



**U.S. Department of Justice**

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

March 13, 2020

**By FedEx and E-mail**

[addressee deleted]

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

Dear [name deleted]:

We write in response to your letter of January 6, 2020 (“the January 6 Letter”), requesting an advisory opinion, pursuant to 28 C.F.R. § 5.2, with respect to the obligation of your client, the [US organization], to register pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”), in connection with [US organization] grant agreement with the [foreign government agency]. Based on the representations in your letter, we have concluded that your client’s activities require registration under FARA.

According to the January 6 Letter, [US organization] is a nonprofit organization headquartered in [US state] that is focused on environmental conservation, and which has received a grant from [foreign government agency] to “serve...as a general contractor” for the implementation of a program that “focuses on [environmental issues].” This work requires [US organization] to directly carry out project activities itself as well as to hire “a variety of other firms and institutions” to undertake discrete efforts. [US organization]’s activities, as well as the activities it directs third parties to conduct, are carried out with the express purpose of implementing projects funded by [foreign government agency]. Through these projects, [foreign government agency] seeks to change corporations’ product-sourcing practices pertaining to the use of natural resources found outside the United States in tropical regions of the world. In order to accomplish these goals, among other activities, [US organization] has met occasionally with officials of the U.S. government and has formed agreements with “cooperating partner” firms. The [US organization] is funding its activities and the activities of third parties with grant money received directly from [foreign government agency].

A party is an “agent of a foreign principal” that, absent an exemption, must register under FARA if it acts “in any . . . capacity at the order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal and who directly or through any other person,” and within the United States:

- (i) engages in political activities for or in the interests of such foreign principal;
- (ii) acts as public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;
- (iii) solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or
- (iv) represents the interests of such foreign principal before any agency or official of the Government of the United States.

See 22 U.S.C. § 611(c)(1).

As [foreign government agency] is an agency of the [foreign government], it is a “foreign principal” as defined by the Act, 22 U.S.C. § 611(b)(1). The January 6 Letter asserts that [US organization]’s agreement with [foreign government agency] does not “give to [foreign government agency] any ability to direct or control [US organization].” We disagree. [US organization] is acting as an agent of this foreign principal because, pursuant to the grant agreement with [foreign government agency], [US organization] is obligated to engage in activities to advance the deforestation priorities of the [foreign government]. See 28 C.F.R. § 5.100(b).

You also assert that “in its interactions with US government officials, [US organization] has nothing to do with formulating, adopting, or changing the domestic or foreign policies of the United States.” However, as described in the January 6 Letter and its contract with [foreign government agency], [US organization]’s activities are inherently “political activities” and thus require registration under FARA for two reasons. First, as defined in Section 611(o) of the Act, “political activities” include activities that a person believes will, or intends to, in any way influence 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.<sup>1</sup> [US organization]’s activities satisfy this provision because it believes and intends that its actions will influence “any section of the public within the United States.” Second, Section 611(o) further defines “political activities” as activities that a person believes will, or intends to, in any way influence any section of the public within the United States “with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.” [US organization]’s activities satisfy this provision because its actions directly advance the product-

---

<sup>1</sup> The term “political activities” means 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 foreign political party. 22 U.S.C. § 611(o).

[name deleted]  
March 13, 2020  
Page 3

sourcing practices that are in the political and public interests of, and are the policies of, the [foreign government], through its agency [foreign government agency].

Please effectuate the registration of the [US organization] in the next thirty (30) days. If you have any questions regarding this matter, please contact [name deleted] at (202) 233-0776.

Sincerely,

Brandon L. Van Grack  
Chief, FARA Unit