



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

August 15, 2018

By FedEx

[addressee deleted]

Re: Advisory Opinion pursuant to 28 C.F.R. §5.2 concerning Application of the Foreign Agents Registration Act

Dear [name deleted]:

This is in reference to your letter of June 14, 2018, supplementing with additional facts your letter of January 5, 2018, in which you requested on behalf of your client, [US firm], an advisory opinion pursuant to 28 C.F.R. § 5.2 regarding the possible obligation of [US firm] to register pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”).

The additional facts you disclose are as follows: [US firm] states that, although [foreign corporation] is a private company in [foreign country], one of its largest clients is the [foreign government]. [US firm] further discloses that the [foreign government] retained [foreign corporation] to support its efforts to strengthen U.S./[foreign country] economic relations. Thus, [US firm] discloses that it represented the [embassy of foreign country] in [text deleted], while at the same time it represented [foreign corporation] on the commercial contract. [US firm] further discloses that, because it is a small operation, the same personnel performed work under both the Embassy and [foreign corporation] contracts, and that some overlap in issues of interests occurred in the work performed on the two contracts. Nonetheless, [US firm] maintains that it still qualifies for the exemption under Section 3(d) of the Act for the work performed for the [foreign corporation] contract.

After a review of the foregoing, we have determined that [US firm] must register as an agent of [foreign corporation] because its activities are not solely commercial in nature but involve some political activities undertaken for the [embassy of foreign country]. Thus, [US firm] does not qualify for the exemption from registration for “private and non-political activities in furtherance of the principal’s bona fide trade or commerce” under Section 613(d)(1), nor does it qualify for the exemption from registration under Section 613(d)(2) because these activities do serve a predominantly foreign interest, that of the [embassy of foreign country].

[addressee deleted]

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Accordingly, [US firm] should effectuate its registration within 30 days of receipt of this letter.

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

Sincerely,

Heather H. Hunt, Chief
FARA Registration Unit