ See, e.g., [citation to post on Foreign Political Party website]; [citation to post to Foreign Political Party website].

⁹ Letter at 1.

¹⁰ *Id.* at 2-3.

¹¹ *Id.*

¹² *Id.* at 1, 3.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 1.

the same goal in anticipation of the next election.

- Increase the U.S. presence in [Foreign Country A] in order to relieve human suffering, widespread famine, deficient healthcare, and address environmental loss resulting from [Foreign Country C]’s [natural resource] ventures in [Foreign Country A] (again, in the event of a[n Individual] presidential win). . . .
- [W]orking with legal counsel and [U.S. Company B], a pharmaceutical company [participating] in malaria vaccine development to address the high rate of death among women and children through malaria.
- [W]orking [from the United States] with [International Company] in [Foreign City], [Foreign Country D] on a humanitarian plan to relieve some of the famine that plagues the [Foreign Country A] people.¹⁶

You indicate that the work you are conducting for [Individual] “will be used” in your next book and “other potential media and social media applications.”¹⁷

You request an advisory opinion on whether your work as an advisor to [Individual] requires registration under FARA.¹⁸

FARA Analysis

Whether a person is an “agent of a foreign principal” under FARA depends on three factors: (1) the existence of a foreign principal; (2) the nature of the relationship between the person and the foreign principal; and (3) whether the person is engaging in specified activities within the United States for or in the interests of such foreign principal. When all three parts of the inquiry are established, an obligation to register under FARA will arise.

FARA defines a “foreign principal” as, among other things, “a government of a foreign country and a foreign political party.”¹⁹ The term “government of a foreign country” is further defined to include the following:

¹⁶ Letter at 2.

¹⁷ *Id.* at 3.

¹⁸ “Any present or prospective agent of a foreign principal . . . may request . . . a statement of the present enforcement intentions of the Department of Justice under the Act with respect to any presently contemplated activity” 28 C.F.R. § 5.2.

¹⁹ 22 U.S.C. § 611(b)(1).

any person or group 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 term shall 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.²⁰

Part of your advisory role is in connection with [Individual]'s role as President of the [Foreign Country A] Government in Exile.²¹ That entity, portions of which are physically located in [Foreign Country A], claims to be the transitional government of [Foreign Country A]²² and accordingly is a "faction . . . within a country assuming to exercise governmental authority."²³ As such, [Individual]'s role as President constitutes "a government of a foreign country" within the meaning of that term under FARA.

In addition, FARA defines the term "foreign political party" to include

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[.]²⁴

You further advise [Individual] in his roles as a candidate for the presidency of [Foreign Country A] and as the leader of the [Foreign Political Party], a [Foreign Country A] political party. In that party role, [Individual] is part of a foreign political party and qualifies as a foreign principal on that basis as well.

As to the nature of the relationship, agency can arise under FARA when a person acts "as an agent, representative, employee, or servant" or otherwise "at the order, request, or under the direction or control, of a foreign principal" in covered activities.²⁵ Agency can also arise when a person

²⁰ 22 U.S.C. § 611(e).

²¹ Letter at 1.

²² See *supra* note 6 and accompanying text.

²³ 22 U.S.C. § 611(e).

²⁴ 22 U.S.C. § 611(f).

²⁵ 22 U.S.C. § 611(c)(1).

“agrees, consents, assumes or purports to act as, or . . . holds himself out to be, whether or not pursuant to contractual relationship, an agent of a foreign principal.”²⁶ Here, [Individual] has taken you on as an advisor and, as a result, you will be an “agent” and acting under his direction or control within the scope of § 611(c)(1).²⁷ You will also be holding yourself out to Members of Congress and a pharmaceutical company, among others, as acting as [Individual]’s agent within the scope of § 611(c)(2).²⁸ Under both statutory subdivisions, you have the requisite agency relationship with a foreign principal.

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

(i) engages within the United States in political activities for or in the interests of [their] 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 [their] foreign principal; [or]

. . .

(iv) within the United States represents the interests of [their] foreign principal before any agency or official of the Government of the United States.²⁹

Here, you are proposing to engage in each of these categories of activities requiring registration for the reasons that follow.

First, “political activities” is defined under FARA to mean “any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.”³⁰ Elevating [Individual]’s public prominence through public communications, seeking to convince the United States to increase its presence in [Foreign Country A], and introducing [Individual] to Members of Congress to enable direct

²⁶ 22 U.S.C. § 611(c)(2).

²⁷ Letter at 1.

²⁸ *Id.* at 2.

²⁹ 22 U.S.C. § 611(c)(1)(i)-(iv).

³⁰ 22 U.S.C. § 611(o).

advocacy all constitute “political activities” within the meaning of FARA.³¹ You thus are planning to engage in § 611(c)(1)(i) activities.

For the second category, under § 611(c)(1)(ii), there are multiple potential types of roles at issue.³² “[P]ublic-relations counsel” under FARA 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.”³³ By advising [Individual] on raising his profile, altering [Foreign Country A]’s relations with [Foreign country C], seeking U.S. assistance, and working with the private sector to address malaria and famine in that country, you would be serving as a public-relations counsel under the statute.³⁴ “[P]ublicity agent,” on the other hand, is defined to include “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.”³⁵ Assisting with the creation of [Individual]’s public appearances, social media posts, and articles constitutes publicity-agent work under FARA.³⁶ And those activities likewise qualify you as an “information-service employee,” which is defined in relevant part to include “any person who is engaged in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to any government of a foreign country.”³⁷ You accordingly are playing or planning to play multiple roles under § 611(c)(1)(ii), the second category of registrable activities.³⁸

Finally, within the last category of activities, you state that you plan to introduce [Individual] to Members of Congress in the future as part of your effort to increase his prominence.³⁹ In so doing, you would be representing his interests before officials of the U.S. government. That constitutes registrable activity under § 611(c)(1)(iv).

All of these registrable activities are pursuant to your role as [Individual]’s agent or representative and in part in the interest of [Individual] in his capacity as president of the government in exile

³¹ Letter at 2.

³² 22 U.S.C. § 611(c)(1)(ii).

³³ 22 U.S.C. § 611(g).

³⁴ Letter at 2.

³⁵ 22 U.S.C. § 611(h).

³⁶ Letter at 2.

³⁷ 22 U.S.C. § 611(i).

³⁸ 22 U.S.C.

³⁹ Letter at 1-2; 22 U.S.C. § 611(c)(1)(iv).

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and leader of a foreign political party. All three elements of a requirement to register are thus present. You therefore qualify as an “agent of a foreign principal”⁴⁰ and must register unless one of the exemptions from FARA’s requirements applies.⁴¹ You have not contended that any exemptions are applicable and the available information does not suggest that any are.

Because you have already begun performing the above-referenced activities,⁴² you must complete your registration within 10 days of the date of this opinion. Useful information and forms may be obtained on the FARA Unit’s website, located at <https://www.justice.gov/nsd-fara>. If you have any questions regarding this matter, please contact the FARA Unit by e-mail at FARA.Public@usdoj.gov or by telephone at (202) 233-0776.

This advisory opinion is expressly limited to the facts, conditions, and conclusions stated herein. We will treat your submission as confidential in accordance with 28 C.F.R. § 5.2(m).

Sincerely,

/s/ Evan N. Turgeon

Evan N. Turgeon
Chief, FARA Unit

⁴⁰ 22 U.S.C. § 611(c).

⁴¹ 22 U.S.C. § 613.

⁴² Letter at 1 (referencing activities you are “currently conducting”).