

# Foreign Agents Registration Act (FARA):

## Working File

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## What is FARA?

The Foreign Agents Registration Act, or FARA, was signed into law in 1938 in order to more closely monitor groups that lobby for foreign interests, at the time specifically to counter the Nazi and Fascist threat. Since then, thousands of foreign groups have been registered and unregistered with the Justice Department's administration of the act. The basic premise of the law is that any individual, partnership, or group that acts in the interests of a foreign company or government must register their name, address, company, nationality, and, if necessary, their articles of copartnership.<sup>1</sup> They must also provide their intent, their organizational by-laws and constitution, the nature and extent of their dealings with foreign entities<sup>2</sup>, copies of every agreement and contract with foreign entities<sup>3</sup>, the details of financial dealings<sup>4</sup>, statements of all activities performed<sup>5</sup>, information on persons on whose behalf they act<sup>6</sup>, details of their financial earnings and expenditures<sup>7</sup>, details of all contracts and oral agreements made with foreign entities<sup>8</sup>, other documents pertinent to national security from time to time<sup>9</sup>, and occasional documents to clarify what they said in their registration.<sup>10</sup> They must also, in the course of each six-month period, write on issues prescribed by the Attorney General pertaining to national security.<sup>11</sup> The registration and supplements must then be executed under oath by the relevant party.<sup>12</sup>

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<sup>1</sup> [22 U.S.C. Section 612 a1](#)

<sup>2</sup> [612 a3](#)

<sup>3</sup> [612 a4](#)

<sup>4</sup> [612 a5](#)

<sup>5</sup> [612 a6](#)

<sup>6</sup> [612 a7](#)

<sup>7</sup> [612 a8](#)

<sup>8</sup> [612 a9](#)

<sup>9</sup> [612 a10](#)

<sup>10</sup> [612 a11](#)

<sup>11</sup> [612 b](#)

<sup>12</sup> [612 a11c](#)

Those exempt from having to register with FARA include foreign diplomatic and consular officers<sup>13</sup>, any foreign government official whose duties are a matter of public record in the State Department<sup>14</sup>, staff members of foreign diplomats<sup>15</sup>, foreign businessmen<sup>16</sup>, religious, scientific, and academic figures<sup>17</sup>, members of foreign governments whose defense is deemed to be in the interests of the United States<sup>18</sup>, most lawyers<sup>19</sup>, and those who have registered with the Lobbying Disclosure Act of 1995.<sup>20</sup>

There also exist regulation on filing and labeling informational materials. The law requires that any information mailed out by the agent in the interest of the “foreign principal” must have two copies filed with the Attorney General within 48 hours.<sup>21</sup> They must also state in the mail that they have distributed it in the interest of the foreign principal, and further information is available from the Attorney General.<sup>22</sup> The copies must in turn be available for public inspection<sup>23</sup>, and can also be forwarded to the Library of Congress.<sup>24</sup> They are forbidden from presenting political propoganda to any agencies of the United States government.<sup>25</sup> When an agent testifies to Congress, he or she is required to furnish the relevant committee with a copy of their most recent registration statement with the Justice Department.<sup>26</sup> They must keep books with records of all their accounts and activities in accordance with the Justice Department.<sup>27</sup> The

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<sup>13</sup> [613a](#)

<sup>14</sup> [613b](#)

<sup>15</sup> [613c](#)

<sup>16</sup> [613d](#)

<sup>17</sup> [613e](#)

<sup>18</sup> [613f](#)

<sup>19</sup> [613g](#)

<sup>20</sup> [613h](#)

<sup>21</sup> [614a](#)

<sup>22</sup> [614b](#)

<sup>23</sup> [614c](#)

<sup>24</sup> [614d](#)

<sup>25</sup> [614e](#)

<sup>26</sup> [614f](#)

<sup>27</sup> [615](#)

office of the Attorney General must retain a copy as matter of public record<sup>28</sup> and also give a copy to the Secretary of State for his or her use and comment.<sup>29</sup> He or she may also give names to any executive branch agency as deemed appropriate.<sup>30</sup>

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<sup>28</sup> [616a](#)

<sup>29</sup> [616b](#)

<sup>30</sup> [616c](#)

## Key Terms and Definitions

**Civil Injunctive Remedy:** Measure provided by 1966 amendment to FARA which enables the registration unit to (through the Attorney General) request that a district court issue an injunction to prevent an individual or group from continuing activities on behalf of a foreign principal. <sup>31</sup>

**FARA:** Foreign Agents Registration Act, law that regulates lobbying by foreign interests in the United States (see “background and history” and “What is FARA?” within this document)

**Foreign Agent:** The person, or collection of people, who represent the interests of the foreign principal. According to U.S. code, a foreign agent includes those who “act as an agent, representative, employee, or servant” etc of a foreign principal or “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 “engages within the United States in political activities for or in the interests of such foreign principal, acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal, within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal, or within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States; and any person who agrees, consents, or purports to act as, or who is or holds himself out to be, whether or not pursuant to contractual relationships, an agent of a foreign principal.”<sup>32</sup>

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<sup>31</sup> 22 U.S.C. Section 618 f.

<sup>32</sup> Ibid.

**Foreign Agents Registration Unit:** Division within the Department of Justice responsible for archiving FARA records, notifying foreign agents or principals who are required to register, and (rarely) pursue criminal action against those who fail to comply with the law.

**Foreign Principal:** The foreign interest on behalf of whom the foreign agent is acting.

According to U.S. code, a foreign principal includes “1.A government of a foreign country and a foreign political party” or 2.someone outside of the U.S., unless they are a citizen and live in the United States or “3.A partnership, association, corporation, organization, or other combination of persons organized under the law of or having its principal place of business in a foreign country.”<sup>33</sup>

**Lobbying Disclosure Act of 1995 and Lobbying Disclosure Technical Amendments act of 1998:** Two laws that amended FARA. Narrowed the law to government interests, clarified limitations on a key exemption for attorneys, and changed the term “propaganda” throughout the bill to “information materials”.<sup>34</sup>

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<sup>33</sup> 22 U.S.C. Section 611 a-b.

<sup>34</sup> Federal register, Department of Justice, Final rule, Foreign agents registration act, June 5, 2003, vol 68, no. 108, rules and regulations, pp. 336239-33631 <http://edocket.access.gpo.gov/2003/03-13947.htm>

## Background and History

The Foreign Agents Registration Act (FARA) was enacted in 1938, just before the beginning of the Second World War. Policymakers passed the law in an attempt to deal with the perceived threat of foreign agents operating in the United States.<sup>35</sup> Specifically, it was feared that pro-Nazi agents could spread propaganda inside the U.S. without any requirement that they make their employment status public. The Supreme Court clarified in the decision *Vierick v. United States* that “the general purpose of the legislation was to identify agents of foreign principals who might engage in subversive acts or in spreading foreign propaganda, and to require them to make public record of the nature of their employment”.<sup>36</sup> The law requires that both foreign agents and foreign principals (usually the nation the agent is associated with) register with the United States Department of Justice. Registration requires the submission of biographic information, clarification of the nature of the agent’s work in the United States, and some financial accounting. Since passage, the act has been amended significantly. What follows is a brief history of the law and its application.

When first passed, the law was primarily meant to apply to subversive political agents who used propaganda to sway government opinion. According to the United States Attorneys’ Manual, the law was used to prosecute 23 cases during the World War II era. The unit was moved in 1942 from the Department of State to the Department of Justice. The law was amended and the office began its practice of sending out warning letters to individuals who

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<sup>35</sup> (Martin J. Manning and Herbert Romerstein, Historical Dictionary of American Propaganda, “Foreign Agents Registration Act”, 2004, accessed via Google Books, p. 105)

<sup>36</sup> *Vierick v. United States*, Opinion 318 U.S. 236, 241, 1943 <http://supreme.justia.com/us/318/236/case.html>.

might be obligated to register under the law.<sup>37</sup> Also, some loopholes in the law were closed up by the expansion of the terms “foreign principal” and “foreign agent”.<sup>38</sup>

In 1950, a few minor amendments were enacted. The act was modified to clarify when the statute of limitations would begin running and close a loophole that allowed dissolution of an offending organization to prevent criminal prosecution of its members.<sup>39</sup>

In 1966, lobbying by sugar producers hoping to secure a share of mandated sugar quotas (following the ban on trade with Cuba) prompted a demand for reform. The law was amended to focus on agents working “for or on behalf of” a foreign principal, as opposed to merely those who engaged in subversive activities. According to a House Report, it was expanded “to cover a broader range of foreign activities and interests. The focus of the act was shifted from the regulation of subversive political activities to the disclosure of lobbying on behalf of foreign business and government interests.”<sup>40</sup> Note that the law explicitly included foreign business interests, meaning that lobbyists who worked for a foreign company (not owned by that company’s home nation) were now covered by the law.

As of 1966, the law retained two key loopholes that helped foreign agents to register. First, the so called “lawyer’s exemption” meant that attorneys who provided representation to foreign principals did not technically have to register. The Department of Justice clarified that this exemption ought to be limited in scope, but not clearly enough to prevent many attorneys from failing to register on the assumption that they were exempt from the law. Second, the

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<sup>37</sup> United States Attorneys’ Manual, “Foreign Agents Registration Act Enforcement.” Title 9, no. 2062.

[http://www.usdoj.gov/usao/eousa/foia\\_reading\\_room/usam/title9/crm02062.htm](http://www.usdoj.gov/usao/eousa/foia_reading_room/usam/title9/crm02062.htm).

<sup>38</sup> Lawson, Charles. “Shining the ‘Spotlight of Pitiless Publicity’ on Foreign Lobbyists? Evaluating the Impact of the Lobbying Disclosure Act of 1995 on the Foreign Agents Registration Act.” *Vanderbilt Journal of Transnational Law*, November 1986, vol. 29, accessed via lexis-nexis.

<sup>39</sup> Spak, Michael. “America for Sale: When Well-Connected Former Federal Officials Peddle their Influence to the Highest Bidder.” *Kentucky Law Journal*, 1990, vol. 78, accessed via lexis-nexis.

<sup>40</sup> House Report, “House Report 104-339 Part 1 – Lobbying Disclosure Act of 1995” [http://thomas.loc.gov/cgi-bin/cpquery/?&sid=cp104rrE1E&refer=&r\\_n=hr339p1.104&db\\_id=104&item=&sel=TOC\\_14147&](http://thomas.loc.gov/cgi-bin/cpquery/?&sid=cp104rrE1E&refer=&r_n=hr339p1.104&db_id=104&item=&sel=TOC_14147&)



“domestic subsidiary exemption” exempted foreign agents who represented a company with “substantial operations in the United States”.<sup>41</sup> This exemption also helped many lobbyists not register with the Department of Justice.

Criminal prosecution in this period significantly decreased, while, according to the United States Attorneys’ manual, “civil and administrative resolution of FARA questions” dramatically increased. This happened for two key reasons. First, the effect of changing the focus of the law to agents who worked “for or on behalf of” a foreign principal increased the burden of proof; prosecutors had to demonstrate that the agent had actually worked on behalf of a foreign principal. Second, the 1966 amendments gave administrators a civil injunctive remedy which was used much more frequently than criminal procedures.<sup>42</sup>

The law was radically changed after the passage of the Lobbying Disclosure Act of 1995 and the Lobbying Disclosure Technical Amendments Act of 1998. First, the law was narrowed to lobbyists who dealt with government interests (as opposed to economic interests). In practice, this simply meant that lobbyists with foreign economic interests had to register under the Lobbying Disclosure Act rather than under FARA. This also, of course, had the effect of eliminating the “domestic subsidiary exemption”, since economic interests were no longer relevant to application of the law. Second, the 1995 and 1998 laws communicated more clearly the scope of the “lawyer’s exemption”, helping to restrict its use. Lastly, Congress struck the term “political propaganda” throughout the text of the law and replaced it with the term “information materials”.<sup>43</sup>

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<sup>41</sup> Ibid.

<sup>42</sup> United States Attorneys’ Manual, “Foreign agents registration act enforcement”, title 9, no. 2062 [http://www.usdoj.gov/usao/eousa/foia\\_reading\\_room/usam/title9/crm02062.htm](http://www.usdoj.gov/usao/eousa/foia_reading_room/usam/title9/crm02062.htm).

<sup>43</sup> Federal register, Department of Justice, Final rule, Foreign agents registration act, June 5, 2003, vol 68, no. 108, rules and regulations, pp. 336239-33631 <http://edocket.access.gpo.gov/2003/03-13947.htm>

Despite the many amendments, FARA has, at best, been selectively enforced since it was passed. The Foreign Agent Registration Unit, who oversees enforcement, has never had sufficient authority to do its job.<sup>44</sup> Many continue to fail to register who should do so, and even those who register often fail to do so on time. As of 2008, a new GAO report recommended “(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.”<sup>45</sup> Such authority might help the Foreign Agent Registration Unit to carry out its duties.

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<sup>44</sup> GAO Report to the Chairman, Subcommittee on Oversight of Government Management, Committee on Government Affairs, U.S. Senate, “Foreign Agent Registration: Justice Needs to Improve Program Administration.” July 1990 p. 2 <http://archive.gao.gov/d23t8/142192.pdf>

<sup>45</sup> GAO Report to Congressional Requesters, “Post-Government Employment Restrictions and Foreign Agent Registration: Additional Action Needed to Enhance Implementation of Requirements,” July 2008 p. 5 <http://www.gao.gov/new.items/d08855.pdf>.

## Prosecution Procedure of FARA

The Foreign Agent Registration Act includes very specific procedures on how it is to be enforced, and what the criteria is for the necessity of either registration or prosecution. From its inception until 1966, the law's main focus was fighting against propagandists, while since 1966 it has generally focused on those attempting to gain a political advantage for their clients.<sup>46</sup> In 1942, when administration of FARA was transferred from the State Department to the Department of Justice, the practice began of attempting to achieve compliance from those who on the surface did not merit registration, by sending them letters urging them to do so.<sup>47</sup> This had great significance for enforcement, as in the case *John Joseph Frank vs. United States* in 1958, in which the latter was convicted of willful refusal to register as evidenced by his ignorance of the letter.<sup>48</sup>

In order for a criminal case to be conducted, there must be “the presence of reason to believe that a significant FARA offense has been committed and that sufficient evidence should be available to prove this.”<sup>49</sup> The most common threads of evidence to be used have been, as previously mentioned willfulness (as in the case of John Joseph Franks); millions of dollars in receipts and expenditures, and core violations of FARA with jury appeal.<sup>50</sup> A prime example of money was the case of Tong Sun Park in 1977, in which it was discovered that much of their money had gone to bribes and lobbying expenses.<sup>51</sup>

For a civil action, the grounds necessary for action are evidence of a violation of FARA

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<sup>46</sup> [2062 Foreign Agent Registration Act Enforcement](#), Criminal Resource Manual

<sup>47</sup> Ibid

<sup>48</sup> V/LEX. [John Joseph Frank, appellant, vs. United States of American, apellee](#). ID V-Lex: VLEX-36671723.

<sup>49</sup> [2062 Foreign Agent Registration Act Enforcement](#), Criminal Resource Manual

<sup>50</sup> Ibid

<sup>51</sup> Ibid

in which civil action, due to time constraints, is judged to be the most prudent choice. It would allow the Attorney General to look through the books and records of registered agents, though to this day no case involving FARA has been strictly a civil one.<sup>52</sup>

To require registration, the Justice Department usually receives evidence of a prima facie obligation to register. They usually send a letter to the relevant party, as some may not realize the existence of the law. If there is a false response or no response, the matter is generally turned over to the FBI.<sup>53</sup> If their investigation determines that there is criminal activity involved, the matter is turned over to the relevant district court.<sup>54</sup>

Such is the standard procedure in theory of the Foreign Agent Registration Act. However, it should be noted that there are significant inconsistencies in the actual enforcement of this law. The law is rather sporadically enforced, with many violations going unnoticed.

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<sup>52</sup> Ibid

<sup>53</sup> Ibid

<sup>54</sup> [U.S.C. Section 618 2f](#)

## Historic Cases

Generally speaking, groups have been prosecuted by FARA whose actions are viewed as jeopardizing American national security. For the most part, the focus has generally been on groups serving the interests of countries currently viewed with nervousness by the United States. For example, the 1940s especially brought about cases against German firms in the United States. A notable case was *Viereck vs. United States*, which was brought before the Court of Appeals in 1944. Testimony in 1933 and 1934 was used to show that Viereck had been employed by the German government and had failed to register.<sup>55</sup> Similarly, in 1945, the case *United States vs. German-American Vocational League* found convicting evidence that it was in actual fact a propaganda body of the Third Reich, in spite of their appearance as a social and fraternal organization.<sup>56</sup>

In the Cold War, Russian organizations were often exposed as tainted by the interests of the Soviet government. In the case *United States vs. Butenko and Ivanov* in 1967, the Court of Appeals ruled that Butenko, who worked for the International Electronic Company, was guilty of secretly passing Air Force-related technology to Ivanov, a Soviet agent, and thus was guilty of functioning as an unregistered foreign agent.<sup>57</sup> Ivanov was shown more lenience, as it was deemed unlikely that he ever had knowledge of Butenko's lack of registration.<sup>58</sup> Still another example occurred in 1949, when Armtorg Trading Corporation, a Soviet company, was indicted

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<sup>55</sup> *Viereck vs. United States*, LexisNexis

<sup>56</sup> *United States vs. German-American Vocational League*, LexisNexis

<sup>57</sup> *United States vs. John William Butenko and Igor Ivanov*, LexisNexis

<sup>58</sup> *Ibid*

for working on behalf of the Soviet government and failing to register. They pleaded no contest and eventually registered.<sup>59</sup>

More recently, people have also been convicted of illegally doing work for Islamic governments. In January 2009, Ali Amirnazmi, an Iranian, was brought to a Pennsylvania district court on numerous counts, including one of conspiracy to act as an illegal agent of a foreign government in violation of the Foreign Agents Registration Act ("FARA")<sup>3</sup> and in violation of [18 U.S.C. § 371](#); one substantive count of acting as an illegal agent of a foreign government, in violation of [18 U.S.C. § 951](#), and of aiding [\*2] and abetting the same, in violation of [§ 2](#).<sup>60</sup> He had met with representatives of several Iranian companies, and possibly of the Iranian government.<sup>61</sup> He attempted to have these dismissed, which the court denied.<sup>62</sup> Another case pertaining to the war with radical Islam was *United States vs. Dumeisi*. Dumeisi was an agent of Saddam Hussein's Iraq who had writings discovered at the Iraqi Intelligence Service. Though he claimed all his work consisted of publicly accessible information, it was concluded that "(1) he received payment and directions from the IIS; (2) his handwritten report was found among IIS records in Iraq; (3) he contacted the Iraqi Mission to the United Nations (IMUN) and offering to publish articles supplied by them in his newspaper; (4) he received training and was asked to report on Iraqi opposition activities in the United States; (5) his regular weekly telephone conference with someone from the IMUN to receive instructions; (6) he was given a pen like those used by the IIS that could be used as a camera and a tape recorder; (7) he printed provocative articles in his paper in order to learn more about the opposition; and (8) he produced

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<sup>59</sup> Stuart Malawer, *American Journal of International Law*, January 1980

<sup>60</sup> *United States vs. Amirnazmi*, LexisNexis

<sup>61</sup> *ibid*

<sup>62</sup> *ibid*

false press passes for IMUN employees to facilitate their access to places which they could not, as diplomats, have gone.’’<sup>63</sup>

An example of a more obscure case occurred in 1987, in the Supreme Court case *Meese vs. Keene*, in which a California state senator had shown three Canadian films considered to be propaganda, and had been required to register with FARA because of it. He proceeded to challenge the constitutionality of the term “political propaganda” but the court ruled it to be legitimate due to the court defining the term as any promotion of another government’s interest, even if the information is completely accurate, thus upholding the constitutionality of FARA’s provisions.<sup>64</sup>

There are countless other cases of people who have covertly, in the United States, represented foreign interests outside the provisions of FARA. These examples are by no means exhaustive, but simply serve as several concrete examples of the means of prosecution of FARA. There additionally are dozens of cases of FARA being used but are less known, simply due to the relevant countries being less of a threat than the ones that find their way into the news.

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<sup>63</sup> United States vs. Dumeisi, LexisNexis

<sup>64</sup> [Meese vs. Keene](#), US Supreme Court Center

## Relevant Case Law

The following is a list of the important district, appellate, and Supreme Court rulings with regard to FARA which have shaped the interpretation of the law over the years. For an account of the groups that have been targeted or information on trends relating to who has been targeted by the law, see the section in this document on “historic cases”.

Vierick v. United States – 1943

Supreme Court of the United States

(318 U.S. 236, 1943 U.S. Lexis 912 on lexis-nexis Legal)<sup>65</sup>

One of the first important cases under FARA. The defendant wrote a short description (“author and journalist”) on his initial registration statement rather than a comprehensive list of his activities. The Supreme Court ruled that the defendant did not have to provide a comprehensive description because FARA did not specify that in U.S. code.

United States v. Peace Information Center- 1951.

District Court of the District of Columbia

(Crim. No. 178-51, 97 F. Supp. 255; 1951 U.S. Dist. Lexis 4282 on Lexis-Nexis Legal)<sup>66</sup>

This case tested the constitutionality of FARA.<sup>67</sup> It was heard in the District court for Washington D.C. The petitioners raised four main objections to the law.

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<sup>65</sup> United States Supreme Court, “Opinion: Vierick v. United States” 318 U.S. 236, Lexis 912 on Lexis-Nexis Legal, accessed via Lexis-nexis Legal.

<sup>66</sup> United States District Court for the District of Columbia, “Opinion: UNITED STATES v. PEACE INFORMATION CENTER et al.” Crim. No. 178-51, 97 F. Supp. 255; 1951 U.S. Dist. Lexis 4282 on Lexis-Nexis Legal, accessed via lexis-nexis legal.

<sup>67</sup> Potter, Trevor, “Buckley v. Valeo, Political Disclosure, and the first Amendment”. Akron Law Review, (33 Akron L. Rev. 71) 1999. Accessed via lexis-nexis.



First, the petitioners argued that the statute lies outside of congressional authority. The opinion argued that, for two reasons, Congress had sufficient authority to create the law. First, Congress has the authority to “legislate on the subject of foreign relations”. The court found that while domestic powers are limited by the enumerated powers in Article 1, section 8, of the U.S. constitution, “the power over external relations of the United States is extensive”, giving the Congress authority to pass the law. Second, the court found that Congress’ enumerated power to “legislate concerning the national defense includes power to declare war, to raise and support armies, to provide and maintain a navy, as well as the power to make all laws necessary and proper for carrying into execution the foregoing powers” necessarily give it the authority “to take preventive measures against activities that may cause international misunderstandings, which, in turn, may lead to war, as well as against endeavors to subvert, undermine, or overthrow the government”, which would include laws like FARA.

Second, the petitioners argued that FARA violates the freedom of speech protected by the first amendment. The court found that “the statute under consideration neither limits nor interferes with freedom of speech”, “does not regulate the expression of ideas” and does not “preclude the making of any utterances”; it “merely requires persons carrying on certain activities to identify themselves”. Because FARA does not actually abridge the freedom to express oneself, the court found that it was constitutional with regard to the first amendment.

Third, the petitioners charged that FARA violated the Fifth Amendment protection from self-incrimination. The court argued that the right against self-incrimination only applied to individuals, not groups or organizations. Also, the information that the petitioners were required to disclose under FARA was not, in itself, incriminating. Thus FARA did not violate the Fifth Amendment protection from self-incrimination.

Fourth, and finally, the petitioners argued that the law violated the due process clause of the Fifth Amendment because the law was not clear enough to “establish and formulate an ascertainable standard of guilt”. The court argued that the law was “sufficiently precise” in defining the crime. The law defines its terms clearly, and although the court did concede that a foreign agent of foreign principal might be unsure of whether the law applied to them, “this circumstance is not sufficient” to “vitate the law”.

Rabinowitz et al. v. Kennedy, Attorney General – 1964

Supreme Court of the United States

(376 U.S. 605, Lexis-Nexis 1536 on lexis-nexis legal)<sup>68</sup>

In this case the Supreme Court ruled that, in the case of attorneys who represented Cuban economic interests, no exception could be made to prevent registration under FARA. The court ruled this way on the grounds that the foreign agents under question engaged in activity that “could not be characterized as only ‘financial or mercantile activity’”. Rather, Cuba’s interests were clearly political, thus preventing the exclusion from being applicable.

COMMITTEE FOR A FREE NAMIBIA, Plaintiff, v. SOUTH WEST AFRICA PEOPLE'S

ORGANIZATION, Defendant – 1982

District court of the District of Columbia

(554 F. Supp. 722; 1982 U.S. Dist Lexis 17288, accessed via lexis-nexis)<sup>69</sup>

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<sup>68</sup> Supreme Court of the United States, “Opinion: Rabinowitz et al. v. Kennedy, Attorney General.” 376 U.S. 605, 1964, accessed via lexis-nexis.

<sup>69</sup> United States District Court of the District of Columbia, “Opinion: Committee for a free Namibia v. South West Africa people’s organization, defendant” 554 F. Supp. 722; 1982, accessed via lexis-nexis.

In this case, the district court ruled that private individuals do not have standing to bring a case under FARA. Rather, the attorney general must bring a case. In an article published in the American Journal of International Law, the author laments that this ruling, while probably correct, “highlights a limitation on enforcement of the statutory scheme -- one which this act shares with other statutes containing criminal provisions. In the event that the Attorney General fails to enforce obligations imposed by the Act, individuals and groups who may be directly or indirectly affected by a violation are powerless to seek a judicial order enjoining the foreign agent from engaging in activities covered by the Act or compelling the Attorney General to take action.”<sup>70</sup>

Steven A. Emerson, Plaintiff, v. Department of Justice, Defendant – 1985

United States District Court for the District of Columbia

(603 F. Supp. 459; 1985 U.S. Dist Lexis 21844, accessed via lexis-nexis)<sup>71</sup>

The Court of appeals for the D.C. circuit ruled in this case that the plaintiff had the right to use the freedom of information act to request information from the Federal Agent Registration Unit which “should have been reported”, but may have not.

Attorney General of the United States v. Irish People inc., appellant – 1986

United States Court of Appeals for the District of Columbia Circuit

(796 F. 2d 520, Lexis 27332, accessed via lexis-nexis)<sup>72</sup>

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<sup>70</sup> Leigh, Monroe, “Foreign agents registration act – standing – no private right of action to enforce registration requirements” American Journal of International Law, 77 A.J.I.L 628, accessed via lexis-nexis.

<sup>71</sup> United States Court of Appeals for the District of Columbia, “opinion: Steven A. Emerson, Plaintiff, v. Department of Justice, Defendant – 1985; 603 F. Supp. 459; 1985, accessed via lexis-nexis.

<sup>72</sup> United States Court of Appeals for the District of Columbia Circuit, “Attorney General of the United States v. Irish People inc., appellant.” 796 F. 2d 520; 1986, accessed via lexis-nexis.

The court of appeals for the D.C. circuit ruled in this case that the Irish people (a newspaper) could not be proven to have been a foreign agent. Thus, that part of the case was remanded. However, the court did rule that there ought be a high burden of proof when defendants in FARA cases claim the “selective prosecution” defense (that they were singled out for enforcement of the act). The implication is that it is legally very difficult to have a case under FARA thrown out on the grounds that the defendant was specifically and selectively targeted for enforcement.

Meese, ATTORNEY GENERAL OF THE UNITED STATES, ET AL. v. KEENE-1987

Supreme Court of the United States

(Crim. No. 85-1180, 481 U.S. 465; 1987, accessed via Lexis-Nexis)<sup>73</sup>

This Supreme court case dealt with the question of three films released by the Canadian film boards which were labeled “propaganda” by the justice department under FARA. The Supreme court ruled that because the term propaganda in FARA was neutral, it did not prevent or discourage anyone from viewing the films, and thus was not an abridgement of free speech. Thus, the court ruled in favor of the justice department to uphold their decision to apply the label.

United States of America, Appellant, v. John Peter

U.S. court of appeals for the D.C. circuit

(831 F.2d 1071, 1987, Lexis 13983, accessed via lexis-nexis)<sup>74</sup>

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<sup>73</sup> United States Supreme Court, “Opinion: MEESE, ATTORNEY GENERAL OF THE UNITED STATES, ET AL. v. KEENE.” Crim. No. 85-1180, 481 U.S. 465; 1987, accessed via Lexis-Nexis.

In this case, a defendant charged with FARA successfully appealed on the grounds that the statute of limitations had run out by the time he had been charged. The government argued that the statute of limitations (agreed to be five years) began running the day that the last registration statement was filed, whereas the defendant argued it should begin running the last day that a crime was committed. The court found that to have the statute of limitations begin running on the day the last registration statement was filed would amount to no limitations at all, given that most defendants would have never filed.

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<sup>74</sup> United States Court of Appeals for the D.C. Circuit, "Opinion: United States of America, Appellant v. John Peter McGoff." 831 F.2d 1071; 1987, lexis 13983, accessed via lexis-nexis

## **Congressional Oversight/organization**

The FARA Registration Unit of the Counterespionage Section (CES) in the National Security Division (NSD) of the Justice Department is responsible for the administration and enforcement of the Act.

<http://www.fara.gov>

## Reference Resources and Links

FARA website: Main website

<http://www.usdoj.gov/criminal/fara/>

Semi-Annual Reports from the Attorney General to Congress:

<http://www.usdoj.gov/criminal/fara/links/annualrpts.html>

Official FARA Database: Includes active and terminated registrants, sorted by date or country/location as well as active and terminated foreign principals, also sorted by date or country/location. Also includes all forms including registration statements, amendment to registration statements, supplemental statements, short form registration statements, and foreign principle exhibits, A, B, C, and D (see “List of forms” page in this document)

<http://www.usdoj.gov/criminal/fara/links/quick-facts.html>

Sunlight Foundation FARA Database: Transparency group’s own FARA database. Does not include all registrants, but has more detailed information about the nature of lobbyist’s activities. Also allows search by legislator, client, and lobbying firm.

<http://fara.sunlightfoundation.com/>

## Remaining Enforcement Issues

The academic literature surrounding FARA suggests that the law is still in need of some reform. Many who should register fail to do so. This has been made obvious, since whenever Congress has investigated the possibility of reform, scores of new registrations have flooded in.<sup>75</sup> Though the passage of the Lobbying Disclosure Act of 1995 and the Lobbying Disclosure Technical Amendments Act of 1998 were helpful, they have not made the law enforceable.

Rates of noncompliance are extremely high. A 1974 GAO report did a survey of FARAs records. The GAO found that sixty-seven percent of the initial registration forms were not filled out on time and seventy percent of the supplemental statements were late as well.<sup>76</sup> A follow up survey in 1980 found a fifty-one percent compliance rate.<sup>77</sup>

First, FARA does not have a mechanism to deal with the possibility of former government officials acting as foreign agents. The purpose of the law was to eliminate, according to one legal analyst, the “cloak of anonymity” that a foreign agent might have, exposing them to “the spotlight of pitiless publicity” and decreasing their influence.<sup>78</sup> Former government officials, well versed in the system, and well known by those still in office, gain power and influence through contacts. FARA cannot, in its current form, function to limit their power. A recent GAO report argues that there are information, legal, and resource challenges to

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<sup>75</sup> Spak, Michael. “America for Sale: When Well-Connected Former Federal Officials Peddle their Influence to the Highest Bidder.” *Kentucky Law Journal*, 1990, vol. 78, accessed via lexis-nexis.

<sup>76</sup> Spak.

<sup>77</sup> GAO report, “improvements needed in the Administration of Foreign Agent Registration” July 31, 1980. <http://archive.gao.gov/f0102/112923.pdf>.

<sup>78</sup> Spak.



“promoting compliance with post-government employment restrictions and in enforcing and monitoring the registration requirements of FARA.”<sup>79</sup>

Moreover, the Foreign Agents Registration Office simply does not have enough human resources to carry out its job. The 2008 GAO report mentioned above indicates that the number of people in the office has decreased from thirteen in 1990 to only eight in 2008.<sup>80</sup> Since its conception, the office has typically had between six and seventeen staff members.<sup>81</sup> It is doubtful that even twenty people could accomplish all of the tasks that FARA is expected to. The FBI has done checks of FARA paperwork over the years and has found “discrepancies, omissions, and inconsistencies” that were likely the result of insufficient attention on behalf of the staff.<sup>82</sup>

Beyond the insufficient staff, FARA does not have enough funding to provide the technical resources it needs to keep its records safe. In 2004, the Center for Public Integrity reported that the “database that serves as the public's lone window on lobbying activities by foreign governments has been allowed to decay to a point they cannot even make a copy of its contents” without risking “a major loss of data.”<sup>83</sup> At the very least, FARA’s ancient database systems should probably be brought into the 21<sup>st</sup> century!

However, even with further financial resources, problems would remain. The Foreign Agent Registration Unit has little power to backup the law. If the unit discovers a noncompliant, they have to request an injunction in federal court, through the Attorney General. The penalties

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<sup>79</sup> GAO Report to Congressional Requesters, “Post-Government Employment Restrictions and Foreign Agent Registration: Additional Action Needed to Enhance Implementation of Requirements,” July 2008 p. 5 <http://www.gao.gov/new.items/d08855.pdf>.

<sup>80</sup> Ibid.

<sup>81</sup> Spak.

<sup>82</sup> Spak.

<sup>83</sup> Center for Public Integrity, “Foreign Lobbyist Database Could Vanish.” June 28, 2004. <http://projects.publicintegrity.org/report.aspx?aid=332&sid=100>.

simply are not steep enough, given that the maximum fine for violating the law is only \$10,000. Even if the FARA office pursues a case completely, it can get tied up in court for years. One notable case against the Irish Northern Aid Committee lasted eleven years.<sup>84</sup> GAO reports have repeatedly recommended increased powers be given to the FARA office, but those requests have fallen on deaf ears in Congress.

Lastly, enforcement is still stymied by the nature of exemptions under the law. Exemptions under FARA are self-policing, meaning that one does not have to apply for an exemption, one can merely assume they are covered and not register. Therefore, if any exemption can be construed as applying to a foreign agent, they choose not to register, citing the exemption if asked about it.<sup>85</sup> This is made worse by the dizzying number of exemptions (eight) available for foreign agents to misconstrue to their advantage.

All in all, problems clearly remain in the enforcement of the law. Reform of some kind is necessary in order to make the law enforceable and to help the Foreign Agents Registration Unit accomplish its mission.

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<sup>84</sup> Spak.

<sup>85</sup> Lawson, Charles. "Shining the 'Spotlight of Pitiless Publicity' on Foreign Lobbyists? Evaluating the Impact of the Lobbying Disclosure Act of 1995 on the Foreign Agents Registration Act." *Vanderbilt Journal of Transnational Law*, November 1986, vol. 29, accessed via lexis-nexis.

## Relevant Oversight Reports

Government Accountability Office

Report to the Chairman, Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, U.S. Senate. “Foreign Agent Registration: Justice needs to improve program administration” July 1990.

<http://archive.gao.gov/d23t8/142192.pdf>

Report argues that additional steps need to be taken to reform the bureaucracy surrounding FARA. Lingering problems include the failure of many who should register to do so, failure to report information accurately, and failure to register on time. The report recommends giving increased authority to the Department of Justice to enforce the law, including the ability to “subpoena foreign agents to appear, testify, or produce records at administrative hearings” and to “impose administrative fines for minor violations against those who, after being informed of their obligation to report, still fail to do so”. Also, the report suggests that the Attorney General ought to “direct the registration unit” to “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” as well as “revise the supplemental statement to better reflect the requirements of the act as well as the standard criteria”.

GAO Report to Congressional Requesters, “Post-Government Employment Restrictions and Foreign Agent Registration: Additional Action Needed to Enhance Implementation of Requirements,” July 2008 p. 5 <http://www.gao.gov/new.items/d08855.pdf>.

This is the latest GAO Report on FARA. The report concludes that significant roadblocks remain to enforcing the law. First, according to the report “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” which would be extremely helpful in identifying those who should be registered. Second, resources are at a premium, as the number of people in the unit has decreased from 13 in 1990 to 8 in 2008. The report recommends that Congress “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.”

## **List of Forms**

Registration Statement: Initial filing when foreign agent registers under FARA

[http://www.usdoj.gov/criminal/fara/forms/2008/OMB\\_1124\\_0001.pdf](http://www.usdoj.gov/criminal/fara/forms/2008/OMB_1124_0001.pdf)

Amendment to registration statement: Filed in order to fix information submitted incorrectly under the registration statement

[http://www.usdoj.gov/criminal/fara/forms/2008/OMB\\_1124\\_0003.pdf](http://www.usdoj.gov/criminal/fara/forms/2008/OMB_1124_0003.pdf)

Supplemental Statement: Filed semi-annually under FARA, updates information submitted in registration statement

[http://www.usdoj.gov/criminal/fara/forms/2008/OMB\\_1124\\_0002.pdf](http://www.usdoj.gov/criminal/fara/forms/2008/OMB_1124_0002.pdf)

Short Form Registration Statement: Submitted by individuals, pursuant to FARA

[http://www.usdoj.gov/criminal/fara/forms/2007/OMB\\_1124\\_0005.pdf](http://www.usdoj.gov/criminal/fara/forms/2007/OMB_1124_0005.pdf)

Foreign Principal Exhibit A: Filed in order to “set forth the information required to be disclosed concerning each foreign principal” (DoJ regulations, 5.201, see section on DoJ regulations)

[http://www.usdoj.gov/criminal/fara/forms/2008/OMB\\_1124\\_0006.pdf](http://www.usdoj.gov/criminal/fara/forms/2008/OMB_1124_0006.pdf)

Foreign Principal Exhibit B: Filed to “set forth the agreement or understanding between the registrant and each of his foreign principals as well as the nature and method of performance of such agreement or understanding and the existing or proposed activities engaged in or to be engaged in, including political activities, by the registrant for the foreign principal.” (DoJ regulations, 5.201, see section on DoJ regulations)

[http://www.usdoj.gov/criminal/fara/forms/2008/OMB\\_1124\\_0004.pdf](http://www.usdoj.gov/criminal/fara/forms/2008/OMB_1124_0004.pdf)

Foreign Principal Exhibit C: Includes Articles of incorporation, bylaws, etc. Only needs to be filled out for “an association, corporation, organization, or any other combination of individuals” (DoJ regulations, 5.201, see section on DoJ regulations).

(Filing template not available)

Example: <http://www.fara.gov/docs/1381-Exhibit-C-19841201-CYP8I002.pdf>

Foreign Principle Exhibit D: Filed only by a registrant who “within the United States, receives or collects contributions, loans, money, or other things of value, as part of a fund-raising campaign, for or in the interests of his foreign principal” (DoJ regulations, 5.201, see section on DoJ regulations).

(Filing template not available)

Example: <http://www.fara.gov/docs/1699-Exhibit-D-20071031-1.pdf>

## **FARA U.S. Code Text**

### FOREIGN AGENTS REGISTRATION ACT

22 U. S. C. §611

#### DEFINITIONS

§ 611. As used in and for the purposes of this subchapter--

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

(b) The term "foreign principal" includes--

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

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

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

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

(1) any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly or through any other person--

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

(ii) acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;

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

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(iv) within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States; and

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

(d) The term "agent of a foreign principal" does not include any news or press service or association organized under the laws of the United States or of any State or other place subject to the jurisdiction of the United States, or any newspaper, magazine, periodical, or other publication

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

(e) The term "government of a foreign country" includes any person or 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;

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

(g) The term "public-relations counsel" includes any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any public relations matter pertaining to political or public interests, policies, or relations of such principal;

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(h) The term "publicity agent" includes any person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise;

(i) The term "information-service employee" includes any person who is engaged in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, social, cultural, or other benefits, advantages, facts, or conditions of any country other than the United States or of any government of a foreign country or of a foreign political party or of a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in, a foreign country;

(j) Repealed.

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

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

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

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

(o) The term "political activities" means 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;

(p) The term "political consultant" means any person who engages in informing or advising any other person with reference to the domestic or foreign policies of the United States or the political or public interest, policies, or relations of a foreign country or of a foreign political party.

(q) Repealed.

## REQUIREMENTS AS TO REGISTRATION

§ 612.(a) No person shall act as an agent of a foreign principal unless he has filed with the Attorney General a true and complete registration statement and supplements thereto as required by subsections (a) and (b) of this section or unless he is exempt from registration under the provisions of this subchapter. Except as hereinafter provided, every person who becomes an agent of a foreign principal shall, within ten days thereafter, file with the Attorney General, in duplicate, a registration statement, under oath on a form prescribed by the Attorney General. The obligation of an agent of a foreign principal to file a registration statement shall, after the tenth



day of his becoming such agent, continue from day to day, and termination of such status shall not relieve such agent from his obligation to file a registration statement for the period during which he was an agent of a foreign principal. The registration statement shall include the following, which shall be regarded as material for the purposes of this subchapter:

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

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

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

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

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

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

(7) The name, business, and residence addresses, and if an individual, the nationality, of any person other than a foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act under such circumstances as require his registration hereunder; the extent to which each such person is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party or by any other foreign principal; and the nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received during the preceding sixty days from each such person in connection with any of the activities referred to in clause (6) of this subsection, either as compensation or for disbursement or otherwise, and the form and time of each such payment and from whom received;

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

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

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

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

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

such changes occur. If the Attorney General, having due regard for the national security and the public interest, determines that it is necessary to carry out the purposes of this subchapter, he may, in any particular case, require supplements to the registration statement to be filed at more frequent intervals in respect to all or particular items of information to be furnished.

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

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

(e) If any agent of a foreign principal, required to register under the provisions of this subchapter, has previously thereto registered with the Attorney General under the provisions of section 2386 of Title 18, the Attorney General, in order to eliminate inappropriate duplication, may permit the incorporation by reference in the registration statement or supplements thereto filed hereunder of any information or documents previously filed by such agent of a foreign principal under the provisions of said section.

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

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

(2) from the requirement of furnishing any of the information required by this section of any agent of a foreign principal, where by reason of the nature of the functions or activities of such person the Attorney General, having due regard for the national security and the public interest, determines that such registration, or the furnishing of such information, as the case may be, is not necessary to carry out the purposes of this subchapter.

#### EXEMPTIONS

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

- (a) A duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, while said officer is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer;
- (b) Any official of a foreign government, if such government is recognized by the United States, who is not a public-relations counsel, publicity agent, information-service employee, or a citizen of the United States, whose name and status and the character of whose duties as such official are of public record in the Department of State, while said official is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official;
- (c) Any member of the staff of, or any person employed by, a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, other than a public-relations counsel, publicity agent, or information-service employee, whose name and status and the character of whose duties as such member or employee are of public record in the Department of State, while said member or employee is engaged exclusively in the performance of activities which are recognized by the Department of State as being within the scope of the functions of such member or employee;
- (d) Any person engaging or agreeing to engage only (1) in private and nonpolitical activities in furtherance of the bona fide trade or commerce of such foreign principal; or (2) in other activities not serving predominantly a foreign interest; or (3) in the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and clothing to relieve human suffering, if such solicitation or collection of funds and contributions is in accordance with and subject to the provisions of subchapter II of chapter 9 of this title, and such rules and regulations as may be prescribed thereunder;
- (e) Any person engaging or agreeing to engage only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts;
- (f) Any person, or employee of such person, whose foreign principal is a government of a foreign country the defense of which the President deems vital to the defense of the United States while, (1) such person or employee engages only in activities which are in furtherance of the policies, public interest, or national defense both of such government and of the Government of the United States, and are not intended to conflict with any of the domestic or foreign policies of the Government of the United States, (2) each communication or expression by such person or employee which he intends to, or has reason to believe will, be published, disseminated, or circulated among any section of the public, or portion thereof, within the United States, is a part of such activities and is believed by such person to be truthful and accurate and the identity of such person as an agent of such foreign principal is disclosed therein, and (3) such government of a foreign country furnishes to the Secretary of State for transmittal to, and retention for the duration of this subchapter by, the Attorney General such information as to the identity and activities of such person or employee at such times as the Attorney General may require. Upon

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

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

(h) 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(1) under the Lobbying Disclosure Act of 1995 [2 U.S.C.A. s 1601 et seq.] in connection with the agent's representation of such person or entity.

#### FILING AND LABELING OF INFORMATIONAL MATERIALS

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

(b) It shall be unlawful for any person within the United States who is an agent of a foreign principal and required to register under the provisions of this subchapter to transmit or cause to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce any informational materials for or in the interests of such foreign principal without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal, and that additional information is on file with the Department of Justice, Washington, District of Columbia. The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this subsection.

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

(d) For purposes of the Library of Congress, other than for public distribution, the Secretary of the Treasury and the Postmaster General are authorized, upon the request of the Librarian of Congress, to forward to the Library of Congress fifty copies, or as many fewer thereof as are available, of all foreign prints determined to be prohibited entry under the provisions of section 1305 of Title 19 and of all foreign prints excluded from the mails under authority of section 1717

of Title 18. Notwithstanding the provisions of section 1305 of Title 19 and of section 1717 of Title 18, the Secretary of the Treasury is authorized to permit the entry and the Postmaster General is authorized to permit the transmittal in the mails of foreign prints imported for governmental purposes by authority or for the use of the United States or for the use of the Library of Congress.

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

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

#### MAINTENANCE OF BOOKS AND RECORDS

§ 615. Every agent of a foreign principal registered under this subchapter shall keep and preserve while he is an agent of a foreign principal such books of account and other records with respect to all his activities, the disclosure of which is required under the provisions of this subchapter, in accordance with such business and accounting practices, as the Attorney General, having due regard for the national security and the public interest, may by regulation prescribe as necessary or appropriate for the enforcement of the provisions of this subchapter and shall preserve the same for a period of three years following the termination of such status. Until regulations are in effect under this section every agent of a foreign principal shall keep books of account and shall preserve all written records with respect to his activities. Such books and records shall be open at all reasonable times to the inspection of any official charged with the enforcement of this subchapter. It shall be unlawful for any person willfully to conceal, destroy, obliterate, mutilate, or falsify, or to attempt to conceal, destroy, obliterate, mutilate, or falsify, or to cause to be concealed, destroyed, obliterated, mutilated, or falsified, any books or records required to be kept under the provisions of this section.

#### PUBLIC EXAMINATION OF OFFICIAL RECORDS

§ 616. (a) The Attorney General shall retain in permanent form one copy of all registration statements furnished under this subchapter, and the same shall be public records and open to public examination and inspection at such reasonable hours, under such regulations, as the Attorney General may prescribe, and copies of the same shall be furnished to every applicant at

such reasonable fee as the Attorney General may prescribe. The Attorney General may withdraw from public examination the registration statement and other statements of any agent of a foreign principal whose activities have ceased to be of a character which requires registration under the provisions of this subchapter.

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

(c) The Attorney General is authorized to furnish to departments and agencies in the executive branch and committees of the Congress such information obtained by him in the administration of this subchapter, including the names of registrants under this subchapter, copies of registration statements, or parts thereof, or other documents or information filed under this subchapter, as may be appropriate in the light of the purposes of this subchapter.

#### LIABILITY OF OFFICERS

§ 617. Each officer, or person performing the functions of an officer, and each director, or person performing the functions of a director, of an agent of a foreign principal which is not an individual shall be under obligation to cause such agent to execute and file a registration statement and supplements thereto as and when such filing is required under subsections (a) and (b) of section 612 of this title and shall also be under obligation to cause such agent to comply with all the requirements of sections 614(a) and (b) and 615 of this title and all other requirements of this subchapter. Dissolution of any organization acting as an agent of a foreign principal shall not relieve any officer, or person performing the functions of an officer, or any director, or person performing the functions of a director, from complying with the provisions of this section. In case of failure of any such agent of a foreign principal to comply with any of the requirements of this subchapter, each of its officers, or persons performing the functions of officers, and each of its directors, or persons performing the functions of directors, shall be subject to prosecution therefor.

#### ENFORCEMENT AND PENALTIES

§ 618. (a) Any person who--

- (1) willfully violates any provision of this subchapter or any regulation thereunder, or
- (2) in any registration statement or supplement thereto or in any other document filed with or furnished to the Attorney General under the provisions of this subchapter willfully makes a false statement of a material fact or willfully omits any material fact required to be stated therein or willfully omits a material fact or a copy of a material document necessary to make the statements therein and the copies of documents furnished therewith not misleading, shall, upon conviction thereof, be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both, except that in the case of a violation of subsection (b), (e), or (f) of section

614 of this title or of subsection (g) or (h) of this section the punishment shall be a fine of not more than \$5,000 or imprisonment for not more than six months, or both.

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

(c) Any alien who shall be convicted of a violation of, or a conspiracy to violate, any provision of this subchapter or any regulation thereunder shall be subject to removal pursuant to chapter 4 of title II of the Immigration and Nationality Act [8 U.S.C.A. s 1221 et seq.].

(d) Repealed.

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

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

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

(h) It shall be unlawful for any agent of a foreign principal required to register under this subchapter to be a party to any contract, agreement, or understanding, either express or implied, with such foreign principal pursuant to which the amount or payment of the compensation, fee, or other remuneration of such agent is contingent in whole or in part upon the success of any political activities carried on by such agent.

#### APPLICABILITY OF THE ACT

§ 619. This subchapter shall be applicable in the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States.

#### RULES AND REGULATIONS

§ 620. The Attorney General may at any time make, prescribe, amend, and rescind such rules, regulations, and forms as he may deem necessary to carry out the provisions of this subchapter.



## REPORTS TO THE CONGRESS

§ 621. The Attorney General shall every six months report to the Congress concerning administration of this subchapter, including registrations filed pursuant to this subchapter, and the nature, sources and content of political propaganda disseminated and distributed.

## **FARA Department of Justice Regulations**

[http://edocket.access.gpo.gov/cfr\\_2007/julqtr/28cfr5.1.htm](http://edocket.access.gpo.gov/cfr_2007/julqtr/28cfr5.1.htm)

### TITLE 28--JUDICIAL ADMINISTRATION

#### CHAPTER I--DEPARTMENT OF JUSTICE

##### Sec. 5.1 Administration and enforcement of the Act.

(a) The administration and enforcement of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611-621) (Act), subject to the general supervision and direction of the Attorney General, is assigned to, and conducted, handled, and supervised by, the Assistant Attorney General for National Security.

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

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

##### Sec. 5.2 Inquiries concerning application of the Act.

(a) General. Any present or prospective agent of a foreign principal, or the agent's attorney, may request from the Assistant Attorney General for National Security a statement of the present enforcement intentions of the Department of Justice under the Act with respect to any presently contemplated activity, course of conduct, expenditure, receipt of money or thing of value, or transaction, and specifically with respect to whether the same requires registration and disclosure pursuant to the Act, or is excluded from coverage or exempted from registration and disclosure under any provision of the Act.

(b) Anonymous, hypothetical, non-party and ex post facto review requests excluded. The entire transaction which is the subject of the review request must be an actual, as opposed to hypothetical, transaction and involve disclosed, as opposed to anonymous, agents and principals. Review requests must be submitted by a party to the transaction or the party's attorney, and have no application to a party that does not join in the request. A review request may not involve only past conduct.

(c) Fee. All requests for statements of the Department's present enforcement intentions must be accompanied by a non-refundable filing fee submitted in accordance with Sec. 5.5.

(d) Address. A review request must be submitted in writing to the Assistant Attorney General for National Security, Department of Justice, Washington, DC 20530.

(e) Contents. A review request shall be specific and contain in detail all relevant and material information bearing on the actual activity, course of conduct, expenditure, receipt of money or thing of value, or transaction for which review is requested. There is no prescribed format for the request, but each request must include:

- (1) The identity(ies) of the agent(s) and foreign principal(s)

involved;

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

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

(4) The applicable statutory or regulatory basis for the exemption or exclusion claimed.

(f) Certification. If the requesting party is an individual, the review request must be signed by the prospective or current agent, or, if the requesting party is not an individual, the review request must be signed on behalf of each requesting party by an officer, a director, a person performing the functions of an officer or a director of, or an attorney for, the requesting party. Each such person signing the review request must certify that the review request contains a true, correct and complete disclosure with respect to the proposed conduct.

(g) Additional information. Each party shall provide any additional information or documents the National Security Division may thereafter request in order to review a matter. Any information furnished orally shall be confirmed promptly in writing, signed by the same person who signed the initial review request and certified to be a true, correct and complete disclosure of the requested information.

(h) Outcomes. After submission of a review request, the National Security Division, in its discretion, may state its present enforcement intention under the Act with respect to the proposed conduct; may decline to state its present enforcement intention; or, if circumstances warrant, may take such other position or initiate such other action as it considers appropriate. Any requesting party or parties may withdraw a review request at any time. The National Security Division remains free, however, to submit such comments to the requesting party or parties as it deems appropriate. Failure to take action after receipt of a review request, documents or information, whether submitted pursuant to this procedure or otherwise, shall not in any way limit or stop the National Security Division from taking any action at such time thereafter as it deems appropriate. The National Security Division reserves the right to retain any review request, document or information submitted to it under this procedure or otherwise and to use any such request, document or information for any governmental purpose.

(i) Time for response. The National Security Division shall respond to any review request within 30 days after receipt of the review request and of any requested additional information and documents.

(j) Written decisions only. The requesting party or parties may rely only upon a written Foreign Agents Registration Act review letter signed by the Assistant Attorney General for National Security or his delegate.

(k) Effect of review letter. Each review letter can be relied upon by the requesting party or parties to the extent the disclosure was accurate and complete and to the extent the disclosure continues accurately and completely to reflect circumstances after the date of issuance of the review letter.

(l) Compliance. Neither the submission of a review request, nor its pendency, shall in any way alter the responsibility of the party or parties to comply with the Act.

(m) Confidentiality. Any written material submitted pursuant to a request made under this section shall be treated as confidential and shall be exempt from disclosure.

#### Sec. 5.3 Filing of a registration statement.

All statements, exhibits, amendments, and other documents and papers required to be filed under the Act or under this part shall be submitted in triplicate to the Registration Unit. An

original document and two duplicates meeting the requirements of Rule 1001(4), Federal Rules of Evidence (28 U.S.C. Appendix), shall be deemed to meet this requirement. Filing of such documents may be made in person or by mail, and they shall be deemed to be filed upon their receipt by the Registration Unit. [Order No. 376-67, 32 FR 6362, Apr. 22, 1967, as amended by Order No. 523-73, 38 FR 18235, July 9, 1973; Order No. 1757-93, 58 FR 37419, July 12, 1993]

#### Sec. 5.4 Computation of time.

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

#### Sec. 5.5 Registration fees.

(a) A registrant shall pay a registration fee with each initial registration statement filed under Sec. 5.200 and each supplemental registration statement under Sec. 5.203 at the time such registration statement is filed. The registration fee may be paid by cash or by check or money order made payable to "FARA Registration Unit". The Registration Unit, in its discretion, may require that the fee be paid by a certified or cashier's check or by a United States Postal money order.

(b) Payment of fees shall accompany any order for copies or request for information, and all applicable fees shall be collected before copies or information will be made available. Payment may be made by cash or by check or money order made payable to "FARA Registration Unit". The Registration Unit, in its discretion, may require that the fee be paid by a certified or cashier's check or by a United States Postal money order.

(c) Registration fees shall be waived in whole or in part, as appropriate, in the case of any individual person required to register under the Act who has demonstrated to the satisfaction of the Registration Unit that he or she is financially unable to pay the fees in their entirety. An individual seeking to avail himself or herself of this provision shall file with the registration statement a declaration made in compliance with section 1746 of title 28,

United States Code, setting forth the information required by Form 4, Federal Rules of Appellate Procedure (28 U.S.C. appendix).

(d) The fees shall be as follows:

- (1) For initial registration statements (including an exhibit A for one foreign principal) under Sec. 5.200: \$305.00;
- (2) For supplemental registration statements under Sec. 5.203: \$305.00 per foreign principal;
- (3) For exhibit A under Sec. 5.201(a)(1): \$305.00 per foreign principal not currently reported under Sec. 5.200 or Sec. 5.203;
- (4) For exhibit B under Sec. 5.201(a)(2): no fee;
- (5) For exhibits C and D (no forms) under Sec. 5.201: no fee;
- (6) For short-form registration statements under Sec. 5.202: no fee;
- (7) For amendments under Sec. 5.204: no fee;
- (8) For statements of present enforcement intentions under Sec. 5.2: \$96.00 per review request;
- (9) For each quarter hour of search time under Sec. 5.601: \$4.00;

(10) For copies of registration statements and supplements, amendments, exhibits thereto, dissemination reports, informational materials, and copies of political propaganda and other materials contained in the public files, under Sec. 5.601: fifty cents (\$.50) per copy of each page of the material requested;

(11) For copies of registration statements and supplements, amendments, exhibits thereto, dissemination reports, informational materials, and copies of political propaganda and other materials contained in the public files, produced by computer, such as tapes or printouts, under Sec. 5.601: actual direct cost of producing the copy, including the apportionable salary costs; and

(12) For computer searches of records through the use of existing programming: Direct actual costs, including the cost of operating a central processing unit for that portion of operating time that is directly attributable to searching for records responsive to a request and the salary costs apportionable to the search.

(e) The cost of delivery of any document by the Registration Unit by any means other than ordinary mail shall be charged to the requester at a rate sufficient to cover the expense to the Registration Unit.

(f) The Assistant Attorney General is hereby authorized to adjust the fees established by this section from time to time to reflect and recover the costs of the administration of the Registration Unit under the Act.

(g) Fees collected under this provision shall be available for the support of the Registration Unit.

(h) Notwithstanding Sec. 5.3, no document required to be filed under the Act shall be deemed to have been filed unless it is accompanied by the applicable fee except as provided by paragraph (c) of this section.

#### Sec. 5.100 Definition of terms.

(a) As used in this part:

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

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

(3) The term Assistant Attorney General means the Assistant Attorney General for National Security, Department of Justice, Washington, DC 20530.

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

(5) The term rules and regulations includes the regulations in this part and all other rules and regulations prescribed by the Attorney General pursuant to the Act and all registration forms and instructions thereon that may be prescribed by the regulations in this part or by the Assistant Attorney General for National Security.

(6) The term registrant means any person who has filed a registration statement with the Registration Unit, pursuant to section 2(a) of the Act and Sec. 5.3.

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

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

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

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

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

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

(b) As used in the Act, the term control or any of its variants shall be deemed to include the possession or the exercise of the power, directly or indirectly, to determine the policies or the activities of a person, whether through the ownership of voting rights, by contract, or otherwise.

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

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

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

(f) The term domestic or foreign policies of the United States, as used in sections 1 (o) and (p) of the Act, shall be deemed to relate to existing and proposed legislation, or legislative action generally; treaties; executive agreements, proclamations, and orders; decisions relating to or affecting departmental or agency policy, and the like.

#### Sec. 5.200 Registration.

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

(b) The initial statement shall be filed on a form provided by the Registration Unit.

#### Sec. 5.201 Exhibits.

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

(1) Exhibit A. This exhibit, which shall be filed on a form provided by the Registration Unit, shall set forth the information required to be disclosed concerning each foreign principal.

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

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

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

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

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

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

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

Sec. 5.202 Short form registration statement.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, each partner, officer, director, associate, employee, and agent of a registrant is required to file a registration statement under the Act. Unless the Assistant Attorney General specifically directs otherwise, this obligation may be satisfied by the filing of a short form registration statement.

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

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

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

(e) The short form registration statement shall be filed on Form OBD-66. Any change affecting the information furnished with respect to the nature of the services rendered by the person filing the statement, or the compensation he receives, shall require the filing of a new short form registration statement within 10 days after the occurrence of such change. There is no requirement to file exhibits or supplemental statements to a short form registration statement.

Sec. 5.203 Supplemental statement.

(a) Supplemental statements shall be filed on a form provided by the Registration Unit.

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

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

#### Sec. 5.204 Amendments.

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

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

#### Sec. 5.205 Termination of registration.

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

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

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

(d) Registration under the Act may be terminated upon a finding that the registrant is unable to file the appropriate forms to terminate the registration as a result of the death, disability, or dissolution of the registrant or where the requirements of the Act cannot be fulfilled by a continuation of the registration.

#### Sec. 5.206 Language and wording of registration statement.

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

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

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

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



Sec. 5.207 Incorporation by reference.

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

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

Sec. 5.208 Disclosure of foreign principals.

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

Sec. 5.209 Information relating to employees.

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

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

A statement is "detailed" within the meaning of clauses 6 and 8 of section 2 (a) of the Act when it has that degree of specificity necessary to permit meaningful public evaluation of each of the significant steps taken by a registrant to achieve the purposes of the agency relation.

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

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

Sec. 5.300 Burden of establishing availability of exemption.

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

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

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

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

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

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

Sec. 5.303 Exemption available to persons accredited to international organizations.

Persons designated by foreign governments as their representatives in or to an international organization, other than nationals of the United States, are exempt from registration under the Act in accordance with the provisions of the International Organizations Immunities Act, if they have been duly notified to and accepted by the Secretary of State as such representatives, officers, or employees, and if they engage exclusively in activities which are recognized as being within the scope of their official functions.

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

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

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

(c) For the purpose of section 3(d)(2) of the Act, a person engaged in political activities on behalf of a foreign corporation, even if owned in whole or in part by a foreign government, will not be serving predominantly a foreign interest where the political activities are directly in furtherance of the bona fide commercial, industrial, or financial operations of the foreign corporation, so long as the political activities are not directed by a foreign government or foreign political party and the political activities do not directly promote the public or political interests of a foreign government or of a foreign political party.

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

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

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

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

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

(a) Attempts to influence or persuade agency personnel or officials other than in the course of 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, shall include only such attempts to influence or persuade with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party; and

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

#### Sec. 5.307 Exemption under 3(h) of the Act.

For the purpose of section 3(h) of the Act, the burden of establishing that registration under the Lobbying Disclosure Act of 1995, 2 U.S.C. 1601 et seq. (LDA), has been made shall fall upon the person claiming the exemption. The Department of Justice will accept as prima facie evidence of registration a duly executed registration statement filed pursuant to the LDA. In no case where a foreign government or foreign political party is the principal beneficiary will the exemption under 3(h) be recognized.

#### Sec. 5.400 Filing of informational materials.

(a) The informational materials required to be filed with the Attorney General under section 4(a) of the Act shall be filed with the Registration Unit no later than 48 hours after the beginning of the transmittal of the informational materials.

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

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

#### Sec. 5.402 Labeling informational materials.

(a) Within the meaning of this part, informational materials shall be deemed labeled whenever they have been marked or stamped conspicuously at their beginning with a statement setting forth such information as is required under section 4(b) of the Act.

(b) Informational materials which are required to be labeled under section 4(b) of the Act and which are in the form of prints shall be marked or stamped conspicuously at the beginning of such materials with a statement in the language or languages used therein, setting forth

such information as is required under section 4(b) of the Act.

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

(d) Informational materials that are televised or broadcast, or which are caused to be televised or broadcast, by an agent of a foreign principal, shall be introduced by a statement which is reasonably adapted to convey to the viewers or listeners thereof such information as is required under section 4(b) of the Act.

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

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

#### Sec. 5.500 Maintenance of books and records.

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

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

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

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

(4) Records containing the names and addresses of persons to whom informational materials have been transmitted.

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

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

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

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

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

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

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

Sec. 5.501 Inspection of books and records.

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

Sec. 5.600 Public examination of records.

Registration statements, informational materials, Dissemination Reports, and copies of political propaganda filed under section 4(a) of the Act, shall be available for public examination at the Registration Unit on official business days, during the posted hours of operation.

Sec. 5.601 Copies of records and information available.

(a) Copies of registration statements and supplements, amendments, exhibits thereto, informational materials, dissemination reports, and copies of political propaganda and other materials contained in the public files, may be obtained from the Registration Unit upon payment of a fee as prescribed in Sec. 5.5.

(b) Information as to the fee to be charged for copies of registration statements and supplements, amendments, exhibits thereto, informational materials, dissemination reports, and copies of political propaganda and other materials contained in the public files, or research into and information therefrom, and the time required for the preparation of such documents or information may be obtained upon request to the Registration Unit. Fee rates are established in Sec. 5.5.

(c) The Registration Unit may, in its discretion, conduct computer searches of records through the use of existing programming upon written request. Information as to the fee for the conduct of such computer searches, and the time required to conduct such computer searches, may be obtained upon request to the Registration Unit. A written request for computer searches of records shall include a deposit in the amount specified by the Registration Unit, which shall be the Registration Unit's estimate of the actual fees. The Registration Unit is not required to alter or develop programming to conduct a search. Fee rates are established in Sec. 5.5.

Sec. 5.800 Ten-day filing requirement.

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

Sec. 5.801 Activity beyond 10-day period.

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

Sec. 5.1101 Copies of the Report of the Attorney General.

Copies of the Report of the Attorney General to the Congress on the Administration of the Foreign Agents Registration Act of 1938, as amended, shall be sold to the public by the Registration Unit, as available, at a charge not less than the actual cost of production and distribution.