

July 2008

POST-GOVERNMENT  
EMPLOYMENT  
RESTRICTIONS AND  
FOREIGN AGENT  
REGISTRATION

Additional Action  
Needed to Enhance  
Implementation of  
Requirements



G A O

Accountability \* Integrity \* Reliability



Highlights of [GAO-08-855](#), a report to congressional requesters

## Why GAO Did This Study

Congress has enacted post-government employment restrictions and foreign agent registration requirements with the objectives of protecting the U.S. government against the improper use of government information by former federal employees and ensuring the American people know the identity of persons trying to influence U.S. government policy in the United States on behalf of foreign entities. This report discusses (1) the extent to which selected agencies have information on the post-government employment activities of former senior federal employees who represent foreign principals and (2) the challenges the agencies face in enforcing these requirements. We reviewed federal ethics guidance, laws, and other documents, and interviewed officials at the Departments of State and the Treasury, the U.S. Agency for International Development and the U.S. Trade Representative.

## What GAO Recommends

GAO recommends that the Office of Government Ethics strongly encourage the agencies to implement its suggestions for documenting ethics advice. Also, Congress may wish to consider granting Justice the authority to inspect records of persons Justice believes should be registered as foreign agents and requiring persons claiming exemptions to notify Justice. OGE concurred with our recommendations.

To view the full product, including the scope and methodology, click on [GAO-08-855](#). For more information, contact Jess Ford at (202) 512-4128 or [fordj@gao.gov](mailto:fordj@gao.gov).

# POST-GOVERNMENT EMPLOYMENT RESTRICTIONS AND FOREIGN AGENT REGISTRATION

## Additional Action Needed to Enhance Implementation of Requirements

### What GAO Found

Executive branch agencies are not required to and do not collect and maintain information on the post-government employment activities of former senior federal employees who represent foreign principals. Post-government employment restrictions prohibit former senior federal employees from engaging in certain activities, such as lobbying or other advocacy communications, for a specified period of time after leaving federal service. The agencies we reviewed undertake a variety of activities, including providing training and advice, to promote compliance with the restrictions. The Foreign Agents Registration Act (FARA) requires that all persons in the United States working as agents of a foreign government, foreign political party, or other foreign principal disclose to the Department of Justice (Justice) such connections as well as the activities they perform on behalf of such principals in the United States. Justice provides information on FARA registration requirements to the public. It also collects information on all entities that register with Justice as foreign agents. However, the registration information does not identify individuals who are former senior federal employees. Nevertheless, of the nearly 8,000 senior federal employees who left government service between calendar years 2000 and 2007, we identified 29 who registered as foreign agents and engaged in activities that ranged from promoting tourism to lobbying on behalf of foreign principals such as the governments of Argentina and Saudi Arabia. This number may not include all former senior federal employees who represent foreign entities because individuals engaged in exempted activities under FARA, such as diplomatic, commercial, and legal activities, and those registered under the Lobbying Disclosure Act, are not required to register.

The agencies we reviewed face information, legal, and resource challenges in promoting compliance with the post-government employment restrictions and monitoring FARA. One challenge is inconsistent documentation of advice provided to senior federal employees on post-government employment restrictions. While agencies document information such as ethics training courses given, subject matters covered, and counseling services offered, they do not consistently keep records of what advice was given to specific employees. The Office of Government Ethics (OGE) has encouraged the executive branch agencies to document such advice. For example, a 2005 OGE memorandum to all designated agency ethics officials discussed the advantages of documenting advice and offered suggestions on when to document ethics advice. Documentation of advice is useful for proving intent, which can help to prosecute violations of the restrictions. In addition, a lack of clear legal authority and a lack of resources have been cited by Justice as barriers to increased monitoring of FARA compliance. For example, Justice officials said the department does not have clear legal authority to inspect the records of persons that it believes should be registered and that the department does not have the authority to require advance written notification from persons claiming to be exempt from FARA requirements. Without advance written notification, Justice has no way of knowing whether persons exempting themselves should in fact be registered.

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### Abbreviations

CPDF	Central Personnel Data File
DOD	Department of Defense
FARA	Foreign Agents Registration Act
OGE	Office of Government Ethics
OPM	Office of Personnel Management
USAID	U.S. Agency for International Development
USTR	Office of the U.S. Trade Representative

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United States Government Accountability Office  
Washington, DC 20548

July 30, 2008

The Honorable Howard L. Berman  
Chairman  
Committee on Foreign Affairs  
House of Representatives

The Honorable Frank R. Wolf  
Ranking Member  
Subcommittee on State, Foreign Operations and Related Programs  
Committee on Appropriations  
House of Representatives

Congress has enacted specific post-government employment restrictions<sup>1</sup> designed to protect the U.S. government from the improper use of government information or other undue influence by former government employees. The restrictions prohibit federal employees from engaging in certain activities, such as lobbying or other advocacy communications, for a specified period of time after leaving federal service. For example, the restrictions include a ban, for 1 year, on all senior and very senior employees<sup>2</sup> of federal agencies, Members of Congress, and congressional staff from performing certain representational or advocacy activities on behalf of a foreign government, before any U.S. government official, with the intent to influence a decision of the government official. The Office of Government Ethics (OGE) and executive branch agencies have implemented regulations and procedures to inform employees about the

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<sup>1</sup>For this report, the term post-government employment restrictions refers to the laws codified at 18 U.S.C. § 207, which contains restrictions on former officers, employees, and elected officials of the executive and legislative branches. Other ethics laws applicable to government employees, such as personal financial interest laws, are not addressed here.

<sup>2</sup>Senior-level officials include officers or employees of the executive branch paid on the Executive Schedule, and those who are paid at a rate under other authority that is equal to or greater than 86.5 percent of the basic rate of pay for level II of the Executive Schedule; military officers in a pay grade of 0-7 or above; and certain staff of the President and Vice President. Very senior level officials include those of the executive branch, including the Vice President, who are compensated at level I of the Executive Schedule, as well as employees of the Executive Office of the President and certain White House employees compensated at level II of the Executive Schedule.

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restrictions. Individuals who violate the restrictions are subject to administrative, civil, or criminal penalties.<sup>3</sup>

In addition to these laws and other lobbying disclosure requirements, such as the Lobbying Disclosure Act of 1995 as amended,<sup>4</sup> Congress has enacted the Foreign Agents Registration Act (FARA)<sup>5</sup> to ensure that the U.S. government and the American people are informed of the source and identity of persons engaging in representational activities or otherwise trying to influence U.S. government policy on behalf of foreign entities. FARA requires anyone—including all individuals, not just former federal employees—representing foreign principals in certain activities to register with the Department of Justice (Justice) and file forms outlining their agreements with, income from, and expenditures on behalf of the foreign principal. FARA provides certain exemptions to registration, such as for diplomatic or humanitarian activities. Persons who engage in such activities on behalf of a foreign principal are not required to notify Justice they are claiming an exemption.

Our past work has found problems with the U.S. government's implementation of these laws. For example, in 1980 Justice officials stated that as a result of improperly taken exemptions, Justice believed that there were more active agents than those registered. Also, according to Justice then and now, exemptions, such as those allowed for commercial and legal activities, were broadly written and fostered differing interpretations. In addition, Justice stated that some changes could be made to improve enforcement of FARA, such as providing Justice with subpoena power for use in cases of suspected unregistered agents. In 1990, we reported that Justice had not implemented a 1980 GAO recommendation to seek authority to (1) give the Justice Department additional enforcement measures, including administrative subpoena powers, and (2) require individuals to submit written notification of all exemption claims prior to

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<sup>3</sup> Agencies are required to report to the Attorney General any information, allegations, or complaints relating to ethics violations, including possible violations of the post-government restrictions. Executive agencies generally are required to inform OGE of such referrals. According to OGE's annual report on referrals to the Department of Justice (Justice), the agencies reported making about 88 referrals related to post-government restrictions from 2000 to 2007, which include all prohibitions contained in 18 U.S.C. § 207.

<sup>4</sup> 2 U.S.C. §1601, et seq.

<sup>5</sup> 22 U.S.C. §611, et seq.

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engaging in the representation of a foreign principal.<sup>6</sup> In 1991, Justice sought to obtain such authority; however, the 1991 legislation was not passed.<sup>7</sup>

In response to your request, we examined efforts by OGE, Justice, and four agencies involved in international activities to enforce post-government employment restrictions on former senior federal employees who represent foreign principals. This report discusses (1) the extent to which these agencies collect and maintain information on the post-government employment activities of these officials and (2) the key challenges the agencies face in enforcing post-government employment restrictions and FARA requirements.

To accomplish the first objective, we analyzed OGE guidance and other documents on post-government employment restrictions and Justice rules and regulations on FARA, and interviewed OGE and Justice officials. We also interviewed officials at selected executive branch agencies that work on issues directly related to bilateral relations, including the Departments of State (State) and the Treasury (Treasury), the U.S. Agency for International Development (USAID), and the Office of United States Trade Representative (USTR), and analyzed documents at those agencies to understand how the agencies notify employees of post-government employment restrictions. We also reviewed the procedures used by Justice's Registration Unit to identify and address unregistered agents. To identify the number of senior-level federal officials who registered as foreign agents after leaving government service between calendar years 2000 and 2007, we obtained a list from Justice of all individuals registered as foreign agents during those years, and provided these names to the Office of Personnel Management (OPM) to match against all executive branch senior federal employees in its Central Personnel Data File (CPDF). To accomplish the second objective, we reviewed past and proposed legislation and other documents describing agency regulations, policies, and procedures and interviewed OGE, Justice, State, Treasury, USAID, and USTR officials. We conducted our work from September 2007 to June 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to

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<sup>6</sup>GAO, *Foreign Agent Registration: Justice Needs to Improve Administration*, GAO/NSIAD-90-250 (Washington, D.C.: July 30, 1990).

<sup>7</sup>*To Strengthen the Foreign Agents Registration Act of 1938, as amended*, H.R.3597 102nd Congress.

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obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Results in Brief

The agencies we reviewed are not required to and generally do not collect and maintain information on the post-government employment activities of individuals who leave federal employment, including former senior government employees who represent foreign entities. Instead the agencies primarily focus on providing training, information, and advice on the restrictions. OGE and the individual executive branch agencies, through their ethics programs, undertake a variety of activities to promote compliance with the post-government employment restrictions. Justice posts information on FARA requirements on its external Web site and collects and maintains information on all persons<sup>8</sup> who register with the department as foreign agents. However, this information does not and is not intended to identify individuals who are former senior federal employees. Over 7,000 senior federal employees left government service between calendar year 2000 and 2007, according to OPM data. By matching these 7,000 names against Justice's registrants' database, we identified 29 former senior federal officials (most of whom were former State employees) who registered as foreign agents during this time and engaged in activities that ranged from promoting tourism to lobbying on behalf of countries such as Argentina, Indonesia, and Saudi Arabia. This number may not include all former senior federal employees who represent foreign entities because individuals engaged in exempted activities under FARA, such as diplomatic, commercial, and legal activities, and those registered under the Lobbying Disclosure Act of 1995, are not required to register.<sup>9</sup>

The agencies we reviewed face information, legal, and resource challenges in promoting compliance with post-government employment restrictions and in enforcing and monitoring the registration requirements of FARA. One challenge described by some agency Inspector General and Justice officials is the lack of consistent written documentation of the advice

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<sup>8</sup>For FARA purposes, the term "person" includes an individual, partnership, association, corporation, organization, or any other combination of individuals. 22 U.S.C. § 611(a).

<sup>9</sup>This number would also not include any persons representing foreign principals who attempt to evade FARA by not registering.

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given to senior federal employees on post-government employment restrictions. OGE disseminated a 2005 memorandum to all designated agency ethics officials encouraging them to document ethics advice. While some agencies document information such as ethics training courses given, subject matters covered, and counseling services offered, they do not consistently document specific advice given to specific employees regarding post-government employment restrictions. Inspector General officials at State, Treasury, and USAID, and an official of Justice's Criminal Division, said that documenting such information can also assist the agencies in proving the intent element of the law, which is needed to prosecute violations of the post-government employment restrictions. In 2008, in response to federal employees' complaints that ethics officers were in some cases declining requests for written ethics advice, OGE sent a message to 2,500 agency ethics officials reminding them to follow the suggested guidance presented in its 2005 memorandum. In addition, Justice cited barriers to increased monitoring of FARA compliance, including a lack of clear legal authority to inspect the records of persons that it believes should be registered and to require advance written exemption notifications. In 1991, Justice supported obtaining such authority but was not successful because the proposed legislation was not passed by Congress. Justice officials have stated that without such authority, Justice cannot inspect the records of persons it suspects should be registered as agents of foreign principals or collect information to help better identify persons who should be registered.

To enhance Justice's ability to ensure that the American people know the identity of persons trying to influence U.S. government policy in the United States on behalf of foreign entities, Congress may wish to consider (1) granting the Department of Justice civil investigative demand authority to inspect the records of persons Justice believes should be registered as agents of foreign principals and (2) requiring persons claiming certain exemptions to provide advance written notification to Justice before engaging in the exempt activities.

In addition, to enhance compliance with the post-government employment restrictions, we recommend that the Director of the Office of Government Ethics strongly encourage agency ethics officials to implement the suggested actions described in the November 2005 OGE memorandum and its subsequent 2008 reminder to designated agency officials on documenting ethics advice and also encourage agency ethics officials to work closely with their Inspectors General to ensure that this information is shared when needed.

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In responding to our draft report, OGE and Justice generally concurred with our findings and recommendations. OGE said that it had made several efforts recently to impress upon agencies' ethics officials the importance of documenting ethics advice when practicable. Justice said that the GAO report is useful; however, it could not say at this time whether GAO's suggested revisions to the FARA statute would be helpful in addressing the articulated concerns or the extent to which they actually might compromise FARA enforcement efforts. However, Justice said that the agency would look forward to working with Congress if it chooses to move forward with legislation. Justice, OGE, State and Treasury also provided technical comments, which we have incorporated where appropriate. We have reprinted OGE's and Justice's comments in appendixes IV and V, respectively.

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## Background

In 1962, the U.S. government enacted conflict of interest laws that were designed to protect against the improper use of government information by former employees, as well as to limit the potential influence that a financial arrangement may have on current federal officials when dealing with prospective private clients or future employers while still in government service. Among other requirements, the post-government employment restrictions permanently prohibit former federal employees from representing a private company or organization before any federal agency on particular matters involving specific parties, which they personally and substantially handled while working for the federal government. The law also restricts former federal employees from representing anyone before the official's former agency for defined cooling-off periods that vary according to the former official's involvement and seniority. For example:

- Former personnel may not represent their new employer before their former agency on matters that were pending under their official responsibility in their last year of service, with the intent to influence any communication with the agency for 2 years after leaving government service.

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- Former senior-level officers and employees may not contact their former agency with the intent to influence any matter on which the person seeks official action by the agency for 1 year after leaving the agency.<sup>10</sup>
  - Former senior and very senior federal employees, as well as former members of Congress and their staff, are prohibited from representing, aiding, or advising foreign entities with the intent to influence a decision of an official of an agency or department, the President, the Vice President, or Members of Congress for 1 year after leaving the position.

FARA requires all persons in the United States working as agents of a foreign government, foreign political party, or other foreign principal to disclose to Justice such connections, as well as the activities they perform on behalf of such principals in the United States. FARA was designed to ensure that the U.S. government and the American people are informed of the source of representational activity in the United States and the identity of persons attempting to influence U.S. public opinion, policy, and laws.

Under FARA, a person is considered an agent of a foreign principal when the person acts in any capacity at the order or request or is under the control, supervision, or financing of the foreign principal, and engages in the following within the United States:

- political activities for or in the interest of the foreign principal;
- public relations, information-service employment, or political consulting for or in the interest of the foreign principal;
- fundraising, collecting, or disbursing of money or things of value for or in the interest of the foreign principal; and
- representing the interests of a foreign principal before any agency or official of the U.S. government.

FARA requires individuals engaged in the listed activities to file a registration statement, which collects detailed information on the registrant and the activities he or she will perform on behalf of the foreign principal listed. Additionally, foreign agents are required to file a supplemental statement every 6 months for the duration of the foreign principal-agent relationship, providing updated information on the agent's activities. According to Justice, a statement is "detailed" within the

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<sup>10</sup>Under the Honest Leadership and Open Government Act of 2007, the bar is now 2 years for very senior employees, and such employees are barred for 2 years from contacting any Executive Schedule personnel anywhere in the executive branch.

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meaning of the Act when it has the degree of specificity necessary to permit meaningful public evaluation of each of the significant steps taken by the registrant to achieve the purposes of the foreign principal-agent relationship. Certain activities, such as humanitarian, commercial, and legal activities, are exempt from FARA. Individuals and organizations engaging in such activities on behalf of a foreign entity are not required to register with Justice. Appendix II provides detailed definitions of the various exemptions. For individuals who willfully violate FARA requirements, Justice may pursue criminal and civil penalties, such as imprisonment and fines. According to Justice, it has prosecuted one violation of FARA since 1990.

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## Agencies Promote Compliance with Post-Government Employment Restrictions and Foreign Agent Registration Requirements

The agencies (State, Treasury, USAID, and USTR) we reviewed are not required to and generally do not collect and maintain information on and monitor the post-government employment activities of persons who leave government employment, including former senior government employees who represent foreign entities. The agency officials described a variety of activities they use to inform senior employees of the post-government employment restrictions. Justice collects and maintains information on all individuals who register with the department as foreign agents, but this information does not identify registrants who are former senior federal employees. We were able to identify 29 former senior federal employees who registered as foreign agents between 2000 and 2007.

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## Agencies Are Not Required to and Do Not Collect or Maintain Information on Post-Government Employment Activities

We found that agencies do not collect or maintain information on the post-government employment activities of former senior employees because they are not required to do so. While the agencies we reviewed provided training and advice on the post-government employment restrictions, none monitored or maintained information on the post-government employment activities of former senior employees. OGE and agency officials explained that they are not required to monitor such activities, although such information might be useful for identifying potential violations. As previously mentioned, we identified 29 former senior employees who left government service and registered as foreign agents under FARA between 2000 and 2007. Our review of the registration information indicates that 6 former senior federal employees were registered as agents of foreign principals during the 1-year cooling off period required by the post-government employment restrictions. However, the scope of our review did not include assessing compliance with the post-government

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employment restrictions by any of the 29 former senior federal employees who registered as foreign agents.

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## Post-Government Employment Compliance Efforts

The executive branch promotes compliance with post-government employment restrictions through agency ethics-in-government programs, which are guided by OGE, a separate executive branch agency. Executive branch departments and agencies are required by law to have programs to implement provisions of the Ethics in Government Act of 1978<sup>11</sup>, including reviewing and filing financial disclosure forms, implementing a program to educate employees on ethics standards, keeping records, and taking action when the standards are violated. OGE is responsible for providing overall direction to executive branch policies related to preventing conflicts of interests on the part of officers and employees of any executive agency. It carries out these responsibilities by, among other things, providing educational materials and training, developing executive branch ethics program policies and regulations, interpreting laws and regulations, assisting agencies in legal and policy implementation, and recommending changes in conflicts of interest and ethics statutes. The individual agencies are responsible for the day-to-day administration of their own ethics programs. The agencies we met with described a variety of activities they use to inform senior employees of the post-government employment restrictions, such as conducting training programs, disseminating information on internal Web sites, and providing information to departing employees.

- All of the agencies provide ethics orientations for new senior employees, which may include discussions of post-government employment restrictions.
- All of the agencies offer annual ethics training for senior employees, although post-government employment restrictions are not covered annually.
- Some agencies offered or plan to offer training on post-government employment restrictions in 2008 in anticipation of senior officials leaving government service because of the change in the administration. For example, Treasury began its mandatory training on the post-government

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<sup>11</sup>Pub. L. No. 95-521, 92 Stat. 1824 (Oct. 26, 1978).

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employment restrictions to all political appointees in 2008, and State plans to update its internal Web site.

In addition, officials at all of the agencies we met with stated that post-government employment restrictions are discussed with departing senior employees as part of the close-out procedures that occur when an employee leaves the agency. For example, departing senior employees at Treasury complete a checklist that certifies that they have reviewed the post-government employment restrictions. Finally, all of the ethics officials we met with said their agencies provide advice to current and former employees in response to specific requests. Executive agencies also are required by regulation to provide written notification to senior executives of personnel actions affecting their coverage under 18 U.S.C. § 207(c), including notification that they are subject to restrictions on representing, aiding, or advising foreign entities. The written notice must include information on the specific penalties for violating the post-employment laws, and must also indicate that these employees are subject to the restrictions on representing, aiding, or advising foreign entities found at 18 U.S.C. 207(f).<sup>12</sup>

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### Justice Collects and Maintains Information on Entities That Register as Foreign Agents, and Promotes Voluntary Compliance with FARA

Justice collects and maintains information on all entities that register with the department as foreign agents; however, this information does not identify individuals who were former senior federal employees, and Justice is not required to do so. FARA requires all persons working on behalf of a foreign principal to file a statement with Justice's Registration Unit. These statements collect information such as the individual's name, address, year of birth, nationality, name and address of the primary registrant they work for, and current occupation. Further, the statement asks registrants to list all foreign principals to which they will render services in support of the primary registrant, as well as a detailed description of services they will provide on behalf of the foreign principal. These statements do not, however, ask individuals about their previous employment status.

Justice promotes voluntary compliance with FARA primarily through its public Web site. The Web site provides an overview of FARA, an index and text of the FARA statute, a link to the FARA regulations, answers to frequently asked questions, information on fees and related statutes, a

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<sup>12</sup>5 C.F.R. 730.104(a).

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public feedback portal, and downloadable FARA public disclosure forms. Justice's Registration Unit also offers guidance and assistance to prospective registrants by issuing formal advisory opinions on whether individuals need to register and by conducting private meetings with potential registrants. In addition, Justice officials said they answer inquiries from agency ethics officers on FARA requirements and provide information on FARA registration and reporting requirements for federal employees to ethics officers from every agency. Further, Justice officials said the Registration Unit regularly provides general guidance concerning registration requirements to the Senate Foreign Relations Committee, other House and Senate committees, and various governmental agencies, including the Federal Bureau of Investigation, the Department of Homeland Security, and the Central Intelligence Agency.

Moreover, Justice officials said the Registration Unit is proactive in identifying potential registrants. In an effort to do so, Justice's Registration Unit reviews publications such as *Congressional Quarterly*; monitors the Lobbying Disclosure Web site; and acts on tips provided from various sources. Justice officials estimated that, between January 2004 and May 2008, the Registration Unit identified approximately 130 individuals or firms it believed may have an obligation to register as foreign agents under FARA; the unit subsequently sent these entities letters requesting information that would enable the unit to determine whether the entities had to register. As of May 22, 2008, the Registration Unit had received approximately 25 registrations as a result of these letters; the remaining entities were either determined not to have an obligation to register or are still being reviewed.

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### Few Former Senior Federal Employees Registered as Foreign Agents between 2000 and 2007

By matching FARA and OPM data, we identified 29 former senior federal officials who left U.S. government service between 2000 and 2007 and registered as foreign agents with Justice. However, this number may not include all former senior federal employees who represent foreign entities because individuals engaged in certain activities who may be exempted, including those registered under the Lobbying Disclosure Act, are not required to register with Justice. The 29 registrants we identified engaged in activities that included the promotion of trade, lobbying, policy consulting, and public relations on the behalf of foreign principals such as the governments of Argentina, China, Indonesia, Saudi Arabia, and the Kurdish Democratic Party of Iraq. For example, a former Treasury senior employee advised and assisted the government of Argentina on economic restructuring issues, and worked to develop U.S. government and international financial institution support for providing economic and

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financial assistance to Argentina. In another example, a former U.S. Department of Transportation senior employee provided government relations services to the Royal Embassy of Saudi Arabia. According to the description of services on the agent's statement, the agent specifically worked to defend and advance the country's international trade interest before the U.S. government when Congress and the executive branch were enacting and executing laws, policies, and administrative decisions that could benefit or harm the country's relationship with the United States. Appendix III provides a description of the activities performed by the 29 former senior federal officials on the behalf of foreign entities.

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## Agencies Face Information, Legal, and Resource Challenges

The agencies we reviewed face information, legal, and resource challenges in promoting compliance with post-government employment restrictions and in enforcing and monitoring the registration requirements of FARA. For example, while the ethics officials provide guidance and information to employees on post-government employment restrictions, they do not consistently document specific advice provide to senior federal employees. The Inspector General officials we met with said that documentation of specific advice on post-government employment restrictions provided to senior federal employees can assist the agencies to prove intent to violate the post-government employment restrictions. In addition, Justice officials have cited a lack of clear legal authority and a lack of resources as barriers to monitoring compliance with FARA registration requirements.

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## Information-Related Challenges

An OGE best practice described in its 2004 ethics program review guidelines<sup>13</sup> is for agencies to establish a written policy defining when to keep records of advice. In addition, OGE has encouraged the executive branch agencies to document such advice. For example, a November 17, 2005, OGE memorandum to all designated agency ethics officials discussed the advantages of documenting advice and offered suggestions on when to document ethics advice. For example, it stated that the more

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<sup>13</sup>OGE conducts periodic reviews of selected agencies' ethics programs to assess agency compliance with the minimal ethics requirements found in the various statutes, regulations, and policies and to measures the effectiveness of the program in terms of the systems, processes, procedures, and other practices that an agency has established, beyond the minimal requirements, to prevent ethics violations from occurring. Accordingly, OGE includes "best practices" with its compliance review steps. Depending on the circumstances, OGE might suggest certain best practices in the narrative of a report.

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senior the official, the more important it is to create written documentation. Several of the officials we met with discussed the importance of documenting advice. For example, to prevent conflict of interest violations between federal employees discussing future employment with one of its contractors, USAID entered into a written agreement with the contractor that requires the contractor to first obtain a written ethics opinion from an agency ethics official. In addition, some defense contractors require former senior Department of Defense (DOD) employees to provide ethics advice letters from their ethics officials to determine if their employment with a specific contractor is permitted under the post-government employment restrictions. Moreover, under a provision of the National Defense Authorization Act for Fiscal Year 2008, defense contractors may not knowingly compensate former DOD officials who are subject to post-government employment restrictions without first determining that the official has sought and received a written ethics advice opinion from DOD within 30 days of seeking the opinion. DOD has to retain each request and written opinion provided in a central database for 5 years.<sup>14</sup>

The agencies document information such as ethics training courses given, subject matters covered, and counseling services offered to employees. However, despite the 2005 memorandum from OGE, we found that the agencies we reviewed did not consistently document specific advice given to specific employees regarding post-government employment restrictions. In response to complaints from federal employees that ethics officers were not providing written ethics advice, OGE sent an e-mail to over 2,500 ethics officials in 2008 reemphasizing to them the importance of responding to requests for written ethics advice and referring them to the 2005 memorandum for additional guidance. State, Treasury, and USAID Inspector General officials and an official of Justice's Criminal Division told us that the lack of consistent documentation of specific advice given to departing and former senior federal employees on post-government employment restrictions presents a challenge to enforcing post-government employment restrictions and FARA. OGE officials also stated they receive comments from agency Inspectors General expressing concern about the lack of consistent documentation of ethics advice. The Inspector General officials we met with said documentation of specific advice on post-government employment restrictions provided to senior

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<sup>14</sup>National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181 §847, (Jan. 28, 2008).

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federal employees can assist the agencies to prove intent to violate the post-government employment restrictions; however, this advice is not consistently documented. Certain civil and criminal penalties available under the post-government employment laws require that the violation of the law be knowing or willful, as opposed to a lesser standard such as negligence. Proving intent is one of the most significant barriers to prosecuting cases, according to an official of Justice's Criminal Division. Inspector General officials at one of the agencies we reviewed described a situation in which a former employee engaged in activities that he was specifically told were prohibited. The government had detailed documentation of the advice provided to this individual, and it used the documentation to demonstrate willful intent to violate the law and successfully prosecute the violation.

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## Legal and Resource Challenges

Justice officials cite a lack of clear legal authority and a lack of resources as barriers to increased monitoring of FARA compliance. First, the law does not provide Justice with specific authority to inspect the records of persons that it believes should be registered and to require advance written exemption notifications. In July 1991 testimony, Justice's Deputy Assistant Attorney General for the Criminal Division stated that the department supported requiring individuals who use either legal or commercial exemptions to notify the Attorney General. In 1991, Justice sought such authority but was not successful because the proposed legislation was not passed by Congress. Without such authority, Justice states that it cannot inspect the records of persons it suspects should be registered as agents of foreign principals or collect information to help Justice better identify persons who should be registered as foreign agents.

Second, Justice cited resources limitations as a barrier to monitoring FARA compliance, including any new requirements, such as reviewing exemption notifications. Specifically, the number of staff resources in Justice's FARA Registration Unit has significantly declined over the last 17 years from 13 (9 professional and 4 administrative) in 1990 to 8 (6 professional and 2 administrative) in 2008. Nonetheless, this unit remains responsible for (1) identifying unregistered agents, (2) ensuring that agents file reports on time, (3) rendering advisory opinions interpreting the Act, (4) reviewing reports to ensure proper form and completeness, (5) requesting report corrections when errors are found while processing registration forms, and (6) conducting inspections of registrants' records. According to the Chief of the FARA Registration Unit, requiring advance written notification of exemptions would shift the focus of the unit's

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limited resources from those who are required to register to those who are not.

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## Conclusions

While collecting and maintaining information on the post-government employment activities of former senior federal employees is not required, several agency officials have acknowledged that having certain information could enhance the enforcement of post-government employment restrictions. Establishing a written policy defining when to keep records of advice is an OGE best practice, and OGE has made efforts to emphasize to agencies the importance of documenting ethics advice. Documentation of specific advice on post-government employment restrictions provided to senior federal employees can help the agencies to prove the intent element needed to prosecute violations of the post-government employment restrictions. Additionally, such information could be useful to senior officials leaving federal government who seek employment during the transition of administrations, such as the upcoming 2009 change in administration. We have previously recommended that Justice require advance written notification of certain FARA exemptions before agents can begin to engage in the exempted activity. We continue to believe that such a requirement could improve program administration. For example, through other methods, such as monitoring news articles to identify and scrutinize potential registrants, Justice has identified persons engaging in nonexempt activities on behalf of foreign principals. However, Justice officials said the department does not have clear legal authority to inspect the records of persons that it believes should be registered or to require advance written notification by persons engaging in exempt activities. Without advance written notification, Justice has no way of knowing whether persons exempting themselves should in fact be registered.

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## Matter for Congressional Consideration

To enhance Justice's ability to ensure that the American people know the identity of persons trying to influence U.S. government policy in the United States on behalf of foreign entities, Congress may wish to consider (1) granting the Department of Justice civil investigative demand authority to inspect records of persons Justice believes should be registered as foreign agents and (2) requiring persons claiming certain exemptions to provide advance written notification to Justice before engaging in the exempt activities.

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## Recommendations for Executive Action

To enhance executive branch enforcement of the post-government employment restrictions, we recommend that the Director of the Office of Government Ethics strongly encourage agency ethics officials to implement the suggested actions described in the November 2005 OGE memorandum and its subsequent 2008 reminder to designated agency officials on documenting ethics advice, and also encourage agency ethics officials to work closely with their Inspectors General to ensure that this information is shared when needed.

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## Agency Comments and Our Evaluation

OGE and Justice provided written comments on a draft of this report, which are reproduced in appendixes IV and V, respectively. OGE and Justice generally agreed with our findings, conclusions, and recommendations. OGE stated that it had made several efforts recently to impress upon agencies' ethics officials the importance of documenting ethics advice when practicable. Justice said that the GAO report is useful; however, it could not say at this time whether GAO's suggested revisions to the FARA statute would be helpful in addressing the articulated concerns or the extent to which they actually might compromise FARA enforcement efforts. Justice provided no information on how expanded authority might compromise FARA enforcement efforts. Also, Justice said that it would look forward to working with Congress if it chooses to move forward with legislation. Our report notes that in a July 1991 testimony, Justice's Deputy Assistant Attorney General for the Criminal Division stated that the department supported requiring individuals who use either legal or commercial exemptions to notify the Attorney General to achieve greater compliance with registration requirements. In addition, in 1991, Justice sought such authority but was not successful because the proposed legislation was not passed by Congress. We maintain that Congress consider the proposed legislative changes to enhance Justice's ability to ensure that the American people know the identity of persons trying to influence U.S. government policy. Justice, State, Treasury, USAID, and USTR also reviewed a draft of this report for technical accuracy. OGE, Justice, State, and Treasury provided technical comments, which we incorporated into the report as appropriate.

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We are sending this report to other interested Members of Congress and to the Secretaries of State and the Treasury, the Attorney General, the Directors of the Office of Government Ethics and the U.S. Agency for International Development, and the U.S. Trade Representative. We will also make copies available to others upon request. In addition, the report will be available at <http://www.gao.gov>.

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If you or your staff have any questions about this report, please contact me at (202) 512-4128 or [fordj@gao.gov](mailto:fordj@gao.gov). Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made contributions to this report are listed in appendix VI.

A handwritten signature in black ink that reads "Jess T. Ford". The signature is written in a cursive style with a large, looping initial "J".

Jess T. Ford  
Director, International Affairs and Trade

Caplin & Drysdale,  
Chartered

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# Appendix I: Scope and Methodology

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To determine the extent to which the U.S. government collects and maintains information on the post-government employment activities of former senior federal employees who represent foreign entities, we analyzed Office of Government Ethics (OGE) guidance and other documents on post-government employment restrictions. We analyzed Justice Department (Justice) rules, regulations, and procedures for administering, monitoring, and enforcing the Foreign Agents Registration Act (FARA) and interviewed officials in Justice's Registration Unit. We also interviewed officials at OGE, the Departments of State (State) and the Treasury (Treasury), the U.S. Agency for International Development (USAID), and the Office of United States Trade Representative (USTR) and examined documents at those agencies to understand how the agencies notify employees of post-government employment restrictions. We analyzed documents related to violations of the post-government employment restrictions and interviewed Office of Inspector General officials at State, Treasury, and USAID to determine how the agencies enforce the restrictions. We initially included State, Treasury, USAID, and USTR in our scope because these agencies work on issues directly related to country bilateral relations and were thus likely to have former senior employees registered as foreign agents. We subsequently analyzed employment information on the 29 foreign agents that we identified who were former senior federal employees to determine if any additional executive branch agencies had large numbers of former employees registered as foreign agents. Most of the agencies had 1 or 2 such individuals. Therefore, we did not include any additional agencies in our review.

To identify the number of senior-level federal officials who registered as foreign agents after leaving government service between calendar years 2000 and 2007, we obtained a list from Justice, which contained 4,113 names, of all individuals registered as foreign agents during those years. We provided these names to the Office of Personnel Management (OPM) to match against all executive branch senior federal employees in its Central Personnel Data File (CPDF). As computerized name matching can be difficult because of inconsistent use or spelling of titles, first names, middle names and initials, hyphenated names, and suffixes between different data sets, we asked OPM to make their initial match as broad as possible, so that we could manually check a broad range of potential or near matches. OPM provided us with a list of 183 individuals (of the nearly 8,000 senior employees who left government service between 2000 and 2007) containing both exact and near matches. In addition, we received descriptive information on each of the 183 individuals, including date of birth, year of departure from federal service, and former federal agency.

We manually reviewed the 183 names and eliminated 139 of them that clearly were not matches, for example, ones where the last name was spelt differently, or the first name was completely different. This procedure narrowed the list to 44 individuals. Finally, we obtained the registration statements for all 44 individuals from the FARA Registration Unit and matched birth dates. From this process, we identified 29 former senior federal officials that registered as foreign agents between calendar years 2000 and 2007. In addition, we compared the dates the former senior level officials had registered with FARA against the dates on which they had officially separated from the federal government, and identified those officials whose registrations occurred less than 1 year after their separations. The scope of our review did not include assessing compliance with the post-government employment restrictions by any of the former 29 former senior federal level employees who registered as foreign agents.

We defined former senior federal officials as (1) federal employees paid on the Executive Schedule and (2) federal employees whose pay was 86.5 percent of level II of the Executive Schedule.

To identify the key challenges the U.S. government faces in enforcing post-government employment restrictions and FARA requirements, we reviewed past GAO reports and analyzed past legislation and other documents on the issue. We also interviewed OGE, State, Treasury, USAID, and USTR ethics officials; State, Treasury, and USAID Inspector General officials; and officials of Justice's FARA Registration Unit and its Criminal Division to obtain their views on the challenges. We conducted our work from September 2007 to June 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# Appendix II: FARA Exemptions

FARA exemption category	Definition
Diplomatic or consular offices	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 that are recognized by the Department of State as being within the scope of the functions of such officer
Officials of foreign governments	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 that are recognized by the Department of State as being within the scope of the functions of such official
Staff members of diplomatic or consular offices	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 that are recognized by the Department of State as being within the scope of the functions of such member or employee
Private and nonpolitical activities; solicitation of funds	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 subchapter II of chapter 9 of this title, and such rules and regulations as may be prescribed thereunder
Religious, scholastic, or scientific pursuits	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
Defense of foreign government vital to the defense of the United States	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 that 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 that 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

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Appendix II: FARA Exemptions

FARA exemption category	Definition
Persons qualified to practice law	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 judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record
Agents of foreign principals	Any agent of a person described in section 611(b)(2) of this title or an entity described in section 611(b)(3) of this title if the agent has engaged in lobbying activities and has registered under the Lobbying Disclosure Act of 1995 [2 U.S.C.A. § 1601 et seq.] in connection with the agent's representation of such person or entity

Source: 22 U. S. C. §611, et seq.

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# Appendix III: Activities Performed by Former Senior Federal Employees on Behalf of Foreign Entities

Foreign agent	Former federal agency	Foreign principal	Nature of services	Additional description of activities
1	Department of State	Republic of China (Taiwan); government of India; state of Qatar; Kurdish Democratic Party-Iraq	U.S. policy consultant; legal and other services/lobbying	Engaged in political activities, as well as monitoring and advising foreign principals on U.S. policy-making process with regard to the Republic of China, government of India, state of Qatar and the Kurdish Democratic Party of Iraq. Arranged meetings between officials from the foreign principals and U.S. officials.
2	Federal Aviation Administration	Republic of Korea	Legal and other services/lobbying	Assisted in presenting information and educational materials to U.S. government policy-makers in order to maintain and strengthen U.S.-Republic of Korea bilateral relations.
3	Department of Energy	Kurdish regional government	Not yet reported	Engaged in political activities relating to monitoring and advising on U.S. policy-making process with regard to Kurdistan, and arranging meetings between Kurdish and U.S. officials.
4	Department of Veteran Affairs	King Abdullah University of Science & Technology in Saudi Arabia	Public relations	Provided general media relations to promote university to a worldwide audience.
5	Department of State	Embassy of the government of India	Lobbying	Promoted dialogue between the United States and India on key issues of democracy and peace.
6	Department of Treasury	Government of Argentina	Legal and other services/lobbying	Advised and assisted the government of Argentina on economic restructuring issues and worked to develop U.S. government and international financial institution support for providing economic and financial assistance to Argentina.
7	Department of Commerce	Government of Haiti	Public relations	Provided advice and assistance in connection with maintaining and strengthening Haiti's relations with the U.S. government.
8	Department of State	Republic of India	Legal and other services/lobbying	Advised the embassy of India on U.S. government policies and communicated with U.S. government officials regarding U.S. policy toward India.
9	Department of State	Taiwan Studies Institute	Public relations	Worked with the Taiwan Studies Institute on advancing an appreciation of Taiwan's history, cultural uniqueness, democratic political development and its socioeconomic position in the world.

**Appendix III: Activities Performed by Former Senior Federal Employees on Behalf of Foreign Entities**

<b>Foreign agent</b>	<b>Former federal agency</b>	<b>Foreign principal</b>	<b>Nature of services</b>	<b>Additional description of activities</b>
10	Department of Transportation	Hong Kong Trade Development Council	Legal and other services/lobbying	Worked to improve the climate of opinion towards Hong Kong's specific international trade and other interests when Congress and the executive branch were planning, drafting, enacting and executing laws, policies and administrative decisions that could benefit or harm Hong Kong's trade relations with the United States.
		Royal Embassy of Saudi Arabia	Legal and other services/lobbying	Provided government relations services to the Royal Embassy of Saudi Arabia. The purpose of the government service was to defend and advance the Royal Embassy of Saudi Arabia's international trade and other interests before the government of the United States, including both Congress and the executive branch. Additionally, the registrant worked to improve the climate of opinion towards the Royal Embassy of Saudi Arabia's specific international trade and other interests when Congress and the executive branch were planning, drafting, enacting and executing laws, policies, and administrative decisions that could benefit or harm the Royal Embassy of Saudi Arabia's trade relations with the United States.
11	Department of State	Government of the Kingdom of Morocco	Public relations/consultant	Provided, on an informal basis, advice to the foreign principal regarding U.S. - Moroccan relations and Morocco's business and cultural interests in the United States.
12	Department of State	Province of Manitoba; Province of Quebec; Province of New Brunswick; Province of Ontario	Lobbying	Engaged in government relations activities with U.S. Congress and executive branch agencies on the Western Hemisphere Travel Initiative.
13	Department of Defense	Giat Industries	Lobbying	Provided lobbying, consulting and business development services in support of Giat products.
14	Department of Energy	Government of Senegal	Lobbying	Encouraged U.S. government officials to increase their direct and indirect support of development assistance to a key ally in the war on terrorism, the Republic of Senegal.

**Appendix III: Activities Performed by Former Senior Federal Employees on Behalf of Foreign Entities**

<b>Foreign agent</b>	<b>Former federal agency</b>	<b>Foreign principal</b>	<b>Nature of services</b>	<b>Additional description of activities</b>
15	Department of State	Government of Tanzania; government of Kaduna State, Nigeria	Lobbying; promotion of trade	Assisted the President and other senior decision-makers of Tanzania, and the Governor of Kaduna and his staff, during their visits to the United States by introducing them to appropriately senior U.S. officials at the federal, state, or local levels to discuss U.S. trade with, and investment in, their countries.
16	Department of State	None listed	Not yet reported	Advised clients and provided government relations and strategic communications services including, contacting public officials and representatives of the media, the executive branch of the federal government, and other organizations on behalf of foreign principals.
17	Department of State	Republic of the Philippines	Not yet reported	Assisted in the representation of the Philippines government in enhancing its relations with the U.S. government and the U.S. private sector.
18	U.S.-China Economic & Security Commission	Denis Sassou-Nguesso	Legal and other services/lobbying	Provided advice concerning allegations of misconduct directed at President Sassou-Nguesso by creditors of the Republic of Congo. Provided advocacy concerning the activities of the creditors of the Republic of Congo and issues of debt relief for the Republic of Congo before international organizations and departments of the U.S. government.
19	Federal Maritime Commission	Bank of the Netherlands Antilles	Not yet reported	Provided assistance to the Livingston Group in the representation of the Bank of the Netherlands Antilles before the U.S. Congress and executive branch agencies.
20	Department of Transportation	Republic of Cyprus	Lobbying	Provided U.S. government relations representation to the Republic of Cyprus, particularly in relation to the Annan Plan for the "Comprehensive Settlement of Cyprus Problem" and the future political status of Cyprus following the referendum on the Annan Plan.
21	Department of State	Bayelsa state government (Nigeria)	Lobbying	Represented Bayelsa State in the U.S. with the executive branch of the U.S. government and the U.S. Congress. The goal of this representation is to gain support for Bayelsa and the Niger Delta from the U.S. government.

**Appendix III: Activities Performed by Former Senior Federal Employees on Behalf of Foreign Entities**

<b>Foreign agent</b>	<b>Former federal agency</b>	<b>Foreign principal</b>	<b>Nature of services</b>	<b>Additional description of activities</b>
22	Department of State	The Menachem Begin Heritage Foundation	Lobbying	Arranged for and accompanied representatives of the Begin Center to meetings with U.S. officials, Members of Congress, and their staffs; provided briefings; and served in a general capacity as a liaison between the Begin Center and the U.S. government.
		State intelligence Agency of the Republic of Indonesia	Not reported	Provided advice, expertise, and assistance to aid the State Intelligence Agency of the Republic of Indonesia. Assisted in initiating a campaign of outreach and information dissemination about Indonesia's political, economic, and social development. Focused outreach efforts on the U.S. Congress and identified congressional member concerns relating to Indonesia to develop tactics to approach and engage selected Members and their staffs.
		Ministry of Foreign Affairs (government of Nicaragua); Ministry of Development, Industry, and Commerce (government of Nicaragua)	Promotion of trade; legal and other services/lobbying	Worked on behalf of the Nicaraguan government to expand support in the U.S. Congress for the Dominican-Central American Free Trade Agreement in 2005. Specific activities included, researching existing congressional support and opposition to the trade agreement, advising the ministry on how best to approach meetings with executive and legislative branch officials, and coordinating meetings for the Nicaraguan ambassador, and other Nicaraguan government officials.
23	Department of State	Emin Abufele	U.S. policy consultant	Provided advice with regard to immigration application, granting of visa application for the client, and facilitating admission into the United States.
		Moroccan American Center for Policy	Public relations	Provided advice on U.S.-Moroccan relations as well as contacted U.S. government officials and participated in Moroccan delegation visits to the United States.
		Ernesto Perez Balladrares Gonzalez Revilla	Not reported	Provided federal government affairs assistance and strategic counsel with regard to immigration matters, specifically in seeking approval of a nonimmigrant visa application for the client and facilitating admission into the United States.

**Appendix III: Activities Performed by Former Senior Federal Employees on Behalf of Foreign Entities**

<b>Foreign agent</b>	<b>Former federal agency</b>	<b>Foreign principal</b>	<b>Nature of services</b>	<b>Additional description of activities</b>
24	Department of State	Equatorial Guinea	Not reported	Kept the government of Equatorial Guinea apprised of U.S. programs that could help the government in areas such as defense, malaria eradication, trafficking in persons, democratic reform, human rights, environmental and wildlife protections, and police training. Assisted Guinean government in developing and maintaining a Web site and advised them on other matters related to communication so that U.S. audiences—government and the general population—could gain a better understanding of the country, decision-making policies, and programs.
	Department of State	Embassy of the Islamic Republic of Pakistan	Not reported	Performed a comprehensive assessment of the embassy's needs and capabilities and provided a series of recommended actions to address various high-priority issues. Provided an analysis of options that the embassy could pursue to effectively deliver messages regarding the role Pakistan plays as an important strategic partner of the United States. Promoted the enhancement of the Embassy's dialogue with U.S. leaders and government officials in order to promote a better understanding of the country's recent political, social, and economic developments, clarifying Pakistan's role as a key partner for the United States in efforts to enhance security and stability in a region of broad strategic importance. Devised and implemented a comprehensive strategy to communicate and promote a more accurate and balanced message regarding common U.S.-Pakistan interests.
25	Department of State	Republic of Guatemala	Legal and other services/lobbying	Advised the government of Guatemala on effective measures to fight corruption, drug trafficking, and related criminal activities. The advisory work involved meeting with U.S. embassy officials in Guatemala, State Department officials, and as appropriate other members of the administration and U.S. Congress, to discuss the government of Guatemala's counter narcotics and anticorruption programs.

**Appendix III: Activities Performed by Former Senior Federal Employees on Behalf of Foreign Entities**

<b>Foreign agent</b>	<b>Former federal agency</b>	<b>Foreign principal</b>	<b>Nature of services</b>	<b>Additional description of activities</b>
26	Department of Transportation	Corporate Fund, Kazakhstan	Media relations	Assisted Kazakhstan in its relations with the U.S. government. Advised the foreign principal on its relationship with the U.S. government, including preparation of legal, policy, economic and other materials for presentation before the executive branch and the Congress, and attendance at meetings with U.S. government and congressional officials.
	Department of Transportation	Ministry of Finance (government of Bermuda)	Not reported	Advised the Ministry of Finance on U.S. government policy, legislative, tax, and regulatory issues.
27	Department of State	Government of Greece	U.S. policy consultant	Advised and counseled on public policy issues. Monitoring and information gathering related to bilateral issues. House and Senate advocacy, including Member and Senator meetings. Executive branch monitoring, liaison, and advocacy.
28	Department of Army	State government of Sonora, Mexico	U.S. policy consultant	Worked with members of the Sonora state government to develop and implement a plan to improve exchange of information and coordination between the State of Sonora and U.S. government agencies in an effort to eliminate organized criminal activities and terrorists along the border. This assistance included arranging meetings with key members of the U.S. government; assisted in preparation and plans; prepared briefings and documents; and attended meetings between Sonora government officials and U.S. officials.
29	Department of State	Colombia (Embassy of)	Lobbying	Educated members of the U.S. Congress and other audiences regarding the Free Trade Agreement and Plan Colombia.

Source: GAO analysis of FARA data.

# Appendix IV: Comments from the Office of Government Ethics



United States  
**Office of Government Ethics**  
1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

July 21, 2008

Jess Ford  
Director  
International Affairs and Trade  
Government Accountability Office  
441 G Street, NW., Room 4440C  
Washington, DC 20548

Dear Mr. Ford:

Thank you for the opportunity to review and comment on the draft Government Accountability Office (GAO) report, "Post-Government Employment Restrictions and Foreign Agents Registration."

As the draft report points out, the United States Office of Government Ethics (OGE) has made several efforts recently to impress upon agency ethics officials the importance of documenting ethics advice where practicable. See, e.g., OGE List Serve Message to Agency Ethics Contacts No. 279 (January 17, 2008); OGE Memorandum DO-05-019 (November 17, 2005). OGE, therefore, agrees with GAO's recommendation to provide strong encouragement to agency ethics officials to implement the actions suggested in prior OGE issuances on this subject. OGE also agrees with the related recommendation to encourage agency ethics officials to work closely with their Inspectors General to share information about ethics advice as needed.

If you have any questions concerning these comments, please contact Richard Thomas, Associate General Counsel, at 202-482-9278.

Sincerely,

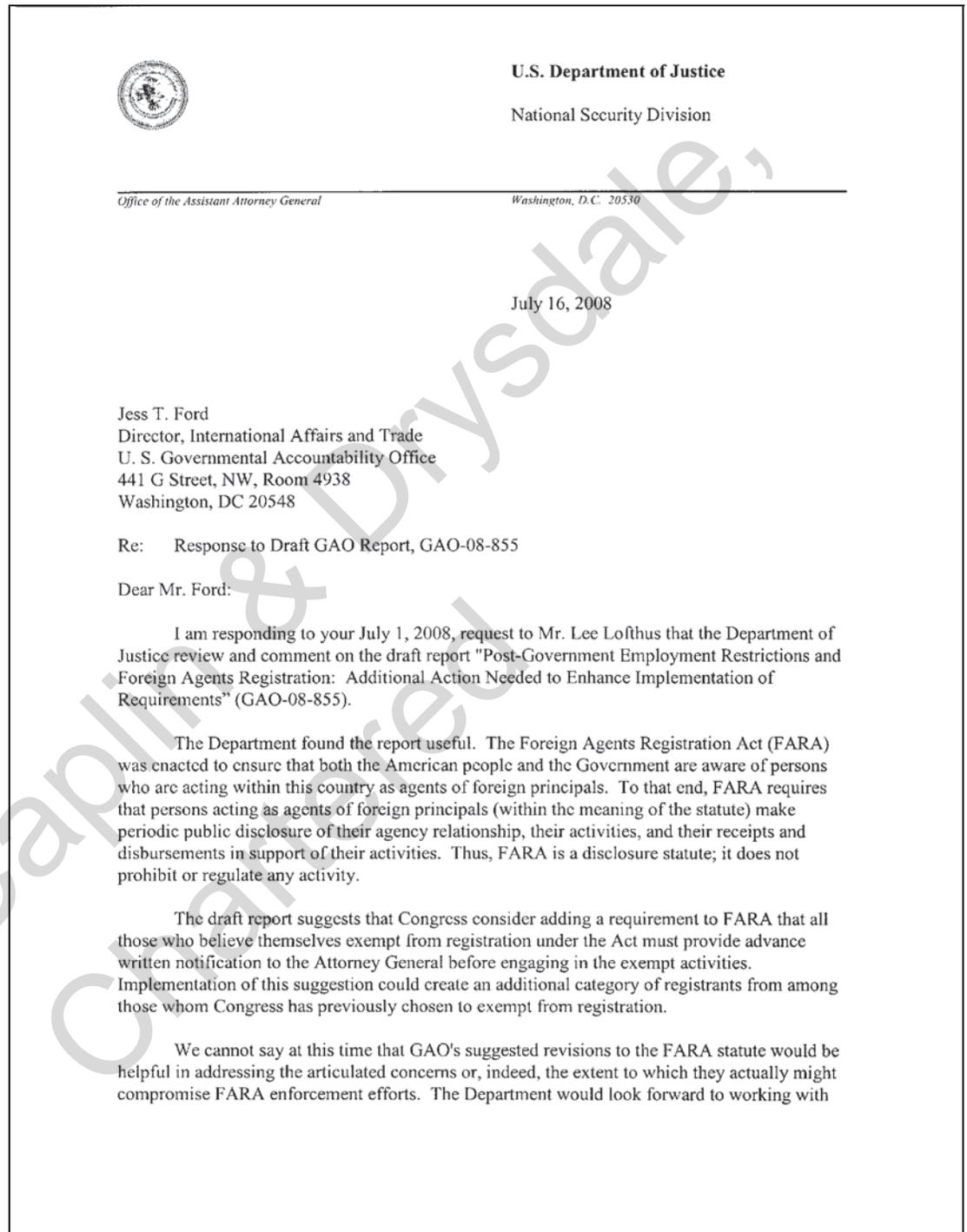
A handwritten signature in black ink, appearing to read "Robert I. Cusick".

Robert I. Cusick  
Director

OGE-106  
August 1992

# Appendix V: Comments from the Department of Justice

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



See comment 1.

-2-

Congress if it chooses to move forward with legislation. We appreciate the opportunity to review the report in draft and supply these comments. We understand that the foregoing comments will be reflected in the final report.

If you want more information, contact Richard Theis, Audit Liaison Group, Justice Management Division, at (202) 514-0469.

Sincerely,



Charles M. Steele  
Chief of Staff

Caplin & Drysdale  
Chartered

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The following is GAO's comment on DOJ's letter dated July 16, 2008.

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## GAO Comment

Justice said that the GAO report is useful, however, it could not say at this time whether GAO's suggested revisions to the FARA statute would be helpful in addressing the articulated concerns or the extent to which they actually might compromise FARA enforcement efforts. Justice provided no information on how expanded authority might compromise FARA enforcement efforts. Also, Justice said that it would look forward to working with Congress if it chooses to move forward with legislation. Our report notes that in a July 1991 testimony, Justice's Deputy Assistant Attorney General for the Criminal Division stated that the department supported requiring individuals who use either legal or commercial exemptions to notify the Attorney General to achieve greater compliance with registration requirements. In addition, in 1991, Justice sought such authority but was not successful because the proposed legislation was not passed by Congress. We maintain that Congress consider the proposed legislative changes to enhance Justice's ability to ensure that the American people know the identity of persons trying to influence U.S. government policy.

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# Appendix VI: GAO Contact and Staff Acknowledgements

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## GAO Contact

Jess Ford(202) 512-4128 or [fordj@gao.gov](mailto:fordj@gao.gov).

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## Staff Acknowledgments

In addition to the individual named above, Zina Merritt (Assistant Director); Ashley Alley, Joseph Carney, Martin de Alteriis, Cardell Johnson, La Verne Tharpes, and Greg Wilmoth made key contributions to this report.

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# The Foreign Agents Registration Act (FARA): A Legal Overview

Updated December 4, 2017

Caplin & Drysdale,  
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R45037

## Summary

In the wake of the 2016 election, concerns have been raised with respect to the legal regime governing foreign influence in domestic politics. The central law concerning the activities of the agents of foreign entities acting in the United States is the Foreign Agents Registration Act (FARA or Act). Enacted in 1938 to promote transparency with respect to foreign influence in the political process, FARA generally requires “agents of foreign principals” undertaking certain activities on behalf of foreign interests to register with and file regular reports with the U.S. Department of Justice (DOJ). FARA also requires agents of foreign principals to file copies of informational materials that they distribute for a foreign principal and to maintain records of their activities on behalf of their principal. The Act contains several exemptions, including exemptions for news organizations, foreign officials, and agents who register under domestic lobbying disclosure laws. Failure to comply with FARA may subject agents to criminal and civil penalties. Although FARA has not been litigated extensively, courts have recognized a compelling governmental interest in requiring agents of foreign principals to register and disclose foreign influence in the domestic political process, resulting in a number of constitutional challenges being rejected over the decades since FARA’s initial enactment.

In 2016, the Office of the Inspector General at DOJ issued a report on DOJ’s enforcement of FARA, finding that the department lacked a comprehensive strategy for enforcement. Among the criticisms highlighted in that report were the lack of enforcement actions brought by DOJ, as well as issues of vagueness in the terms and breadth of the statute. Some Members of Congress have introduced legislation to amend FARA following the Inspector General’s report and other allegations that potential misconduct by foreign agents is not currently policed under the statute. For example, the Disclosing Foreign Influence Act (H.R. 4170; S. 2039) would repeal the FARA exemption that allows foreign agents to file under domestic lobbying regulations in lieu of the Act; would provide DOJ with authority to make civil investigative demands to investigate potential FARA violations; and would require DOJ to develop a comprehensive enforcement strategy for FARA, with review of its effects by the agency’s Inspector General and the Government Accountability Office. The bills’ sponsors have explained that the bills are intended to address “ambiguous requirements for those lobbying on behalf of foreign governments,” which “has, over the years, led to a sharp drop in the number of registrations and the prospect of widespread abuses.”

This report examines the nature and scope of the current regulatory scheme, including the scope of FARA’s application to agents of foreign principals; what the statute requires of those covered under the Act; exemptions available under the statute; and methods of enforcement. The report concludes by discussing various legislative proposals to amend FARA in the 115th Congress.

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In the wake of the 2016 election, concerns have been raised with respect to the legal regime governing foreign influence in domestic politics.<sup>1</sup> The central law concerning the activities of the agents of foreign entities acting in the United States is the Foreign Agents Registration Act (FARA or the Act).<sup>2</sup> FARA generally requires “agents of foreign principals” undertaking certain activities on behalf of foreign interests to register with the U.S. Department of Justice (DOJ);<sup>3</sup> to file copies of informational materials that they distribute for a foreign principal;<sup>4</sup> and to maintain records of their activities.<sup>5</sup> The Act contains several exemptions to these registration, disclosure, and recordkeeping requirements.<sup>6</sup> Although FARA has not been litigated extensively, courts have recognized a compelling governmental interest in requiring agents of foreign principals to register and disclose foreign influence in the domestic political process, resulting in a number of constitutional challenges being rejected over the decades since FARA’s initial enactment.<sup>7</sup>

This report examines the nature and scope of the current regulatory scheme, including the scope of FARA’s application to agents of foreign principals; what the statute requires of those covered under the Act; exemptions available under the statute; and methods of enforcement. The report concludes by discussing various legislative proposals to amend FARA in the 115th Congress.

## Historical Development of FARA

Enacted originally in 1938 to promote transparency with respect to foreign propaganda, FARA has evolved in its breadth and application over the course of subsequent decades.<sup>8</sup> Consistently throughout its history, however, the statute has not prohibited representation of foreign interests (or other related activities) or limited distribution of foreign propaganda.<sup>9</sup> Instead, the Act

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<sup>1</sup> See Shane Harris, *Congressional Calls Grow for a Probe of Russian Hacking in U.S. Election*, WALL ST. J. (Dec. 12, 2016) <https://www.wsj.com/articles/congressional-calls-grow-for-a-probe-of-russian-hacking-in-u-s-election-1481151191>; see generally Office of the Director of National Intelligence, *Background to “Assessing Russian Activities and Intentions in Recent US Elections”*: *The Analytic Process and Cyber Incident Attribution* (Jan. 6, 2017), available at <https://www.intelligence.senate.gov/publications/assessing-russian-activities-and-intentions-recent-us-elections>.

<sup>2</sup> 22 U.S.C. §§ 611 – 621.

<sup>3</sup> *Id.* § 612.

<sup>4</sup> *Id.* § 614.

<sup>5</sup> *Id.* § 615.

<sup>6</sup> *Id.* § 613.

<sup>7</sup> See *Attorney Gen. of the United States v. Irish People, Inc.*, 595 F. Supp. 114, 120-21 (D.D.C. 1984); *Attorney Gen. v. INAC*, 530 F. Supp. 241 at 258 (S.D.N.Y. 1981), *aff’d*, 668 F.2d 159 (2d Cir. 1982); *Attorney Gen. v. INAC*, 346 F. Supp. 1384 (S.D.N.Y.), *aff’d mem.*, 465 F.2d 1405 (2d Cir.), *cert. denied*, 409 U.S. 1080, 93 S. Ct. 679, 34 L. Ed. 2d 669 (1972); *United States v. Peace Info. Ctr.*, 97 F. Supp. 255, 259-62 (D.D.C. 1951); *United States v. Auhagen*, 39 F. Supp. 590, 591 (D.D.C. 1941); see also *Meese v. Keene*, 481 U.S. 465, 478 (1987).

<sup>8</sup> Act of June 8, 1938, Pub. L. No. 75-583, 52 Stat. 631, as amended. See also *Viereck v. United States*, 318 U.S. 236, 241 (1943) (“The general purpose of the [Act of 1938] 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.”).

<sup>9</sup> See H.R. Rep. No. 1381 at 2, 75th Cong., 1st Sess. (1937) (noting that the legislation’s registration and labeling requirements do not prohibit any particular activities, but rather make public disclosure of attempts by foreign parties to influence the American political process). See also *Meese v. Keene*, 481 U.S. 465, 478 (1987) (noting that FARA “neither prohibits nor censors the dissemination of advocacy materials by agents of foreign principals” when considering a First Amendment challenge to the labeling of certain materials as *political propaganda*); *United States v. Auhagen*, 39 F. Supp. 590, 591 (D.D.C. 1941) (“The dissemination of foreign political propaganda is not prohibited [sic] by statute and Congress did not intend to deprive citizens of the United States of political information even if such

provides only for public disclosure of any such activities.<sup>10</sup> FARA’s legislative history indicates that Congress believed such disclosure would best combat foreign influence by informing the American public of the actions taken and information distributed on behalf of foreign sources.<sup>11</sup> Thus, FARA addresses the concerns of foreign influence by “bring[ing] the activities of persons engaged in disseminating foreign political propaganda in this country out into the open ... mak[ing] known to the Government and the American people the identity of any person who is engaged in such activities, the source of the propaganda and who is bearing the expense of its dissemination in the United States.”<sup>12</sup>

The impetus for FARA was the global political dynamics of the 1930s. Specifically, in 1935, the House of Representatives convened a special committee tasked with investigating the existence and effects of Nazi and other propaganda efforts in the United States and the use of “subversive propaganda” distributed by foreign countries.<sup>13</sup> At that time, Congress perceived a need to oversee efforts to influence the American government by foreign sources in light of threats that had been posed to governments elsewhere in the world due to the political and economic unrest during the interwar era.<sup>14</sup> In particular, legislators highlighted concerns about the unfettered distribution of Nazi and communist propaganda in the United States by foreign entities.<sup>15</sup>

Congress has since amended the statute, shifting its focus toward the promotion of transparency of an agent’s lobbying activities on behalf of its foreign client. As a report issued by the Senate Committee on Foreign Relations explained when considering amendments to the Act in 1965:

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 his particular client.<sup>16</sup>

In the 1990s, Congress again amended FARA as part of a broader effort to reform lobbying disclosure laws known as the Lobbying Disclosure Act (LDA).<sup>17</sup> The amendments generally limited FARA’s registration requirements to agents of foreign governments and foreign political parties and allowed agents of other foreign entities to register under the LDA’s disclosure requirements.<sup>18</sup>

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information be the propaganda of a foreign Government or foreign principal.”).

<sup>10</sup> *Id.*

<sup>11</sup> See H.R. Rep. No. 1381 at 2, 75th Cong., 1st Sess. (1937) (highlighting evidence that foreign entities were funding propaganda efforts and justifying the registration requirement as “publiciz[ing] the nature of subversive or other similar activities of such foreign propagandists, 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”).

<sup>12</sup> *Auhagen*, 39 F. Supp. at 591.

<sup>13</sup> H.R. Rep. No. 153 at 1, 74th Cong., 1st Sess. (1935). The committee was tasked with investigating Nazi propaganda activities specifically and “subversive propaganda” more generally, which it interpreted to include fascist and communist activities as well. *Id.* at 9, 12.

<sup>14</sup> *Id.* at 2.

<sup>15</sup> See *id.* at 6 (“The National Socialist German Labor Party, through its various agencies, furnished tons of propaganda literature, which in most cases was smuggled into this country. Some of it, however, came through our Customs, because there is no law against it.”).

<sup>16</sup> See S. Rep. No. 143, 89th Cong., 1st Sess. (1965).

<sup>17</sup> See P.L. 104-65, § 9, 109 Stat. 699; P.L. 105-166, § 5, 112 Stat. 39.

<sup>18</sup> See H.R. Rep. No. 339 at 21, 104th Cong., 1st Sess. (1995).

## Identifying “Agents of Foreign Principals”

Because FARA prohibits a “person” from acting as an “agent of a foreign principal” without first registering with DOJ,<sup>19</sup> and because FARA’s disclosure and recordkeeping requirements are imposed on those “persons” required to register under the Act,<sup>20</sup> the central issue when considering the application of FARA to foreign lobbying is whether a person qualifies as an *agent of a foreign principal* for purposes of the statute. FARA expressly defines the term *person* for purposes of the statute to include individuals, partnerships, associations, corporations, organizations, or any other combination of individuals.<sup>21</sup> Identifying whether such individuals or entities are agents of foreign principals involves two determinations: whether that person is acting as an *agent* and whether the agent is acting for a *foreign principal*.

### What Qualifies a Person as an “Agent”?

FARA generally defines the term *agent* to mean “any person who acts as an agent, representative, employee, servant, or any person who acts in any other capacity at the order, request, or under the direction or control” of a foreign principal.<sup>22</sup> DOJ regulations have not provided further clarification on the scope of the agency requirement under FARA,<sup>23</sup> resulting in some confusion about the requirements by the few courts that have interpreted what agency requires under the Act.

Case law interpreting FARA suggests that the agent-foreign principal relationship identified by the statute does not appear to require that the parties expressly enter into a contract establishing the relationship.<sup>24</sup> Additionally, it appears that financial support from a foreign principal standing alone is insufficient to establish a relationship subject to FARA.<sup>25</sup> Courts, however, have disagreed on the precise standard by which an agent-foreign principal relationship is established. In 1945, the U.S. Court of Appeals for the Third Circuit (Third Circuit) applied a common law standard to determine agency, holding that agency should be based on whether the intended agent and the foreign principal consent to a relationship in which the agent will act on the foreign principal’s behalf and subject to its control.<sup>26</sup> In 1981, however, the U.S. Court of Appeals for the

<sup>19</sup> 22 U.S.C. § 612(a).

<sup>20</sup> *Id.* §§ 614-615.

<sup>21</sup> *Id.* § 611(a).

<sup>22</sup> *Id.* § 611(c)(1). The Act’s definition of “agent” also enumerates four actions that trigger FARA’s registration requirement, *see id.*, which are discussed in further detail later in this section of the report. *See infra* at 5.

<sup>23</sup> *See* 28 C.F.R. § 5.100. The regulations do not expressly identify the necessary elements of an agent’s relationship with the foreign principal. However, DOJ has defined “control or any of its variants” for purposes of the statute “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.” *Id.* § 5.100(b).

<sup>24</sup> *United States v. German-American Vocational League, Inc.*, 153 F.2d 860, 863-64 (3d. Cir. 1946) (“We find nothing in [FARA] warranting the contention that it contemplated only agencies created by an express contract.”). The court distinguished references within the statute to contractual relationships between agents and foreign principals, explaining that requiring a contract with respect to the registration requirement would render the Act “meaningless.” *Id.* at 864.

<sup>25</sup> *See* Attorney Gen. v. Irish People, Inc., 796 F.2d 520, 524 (D.C. Cir. 1986) (explaining that FARA was not intended to reach agents who receive subsidies from foreign principals but who do not act at the direction of a foreign principal); *see also* Michele Amoruso E. Figli v. Fisheries Dev. Corp., 499 F. Supp. 1074, 1081-82 (S.D.N.Y. 1980).

<sup>26</sup> *See German-American Vocational League, Inc.*, 153 F.2d at 864 (“The true test, we think, was whether agency in fact existed, with the term agency defined substantially as in the Restatement of Agency, Section 1, which states it to be: ‘The relationship which results from the manifestation of consent by one person to another that the other shall act

Second Circuit (Second Circuit), without referencing the Third Circuit’s decision, rejected the common law standard for determining agency under FARA.<sup>27</sup> The Second Circuit instead favored a standard that contemplated the nature of the agency relationship intended for regulation under FARA, explaining that “[i]n determining agency for purposes of [FARA, the] concern is not whether the agent can impose liability upon his principal but whether the relationship warrants registration by the agent to carry out the informative purposes of the Act.”<sup>28</sup>

The Second Circuit cautioned against broadly construing the agency relationship to include instances in which a person merely acts at the “request” of a foreign principal, explaining that “[s]uch an interpretation would sweep within the statute’s scope many forms of conduct that Congress did not intend to regulate.”<sup>29</sup> Rather, according to the Second Circuit, agency depends upon whether a *specific person* has been asked to take a *specific action* on behalf of a foreign principal.<sup>30</sup> To illustrate, the Second Circuit offered two examples. First, with regard to whether a specific person was requested to act, if a foreign government requested donations to aid victims of a natural disaster, members of a large group who respond with contributions or support do not become agents of the foreign government for the purposes of FARA.<sup>31</sup> On the other hand, if a particular individual or limited group of individuals were solicited, the surrounding circumstances might indicate the possibility that FARA would require registration.<sup>32</sup> Second, with regard to whether a specific action was requested, the court explained that if the government issued a “general plea for political or financial support,” such a request would be less likely to require registration than “a more specific instruction.”<sup>33</sup>

FARA requires registration even if the individual or entity is not yet acting as an agent but “agrees, consents, assumes or purports to act as [ ... ] or holds himself out to be [ ... ] an agent.”<sup>34</sup> However, the Act does not require that agents be compensated for their action on the foreign principal’s behalf, meaning that the registration requirement applies to both paid and volunteer agents.<sup>35</sup> Furthermore, unlike other lobbying disclosure statutes, FARA does not include any threshold requirements and, thus, requires any individual or entity acting as an agent of a foreign principal to register regardless of whether the time or expenses involved are de minimis.<sup>36</sup> For example, the federal statute regulating disclosure of advocacy activities for *domestic* interests does include threshold requirements, generally requiring lobbyists to disclose their activities only if they are compensated for their services; make more than one lobbying contact; and spend at least 20% of their time over a three-month period lobbying.<sup>37</sup>

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on his behalf and subject to his control, and consent by the other so to act.”).

<sup>27</sup> Attorney Gen. of United States v. Irish N. Aid Comm., 668 F.2d 159, 161 (2d Cir. 1982) (holding that the agency relationship must be determined within the context of the statute, not by common law agency under which control of the agent contemplates the agent’s power to bind the principal).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* (noting that the meaning of “request” could range anywhere between a plea and a command, with the former not being contemplated under FARA).

<sup>30</sup> *Id.* at 161-62.

<sup>31</sup> *Id.* at 161.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 161-62.

<sup>34</sup> 22 U.S.C. § 611(c)(2).

<sup>35</sup> Attorney Gen. of the United States v. Irish People, Inc., 595 F.Supp. 114, 118 (D.D.C. 1984) (explaining that “[t]here is no distinction made by FARA, however, between paid and unpaid agents.”).

<sup>36</sup> See 2 U.S.C. §§ 1601 – 1614.

<sup>37</sup> See 2 U.S.C. § 1602(10) (defining “lobbyist”); *id.* § 1603(a) (identifying general registration requirements for

Embedded within the Act’s definition of the term “agent,” agents of foreign principals are subject to FARA if they engage in any of the enumerated actions under FARA within the United States.<sup>38</sup> Specifically, an agent must comport with the Act if he or she takes the following actions in the United States on behalf of the foreign principal:

- engages in political activities;
- acts as public relations counsel, publicity agent, information-service employee, or political consultant;
- solicits, collects, or disburses things of value (i.e., contributions, loans, money);  
or
- represents the foreign principal’s interest before federal agencies or officials.<sup>39</sup>

As noted in **Table 1** below, Congress expressly defined many of the terms used to establish the broad scope of activities for which agents must register.

**Table 1. Glossary of Terms Related to Actions Subjecting Agents to FARA**

Political activities	“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” 22 U.S.C. § 611(o).
Public relations counsel	“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” 22 U.S.C. § 611(g).
Publicity agent	“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” 22 U.S.C. § 611(h).
Political consultant	“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” 22 U.S.C. § 611(p).

**Source:** United States Code.

Relevant to the definition of “political activities,” DOJ regulations indicate that “formulating, adopting, or changing” policy also includes “any activity which seeks to maintain any existing domestic or foreign policy of the United States.”<sup>40</sup> Furthermore, DOJ has explained that routine inquiries of government officials are not “political activities” and therefore are outside the scope

lobbyists).

<sup>38</sup> 22 U.S.C. § 619 (providing FARA’s applicability in all places subject to “the civil or military jurisdiction of the United States” including the states, the District of Columbia, U.S. territories, and its insular possessions).

<sup>39</sup> *Id.* § 611(c)(1).

<sup>40</sup> 28 C.F.R. § 5.100(e).

of FARA if the agent’s inquiries relate to matters in which existing domestic or foreign policy is not in question.<sup>41</sup>

## Who Is a “Foreign Principal”?

Because FARA requires registration by agents who act on behalf of any individual or entity “any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal,”<sup>42</sup> a significant question that arises in relation to the scope of FARA’s application involves what entities qualify as foreign principals. The statutory definition of foreign principal<sup>43</sup> includes:

- governments of foreign countries;<sup>44</sup>
- foreign political parties;<sup>45</sup>
- individuals outside of the United States who are not U.S. citizens domiciled in the United States;<sup>46</sup> and
- entities organized under the laws of a foreign country or having their principal place of business in a foreign country.<sup>47</sup>

Regulation of the influence of foreign principals within the United States, therefore, is not limited only to foreign states or foreign state actors. Rather, any individual or entity acting as an agent for a foreign *private* entity may also be subject to FARA, unless that agent is covered by an applicable exemption.

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<sup>41</sup> *Id.*

<sup>42</sup> 22 U.S.C. § 611(c)(1).

<sup>43</sup> *Id.* § 611(b).

<sup>44</sup> FARA defines *government of a foreign country* to include “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.” *Id.* § 611(e).

<sup>45</sup> FARA defines *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.” *Id.* § 611(f).

<sup>46</sup> This definition also includes entities outside of the United States that are not organized or created under the laws of the United States (including under laws of the states or other places subject to federal jurisdiction) and do not have their principal place of business in the United States. *Id.* § 611(b)(2).

<sup>47</sup> *Id.* § 611(b).

## Obligations of Agents of Foreign Principals Under FARA

In its current form, FARA includes three key provisions that generally apply to agents of foreign principals: registration requirements,<sup>48</sup> disclosure requirements,<sup>49</sup> and recordkeeping requirements.<sup>50</sup>

### Registration Requirement

The primary mechanism of FARA's regulatory scheme is its requirement that agents of foreign principals register with the U.S. government. FARA's registration requirement requires agents of foreign principals to file a registration statement with DOJ within 10 days of becoming such an agent.<sup>51</sup> The registration statement must include information about: the agent and the agent's business; the agreement to represent the foreign principal; and income and expenditures related to the activities performed. Specifically, the registration statement must include inter alia:

- names, contact information, and nationality of the agent;<sup>52</sup>
- “comprehensive” descriptions of the nature of the agent's business, including a list of employees and every foreign principal for whom the agent acts;
- copies of agreements regarding the terms and conditions of the agent's representation of the foreign principal and detailed statements of any activity undertaken or agreed to that would require registration;
- nature and amounts of any income received by the agent in the preceding 60 days from each foreign principal, whether received as compensation or for disbursement; and
- detailed statements of expenditures during the preceding 60 days made in connection with activities requiring registration or in connection with elections for political office.<sup>53</sup>

Following initial registration, agents of foreign principals covered by FARA must submit supplemental information updating the original filing at six-month intervals.<sup>54</sup> Such information must be filed generally within 30 days of the six-month period, except changes to information under some categories must be filed within 10 days after such changes occur.<sup>55</sup> According to

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<sup>48</sup> *Id.* § 612.

<sup>49</sup> *Id.* § 614.

<sup>50</sup> *Id.* § 615.

<sup>51</sup> *Id.* § 612(a).

<sup>52</sup> If the agent is an entity, it must also include copies of its governing documents (e.g., articles of copartnership, articles of incorporation, bylaws, etc.). *See id.* § 612(a)(1), (2).

<sup>53</sup> *Id.* § 612(a). In addition to the enumerated list of information required for registration, FARA authorizes the Attorney General, in light of national security and public interest concerns, to require additional information as necessary. *Id.* § 612(a)(10). The Act also requires agents of foreign principals to provide any additional information to ensure that the enumerated materials are not misleading. *Id.* § 612(a)(11).

<sup>54</sup> *Id.* § 612(b).

<sup>55</sup> *Id.* These categories include information about the agent's business and the foreign principals for which it is acting; copies of agreements between the agent and foreign principals; and activities which are undertaken by the agent and require registration under FARA.

several reports, agents of foreign principals as a matter of practice have registered under the Act retroactively in some cases.<sup>56</sup>

## Disclosure Requirement

Any agent of a foreign principal who is required to register and who distributes “informational materials” on behalf of a foreign principal must also file copies of those materials with DOJ within 48 hours of beginning the process of distribution.<sup>57</sup> This disclosure requirement applies to any such materials that are distributed through interstate or foreign commerce and that take a form that would reasonably be expected to be distributed to two or more persons.<sup>58</sup> In addition to disclosing the existence of such materials to DOJ, the agent must also include “a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal” when the materials are transmitted in the United States.<sup>59</sup> Relatedly, FARA also requires agents representing foreign principals who transmit political propaganda or solicit information related to political interests from U.S. agencies or officials to include with such transmittals or solicitations “a true and accurate statement” identifying the person as an agent of a foreign principal.<sup>60</sup>

## Recordkeeping Requirement

FARA also requires agents of a foreign principal who are required to register to maintain records with respect to their activities and make any such records available for government inspection to ensure compliance.<sup>61</sup> Agents must maintain such records for three years after terminating their representation of their foreign principal, and the records must be available for inspection at any reasonable time.<sup>62</sup> Concealment or destruction of any records required to be kept under the act constitutes an express violation of FARA.<sup>63</sup>

## Exemptions

Certain categories of individuals or entities that would otherwise be recognized as agents of foreign principals under FARA are not subject to the statute under a series of exemptions adopted by Congress since FARA’s enactment.<sup>64</sup>

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<sup>56</sup> See, e.g., U.S. DEPT. OF JUSTICE OFFICE OF THE INSPECTOR GEN., AUDIT OF THE NAT’L SEC. DIV.’S ENF’T AND ADMIN. OF THE FOREIGN AGENTS REGISTRATION ACT at 13-14, (Sept. 2016) <https://oig.justice.gov/reports/2016/a1624.pdf> (noting that registration documentation is “routinely submitted late”); Conor Gaffey, *Russian Investigation Suspect Paul Manafort Just Followed Michael Flynn and Registered as a Foreign Agent. What Does That Mean?* NEWSWEEK, June 28, 2017, available at <http://www.newsweek.com/russia-investigation-paul-manafort-michael-flynn-foreign-agents-629609> (suggesting that retroactive compliance would not necessitate enforcement if the failure to register was negligent rather than willful).

<sup>57</sup> 22 U.S.C. § 614(a).

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* § 614(b).

<sup>60</sup> *Id.* § 614(e).

<sup>61</sup> *Id.* § 615.

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> See generally *id.* § 613. Additionally, FARA authorizes the Attorney General to exempt certain persons from registration requirements if the Attorney General determines that such information would not be necessary under the Act. *Id.* § 612(f) (“The Attorney General may, by regulation, provide for the exemption ... 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

**News organizations.** By definition, FARA excludes from regulation as an agent of a foreign principal “any news or press service or association organized” under domestic laws or any publication that is distributed for “bona fide news or journalistic activities.”<sup>65</sup> To qualify for this exemption, the ownership stake of U.S. citizens in the news organization must be at least 80% and its officers and directors must be U.S. citizens as well.<sup>66</sup> Furthermore, the organization or publication cannot be “owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by any foreign principal [as defined under FARA].”<sup>67</sup> Otherwise, the news organization in question must register under and otherwise comply with FARA.

**Officials of foreign governments, diplomatic or consular officers, and members of diplomatic and consular staff.** FARA includes several exemptions for officials, diplomatic officers, and certain staff of foreign governments if those individuals are acting exclusively within their official capacities.<sup>68</sup> Officials of foreign governments may be exempt if the foreign government is one that is recognized by the United States.<sup>69</sup> To qualify for this exemption, the official cannot be acting as a public-relations counsel, publicity agent, information-service employee, or be a U.S. citizen.<sup>70</sup> Diplomatic and consular officers of a foreign government may be exempt if he or she is “duly accredited” and the U.S. State Department has recognized the individual as such an officer.<sup>71</sup> Additionally, members of diplomatic and consular officers’ staff may be exempt if they are not serving as public-relations counsel, publicity agents, or information-service employees.<sup>72</sup>

**Agents engaged in private and nonpolitical activities, including commerce, charitable solicitations, and religious, scholastic or scientific pursuit.** Individuals and entities may be exempt from registration requirements if the activities in which they engage are either (1) private and nonpolitical activities that further bona fide commercial interests of a foreign principal; (2) other activities that do not predominantly serve a foreign interest; or (3) solicitations of contributions that are used only for certain charitable purposes such as food, clothing, and medical aid.<sup>73</sup> Additionally, agents of foreign principals who engage only in activities to further bona fide interests in religion, academia, science, or the fine arts are not subject to the registration requirement.<sup>74</sup> The scope of these exemptions is unclear and has not been further defined in administrative guidance.<sup>75</sup> For example, some commentators have argued that there is “considerable uncertainty regarding the reach and boundaries of [the] commercial exemption.”<sup>76</sup>

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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 Act.”). It is unclear whether the Attorney General has ever exercised this authority.

<sup>65</sup> *Id.* § 611(d).

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.* § 613(a), (b), (c).

<sup>69</sup> *Id.* § 613(b).

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* § 613(a).

<sup>72</sup> *Id.* § 613(c).

<sup>73</sup> *Id.* § 613(d).

<sup>74</sup> *Id.* § 613(e).

<sup>75</sup> See Zachary Parks, Robert Kelner & Brian Smith, *Foreign Agents Registration Act May Be At A Tipping Point*, LAW360 (Aug. 30, 2016, 4:47 P.M.), <https://www.law360.com/articles/834554/foreign-agents-registration-act-may-be-at-a-tipping-point>.

<sup>76</sup> *Id.*

**Agents representing foreign countries with defense interests vital to the defense of the United States.** Agents who represent governments of foreign countries deemed to be vital to the defense of the United States are exempt from the registration requirement during the time that the individual or entity engages in activities that serve the joint interests of the countries and do not conflict with U.S. policies.<sup>77</sup> This exemption requires that communications disseminated by such agents relate to such activities and that the agent believes the information contained within those communications is truthful and accurate.<sup>78</sup> It is unclear whether any entity has relied on this exemption.<sup>79</sup>

**Practicing attorneys acting in the course of legal representation.** Individuals or entities that are qualified to practice law are exempt from the registration requirements in the course of their legal representation of a foreign principal before a court of law or a federal agency.<sup>80</sup> FARA, however, expressly states that this exemption does not extend to any such lawyer’s “attempts to influence or persuade agency personnel or officials other than in the course of judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.”<sup>81</sup>

At least one court has examined the potential tension between (1) FARA’s disclosure requirement with respect to information about the relationship between an attorney and a foreign client and (2) the attorney-client privilege, which is an evidentiary privilege that generally prevents the disclosure of communications between an attorney and client involving legal advice.<sup>82</sup> In that case, the court, while recognizing that FARA’s exemption for practicing attorneys “does not include all communications that have been traditionally protected by an attorney-client privilege,” highlighted that the scope of the legal representation exemption would likely protect confidential communications related to the representation at issue in that case.<sup>83</sup>

**Agents otherwise registered under the Lobbying Disclosure Act.** FARA currently includes an exemption that permits agents of certain foreign principals who register under the Lobbying Disclosure Act of 1995 (LDA)<sup>84</sup>—a disclosure statute designed to regulate the influence of domestic lobbyists—to not have to register under FARA.<sup>85</sup> The LDA established certain criteria and thresholds for determining when a lobbyist must register its activities, and its registration requirements are not as broad in scope as the requirements under FARA.<sup>86</sup> To qualify for this

<sup>77</sup> 22 U.S.C. § 613(f).

<sup>78</sup> *Id.*

<sup>79</sup> Because litigation under FARA and its exemption has been rare, there is little case law available to interpret the scope of its provisions. Furthermore, a search of DOJ’s website for any specific discussions of this exemption yielded no results.

<sup>80</sup> 22 U.S.C. § 613(g).

<sup>81</sup> *Id.*

<sup>82</sup> *Attorney Gen. of the United States v. Covington & Burling*, 411 F. Supp. 371, 376-77 (D.D.C. 1976) (recognizing that attorney-client privilege may be validly asserted with respect to certain disclosures that otherwise could be required under FARA).

<sup>83</sup> *Id.* at 374 (“Therefore, this exemption, taken alone, would leave a substantial amount of confidential communications between a foreign principal and its agent-attorney subject to the recordkeeping and disclosure requirements of § 615.”). Attorney-client privilege protects against disclosure of any communication between an attorney and client, but the exemption in FARA precludes disclosure only to the extent that the communication relates to formal legal representation. *Id.*

<sup>84</sup> P.L. 104-65, 109 Stat. 691 (codified at 2 U.S.C. §§ 1601 – 1614).

<sup>85</sup> 22 U.S.C. § 613(h).

<sup>86</sup> Compare 22 U.S.C. § 612 (requiring registration of agents of foreign principals who engage to any degree in certain enumerated activities, providing no thresholds of time spent or expenses related to such activity), with 2 U.S.C. § 1603

exemption, agents of foreign principals first must represent foreign principals other than foreign governments and foreign political parties.<sup>87</sup> Second, those agents must have engaged in lobbying activities for purposes of the LDA and registered under that statute.<sup>88</sup>

## Enforcement Under FARA

Any person who willfully violates FARA—including failure to register as an agent of a foreign principal, making false statements of material fact, or omitting material facts or documents—may be subject to civil and criminal penalties upon conviction.<sup>89</sup> Violations may result in fines of up to \$10,000 or imprisonment for no more than five years, depending on the violation.<sup>90</sup> Additionally, the Attorney General may seek injunctive relief to enjoin actions in violation of the Act.<sup>91</sup>

Destruction or concealment of an agent’s records during the time period for which such recordkeeping is required is unlawful under the statute.<sup>92</sup> Enforcement actions may be undertaken only at the discretion of the Attorney General, because the statute does not confer a private right of action for enforcement by private parties.<sup>93</sup>

## Selected Proposals to Amend FARA in the 115th Congress

In 2016, the Office of the Inspector General at DOJ issued a report on DOJ’s enforcement of FARA, finding that the agency lacked a comprehensive strategy for enforcement.<sup>94</sup> Among the criticisms highlighted in that report were the lack of enforcement actions brought by DOJ as well as issues of vagueness in the terms and breadth of the statute.<sup>95</sup> The report highlighted what DOJ characterized as a sharp decline in registrations under the Act beginning in the mid-1990s.<sup>96</sup>

Some Members of Congress have introduced legislation to amend FARA following the Inspector General’s report and other allegations that potential misconduct by foreign agents is not currently policed under the statute.<sup>97</sup> Amendments proposed in the 115th Congress have addressed a range of issues, including:

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(requiring registration of professional lobbyists who satisfy definitional threshold requirements that allow de minimis exceptions for lobbyists who engage in regulated activity for limited time or expenses).

<sup>87</sup> 22 U.S.C. § 613(h).

<sup>88</sup> *Id.* The LDA defines lobbying activities as “lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.” 2 U.S.C. § 1602(7).

<sup>89</sup> 22 U.S.C. § 618(a).

<sup>90</sup> *Id.* § 618(a)(2).

<sup>91</sup> *Id.* § 618(f).

<sup>92</sup> *Id.*

<sup>93</sup> *Comm. for Free Namibia v. S.W. Africa People’s Org.*, 554 F. Supp. 722, 725-26 (D.D.C. 1982) (“Under FARA’s provisions, the Executive Branch, through the Attorney General, is responsible for administering and enforcing all of the provisions of the Act. The statute could not be clearer in that regard.”).

<sup>94</sup> U.S. DEPT. OF JUSTICE OFFICE OF THE INSPECTOR GEN., AUDIT OF THE NAT’L SEC. DIV.’S ENF’T AND ADMIN. OF THE FOREIGN AGENTS REGISTRATION ACT, (Sept. 2016) <https://oig.justice.gov/reports/2016/a1624.pdf>.

<sup>95</sup> *Id.* at 8-12.

<sup>96</sup> *Id.* at 5.

<sup>97</sup> Kyle Cheney, *Grassley Introduces Bill to Toughen Foreign Lobbying Oversight After Manafort Indictment*,

- *Future Representation of Foreign Principals by Political Appointees.* H.R. 484 would prospectively bar any individual who has served as a political appointee from serving as an agent of a foreign principal.<sup>98</sup> In other words, any individual whose political appointment terminates after the bill would be enacted would be subject to a lifetime ban on representing foreign principals in the United States.<sup>99</sup>
- *Breadth of the Disclosure Requirement.* S. 1679 would expand the applicability of FARA’s disclosure requirement by requiring agents to file copies of materials transmitted to “any other person.”<sup>100</sup> Furthermore, S. 1679 would require agents to provide additional information when filing any distributed materials with DOJ, including the name of each original recipient and the original date of distribution.<sup>101</sup> Separately, H.R. 2811/S. 625 generally would apply the disclosure requirement to electronic transmittals (e.g., email and social media) and align the filing deadlines of the disclosure requirement with those of the registration requirement.<sup>102</sup>
- *Repeal of the Exemption for Agents Registering Under the LDA.* H.R. 4170/S. 2039 would repeal the exemption that currently allows agents of foreign principals in the private sector to register under the LDA instead of under FARA.<sup>103</sup> Repeal of the exemption for agents representing foreign principals in the private sector would require all activities covered under FARA to be subject to the standards of that Act, regardless of whether the foreign principal is a government, political party, or individual or entity in the private sector. For agents of foreign principals whose activities may require registration under FARA and the LDA, H.R. 4170/S. 2039 would also align all filing deadlines after the initial registration for FARA to coincide with the deadlines of the LDA.<sup>104</sup>
- *Provision of Civil Investigative Demand Authority.* Both the Foreign Agents Registration Modernization and Enforcement Act (FARMEA; H.R. 2811/S. 625) and the Disclosing Foreign Influence Act (DFIA; H.R. 4170/S. 2039) would authorize the Attorney General to compel individuals or entities to produce documents relevant to a FARA investigation before initiating civil or criminal enforcement proceedings.<sup>105</sup> Such authority would augment DOJ’s authority to investigate potential violations of agents of foreign principals who may be required to register under FARA.<sup>106</sup>

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POLITICO.COM (Oct. 31, 2017), available at <https://www.politico.com/story/2017/10/31/grassley-foreign-lobbying-bill-manafort-244377>; Kenneth P. Doyle, *Democrats Introduce Bill to Strengthen Foreign Agents Law*, BLOOMBERG BNA (July 31, 2017), available at <https://www.bna.com/democrats-introduce-bill-n73014462521/#!>.

<sup>98</sup> H.R. 484, § 2(b), 115th Cong. (2017).

<sup>99</sup> *Id.* § 2(c).

<sup>100</sup> S. 1679, § 3, 115th Cong. (2017). As noted in the “Disclosure Requirement” section of this report, FARA currently requires disclosure of materials that are reasonably expected to be transmitted to more than one person. *See* 22 U.S.C. § 614(a).

<sup>101</sup> S. 1679, § 3.

<sup>102</sup> H.R. 2811/S. 625, § 3.

<sup>103</sup> H.R. 4170/S. 2039, § 2(a).

<sup>104</sup> *Id.* § 2(b).

<sup>105</sup> H.R. 2811/S. 625, § 2; H.R. 4170/S. 2039, § 3.

<sup>106</sup> To differing degrees, FARMEA and DFIA include specific provisions that would regulate the Attorney General’s use of this authority, which are beyond the scope of this report. *See* H.R. 2811/S. 625, § 2; H.R. 4170/S. 2039, § 3.

- *Availability of Civil Fines.* S. 1679 would authorize the Attorney General to enforce FARA violations by means of civil fines based on the number of offenses, as well as providing the Attorney General discretion to consider the severity and frequency of the violations.<sup>107</sup>
- *Reporting Requirements.* H.R. 2811/S. 625 would expand the categories of information that DOJ must submit in its semiannual reports to Congress.<sup>108</sup> FARA currently requires DOJ’s reports to identify FARA registrations and the nature, sources, and content of materials distributed by agents of foreign principals.<sup>109</sup> Under H.R. 2811/S. 625, DOJ would also report the number of investigations of potential violations involving officers and directors of any entity serving as an agent of a foreign principal and the number of those investigations that were referred to the Attorney General for prosecution.<sup>110</sup>
- *Oversight of FARA Enforcement and Administration.* H.R. 4170/S. 2039 would require the Attorney General to “develop and implement a comprehensive strategy to improve the enforcement and administration of [FARA],” which would be subject to review by the Inspector General of DOJ and Congress.<sup>111</sup> Additionally, it would require the Comptroller General to analyze the effectiveness of enforcement and administration of FARA within three years of enactment of the legislation.<sup>112</sup>

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<sup>107</sup> S. 1679, § 2.

<sup>108</sup> H.R. 2811/S. 625, § 5.

<sup>109</sup> 22 U.S.C. § 621.

<sup>110</sup> H.R. 2811/S. 625, § 5.

<sup>111</sup> H.R. 4170/S. 2039, § 4.

<sup>112</sup> *Id.* § 5.

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*REPORT TO THE  
COMMITTEE ON FOREIGN RELATIONS  
UNITED STATES SENATE*

*74-0495*



Effectiveness Of The  
Foreign Agents Registration Act  
Of 1938, As Amended,  
And Its Administration  
By The Department Of Justice

B-177551

Caplin & Drysdale,  
Chartered

*BY THE COMPTROLLER GENERAL  
OF THE UNITED STATES*

~~701879~~ / 095964

MARCH 13, 1974



COMPTROLLER OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-177551

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L  
The Honorable J. W. Fulbright  
Chairman, Committee on Foreign Relations S 0130  
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,

A handwritten signature in cursive script that reads "James B. Axtell".

Comptroller General  
of the United States

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D I G E S T

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. 37

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 in-depth study, and subsequently held hearings on, the activities of non-diplomatic 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. 10.)

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 in trade promotion and economic development activities increased from 49 to 70 (43 percent). (See p. 12.)

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 persons 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<sup>1</sup> 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 222 sup-

plemental statements were incomplete or lacked sufficient detail to adequately describe agents' activities on behalf of foreign principals. (See p. 13.)

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

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<sup>1</sup>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.

identities of their foreign principals when dealing with Government agencies and officials, including committees and Members of Congress. (See p. 19.)

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
- inspect the books and records of registered foreign agents. (See pp. 23 and 25.)

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 p. 18.)

Department officials said it is policy to prosecute alleged violators of the act and the regulations only in clear cases of recalcitrant

noncompliance. (See p. 18.)

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. 19.)

#### RECOMMENDATIONS

GAO recommends 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. (See p. 17.)
- 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. 17.)
- 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 p. 31.)

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## 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 timeliness 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.<sup>1</sup> 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 became effective. As of December 31, 1972, 481 agents were registered.

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<sup>1</sup>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.

## 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.

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## 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 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

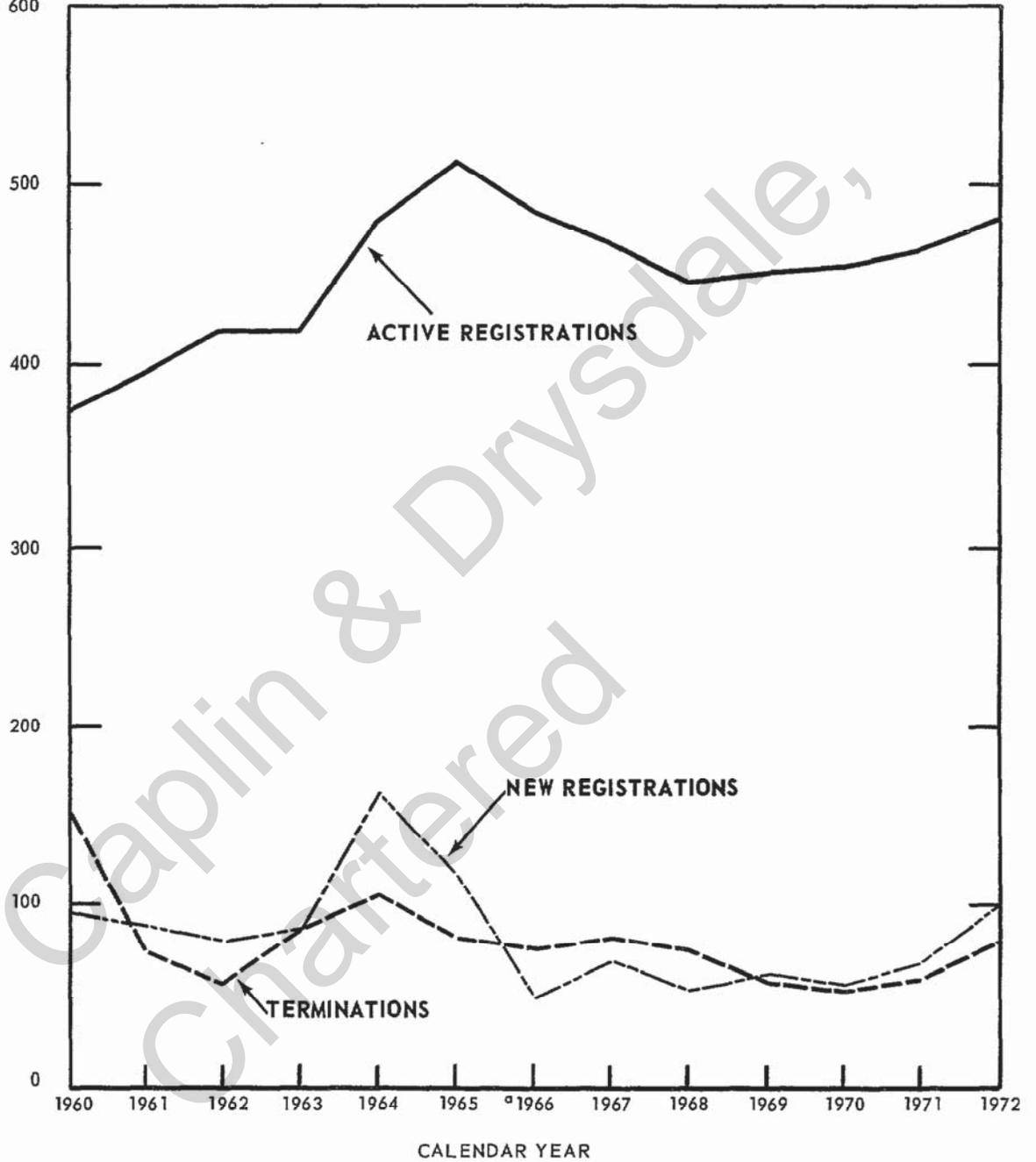
For comparison, we classified foreign agents' activities into eight categories.<sup>1</sup> Although the number of agents registered between calendar years 1965 and 1972 changed by more than 30 percent in four of the eight categories, the overall change was less than 1 percent.

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<sup>1</sup>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**

NUMBER OF REGISTRATIONS  
600



◻ 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.

<u>Category</u>	<u>Number of agents</u>		<u>Increase or decrease (-)</u>	
	<u>1965</u>	<u>1972</u>	<u>Number</u>	<u>Percent</u>
Travel, tourism, and information services	112	171	59	53
Public relations and advertising	97	106	9	9
Legal services	102	53	-49	-48
Representatives, advisors, and commercial agents	88	84	-4	-5
Press, film, and literary services	98	60	-38	-39
Trade promotion and economic development	49	70	21	43
Political activities and fund raising	36	38	2	6
All others	<u>29</u>	<u>24</u>	-5	-17
Total	<u><sup>a</sup>611</u>	<u><sup>a</sup>606</u>	-5	-.8

<sup>a</sup>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	Number reviewed	Number filed on time	Could not determine timeliness (note a)	Filed late		Number of days late			
					Num- ber	Per- cent	1 to 7	8 to 30	31 to 90	Over 91
Initial registration statements	10 days	21	-	5	16	-	1	-	5	10
Exhibits	10 "	74	3	17	54	-	2	1	17	34
Short-form registra- tion statements	10 "	60	2	11	47	-	2	6	13	26
Six-month supple- mental statement	30 "	222	87	-	135	-	60	44	15	16
Final statements	30 "	<u>15</u>	1	5	<u>9</u>	-	-	1	3	5
Total		<u>392</u>			<u>261</u>	67				
Initial propaganda dis- semination reports	48 hours	476	319	-	157	33	76	65	16	-

<sup>a</sup>Material reviewed did not show when the agents' activities started and/or terminated.

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 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 significant 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<sup>1</sup> 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

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<sup>1</sup>Committee print on "Nondiplomatic Activities of Representatives of Foreign Governments" (87th Cong., 2d sess.).

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 Act. (Underscoring 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 of 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 deficiencies 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." (Underscoring 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 \* \* \*." (Underscoring 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 Attorney 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." (Underscoring 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' registrations.

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 efforts  
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.

Caplin & Drysdale,  
Chartered

PRINCIPAL OFFICIALS OF THE  
DEPARTMENT OF JUSTICE RESPONSIBLE FOR  
THE ADMINISTRATION OF THE ACTIVITIES DISCUSSED  
IN THIS REPORT

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
<b>ATTORNEY GENERAL:</b>		
William B. Saxbe	Jan. 1974	Present
Robert H. Bork (acting)	Oct. 1973	Jan. 1974
Elliot L. Richardson	May 1973	Oct. 1973
Richard G. Kleindienst	June 1972	May 1973
Richard G. Kleindienst (acting)	Mar. 1972	June 1972
John N. Mitchell	Jan. 1969	Feb. 1972
Ramsey Clark	Mar. 1967	Jan. 1969
Ramsey Clark (acting)	Oct. 1966	Mar. 1967
Nicholas deB. Katzenbach	Feb. 1965	Oct. 1966
<b>ASSISTANT ATTORNEY GENERAL, INTERNAL SECURITY DIVISION (note a):</b>		
A. William Olson	June 1972	Mar. 1973
A. William Olson (acting)	Apr. 1972	June 1972
Robert C. Mardian	Nov. 1970	Apr. 1972
J. Walter Yeagley	Aug. 1959	Nov. 1970
<b>CHIEF, REGISTRATION SECTION (note a):</b>		
Justin J. O'Shea	Mar. 1972	Mar. 1973
Justin J. O'Shea (acting)	Nov. 1971	Mar. 1972
James C. Hise	Mar. 1971	Nov. 1971
James L. Weldon	Nov. 1968	Jan. 1971
Nathan B. Lenvin	June 1955	Oct. 1968
<b>ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION (note a)</b>		
Henry E. Peterson	Feb. 1972	Present
<b>DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION</b>		
Kevin T. Maroney	Apr. 1973	Present

APPENDIX

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
CHIEF, INTERNAL SECURITY SECTION:		
John H. Davitt	Apr. 1973	Present
Kevin T. Maroney (acting)	Mar. 1973	Apr. 1973
CHIEF, REGISTRATION UNIT		
Justin J. O'Shea	Mar. 1973	Present

<sup>a</sup> Effective March 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.

Caplin & Drysdale,  
Chartered



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

112923

INTERNATIONAL DIVISION

B-177551

JULY 31, 1980

To the Honorable Benjamin R. Civiletti  
The Attorney General, and  
The Honorable Edmund S. Muskie  
The Secretary of State



112923

Subject: [Improvements Needed in the Administration of  
Foreign Agent Registration] (ID-80-51)

We have reviewed the administration of the Foreign Agents Registration Act of 1938, as amended. The review was a followup to our 1974 report. 1/

Since 1974, the Department of Justice has made some improvements in its administration of the Act. For example, civil actions have been taken to register additional agents and to have their activities reported. However, the administration of the Act requires more attention since it is apparent that persons are acting as foreign agents without registering, registered agents are not fully disclosing their activities, and officials in the executive branch are often unaware of the Act's requirements. Thus, the Act's goal of providing the public with sufficient information on foreign agents and their activities is not being completely fulfilled.

We are therefore recommending that the Departments of Justice and State take the following steps to improve administration of the Act and to more fully achieve legislative intent.

The Attorney General should seek legislative authority to (1) give the Justice Department additional enforcement measures, such as administrative subpoena powers, and a schedule of civil fines for minor violations and increases in existing fines and (2) require written notification to the Justice Department of all exemption claims prior to any agent activity. He should also:

1/ Effectiveness of the Foreign Agents Registration Act of 1938, As Amended, And Its Administration by the Department of Justice, (B-177551, Mar. 13, 1974).

011523

- Survey the public users of the foreign agent files to determine their opinions on whether disclosure information is adequate and whether additional information might be useful.
- Provide specific guidance to agents and agency personnel on their responsibilities under the Act and revise the registration and reporting forms to better reflect the requirements of the Act as well as the results of the user survey.
- Establish a more permanent inspection capability with scheduled inspections for and emphasis on the more important type of agents.

The Secretary of State should resolve with the Attorney General who qualifies for diplomatic exemptions and, in the future, provide whatever assistance the Attorney General requests to effectively administer the Act.

Enclosure 1 discusses these subjects in detail and explains why we believe these actions are necessary.

We are sending copies of this report to the Chairmen of the House Committee on Government Operations, Senate Committee on Governmental Affairs, House and Senate Committees on Appropriations and Committees on the Judiciary, House Committee on Foreign Affairs, and Senate Committee on Foreign Relations.

Section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee 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. We would appreciate receiving a copy of these statements.

  
J. K. Fasick  
Director

Enclosure

(483230)

IMPROVEMENTS NEEDED IN THE ADMINISTRATION  
OF FOREIGN AGENT REGISTRATION

The Foreign Agents Registration Act of 1938 was adopted to identify agents engaged in political activities, including the spreading of foreign propoganda, on behalf of foreign principals and to publicly report their activities and finances.

In the mid 1960s, congressional attention focused on the lawyer-lobbyist and public relations counsel whose objective was not to subvert or overthrow the U.S. Government but to influence its policies to a particular client's satisfaction. The 1966 amendments to the Act were designed to reflect this shift by placing emphasis on protecting the integrity of the Government's decisionmaking process and on disclosing the activities of foreign agents, including their contacts with executive branch officials. The Act is not intended to prohibit lobbying on behalf of foreign principals but to require their agents to register with and periodically report their activities to the Justice Department's Registration Unit.

REGISTRATION OF AGENTS

A foreign agent must submit specific statements and exhibits when he initially registers with the Unit and when new principals are acquired. Supplemental statements of the agent's activities and finances are required every 6 months thereafter. Separate reports are also required if the agent disseminates political propoganda. This information is available for public review at the Justice Department and copies are available upon request.

While the Act states that any person acting as an agent must register, it also provides certain exemptions to registration, such as for diplomatic, humanitarian, commercial, and legal activities. Unit officials stated the latter two exemptions are broadly written and have fostered differing interpretations. The burden of proof for using the exemption rests with the agent, and no approval by the Unit is required. Only if the agents have been identified by the Unit is their use of the exemption questioned.

Unit officials believe that, as a result of improperly claimed exemptions, general unawareness of the Act's requirements, and evasion of the Act, there are more active agents than the approximately 650 registered. Although the officials

do not have evidence as to the number of unregistered agents, some believe the 650 figure may be only the "tip of the iceberg."

It is difficult to determine the number of unregistered agents. The Unit does not make scheduled reviews of executive agency records or periodic inquiries of agency officials about agent activities since additional staff would be needed for this purpose. Few agencies' personnel are aware of the Act and even fewer have data upon which a review could be performed. The means used by the Unit to identify unregistered agents include a review of media content to determine who might be acting for other countries, inspection of registered agents records, and tips provided from various sources.

We discussed foreign agent registration with officials of various agencies and inquired whether they had any records available concerning agent contacts. The officials were with the Departments of State and Commerce, International Trade Commission (ITC), Securities and Exchange Commission, Office of the U.S. Trade Representative, and the military services. Since the agencies are not required to take any particular action, their awareness of the Act was limited or nonexistent, and only at ITC did we find any records which could be used for verification. We reviewed the seven completed fair trade practice cases for 1978 and 1979. In four of these cases, we found that 20 persons were involved who should have been registered, according to the Unit's criteria, but only one was. These agents made up about 20 percent of the witnesses in the cases.

Agents should be required to notify Justice in writing that they are claiming an exemption from registering. If agents had to notify Justice, it would provide the Unit with better information on who isn't registered that should be. Further, the agents would lose their first line of defense in evading registration.

#### ADEQUACY OF DISCLOSURE IN REPORTING

In our 1974 report to the Senate Foreign Relations Committee 1/, we reported that only 30 percent of 222 supplemental statements we reviewed provided adequate disclosure. Since then, there has been some improvement but this continues to be a major deficiency.

1/Effectiveness of the Foreign Agents Registration Act of 1938, As Amended, And Its Administration by the Department of Justice (B-177551, Mar. 13, 1974).

ENCLOSURE I

According to Unit officials, the criteria for adequate disclosure are that the public should be able to review an agent's file and know which Government officials an agent has contacted for his principal, when the contact occurred, what was discussed, what position the agent presented, and the finances associated with these contacts. Agents are expected to provide this information semiannually in a 27-question supplemental statement of their activities and finances. Paralegal personnel in the Unit review these statements for adequate disclosure and request additional information from the agents as necessary.

We reviewed 299 supplemental statements of 163 agents to assess the adequacy of the information provided and found that only 83 agents, or 51 percent, were adequately reporting their activities. The lawyer-lobbyist group, the focal point of the 1966 amendments, had one of the lowest levels of adequate reporting, as shown below.

<u>Agent type</u>	<u>Number of agents</u>	<u>Adequately reporting</u>	
		<u>Number</u>	<u>Percent</u>
Tourist	23	19	83
Public relations	18	11	61
Trade centers	22	15	68
Lawyer-lobbyist	46	14	30
Embassy	44	21	48
Other	10	3	30
Total	<u>163</u>	<u>83</u>	<u>51</u>

We selected 19 cases, including 11 lawyer-lobbyist cases, for discussion with the paralegals. We considered these cases to be the worst violations of the adequate disclosure criteria. Among the deficiencies we identified were conflicting statements about the agent's principal; no listing of contacts, activities, and/or finances; outstanding Unit requests for additional information; no cross-examinations of agent's financial records; missing registration statements; unexplained travel and entertainment expenses; no statement of purpose or position or of relationship of the agent to other agents; reporting of useless information; and lateness in reporting activities.

In most of these cases, the paralegals were not enforcing their criteria. Their reasons for this included inexperience, overlooking an item during their review, or planning to correct the deficiencies during an inspection.

In our review of the agents' files, we observed differences in both the style and extensiveness of agent reporting. We noted that the questions on the forms are too general and, as such, do not specifically address the disclosure criteria. Unit officials agreed in general with our observations but added that the questions related to specific sections of the Act. Forms, general regulations concerning the Act, and advice, if requested, are provided to the agent. However, no standardized guidance on specifically how and what to report is available to the agent or to the paralegal who must review the forms.

We believe several changes can be made to improve the quality of disclosure in agent reporting, including (1) establishing standard disclosure criteria and enforcing compliance with the criteria, (2) revising the forms to request information that meets the criteria, (3) giving the agents specific guidance on the criteria and how information should be reported, (4) training the paralegals to review the statements, and (5) concentrating the review process on the lawyer-lobbyist group and other more important agents.

#### PUBLIC VIEW OF ADEQUATE DISCLOSURE

One of the Act's goals is to provide the public with adequate disclosure of foreign agent activities and finances. However, no determination has been made as to whether the public views the information as adequate.

We reviewed the files of 17 agents to determine who was using the files and whether their information needs were met by the files. The largest user of the files was the media, as shown below.

<u>Type of file user</u>	<u>Number of requests 1-1-78 to 4-29-80 (note a)</u>	<u>Percent</u>
Media	103	44
Lawyers, generally agents	56	24
Students	23	10
Congress	3	1
Government agencies (GAO)	3 (2)	1
Agents reviewing their own files	4	2
Other	44	19
	<u>236</u>	

a/ Write-in requests for file information not included.

## ENCLOSURE I

While it is recorded who used the file, we found no information on whether or not the files provided satisfactory disclosure information to the public reviewer. A Unit official stated that no formal survey has been made of this question but that sometimes a reviewer will ask Unit personnel followup questions after seeing the files.

We believe the Unit should know the public's evaluation of the service being provided, especially if changes are to be made in the reporting criteria and format.

### TIMELINESS OF AGENT REGISTRATION AND REPORTING

The Act requires that persons file registration forms within 10 days of becoming agents. In 1974, only 5 of the 122 forms we reviewed, or 4 percent, met this requirement. In 1980, we reviewed 79 forms, filed since the date of our 1974 report, and found that 18, or 23 percent, met the requirement. Of the remaining 61 cases, 22 were late by more than 90 days.

The situation was similar under Justice regulations which require agent reporting within 30 days of the end of the 6-month period. In 1974, 87 of the 222 forms we reviewed, or 39 percent, met the deadline. In 1980, only 120 of the 299 forms we reviewed, or 40 percent, met the deadline. The remaining 179 forms were late by an average of 15 days.

### LACK OF INSPECTIONS

The Unit's inspection program has been dormant; agents' books and records had not been inspected for over a year until just the last few weeks. As a result, the Unit lost its primary means of assuring that registered agents were reporting all their activities and finances.

In our 1974 report, we recommended that Justice conduct more inspections. At most, 15 inspections had been made in the 2 years prior to that time. Subsequently, Unit lawyers with some FBI assistance made 93 inspections in 1974. For

the most part, these were one day visits to tourist and information offices. Since then the number of inspections has steadily declined, as shown below.

<u>Year</u>	<u>Number of inspections</u>
1974	93
1975	46
1976	26
1977	34
1978	9
1979	8
1980	a/1

a/As of July 1, 1980.

Unit officials said the reduction in inspections after 1974 resulted from changes in who was being inspected, how they were inspected, and the Unit personnel conducting the inspection. Experience gained from inspections convinced Unit officials that the lawyer-lobbyist agents warranted more attention than the tourist and information offices. Subsequently, inspections were more detailed and lengthy and fewer were made. Unit officials believe the inspection process was improved, since the more important agents were being covered. Then the inspection program changed again in 1978.

In 1974, the inspection teams consisted of Unit lawyers and FBI agents. However, the low priority given the work by the FBI and courtroom demands on the lawyers caused the Unit to assign inspections to the paralegals in 1978. The Unit Investigator began training the paralegals, and 9 inspections, mostly of tourist operations, were made under his supervision. In mid-1978, the program was stopped when the Investigator was temporarily reassigned to another program for 6 months. The program was restarted in 1979 and 8 inspections were made before the Investigator was reassigned and the program was halted again. Since mid-1979 there were no inspections until just a few weeks ago.

Because the paralegals are not fully trained and lack experience inspecting lawyer-lobbyist agents, the Unit Chief requires the Investigator or a Unit lawyer to accompany the paralegals on any inspection of a lawyer-lobbyist. However, with all the lawyers tied up on court cases, the inspections stopped. A temporary solution of having the Deputy Chief accompany the paralegals on some inspections is now being used, with one inspection just completed.

The lack of inspections has also limited the paralegals' ability to improve reporting. Past inspections have been used to show the agent what information the Unit requires and how it should be reported as well as to answer the agents' questions on registration and reporting; thus inspections are viewed as being the best and easiest means for obtaining adequate disclosure.

We believe the Unit should have an inspection capability, using either the paralegals or other staff, for making regular inspections of the lawyer-lobbyist agents and other agents as necessary.

#### ENFORCEMENT OF THE ACT

Justice has increasingly used the Act's civil penalties to cause more foreign agents to register and report their activities. However, such actions have been limited by the availability of Unit lawyers to pursue violations.

In our 1974 report, we noted that the Act was considered a "compliance" rather than a "criminal" act, even though it provides criminal sanctions for willful violations. Further, the Unit attempted prosecution only in clear cases of recalcitrant noncompliance. As a result, the injunctive remedy authority had been used once between 1966 and 1974. Since then, the Department has increased the use of its civil penalties to enforce the Act. According to a Unit official, there were two civil actions, two grand jury actions, and four investigative matters in process. This is just below the average caseload the Unit has handled since 1974.

Although the level of enforcement activities has increased since 1974, Unit officials stated it could be much greater if staff were available. Civil proceedings are a complex and lengthy process and a lawyer often is involved with a case for a year or two. Because of the time required and the limited number of lawyers, the Unit can only prosecute a few cases. According to the Unit Chief, he could immediately double his civil caseload if lawyers were available.

Criminal prosecution has been used sparingly. According to Unit officials, successful prosecution is very difficult since willful intent to violate the Act is hard to prove. While one of the grand jury actions and one investigative matter may result in criminal prosecution, the Unit generally relies on civil remedies to enforce the Act.

Unit officials stated that some changes that could be made to improve enforcement of the Act are (1) providing the Unit with administrative subpoena power for use in cases of suspected nonregistered agents, (2) permitting the Unit to assess administrative fines for minor violations, an enforcement tool stronger than letters and quicker than injunctive actions, and (3) increasing the existing fines to reflect changed economic conditions.

We believe some improvements have been made in enforcing the Act but that more needs to be done. We support the changes that Unit officials say would improve their operations.

ROLE OF EXECUTIVE  
BRANCH AGENCIES

Since the 1966 amendments were adopted to protect the integrity of the Government's decisionmaking process, it is important that the decisionmakers be aware of the Act. Our review indicated that few executive branch officials are aware of it. Unit officials agreed with our observation and said that only at State are many people aware of the Act.

Compounding the problem is the lack of determination as to what type of lobbying is exempt from reporting. The lawyers' exemption under in the Act allows unregistered lobbying in "the course of established agency proceedings." For most agencies, no determinations have been made as to what constitute established agency proceedings for this purpose.

We believe the role of the agencies should be clarified and explained to them if the Act is to be effectively administered. The present vagueness concerning the agencies' role and the agents' reporting responsibilities allows agents to operate with a degree of immunity not intended by the Act. Agency officials should be aware of the Act and liaisons should be improved so that Justice can be apprised as necessary about agent activities.

COORDINATION OF ENFORCEMENT EFFORTS  
WITH DEPARTMENT OF STATE

In contrast to the situation during our 1974 review, coordination between State and Justice could be better.

In response to an inquiry in 1977, State advised the Senate Foreign Relations Committee of discussions between State and Justice to agree on what activities qualified for

exemption from the Act. These discussions emanated from foreign lobbying of U.S. Government officials to lift the arms embargo of an Eastern Mediterranean country. The Unit attempted to have the agents register and requested that State provide the agents' names. State did not respond to the request. Unit officials objected to this tactic and the discussions followed.

The discussions failed to produce an agreement. State officials wanted the broadest possible definition used in determining diplomatic exemptions and exemptions for short-term visits of foreign government officials, including lobbying visits. Unit officials refused to agree to these proposals and the definition of who should register remains unresolved.

Another problem concerned the untimely distribution of information on agent activities. The Unit sends State the copies of all forms filed by agents for review by officials, such as country desk officers, to keep them current on agent activities. State, in turn, sometimes gives the Unit comments on these agents. We found that the forms did not go to the desk officer upon receipt but were held by the Bureau of Intelligence and Research for distribution to the desks two or three times a year. Unit officials were unaware of this situation, which negates Justice's objective to provide timely information. Subsequent to our review, State officials notified us that the agent forms will be distributed weekly.

#### CONCLUSIONS

Fourteen years after enactment, the goals of the 1966 amendments have not been fully met. Marginal improvements have been made, but much more needs to be done. Specifically, Justice needs to have (1) better tools to enforce the Act, (2) more control over exemption claims, (3) specific disclosure criteria prepared for the Unit, agents, and agency personnel as well as guidance on each one's responsibility and role, and (4) an inspection program. Additionally, problems between State and Justice over the administration of the Act need to be resolved.

#### RECOMMENDATIONS

We recommend the Attorney General seek legislative authority to (1) give the Justice Department additional enforcement measures (specifically, administrative subpoena powers, a schedule of civil fines for minor violations, and

increases in existing fines) and (2) require written notification to the Justice Department of all exemption claims prior to any agent activity. He should also:

- Survey the public users of the Unit's files to determine their opinions on whether disclosure information is adequate and whether additional information might be useful.
- Provide specific guidance to agents and agency personnel on their responsibilities under the Act and revise the registration and reporting forms to better reflect the requirements of the Act as well as the results of the user survey.
- Establish a more permanent inspection capability, with scheduled inspections for and emphasis on the more important type of agents.

The Secretary of State should resolve with the Attorney General who qualifies for diplomatic exemption, and, in the future, provide whatever assistance the Attorney General requests to effectively administer the Act.

GAO

United States General Accounting Office

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

July 1990

# FOREIGN AGENT REGISTRATION

## Justice Needs to Improve Program Administration

**RESTRICTED**—Not to be released outside the  
General Accounting Office unless specifically  
approved by the Office of Congressional  
Relations.

**National Security and  
International Affairs Division**

B-240379

July 30, 1990

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

Dear Mr. Chairman:

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

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

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**Results in Brief**

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

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

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

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

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

## Background

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

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

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

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

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

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

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

## Prior GAO Reports

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

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

## Foreign Agents May Not Be Registering

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

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

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

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

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

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

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## Inadequate Disclosure in Reporting

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

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

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

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

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

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

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

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

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

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

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

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## Follow-Up Procedures

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

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

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## Recommendations

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

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

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## Matters for Congressional Consideration

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

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

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

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

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

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

Sincerely yours,



Frank C. Conahan  
Assistant Comptroller General

Caplin & Drysdale,  
Chartered

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Caplin & Drysdale,  
Chartered

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# Scope and Methodology

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

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

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

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

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

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

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

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# Major Contributors to This Report

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

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

Caplin & Drysdale,  
Chartered

Caplin & Drysdale,  
Chartered

March 1992

# FOREIGN AGENT REGISTRATION

## Former Federal Officials Representing Foreign Interests Before the U.S. Government



146318



**RESTRICTED--Not to be released outside the  
General Accounting Office unless specifically  
approved by the Office of Congressional  
Relations.**

RELEASED

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Caplin & Drysdale,  
Chartered

National Security and  
International Affairs Division

B-247268

March 26, 1992

The Honorable Marcy Kaptur  
The Honorable Frank Guarini  
The Honorable Frank Wolf  
The Honorable Howard Wolpe  
House of Representatives

As requested, we have (1) updated our 1986 report<sup>1</sup> by identifying high-level federal officials who, after leaving government service between fiscal years 1986 and 1991, registered as foreign agents and represented foreign interests before the U.S. government and (2) determined the status of Department of Justice actions to correct problems we have previously reported concerning the administration of foreign agent registration.

## Background

The specific statute governing reporting requirements for foreign agents is the Foreign Agents Registration Act (FARA) of 1938, as amended. The act requires foreign agents to disclose to the Justice Department their connections with foreign governments, foreign political parties, and other foreign principals, as well as activities they perform on behalf of such principals in the United States.

Although the act covers a broad range of representational activities, it also includes exemptions to registration, such as for diplomatic, commercial, academic, or legal activities. Foreign agents who use one of these exemptions are not required to notify the Justice Department that they are exempt from the registration requirement.

The Federal Regulation of Lobbying Act of 1946 (2 U.S.C. 261-270) requires any person or organization paid to influence legislation to register with the Secretary of the Senate and the Clerk of the House of Representatives. They are required to report who they are representing, their legislative interests, and the compensation they receive.

In 1980 and 1990 reports on foreign agent registration, we recommended actions the Department of Justice could take to help improve the

<sup>1</sup>Foreign Representation: Former High-Level Federal Officials Representing Foreign Interests (GAO/NSIAD-86-175BR, July 11, 1986).

administration of foreign agent registration.<sup>2</sup> These recommendations included (1) seeking legislative authority to give the Justice Department additional enforcement capability (specifically, administrative subpoena powers, a schedule of civil fines for minor violations, and increases in existing fines) and to require written notification to the Justice Department of all exemption claims; (2) providing additional reporting guidance; (3) surveying public users of foreign agent files to identify their concerns; and (4) establishing a more permanent inspection program with emphasis on certain types of foreign agents.

We further recommended in 1990 that the Justice Department direct its Foreign Agent Registration Unit to (1) develop and enforce compliance with standard reporting criteria and (2) revise its supplemental registration form to reflect FARA and the standard criteria.

In our 1986 report, we identified 2,557 former high-level federal officials who left government service between fiscal years 1980 and 1985. We identified 76 (or 3 percent) who then represented public or private interests on behalf of 52 countries before the U.S. government. These officials included 6 Senators, 9 Members of the House of Representatives, 17 congressional staff, 18 White House officials, and 26 executive agency officials.

## Results in Brief

We identified 82 former high-level federal officials, including Members of Congress, White House officials, congressional staff, and executive agency officials, who left the U.S. government between fiscal years 1986 and 1991 and subsequently represented foreign interests before the U.S. government. We did not determine whether these officials' representational activities for foreign interests before the U.S. government violated any conflict-of-interest laws.<sup>3</sup>

The Justice Department has taken actions to address our previous recommendations, specifically those concerning (1) seeking legislative authority for additional measures to enforce compliance with foreign

<sup>2</sup>Besides our 1986 report, we have discussed problems with administering foreign agent registration in three other reports: *Effectiveness of the Foreign Agents Registration Act of 1938, as Amended, and Its Administration by the Department of Justice* (GAO/B-177551, Mar. 13, 1974); *Improvements Needed in the Administration of Foreign Agent Registration* (GAO/ID-80-51, July 31, 1980); and *Foreign Agent Registration: Justice Needs to Improve Program Administration* (GAO/NSIAD-90-250, July 30, 1990).

<sup>3</sup>Postemployment conflict-of-interest law (18 U.S.C. 207) restricts former high-level federal officials from representing foreign and other interests before executive agencies of the federal government. There are also other general restrictions, which vary in duration from 1 year to a lifetime, depending on the officials' former position and/or their relationship to the issues in question.

agent registration, (2) improving reporting guidance to agents, (3) conducting a survey of user concerns, and (4) inspecting the activities of certain types of agents. However, the Department has not fully implemented some recommendations.

## Former Federal Officials Representing Foreign Interests

We identified a total of 5,650 former high-level federal officials who left government service during fiscal years 1986-1991. Our analysis of the information we collected showed that 82 (or 1.5 percent) of these officials registered as foreign agents and have represented foreign interests before the U.S. government after leaving their government service. The officials included 2 Senators, 1 Member of the House of Representatives, 7 White House officials, 33 senior congressional staff, and 39 executive agency officials. These officials represented public or private interests from 43 countries.

## Status of Department of Justice Actions on Previous GAO Recommendations

The Justice Department has taken actions to address recommendations in our 1980 and 1990 foreign agent registration reports. In the following sections we discuss the Justice Department's response to our recommendations.

## Additional Legislative Authority for Enforcement and Exemptions

On June 3, 1991, the Department of Justice submitted a draft bill to the Speaker of the House of Representatives that would give the Attorney General the legislative authority to issue civil investigative demands and to impose civil fines for delinquent registration filings. However, according to the Chief of the Foreign Agent Registration Unit, the draft bill did not include the authority to increase existing fines because a current bill, H.R. 3597, which the Department supports, addresses this requirement.

In July 1991 testimony, the Department of Justice's Deputy Assistant Attorney General for the Criminal Division stated that the Department supports requiring individuals who use either the legal or commercial exemptions to notify the Attorney General. However, the Department does not support requiring notification by individuals who use exemptions for (1) diplomatic-related activities, because such registration would be burdensome since these individuals are already on record with the Department of State; (2) academic, religious, scholastic, or scientific activities, because Justice believes the number of individuals using this exemption has been minimal; and (3) countries whose defense has been

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deemed vital to the interests of the United States, because this exemption has not been used since September 30, 1946. The Department supports the repeal of the latter exemption due to its nonuse.

The Department believes that this approach will achieve greater compliance with registration and be more cost-effective than our recommendation. However, Justice has not produced any evidence to support its position. Without some evidence, there is no way of knowing how often these exemptions are used, or whether the State Department provides adequate coverage of the diplomatic exemption. In the absence of any evidence, we continue to believe that the Department should require individuals who use the diplomatic, academic, or national security-related exemptions to notify the Attorney General prior to any agent activity.

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## Reporting Guidance

According to the Chief of the Registration Unit, in October 1991 the Department of Justice started preliminary talks on developing additional reporting guidance to describe FARA's requirements. The new guidance will also address the questions most frequently asked by prospective foreign agents.

The Registration Unit is developing guidance on what should be reported under the act, according to the Unit Chief. He also said that the Registration Unit would continue to review individual responses to determine whether people were complying with FARA. According to the Chief of the Registration Unit, the Department of Justice is currently revising the questions in the supplemental registration form to reflect FARA's requirements. The Chief expects the revision of the supplemental registration form to be completed by February 1992. The Department needs to complete the development of the additional guidance and revisions to the supplemental registration form to fully implement our recommendation.

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## User Surveys

According to the Chief of the Registration Unit, since 1982 his staff has been conducting ongoing, informal surveys with reporters and other users of registration information. The goal of these surveys is to identify user concerns about the adequacy of information that has to be reported and to determine whether additional information might be useful. The Chief stated that the main user concern identified from the survey is the need to

gain faster access to information. The Department's informal surveys implement our recommendation.

## Inspection Capability

In 1980-1991 the Department of Justice focused its inspection activities primarily on lawyers and lobbyists registered as foreign agents. During 1991 the Registration Unit conducted about 23 such inspections, according to the Unit Chief. Also, since 1981 the Unit Chief said the Department has averaged about 14 inspections a year. The Department's inspection activities implement our recommendation.

## Scope and Methodology

To identify former high-level federal officials who registered as foreign agents and who represented foreign interests before the U.S. government after leaving government service between fiscal years 1986-1991, we obtained the names and birth dates of 5,650 high-level federal officials who left government service during fiscal years 1986-1991. We obtained this information from the Office of Personnel Management's Central Personnel Data File, the White House Office of Personnel, the Office of the Secretary of the Senate, and congressional directories for the 99th-102nd Congress. We then matched the names and birth dates with individuals registered under the Foreign Agents Registration Act of 1938, as amended, and the Federal Regulation of Lobbying Act of 1946.

Because of restrictions on the release of personnel data, the Office of the Clerk of the House of Representatives matched its names and birth dates with those individuals registered under FARA and the Lobbying Act. We did not evaluate the reliability of the data we collected.

Our 1986 report recognized that the accuracy and completeness of the personnel and foreign agents registration data bases were less than desired. It identified errors and limitations in the data. Therefore, because of the shortcomings in the data bases, it is highly likely that we did not identify all former high-level federal officials who are representing foreign interests before the U.S. government.

We identified 82 former high-level federal officials who registered as foreign agents and who represented foreign interests before the U.S. government after leaving government service between fiscal years 1986-1991. We then sent a letter to each official to verify the information on his or her former government employment and subsequent foreign interest representation. We were unable to locate four individuals, and one

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other did not respond despite repeated telephone calls. The scope of the federal government reviewed was the executive and legislative branches and did not include the judiciary branch. We defined former high-level federal officials in the executive branch as senior executive service or executive schedule employees; in the legislative branch, we defined such officials as former Members of Congress or congressional officials at a salary equivalent to GS-16 or above. However, the Senate personnel data included individuals at the salary equivalent to GS-15 or above.

To determine the status of Department of Justice actions to correct problems we previously reported, we reviewed and analyzed Justice's testimony, draft legislation, and written responses to congressional inquiries on this issue. We also discussed this issue with Justice Department officials.

We performed our review from February through December 1991 in accordance with generally accepted government auditing standards.

Appendix I contains a list of the 82 former high-level federal officials and pertinent information about their foreign agent representation.

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

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As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies to the Attorney General and appropriate congressional committees. We will also make copies available to others upon request.

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This report was prepared under the direction of Allan I. Mendelowitz, Director, International Trade, Energy, and Finance Issues, who may be reached at (202) 275-4812 if you or your staff have any questions. Other major contributors are listed in appendix II.

*Frank C. Conahan*

Frank C. Conahan  
Assistant Comptroller General

Caplin & Drysdale,  
Chartered

# Former High-level Federal Officials Who Represented Foreign Interests Before the U.S. Government Between Fiscal Years 1986 and 1991

Andrews, Mark

**Former Job Title:** Senator**Salary/Grade:** N/A**Federal Entity:** Senate**Date Left Position:** 1986

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Andrews' Associates, Inc.	Consulting	Ramzi Dalloul	United Kingdom	2/02/89	12/18/89	FARA
		Aiwa Inc.	Japan	4/27/87	7/01/87	Lobbying act
		Akai Ltd.	Japan	4/27/87	7/01/87	Lobbying act
		Fuji Photo Film	Japan	4/27/87	7/01/87	Lobbying act
		Hitachi Sales Corp.	Japan	4/27/87	7/01/87	Lobbying act
		Matsushita Electric	Japan	4/27/87	7/01/87	Lobbying act
		Mitsubishi Electric	Japan	4/27/87	7/01/87	Lobbying act
		Nakamichi Corp.	Japan	4/27/87	7/01/87	Lobbying act
		NEC Electronics	Japan	4/27/87	7/01/87	Lobbying act
		Onkyo Corp.	Japan	4/27/87	7/01/87	Lobbying act
		Sansui Electronics	Japan	4/27/87	7/01/87	Lobbying act
		Sanyo Electronics	Japan	4/27/87	7/01/87	Lobbying act
		Sony Corp.	Japan	4/27/87	7/01/87	Lobbying act
		Toshiba	Japan	4/27/87	7/01/87	Lobbying act
		TDK Corp.	Japan	4/27/87	7/01/87	Lobbying act
		Teac Corp.	Japan	4/27/87	7/01/87	Lobbying act
		JVC Corp.	Japan	4/27/87	7/01/87	Lobbying act
		Yamaha Electronics	Japan	4/27/87	7/01/87	Lobbying act

**Appendix I  
Former High-level Federal Officials Who  
Represented Foreign Interests Before the  
U.S. Government Between Fiscal Years 1986  
and 1991**

**Ayer, Donald B.**

**Former Job Title: Dep. Atty. Gen.  
Salary/Grade: Executive Level-II  
Federal Entity: Justice  
Date Left Position: 5/25/90**

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Jones, Day, Reavis & Pogue	Legal	Embassy- P.R. China	China	8/24/89	9/28/89	FARA
		Embassy of France	France	6/22/89	11/01/89	FARA
		English City Councils	United Kingdom	6/22/89	11/01/89	FARA
		Heron Int'l N.V.	United Kingdom	6/22/89	11/01/89	FARA
		Morgan Grenfell & Co.	United Kingdom	6/22/89	11/01/89	FARA
		Preussag A.G.	Germany	6/22/89	11/01/89	FARA

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Former High-level Federal Officials Who  
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**Balk-Tusa, Jacqueline**

**Former Job Title: Chief of Staff, Sen. Mark Andrews  
Salary/Grade: N/A  
Federal Entity: Senate  
Date Left Position: 1/04/87**

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Andrews' Associates, Inc.	Consulting	Ramzi Dalloul	United Kingdom	2/02/89	12/18/89	FARA
		Fiart Cantieri Italiani	Italy	6/02/89	12/18/89	FARA
		Royal Trustco Ltd.	Canada	6/14/89	7/30/89	FARA
		Aiwa Inc.	Japan	4/27/87	7/01/87	Lobbying act
		Akai Ltd.	Japan	4/27/87	7/01/87	Lobbying act
		Fuji Photo Film	Japan	4/27/87	7/01/87	Lobbying act
		Hitachi Sales Corp.	Japan	4/27/87	7/01/87	Lobbying act
		Matsushita Electric	Japan	4/27/87	7/01/87	Lobbying act
		Mitsubishi Electric	Japan	4/27/87	7/01/87	Lobbying act
		Nakamichi Corp.	Japan	4/27/87	7/01/87	Lobbying act
		NEC Electronics	Japan	4/27/87	7/01/87	Lobbying act
		Onkyo Corp.	Japan	4/27/87	7/01/87	Lobbying act
		Sansui Electronics	Japan	4/27/87	7/01/87	Lobbying act
		Sanyo Electronics	Japan	4/27/87	7/01/87	Lobbying act
		Sony Corp.	Japan	4/27/87	7/01/87	Lobbying act
		Toshiba Corp.	Japan	4/27/87	7/01/87	Lobbying act
		TDK Corp.	Japan	4/27/87	7/01/87	Lobbying act
		Teac Corp.	Japan	4/27/87	7/01/87	Lobbying act
		JVC Corp.	Japan	4/27/87	7/01/87	Lobbying act
		Yamaha Electronics	Japan	4/27/87	7/01/87	Lobbying act

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Represented Foreign Interests Before the  
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and 1991**

**Bergner, Jeffrey**

**Former Job Title:** Staff Dir., Sen. Foreign Relations Comm.  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 1/86

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Bergner, Boyette & Bockorny Inc.	Consulting	Gov't of Saudi Arabia	Saudi Arabia	3/20/86	9/20/86	FARA
		Ext. Trade Dev. Council	Taiwan	5/21/86	Present	FARA
		Gov't of S. Korea	S. Korea	9/16/86	9/30/88	FARA
		Woolsey Corp.	Panama	7/13/88	1/13/89	FARA
		Avianca Airlines	Colombia	2/15/88	Present	FARA
		Gov't of Bermuda	Bermuda	1/06/87	3/06/87	FARA
		Friends in Freedom	Germany	6/10/88	Present	FARA

**Bockorny, David**

**Former Job Title:** Special Asst. to Pres. for Legislative Affs.  
**Salary/Grade:** N/A  
**Federal Entity:** White House  
**Date Left Position:** 1/02/88

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Bergner, Boyette & Bockorny Inc.	Consulting	Gov't of S. Korea	S. Korea	1/26/88	Present	FARA

**Appendix I  
Former High-level Federal Officials Who  
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and 1991**

**Bonker, Don L.<sup>c</sup>**

**Former Job Title: Congressman  
Salary/Grade: N/A  
Federal Entity: House  
Date Left Position: 1/31/89**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
APCO Associates	Consulting	Hyundai Motors	S. Korea	2/16/90	Present	FARA
		Komatsu Ltd.	Japan	2/16/90	Present	FARA

**Brock, William E.**

**Former Job Title: Sec. of Labor  
Salary/Grade: Executive Level-I  
Federal Entity: Labor  
Date Left Position: 10/31/87**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
The Brock Group	Consulting	Board of Foreign Trade	Taiwan	1/19/90	Present	FARA
		Ministry of Commerce	Mexico	3/91	Present	FARA
		Panama Trade & Dev.	Panama	4/30/91	Present	FARA
		Bacardi & Co., Ltd.	Bahamas	4/30/91	Present	FARA
		Airbus Ind.	Consortium of France, Germany, Italy, & Spain	1/19/90	12/31/90	FARA

**Burton, Larry**

**Former Job Title: Assoc. Dir. for Legis. Affs.  
Salary/Grade: ES-03  
Federal Entity: OMB  
Date Left Position: 5/01/87**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
BP America, Inc.	Lobbying	BP Inc.	United Kingdom	1/10/89	Present	Lobbying act

**Appendix I  
Former High-level Federal Officials Who  
Represented Foreign Interests Before the  
U.S. Government Between Fiscal Years 1986  
and 1991**

**Campbell, Scott L.**

**Former Job Title:** Dir. of Policy, Planning, Analysis  
**Salary/Grade:** ES-04  
**Federal Entity:** Energy  
**Date Left Position:** 5/27/88

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Washington Policy Analysis	Legal	Carlos Andres Perez	Venezuela	1/27/89	6/29/89	FARA
		Tohuko Elec. Power	Japan	6/29/89	6/01/90	FARA
		Statoil Inc.	Norway	9/22/89	12/31/90	FARA
		Tokyo Elec. Power	Japan	5/25/90	12/31/90	FARA

**Cannon, William**

**Former Job Title:** Dep. Asst. Atty. Gen., Antitrust Div.  
**Salary/Grade:** ES-05  
**Federal Entity:** Justice  
**Date Left Position:** 12/02/86

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Wunder, Diefenderfer, Ryan, Cannon & Thelen	Legal	Industrial Equity Pacific Ltd.	New Zealand	2/06/90	10/29/90	FARA

**Carley, John H.**

**Former Job Title:** Gen. Counsel  
**Salary/Grade:** ES-06  
**Federal Entity:** OMB  
**Date Left Position:** 9/12/87

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Donovan, Leisure Newton & Irvine	Legal	Usinor- Sacilor	France	6/20/88	7/11/90	FARA

**Appendix I  
Former High-level Federal Officials Who  
Represented Foreign Interests Before the  
U.S. Government Between Fiscal Years 1986  
and 1991**

**Castillo, A. Mario<sup>a</sup>**

**Former job title: Chief of Staff, House Agric. Comm.  
Salary/grade: N/A  
Federal Entity: House  
Date left position: 6/30/88**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Arter & Hadden	Consulting	Central Union Agric. Coop.	Japan	9/06/88	2/28/90	FARA

**Chapoton, O. Donaldson**

**Former Job Title: Asst. Sec. for Tax Policy  
Salary/Grade: Executive Level-IV  
Federal Entity: Treasury  
Date Left Position: 1/31/89**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Baker & Botts	Lobbying	Rhone-Poulenc, Inc.	France	6/09/89	10/10/90	Lobbying act

**Cooksey, Paul H.**

**Former Job Title: Dep. Asst. Sec. for Admin.  
Salary/Grade: ES-04  
Federal Entity: Treasury  
Date Left Position: 10/03/86**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Robinson, Lake, Lerer & Montgomery	Lobbying	Japan auto parts	Japan	6/12/87	4/04/88	FARA
		Mitsubishi Electric	Japan	12/86	4/04/88	FARA
		Japan Tobacco Inc.	Japan	12/86	4/04/88	FARA

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**Craig, Gregory B.**

**Former Job Title:** Senior Adviser on Foreign Policy & Defense,  
Sen. Kennedy  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 12/31/88

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Williams & Connolly	Legal	Gov't of Panama	Panama	1/19/90	Present	FARA
		Gov't of Argentina	Argentina	12/31/89	12/31/90	FARA
		Gov't of Bolivia	Bolivia	2/08/90	Present	FARA

**Davis, Randall E.**

**Former Job Title:** Assoc. Dir., Natural Resources, Energy, & Science  
**Salary/Grade:** ES-06  
**Federal Entity:** OMB  
**Date Left Position:** 3/01/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Jones, Day, Reavis & Pogue	Legal	Embassy- P.R. China	China	4/14/87	Present	FARA
		Morgan Grenfell & Co.	United Kingdom	4/14/87	Present	FARA
		Preussag A.G.	Germany	1/31/89	3/20/90	FARA

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**Dennin, Joseph F.**

**Former Job Title:** Asst. Sec. for Int'l. Econ. Pol.  
**Salary/Grade:** Executive Level-IV  
**Federal Entity:** Commerce  
**Date Left Position:** 8/02/86

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
McKenna & Cuneo	Legal	Nat'l Fed. of Industries	Taiwan	7/13/87	1/01/89	FARA

**Diefenderfer, William M. III**

**Former Job Title:** Chief of Staff, Sen. Finance Comm.  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 10/86

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Ad Hoc Bermuda Insurance	Legal	Ad Hoc Bermuda Insurance	Bermuda	8/11/88	1/01/89	FARA

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**Dilley, Patricia**

**Former Job Title:** Staff Dir., House Subcomm. on Soc. Security  
**Salary/Grade:** N/A  
**Federal Entity:** House  
**Date Left Position:** 10/26/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Arnold & Porter	Legal	State of Israel	Israel	2/23/88	7/25/89	FARA

**Eisenhower, Judith C.**

**Former Job Title:** Admin. Asst., Sen. Goldwater  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 1/05/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Eisenhower Group, Inc.	Consulting	Board of Foreign Trade	Taiwan	6/29/87	7/18/88	FARA

**Emerson, J. Terry**

**Former Job Title:** Legis. Asst., Sen. Goldwater  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 1/02/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Ext. Trade Dev. Council	Consulting	Ext. Trade Dev. Council	Taiwan	5/15/87	Present	Lobbying act

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**Fielek, Henrietta**

**Former Job Title: Admin. Asst., Sen. Packwood  
Salary/Grade: N/A  
Federal Entity: Senate  
Date Left Position: 8/87**

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>	
Heron, Burchette, Ruckert & Rothwell	Legal	Asocofores	Colombia	7/27/88	2/90	FARA	
		Asia Satellite Telecommunica- tions (HK) Ltd.	China	7/27/88	2/90	FARA	
		CBI Sugar Group, Inc.	Panama	7/27/88	2/90	FARA	
		Agora Centro de Estudios Int'l.	Argentina	7/27/88	2/90	FARA	
		Canada Cement Lafarge	Canada	7/27/88	2/90	FARA	
		Consulting	Daiwa Securities Co. Ltd.	Japan	7/27/88	2/90	FARA
		Legal	Inland Cement Ltd.	Canada	7/27/88	2/90	FARA
			Int'l. Maritime Satellite Organization	United Kingdom	7/27/88	2/90	FARA
			NovAtel Communications Ltd.	Canada	7/27/88	2/90	FARA
			St. Lawrence Cement Inc.	Canada	7/27/88	2/90	FARA
			St. Marys Cement Ltd.	Canada	7/27/88	2/90	FARA
			Thai Steel Pipe Assoc.	Thailand	7/27/88	2/90	FARA
			Yamaichi Securities Co. Ltd.	Japan	7/27/88	2/90	FARA
		Consulting	Agro-Quimicas de Guatemala S.A.	Guatemala	7/27/88	2/27/90	FARA

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**Flory, David**

**Former Job Title:** Admin. Asst., Sen. Kasten  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 09/89

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Murphy & Demory, Ltd.	Consulting	Cable & Wireless	United Kingdom	4/10/91	Present	Lobbying act

**Fox, Edward**

**Former Job Title:** Asst. Sec. for Legis. Affs.  
**Salary/Grade:** Executive Level-IV  
**Federal Entity:** State  
**Date Left Position:** 3/89

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo	Consulting	Communications Industry Assoc.	Japan	9/5/89	Present	FARA

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**Frierson, James W.**

**Former Job Title: Chief of Staff  
Salary/Grade: ES-06  
Federal Entity: USTR  
Date Left Position: 2/11/89**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
The Brock Group	Consulting	Board of Foreign Trade	Taiwan	1/19/90	Present	FARA
		Min. of Commerce	Mexico	3/01/91	Present	FARA
		Trade & Dev. Comm.	Panama	4/30/91	Present	FARA
		Bacardi & Co.	Bahamas	4/30/91	Present	FARA
		Airbus Ind.	Consortium of France, Germany, Italy, & Spain	1/19/90	12/31/90	FARA

**Frisch, Daniel J.**

**Former Job Title: Economist  
Salary/Grade: ES-01  
Federal Entity: Treasury  
Date Left Position: 1/02/89**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Ropes & Gray	Consulting	Ind. Devel. Auth.	Ireland	5/22/90	5/31/91	FARA

**Fuller, Lee**

**Former Job Title: Staff Dir., Senate Comm. on Envir. Pub. Works  
Salary/Grade: N/A  
Federal Entity: Senate  
Date Left Position: 1/87**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Charls E. Walker Assoc.	Consulting	Ministry of Commerce & Ind. Dev.	Mexico	12/12/90	Present	FARA

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**Gitenstein, Mark H.**

**Former Job Title:** Chief Counsel, Senate Judiciary Comm.  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 4/04/8

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Mayer, Brown & Platt	Legal	Nestle, S.A.	Switzerland	9/18/89	4/09/91	FARA
		Bank of Foreign Econ. Affs.	Soviet Union	1/31/91	Present	FARA

**Glavas, Pete**

**Former Job Title:** Chief of Staff, Sen. Boren  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 3/31/88

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Gold & Liebengood	Lobbying	Thomson- CSF, Inc.	France	2/26/91	Present	FARA
		BAA PLC	United Kingdom	2/26/91	Present	FARA
		Fiat Washington	Italy	2/26/91	Present	FARA
		Beretta U.S.A.	Italy	2/26/91	Present	FARA
		Gov't of Mexico	Mexico	2/26/91	Present	FARA

**Goldfield, H. P.**

**Former Job Title:** Asst. Sec. for Trade Dev.  
**Salary/Grade:** Executive Level-IV  
**Federal Entity:** Commerce  
**Date Left Position:** 5/31/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Swidler & Berlin Chartered	Legal	Hyundai Motors	S. Korea	1/07/88	Present	FARA

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**Greenberg, Mark**

**Former Job Title:** Admin. Asst., Sen. Prible  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 5/88

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Tucker & Associates	Consulting	Gov't of S. Korea	S. Korea	9/27/89	10/19/89	FARA

**Grossman, Steven A.**

**Former Job Title:** Dep. Asst. Sec. for Health, Planning, & Evaluation  
**Salary/Grade:** ES-05  
**Federal Entity:** HHS  
**Date Left Position:** 4/01/89

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Hill & Knowlton, Inc.	Consulting	Nintendo Corp.	Japan	5/25/89	Present	FARA
		Asiasat Satellite	Hong Kong	7/89	7/89	FARA

**Hall, Douglas**

**Former Job Title:** Admin. Asst., Sen. Sasser  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 5/15/89

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
The Communications Co.	Consulting	New Demo. Party	Greece	6/20/90	7/20/90	FARA

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**Hamberger, Edward R.**

**Former Job Title:** Asst. Sec. for Gvt'l. Affs.  
**Salary/Grade:** Executive Level-IV  
**Federal Entity:** DOT  
**Date Left Position:** 2/21/89

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Baker, Worthington, Crossley, Stansberry & Woolf	Legal	Aviation Ventures Intl. MCA, Inc.	Japan	1/03/91	Present	FARA
		Lordum Int'l B.V.	Netherlands	1/03/91	Present	FARA

**Hanbury, Marshall E.**

**Former Job Title:** Attorney  
**Salary/Grade:** ES-06  
**Federal Entity:** CFTC  
**Date Left Position:** 3/05/89

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Mayer, Brown & Platt	Legal	London Metal Ex.	United Kingdom	7/12/89	Present	FARA

**Hickmott, Robert W.**

**Former Job Title:** Dep. Chief of Staff, Sen. Wirth  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 3/89

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Skadden, Arps, Slate, Meagher, Flom	Legal	Hoylake Invest.	United Kingdom	9/07/89	5/15/90	FARA

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**Holmes, Sven E.**

**Former Job Title:** Staff Dir., Senate Select Comm. on Intell.  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 1/31/89

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Williams & Connolly	Legal	Gov't of Panama	Panama	1/19/90	Present	FARA
		Gov't of Argentina	Argentina	12/31/89	12/31/90	FARA
		Gov't of Bolivia	Bolivia	2/08/90	Present	FARA

**Horowitz, Michael J.**

**Former Job Title:** Attorney  
**Salary/Grade:** ES-06  
**Federal Entity:** OMB  
**Date Left Position:** 11/19/85

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Dickstein, Shapiro	Legal	Kuwait Airways	Kuwait	5/22/86	Present	FARA

**Houston, William H. III**

**Former Job Title:** Economist  
**Salary/Grade:** ES-06  
**Federal Entity:** USTR  
**Date Left Position:** 9/30/88

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
World Trade Link	Consulting	Camara Nacional	Mexico	1/17/90	Present	FARA

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**Johnson, Mark R.**

**Former Job Title:** Press Sec., Speaker of the House  
**Salary/Grade:** N/A  
**Federal Entity:** House  
**Date Left Position:** 7/21/89

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
The Sawyer/Miller Group	Consulting	Gov't of Colombia	Colombia	11/89	Present	FARA
		NEC Corporation	Japan	1/24/91	Present	FARA

**Johnson, Michael S.**

**Former Job Title:** Chief of Staff, Office of the Republican Leader  
**Salary/Grade:** N/A  
**Federal Entity:** House  
**Date Left Position:** 2/15/90

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
McCamish, Martin, Loeffler	Consulting	Hong Kong Trade Dev.	China	5/03/90	Present	FARA

**Jones, Erika Z.**

**Former Job Title:** Attorney  
**Salary/Grade:** ES-04  
**Federal Entity:** DOT  
**Date Left Position:** 4/29/89

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Mayer, Brown & Platt	Legal	Nestle, S.A.	Switzerland	9/18/89	4/09/91	FARA

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**Kies, Kenneth**

**Former Job Title:** Chief Minority Tax Counsel, House Ways & Means Comm.  
**Salary/Grade:** N/A  
**Federal Entity:** House  
**Date Left Position:** 1/18/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Baker & Hostetler	Legal	Alexander/ Alexander	United Kingdom	6/04/90	9/19/90	FARA
		C.T. Bowring & Co.	United Kingdom	6/04/90	9/19/90	FARA
		Sedgwick Group PLC	United Kingdom	6/04/90	9/19/90	FARA
		Frank B. Hall U.K.	United Kingdom	6/04/90	9/19/90	FARA
		Cominco, Ltd.	United Kingdom	6/04/90	9/19/90	FARA

**Kopp, George S.**

**Former Job Title:** Chief Counsel, House Subcomm. on Natural Resources  
**Salary/Grade:** N/A  
**Federal Entity:** House  
**Date Left Position:** 5/31/88

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Global USA Inc.	Consulting	All Nippon Airways	Japan	6/14/88	Present	FARA
		Fanuc Ltd.	Japan	6/14/88	Present	FARA
		Hitachi Ltd.	Japan	6/14/88	Present	FARA
		Hyundai Motor Amer.	S. Korea	6/14/88	Present	FARA
		Federation Const.	Japan	6/14/88	Present	FARA
		Komatsu Corp.	Japan	6/14/88	Present	FARA
		Kyocera Corp.	Japan	6/14/88	Present	FARA
		Mazak Corp.	Japan	6/14/88	Present	FARA
		Murata Machinery	Japan	1/22/90	Present	FARA

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**Ladd, Richard**

**Former Job Title:** Dep. UnderSec. Army  
**Salary/Grade:** ES-01  
**Federal Entity:** Army  
**Date Left Position:** 11/13/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Robison International	Consulting	Royal Ordinance	United Kingdom	11/15/87	Present	FARA

**Laxalt, Paul**

**Former Job Title:** Senator  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 1/02/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Paul Laxalt Group	Consulting	Operaciones Turisticas	Honduras	1/24/90	Present	FARA

**Locke, W. Timothy**

**Former Job Title:** Asst. Dir., Office External Affs.  
**Salary/Grade:** ES-01  
**Federal Entity:** Interior  
**Date Left Position:** 4/22/89

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Hecht, Spencer & Assoc.	Consulting	Hong Kong Trade Dev.	China	6/15/89	4/20/91	FARA

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**Ludden, Kenneth M.**

**Former Job Title:** Prof. Staff, Sen. Foreign Relations Comm.  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 6/02/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Bannerman & Associates	Consulting	Gov't of Philippines	Philippines	6/01/90	Present	FARA
		Gov't of Tunisia	Tunisia	6/01/90	Present	FARA
		Gov't of Egypt	Egypt	6/01/90	Present	FARA
		Gov't of U.A.E.	U.A.E.	8/01/91	Present	FARA
		Gov't of Bangladesh	Bangladesh	6/01/90	2/28/91	Lobbying act

**Martin, William F.**

**Former Job Title:** Deputy Sec.  
**Salary/Grade:** Executive Level-II  
**Federal Entity:** Energy  
**Date Left Position:** 5/20/88

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Washington Policy Analysis	Consulting	Tokyo Elec. Power	Japan	5/25/90	12/31/90	FARA
		Carlos Andres Perez	Venezuela	1/27/89	6/29/89	FARA
		Statoil Inc.	Norway	9/22/89	12/31/90	FARA
		Tohoku Elec. Power	Japan	6/29/89	6/01/90	FARA

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**Martyak, Joseph J.**

**Former Job Title: Principal Deputy Undersec.  
Salary/Grade: ES-06  
Federal Entity: Interior  
Date Left Position: 5/22/87**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Rhone- Poulenc, Inc.	Consulting	Rhone-Poulenc, S.A.	France	11/21/88	Present	FARA

**Maseng, Mari**

**Former Job Title: Dir. of Commun.  
Salary/Grade: Executive Level-III  
Federal Entity: White House  
Date Left Position: 1/22/89**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Maseng Communications	Consulting	Hong Kong Econ. & Trade Affs.	Hong Kong	5/14/90	6/28/91	FARA
		Colebrand Ltd.	United Kingdom	10/20/89	06/06/90	FARA

**Meagher, John K.**

**Former Job Title: Asst. Sec. for Legis. Affs.  
Salary/Grade: Executive Level-IV  
Federal Entity: Treasury  
Date Left Position: 4/26/89**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Leboeuf, Lamb, Leiby, Macrae	Consulting	Lloyds of London	United Kingdom	7/17/90	Present	FARA
		London Insurance	United Kingdom	6/05/91	Present	FARA

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**Mentz, J. Roger**

**Former Job Title: Asst. Sec. for Legis. Affs.  
Salary/Grade: Executive Level-IV  
Federal Entity: Treasury  
Date Left Position: 8/01/87**

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Cadwalader, Wickersham, Taft	Legal	Mercedes- Benz N.A.	Germany	1987	Present	FARA

**Morgan, Lance**

**Former Job Title: Press Officer, Senate Select Comm. on Iran-Contra  
Hearings  
Salary/Grade: N/A  
Federal Entity: Senate  
Date Left Position: 11/87**

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Robinson, Lake, Lerer & Montgomery.	Consulting	Japan Auto Parts	Japan	2/21/89	Present	FARA
		Komatsu Elec. Metals	Japan	2/21/89	6/30/89	FARA
		Friends of Democracy Islami J. Ittehad	Pakistan	8/01/89	7/31/90	FARA
		Hoylake Investment Ltd.	Bermuda	8/01/89	10/04/89	FARA

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**Mosher, Sol**

**Former Job Title: Asst. Trade Rep.  
Salary/Grade: ES-06  
Federal Entity: USTR  
Date Left Position: 7/03/89**

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Preston, Thorgrimson, Shidler, Gates & Ellis	Consulting	Gov't of Canada	Canada	3/25/91	5/31/91	FARA

**Paulson, Kristin E.**

**Former Job Title: Dep. Asst. Sec. for Cong. Affs.  
Salary/Grade: ES-01  
Federal Entity: Commerce  
Date Left Position: 3/31/89**

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Anderson, Hibbey, Nauheim & Blair	Consulting	Commun. Ind. Assoc.	Japan	10/24/89	7/26/91	FARA
		Elec. Indust. Assoc.	Japan	10/24/89	7/26/91	FARA
		Mach. Tool Bldrs. Assoc.	Japan	10/24/89	7/26/91	FARA
		Forming Machinery Assoc.	Japan	10/24/89	7/26/91	FARA
		Machine Exporters Assoc.	Japan	10/24/89	7/26/91	FARA
		Sugar Sales, Ltd.	Japan	10/24/89	4/03/91	FARA
		NHK Broadcasting	Japan	10/24/89	7/26/91	FARA

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and 1991**

**Phillips, William**

**Former Job Title:** Admin. Asst., Sen. Stevens  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 12/86

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Hamel & Park	Legal	Korean Air Lines	S. Korea	3/26/87	Present	FARA

**Piper W. Stephen<sup>a</sup>**

**Former Job Title:** Economist  
**Salary/Grade:** Executive Level-V  
**Federal Entity:** USTR  
**Date Left Position:** 1/31/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Charles L. Fishman, Inc.	Consulting	Nissan Motor Co.	Japan	3/14/88	Present	FARA
		Bearing Indust. Assoc.	Japan	3/14/88	Present	FARA

**Price, Courtney M.**

**Former Job Title:** Attorney  
**Salary/Grade:** Executive Level-IV  
**Federal Entity:** EPA  
**Date Left Position:** 2/28/86

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Rivkin, Radler, Dunne & Bayh	Legal	John I. Haas Co., Inc.	Germany	9/25/86	11/30/89	FARA
		Verband der Hopfenkaufleute und Hopfenveredler e.v.	Germany	9/25/86	11/30/89	FARA

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**Pruitt, Steven L.**

**Former Job Title:** Exec. Dir., House Comm. on Budget  
**Salary/Grade:** N/A  
**Federal Entity:** House  
**Date Left Position:** 9/30/88

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Heron, Burchette, Ruckert & Rothwell	Consulting	Agro-Quimicas	Guatemala	9/21/88	11/30/89	FARA

**Pugliaresi, Lucian S.**

**Former Job Title:** Dir. of Int'l. Econ. Affs., Nat'l Sec. Council  
**Salary/Grade:** ES-04  
**Federal Entity:** White House  
**Date Left Position:** 1/88

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Polar Gas	Consulting	Richard Hoos	Canada	1/11/90	Present	FARA
		John Beddome	Canada	1/11/90	Present	FARA

**Ridley, Timothy M.**

**Former Job Title:** Admin. Asst., Sen. Lautenberg  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 12/86

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
The Communications Co.	Consulting	New Democracy Party	Greece	6/20/90	Present	FARA

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**Robertson, Mark J.**

**Former Job Title:** Minority Staff Dir., House Comm. on D.C.  
**Salary/Grade:** N/A  
**Federal Entity:** House  
**Date Left Position:** 12/31/90

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Gold & Liebengood	Lobbying	Thompson-CSF	France	1/10/91	Present	FARA
		Beretta Corp.	Italy	1/10/91	Present	FARA
		BAA PLC	United Kingdom	1/10/91	Present	FARA
		Gov't of Mexico	Mexico	3/91	Present	FARA
		Fiat Inc.	Italy	1/10/91	Present	FARA

**Rogers, Edward**

**Former Job Title:** Deputy Asst. to the Pres., & Exec. Asst.,  
Chief of Staff to the Pres.  
**Salary/Grade:** Executive Level-III  
**Federal Entity:** White House  
**Date Left Position:** 8/02/91

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Barbour & Rogers	Legal	Sheik Kamal Adham	Saudi Arabia	9/23/91	10/31/91	FARA

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**Ryan, Thomas M.**

**Former Job Title:** Chief Counsel, House Comm. on Energy & Commerce  
**Salary/Grade:** N/A  
**Federal Entity:** House  
**Date Left Position:** 5/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Wunder, Diefenderfer, Ryan, Cannon & Thelen	Legal	Gov't of Bermuda	Bermuda	2/06/90	10/29/90	FARA
		Ind. Equity- Pacific Ltd.	New Zealand	2/06/90	Present	FARA

**Samuels, Michael A.**

**Former Job Title:** Ambassador  
**Salary/Grade:** Executive Level-III  
**Federal Entity:** USTR - Geneva  
**Date Left Position:** 5/19/89

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Hill & Knowlton, Inc.	Consulting	Gov't of Indonesia	Indonesia	8/02/89	7/01/90	FARA
		Maxwell Communications	United Kingdom	7/01/89	7/01/90	FARA

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**Shanks, Robert B.**

**Former Job Title:** V.P. / Gen. Counsel  
**Salary/Grade:** Executive Level-V  
**Federal Entity:** OPIC  
**Date Left Position:** 8/14/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Sidley & Austin	Legal	Gov't of Cayman Islands	Cayman Is.	6/01/89	Present	FARA
		Moscow Narodny Bank	Soviet Union	6/01/89	Present	FARA
		Pohang Iron/Steel	S. Korea	9/27/89	Present	FARA
		Gov't of S. Korea	S. Korea	9/14/91	Present	FARA
		Gov't of El Salvador	El Salvador	9/14/91	Present	FARA

**Shapiro, Ira S.**

**Former Job Title:** Chief of Staff, Sen. John Rockefeller  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 12/31/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Winthrop, Stimson, Putnam	Legal	Metallverken B.V.	Finland	3/24/89	2/21/91	FARA

**Small, Karna**

**Former Job Title:** Dep. Asst. to Pres. for Nat'l. Security  
**Salary/Grade:** Executive Level-V  
**Federal Entity:** White House  
**Date Left Position:** 9/15/86

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Gray & Company	Consulting	Gov't of Turkey	Turkey	10/01/86	Present	FARA

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**Smith, Carl M.**

**Former Job Title:** Staff Dir. & Chief Counsel, Senate Comm. on  
Armed Services  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 12/12/88

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Wunder, Diefenderfer, Ryan, Cannon Thelen	Legal	Aermacchi, S.P.A.	Italy	9/06/90	Present	FARA
		Ciset S.P.A.	Italy	9/06/90	Present	FARA
		Cimat S.P.A.	Italy	9/06/90	Present	FARA

**Smith, Michael B.**

**Former Job Title:** Dep. Trade Rep.  
**Salary/Grade:** FECM-06  
**Federal Entity:** State  
**Date Left Position:** 10/31/88

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
SJS Advanced Strategies	Consulting	La Cigarerra Moderna	Mexico	2/28/90	Present	FARA
		Canadian Sugar Inst.	Canada	2/28/90	Present	FARA
		Gov't of Canada	Canada	2/28/90	Present	FARA
		Gov't of Quebec	Canada	2/28/90	Present	FARA
		Coordinator de Organisimos Empresariales de Comercio Exterior	Mexico	2/28/90	Present	FARA

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**Stern, Paula**

**Former Job Title: Commissioner  
Salary/Grade: Executive Level-IV  
Federal Entity: ITC  
Date Left Position: 1/27/87**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Winthrop, Stimson, Putnam & Roberts	Consulting	Metallwerken Nederland B.V.	Netherlands	2/03/89	8/21/90	FARA

**Terr, Leonard<sup>a</sup>**

**Former Job Title: Attorney  
Salary/Grade: ES-04  
Federal Entity: Treasury  
Date Left Position: 6/30/89**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Sutherland, Ashbill & Brennan	Legal	Gov't of Bermuda	Bermuda	4/22/86	10/09/86	FARA

**Vasapoli, Joseph V.**

**Former Job Title: Minority Counsel, House Comm. on  
Energy & Commerce  
Salary/Grade: N/A  
Federal Entity: House  
Date Left Position: 1/13/89**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Skadden, Arps, Meagher & Flom	Legal	Hoylake Investments	United Kingdom	9/07/89	5/15/90	FARA
		British Airport Auth.	United Kingdom	9/07/89	5/15/89	FARA
		Clal Israel	Israel	9/07/89	5/15/89	FARA

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**Verstandig, Lee L.<sup>b</sup>**

**Former Job Title: Asst. to Pres. Chief of Staff, First Lady  
Salary/Grade: Executive Level-III  
Federal Entity: White House  
Date Left Position: 3/07/86**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Deaver & Associates	Consulting	Gov't of Canada	Canada	3/14/86	Present	FARA
		Daewoo Corp.	S. Korea	3/14/86	Present	FARA
		C.B.I. Sugar Group	Panama	3/14/86	Present	FARA
		S. Korea Broadcasting Corp.	S. Korea	3/14/86	Present	FARA
		Gov't of S. Korea	S. Korea	3/14/86	Present	FARA
		Gov't of Singapore	Singapore	3/14/86	Present	FARA
		Ministry of Commerce & Ind. Dev.	Mexico	3/14/86	Present	FARA
		Intl. Cultural Society of S. Korea	S. Korea	3/14/86	Present	FARA
		Embassy of Saudi Arabia	Saudi Arabia	3/14/86	Present	FARA

**Von Raab, William<sup>a</sup>**

**Former Job Title: Commissioner of Customs  
Salary/Grade: ES-06  
Federal Entity: Customs  
Date Left Position: 8/01/89**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Societe Generale de Surveillance	Lobbying	Societe Generale de Surveillance	Switzerland	5/21/91	Present	Lobbying act

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**Wahlquist, Andrew**                      **Former Job Title:** Admin. Asst., Sen. Warner  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 6/86

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Tucker & Associates	Consulting	Gov't of S. Korea	S. Korea	9/27/89	10/19/89	FARA

**Wallison, Peter J.**                      **Former Job Title:** Counsel to Pres., White House Office  
**Salary/Grade:** Executive Level-II  
**Federal Entity:** White House  
**Date Left Position:** 3/20/87

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
Gibson, Dunn & Crutcher	Legal	Assoc. German Banks	Germany	8/08/91	12/31/91	FARA

**Warren, Betsy**                      **Former Job Title:** Dep. Asst. Sec. for Legis. Affs.  
**Salary/Grade:** ES-03  
**Federal Entity:** State  
**Date Left Position:** 2/28/89

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
The Schmerz Company	Consulting	Gov't of Greece	Greece	7/23/91	Present	Lobbying act

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**Whitfield, Dennis E.**

**Former Job Title:** Dep. Sec. of Labor  
**Salary/Grade:** ES-06  
**Federal Entity:** Labor  
**Date Left Position:** 3/01/89

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
The Brock Group Ltd.	Consulting	Board of Foreign Trade	Taiwan	1/11/90	Present	FARA
		United Distillers	Hong Kong	1/01/91	Present	FARA

**Witeck, Robert V.**

**Former Job Title:** Dir. of Communications, Sen. Packwood  
**Salary/Grade:** N/A  
**Federal Entity:** Senate  
**Date Left Position:** 3/89

<b>Individual/ organization that registered</b>	<b>Type of service</b>	<b>Foreign client</b>	<b>Country represented</b>	<b>Representation beginning date</b>	<b>Ending date</b>	<b>Source</b>
Hill & Knowlton, Inc.	Consulting	Rep. of Indonesia Nat'l Dev. Info. Off.	Indonesia	5/30/89	Present	FARA
		Gov't of Turkey	Turkey	10/02/89	Present	Lobbying act

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**Wrobleski, Ann**

**Former Job Title: Foreign Service Officer  
Salary/Grade: FECM-04  
Federal Entity: State  
Date Left Position: 6/17/89**

Individual/ organization that registered	Type of service	Foreign client	Country represented	Representation beginning date	Ending date	Source
The Jefferson Group	Consulting	Inst. Libertad/ de democracia	Peru	11/21/90	Present	FARA

**Legend**

CFTC = Commodity Futures Trading Commission  
 DOT = Department of Transportation  
 EPA = Environmental Protection Agency  
 ES = Senior Executive Service (SES)  
 EX = Executive Schedule  
 FARA = Foreign Agents Registration Act of 1938  
 FECM = Foreign Service Executive Career Ministry  
 HHS = Department of Health and Human Services  
 HUD = Department of Housing and Urban Development  
 Lobbying Act = Federal Regulation of Lobbying Act of 1946  
 N/A = Not Available-The Secretary of the Senate and Clerk of the House do not release confidential salary data.  
 OMB = Office of Management and Budget  
 OPIC = Overseas Private Investment Corp.  
 USTR = U.S. Trade Representative  
 U.A.E. = United Arab Emirates

\* Could not locate individual.

<sup>b</sup> Individual did not verify our information.

<sup>c</sup> Served as congressman until 12/31/88, and remained on the congressional payroll as a consultant to the House Comm. on For. Affs. until 1/31/89.

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# Major Contributors to This Report

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160650

General Government Division

B-277996

May 29, 1998

The Honorable Carl Levin  
Ranking Minority Member  
Subcommittee on International Security,  
Proliferation, and Federal Services  
Committee on Governmental Affairs  
United States Senate

Subject: Comparison of Foreign Lobbying Registrations

Dear Senator Levin:

You asked us to compare the number of registrations<sup>1</sup> filed for foreign and foreign-affiliated clients under lobbying disclosure laws before and after the enactment of the Lobbying Disclosure Act of 1995 (LDA). This letter provides information on (1) the number of such registrations that were filed in 1995 under the Foreign Agents Registration Act (FARA) or the Federal Regulation of Lobbying Act (FRLA), and filed in 1996 under FARA and/or LDA, in order to determine whether there had been an overall increase or decrease in foreign registrations from 1995 to 1996; (2) the number of those 1996 LDA registrations that were new and of those that had been filed in the previous year under FARA or FRLA; and (3) the registration actions after December 31, 1995, of those that had been registered under FARA in 1995. As agreed, to the extent possible, we separated all foreign and foreign-affiliated clients into two categories: (1) nongovernments and nonpolitical parties and (2) governments and political parties.

To gather the information needed to meet our objectives, we reviewed FARA and LDA registration documents. We also analyzed registration information provided in databases maintained by the Department of Justice (for FARA) and

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<sup>1</sup>These registrations record the name of the filing agent representing the foreign client, as well as the foreign client. Because a foreign client may be represented by more than one agent, that client's name may appear on numerous registrations.

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by the Secretary of the Senate (for FRLA and LDA). The enclosure provides more details on our scope and methodology.

We did our work in Washington, D.C., from June 1997 to April 1998 in accordance with generally accepted government auditing standards. We submitted a draft of this letter to the Attorney General and the Secretary of the Senate for review and comment. Their responses are discussed on page 8.

## BACKGROUND

FARA was enacted in 1938 in response to Germany's use of American organizations and citizens to spread Nazi propaganda. FARA was intended to expose the foreign interests behind propaganda campaigns in the United States. To do this, FARA required agents representing foreign clients (referred to as "foreign principals" in the act) to publicly disclose to the Department of Justice both their activities and whom they were representing. Since 1938, FARA has been amended several times and its focus has shifted away from disclosing foreign interests behind propaganda campaigns to disclosing foreign principals' efforts to influence public decisionmaking through lobbying. However, in addition to lobbying, FARA requires that certain activities on behalf of foreign clients, including political consulting, being a publicity agent, and fund-raising, be disclosed in registrations filed with the Department of Justice.<sup>2</sup>

FRLA was enacted in 1946 and was intended to provide for the disclosure of who was financing lobbyists' efforts to influence federal legislation. FRLA required any organization or individual who was paid to influence legislation to register with the Clerk of the House of Representatives and the Secretary of the Senate, to report who was being represented, and to report in detail the receipts and expenditures involved and the legislative objectives pursued. Among the shortcomings of this law were its narrow interpretation of what constituted lobbying, its lack of any enforcement authority, and its lack of a mechanism to handle late or incomplete filings of lobbying reports and the failure to register. Also, FRLA did not require that registration forms disclose whether the clients were foreign or had foreign affiliations.

LDA, which went into effect on January 1, 1996, repealed FRLA, and was the first major overhaul of federal lobbying disclosure laws in nearly half a century. It was intended to correct FRLA's shortcomings, which had resulted in comparatively few lobbyists registering with Congress. LDA defines lobbying to include contacts with Members of Congress and congressional staff, as well as with certain executive branch officials. Like FRLA, LDA requires registration with the Clerk of the House and the Secretary of the Senate. Unlike FRLA, LDA includes enforcement authority and requires lobbyists to disclose the foreign affiliations of their clients. LDA also amended FARA. By so doing, it exempted agents for foreign clients that are neither governments nor political parties from registering under FARA when they register

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<sup>2</sup>Some filing agents registered under FARA might not be engaged in lobbying. We did not determine which FARA agents were lobbyists.

under LDA. Under LDA, the registration forms are less detailed than for FARA and registration does not require payment of any filing fees. However, lobbyists registering foreign and foreign-affiliated clients under LDA must disclose foreign client information.

## RESULTS

Overall, there appears to have been an increase of 145 registrations under the lobbying disclosure laws for foreign and foreign-affiliated clients from 1995 to 1996. However, because we cannot determine the actual number of foreign and foreign-affiliated clients that may have been registered under FRLA in 1995, the true increase in registrations for such clients may be fewer than 145.

We found total registrations of 1,487 in 1995, which included 1,368 under FARA and 119 under FRLA.<sup>3</sup> In 1996, there were a total of 1,763 registrations (1,092 under FARA and 671 under LDA). However, because 131 of the 1,763 were registered under both FARA and LDA, to avoid double counting, we subtracted 131 from the 1,763 to arrive at 1,632 registrations. By subtracting the total for 1995 from 1996 (1,487 from 1,632), we derived the increase. (See table 1.)

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<sup>3</sup>Because FRLA did not require lobbyists to disclose whether their clients were foreign or foreign-affiliated, we could not determine the total number of these types of registrations. In an effort to get some indication of the magnitude of such registrations filed in 1995 under FRLA, we identified 520 such registrations filed in 1996 under LDA but not filed under FARA in 1995 and compared them to the names in the 1995 FRLA database. Of these 520, 119 were in the FRLA database.

Table 1: Registrations for Foreign and Foreign-Affiliated Clients Filed Under Lobbying Disclosure Laws in 1995 and 1996

Years and laws	Types of foreign and foreign-affiliated clients			Total
	Nongovernments and nonpolitical parties	Governments and political parties	Unknown	
1995				
FARA <sup>a</sup>	717	636	15	1,368 <sup>b</sup>
FRLA	119	0	0	119 <sup>c</sup>
1996				
FARA <sup>a</sup>	488	591	13	1,092 <sup>d,e</sup>
LDA	631	39	1	671 <sup>e</sup>

<sup>a</sup>According to the Department of Justice, these data overstate the number of active FARA registrations because they include all registrations for clients whose agents have not yet filed forms terminating their registrations.

<sup>b</sup>This number includes 271 registrations originally filed in 1995 and 1,097 registrations originally filed before 1995 that had not been terminated before January 1, 1995.

<sup>c</sup>Because FRLA did not require lobbyists to disclose whether their clients were foreign or foreign-affiliated, we could not determine the total number of these types of registrations. In an effort to get some indication of the magnitude of such registrations filed in 1995 under FRLA, we identified 520 such registrations filed in 1996 under LDA but not filed under FARA in 1995 and compared them to the names in the 1995 FRLA database. Of these 520, 119 were in the FRLA database.

<sup>d</sup>Of this number, 131 registrations were filed under both FARA and LDA; 961 registrations were filed only under FARA, and 540 only under LDA.

<sup>e</sup>These entries include 134 registrations originally filed in 1996 and 827 registrations originally filed before 1996 that had not been terminated before January 1, 1996.

Source: GAO analysis of Department of Justice and Secretary of the Senate registration data.

Of the 1,632 registrations for foreign and foreign-affiliated clients we identified for 1996, 671 were registrations under LDA. Of these 671 registrations, 631 represented nongovernment and nonpolitical parties. Of these 631 registrations for nongovernments and nonpolitical parties, 393, or about 62 percent, were new registrations under LDA; that is, these registrations had not been filed in 1995 under

FARA or FRLA. The remaining 238 registrations, or about 38 percent, were filed in 1995 under FARA or FRLA. Of these 238, 119 registrations for nongovernments and nonpolitical parties had previously been filed under FARA in 1995, and 119 registrations were filed in 1995 for nongovernments and nonpolitical parties under FRLA. Table 2 shows the number that were newly registered under LDA with the Secretary of the Senate and the number that had been previously registered in 1995 under FARA or FRLA.

Of the 671 total registrations, we categorized 39 as foreign government and political parties and 1 as unknown. Among the 39, we found two foreign governments with registrations filed under LDA but not filed under FARA in 1996. Clients who are foreign governments and political parties are required to be registered under FARA. Therefore, we brought these two foreign governments and political parties to the attention of Department of Justice officials. Justice officials then notified the two foreign government representatives by letter of the requirements under FARA.

Table 2: Prior-Year Registration Status of All 1996 LDA Registrations Filed for Foreign and Foreign-Affiliated Clients

Registration status in 1995	Types of foreign and foreign-affiliated clients			Total
	Nongovernments and nonpolitical parties	Governments and political parties	Unknown	
Filed under FARA	119	31	1	151
FRLA <sup>a</sup>	119	0	0	119
Subtotal	238	31	1	270
Not filed under FARA or FRLA	393	8	0	401
Total	631	39	1	671

<sup>a</sup>This category includes only those 1996 LDA registrations that were not registered under FARA in 1995 but were registered under FRLA in 1995.

Source: GAO analysis of Department of Justice and Secretary of the Senate registration data.

Some of the clients who had been registered under FARA at the end of 1995 (1) were registered under LDA in 1996, (2) were registered during at least part of 1996 under both FARA and LDA, (3) remained registered only under FARA in 1996, or (4) had their registrations terminated with the federal government entirely. By December 31, 1995, 39 agents representing foreign clients terminated their FARA registrations and subsequently registered under LDA in 1996, thus switching their registrations from FARA in 1995 to LDA in 1996.<sup>4</sup> Another 112 agents that did not terminate their clients' FARA registrations by December 31, 1995, also registered their clients under LDA in 1996. Thus, they were registered under both LDA and FARA for some part of 1996. However, 47 of these terminated their FARA registrations by the end of February 1996.<sup>5</sup> More than 60 percent (827) of the 1995 FARA registrations continued to be registered only under FARA in 1996. Another 390 of the 1995 FARA registrations were terminated in 1995 and did not register under LDA. (See table 3.)

<sup>4</sup>Although we have registration and termination dates for FARA agents and clients, we do not have similar data on LDA registrations. Our data on LDA registrations show whether lobbyists and clients registered during 1996 but do not show the specific date of the registrations.

<sup>5</sup>When we reviewed the FARA registrations that were also filed under LDA during 1996, we found that 64 terminated during 1996. Of these 64 terminations, 47 (or about 73 percent) terminated their registrations during January or February 1996.

Table 3: Registration Actions During 1996 for 1995 FARA Registrations

Registration actions	Types of foreign and foreign-affiliated clients			Total
	Nongovernments and nonpolitical parties	Governments and political parties	Unknown	
Switched registrations from FARA in 1995 to LDA <sup>a</sup>	37	2	0	39
Filed under both LDA and FARA <sup>b</sup>	82	29	1	112
Filed under FARA in 1996 and did not file under LDA <sup>c</sup>	344	475	8	827
Did not file in 1996 under FARA or LDA	254	130	6	390
<b>Total</b>	<b>717</b>	<b>636</b>	<b>15</b>	<b>1,368</b>

<sup>a</sup>Includes all registrations filed under FARA in 1995 that were terminated by December 31, 1995, and that filed under LDA in 1996.

<sup>b</sup>Includes all registrations filed under FARA in 1995 that were not terminated by December 31, 1995, and that filed under LDA in 1996.

<sup>c</sup>Includes all registrations filed under FARA in 1995 that had not been terminated from FARA by December 31, 1995, and that did not file under LDA in 1996.

Source: GAO analysis of Department of Justice and Secretary of the Senate registration data.

In addition, in our work classifying foreign clients into (1) nongovernments and nonpolitical parties and (2) governments and political parties, we found a significant number of clients that were affiliated with foreign governments but that did not identify themselves as governments. For example, we found tourism and trade promotion boards that were created and funded by foreign governments, but have individuals from the private sector serving on the Board of Directors. We also found many 100-percent foreign government-owned corporations, including airlines, oil companies, electric companies, and weapons manufacturers. On the basis of discussions with Department of Justice officials, for the purposes of this letter, we classified these clients as nongovernments and nonpolitical parties. Because how

these clients are classified under FARA and LDA affects where they are required to register (i.e., with the Department of Justice, or with the Clerk of the House and Secretary of the Senate) and the extent of the disclosures they are required to make, we plan, at your request, to do additional work on the issue of foreign government-affiliated clients. When we report the results of that work, we will include a comparison of the disclosure requirements under LDA and FARA.

AGENCIES' COMMENTS

On May 20, 1998, we received responses on a draft of this letter from the Department of Justice and the Secretary of the Senate. The Department of Justice officials generally concurred with the contents of this letter. Regarding the two foreign governments we found with registrations filed under LDA but not filed under FARA, Justice officials asked that we note that they have taken action on this matter. We did so. The Secretary of the Senate had no comment.

As agreed with your office, we plan no further distribution of this letter until 30 days after its issuance, unless you publicly release its contents earlier. We will then send copies to the Chairman of the Subcommittee, the Chairman and Ranking Minority Member of the full Committee, and we will make copies available to others upon request. Major contributors to this letter were Rita Oliver and James Turkett of our Dallas Regional Office, Jessica Botsford of the Office of General Counsel, and Terry Draver and Kathleen Peyman of our headquarters office. If you have any questions, please call me on (202) 512-8676.

Sincerely yours,



L. Nye Stevens  
Director, Federal Management  
and Workforce Issues

SCOPE AND METHODOLOGY

To determine the number of registrations filed for foreign and foreign-affiliated clients under lobbying disclosure laws, we obtained and reviewed registration documents and electronic databases on lobbying activities—two electronic databases from the Secretary of the Senate (for 1995 FRLA and 1996 LDA registrations) and one electronic database from the Department of Justice (for 1995 and 1996 FARA registrations). All databases contained multiple records for organizations representing different clients. We did not perform a reliability assessment of the information contained in the databases. We did detect errors in the process of our review, which were then discussed with the appropriate officials and corrected.

For the FARA registrations, we classified the agent and client combination as being unique to 1995 (registered before December 31, 1995, and terminated during 1995); unique to 1996 (registered after December 31, 1995); or registered in both years (registered before December 31, 1995, and either not terminated or terminated after December 31, 1995). According to the Department of Justice, these data overstate the number of active FARA registrations because they include all registrations for clients whose agents have not yet filed forms terminating their registrations. Therefore, registrations filed in past years, for which accumulated filing fees have not been paid and supplemental statements have not been filed, are counted in these data as active registrations. However, we do not know the extent of the overstatement of registrations and therefore could not adjust the data to compensate for the overstatement.

For the LDA registrations, we reviewed microfilm of all the registration forms for 1996 submitted under LDA to the Secretary of the Senate before coding the electronic database. We identified registrations as being for foreign clients when the client's listed address on the registration was a foreign address or when the address under the "foreign entities" section of the LDA registration form was a foreign address. In addition, we counted LDA clients as foreign if they were registered under FARA (which contains only foreign clients), even if the LDA registration form did not disclose a foreign address or foreign affiliation for the client.

FRLA did not require lobbyists to disclose whether their clients were foreign or foreign-affiliated. In an effort to get some indication of the magnitude of registrations filed in 1995 under FRLA for such clients, we identified registrations for such clients that were filed in 1996 under LDA but that were not filed under FARA in 1995. We then compared these registrations with the registrations in the 1995 FRLA database. When we identified a match, we classified that registration under FRLA as being filed for a foreign or foreign-affiliated client. We did not perform a computerized match of the FARA and FRLA electronic databases because we were not trying to identify clients registered under both of those acts, which would have been allowed.

To count the number of registrations filed under FARA, FRLA, and LDA for clients who were foreign or foreign-affiliated, we considered a registration to be the

combination of (1) lobbyists under LDA and FRLA or the registered agent under FARA and (2) foreign clients under LDA and FRLA or foreign principals under FARA. Therefore, each registration includes a combination of lobbyist and foreign client or agent and foreign principal. We counted each unique combination as a separate registration.

Because there were no unique identifiers for lobbyists or clients that were consistent across the databases, we used a computer program to perform a character-to-character match on fields (e.g., lobbyist and client combinations) in the databases. After identifying a list of the unique combinations in this match, we electronically matched FARA records with those of LDA. In addition, to determine how many of the foreign and foreign-affiliated clients registered under LDA in 1996 were new—i.e., had not been registered under FRLA or FARA in 1995—we first used the lobbyist/client combinations identified in our matching of FARA and LDA records.

Next, we listed and manually verified the records for accuracy and consistency with regard to these unique combinations. We alphabetized the listing (first by lobbyist name and then by client name) and reviewed it to identify all lobbyist/client combinations that the two databases had in common and all that were unique to one database. Because of variations in how organizations' and individuals' names can be listed and changes in organization names (e.g., the addition of a partner in a firm named for its partners), we used our best judgment in determining if lobbyist/client listings were the same in the two databases. During the process of comparing registrations, we identified and eliminated duplicate registrations in the databases.

To determine which of the registrations were categorized as nongovernments and nonpolitical parties or governments and political parties, we reviewed the FARA and LDA registration forms. For FARA clients whose names clearly indicated what type of entity they were (e.g., Embassy of Japan as an indication of a government, Guyana Republican Party as the name of a political party, and Underwriters at Lloyds of London as the name of a nongovernment and nonpolitical party), we based our categorization on the clients' names. For clients with names that did not clearly indicate the type of entity, we reviewed the Exhibit A form that is to accompany the FARA registration form. Exhibit A requires agents to disclose the type of entity the foreign principal is and the principal's connections with foreign governments, political parties, and other entities. On the basis of all the information provided about the client on the Exhibit A form, we determined whether the client was a government or political party. For guidance, we used the FARA definitions of foreign government and foreign political party, plus Department of Justice officials' interpretations of how the definitions applied to a judgmental sample of 40 Exhibit A forms. In some cases, we were not able to categorize an entity because (1) the name did not clearly indicate the type of entity and no Exhibit A was available or (2) the information on the Exhibit A form was insufficient and/or ambiguous. Due to the complexity and sometimes incompleteness of the information provided on the forms, we exercised judgment in interpreting the information and in categorizing entities. The LDA registration form provides less information on the client's entity type than does the FARA Exhibit A.

ENCLOSURE

ENCLOSURE

Therefore, if the client was registered under both acts, we used the information on FARA Exhibit A to categorize the client. For LDA clients not registered under FARA, we categorized clients on the basis of their names and, when relevant, on the foreign-affiliated entities shown on the form.

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Caplin & Drysdale,  
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