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

74-0495



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

B-177551

*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*

~~701873~~ / 095964

MARCH 13, 1974



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

B-177551

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The Honorable J. W. Fulbright
Chairman, Committee on Foreign Relations 5/13/73
United States Senate

Dear Mr. Chairman:

In response to your request of November 21, 1972, and subsequent discussions with your Committee, we have reviewed certain aspects of the Foreign Agents Registration Act of 1938, as amended, and the administration of the act by the Department of Justice. Our report discusses the (1) effects of the 1966 amendments on the numbers and types of registrants, (2) timeliness and sufficiency of the information filed by registrants, and (3) monitoring and enforcement actions taken by the Department.

As your Committee requested, we have not given the Department an opportunity to formally review and comment on the report. However, we discussed our findings with cognizant Department officials and considered their comments in preparing the report.

Release of this report will be made only if you agree or publicly announce its contents. We want to direct your attention to the fact that this report contains recommendations to the Attorney General. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions he has taken on our recommendations to the House and Senate Committees on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report. Your release of this report will enable us to send it to the four Committees for the purpose of setting in motion the requirements of section 236.

As agreed to by the Committee, we are sending copies of this report to the Attorney General.

Sincerely yours,

A handwritten signature in cursive script, reading "James B. Stewart". The signature is written in black ink and is positioned above the typed name.

Comptroller General
of the United States

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COMPTROLLER GENERAL'S REPORT TO
THE COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

EFFECTIVENESS OF THE FOREIGN
AGENTS REGISTRATION ACT OF
1938, AS AMENDED, AND ITS
ADMINISTRATION BY THE
DEPARTMENT OF JUSTICE B-177551

D I G E S T

WHY THE REVIEW WAS MADE

The Senate Committee on Foreign Relations asked GAO to review the Foreign Agents Registration Act, as amended, and to point out areas needing additional corrective action. This report covers

- the effects of the 1966 amendments on the number and types of registered foreign agents;
- an appraisal of the sufficiency and timeliness of the information filed by registered agents in fulfilling the purposes of the act; and
- an analysis of the monitoring and enforcement actions taken by the Department of Justice. 37

Basic facts

The Foreign Agents Registration Act requires persons and organizations engaging in political propaganda activities in the United States as agents of foreign principals to register with the Government. The Department has administered the act since 1942.

In 1962, the Committee began an in-depth study, and subsequently held hearings on, the activities of non-diplomatic representatives of foreign principals in the United States. The study and hearings led to the enactment of major amendments to the act in 1966.

FINDINGS AND CONCLUSIONS

Number and types of registered foreign agents

The number of registrations decreased from an all-time high of 511 in January 1966 to 446 in December 1968. As of December 1972 registrations had gradually increased to 481 and remained at about that level during 1973. Because the 1966 amendments both narrowed and broadened the definition of those persons or organizations subject to registration, GAO was unable to positively attribute the overall increase and decrease to their enactment. (See p. 10.)

The number of registered agents engaged in legal services decreased from 102 in calendar year 1965 to 53 in 1972 (48 percent) and those in press, film, and literary services decreased from 98 to 60 (39 percent).

During the same period the number of registered agents engaged in travel, tourism, and information services increased from 112 to 171 (53 percent) and the number in trade promotion and economic development activities increased from 49 to 70 (43 percent). (See p. 12.)

Changes in other fields showed a 5-percent decrease for registrants categorized as representatives, advisors, and commercial agents; a 6-percent increase for those in political activities and fund raising;

and a 9-percent increase for those categorized as public relations and advertising agents.

Timeliness and sufficiency
of information filed

A foreign agent must submit specific exhibits and statements when he initially registers with the Department and when he acquires new principals. Supplemental statements are required every 6 months thereafter.

A short-form registration is required of all persons directly engaged in foreign agent activities, and a final statement is required 30 days after the agent-principal relationship is terminated.

Dissemination reports are also required under certain conditions for those foreign agents who disseminate political propaganda. The act and related regulations specify the time limits within which each of these documents must be submitted.

GAO's review of public registration files for 45 randomly selected foreign agents¹ showed that:

- 261 (67 percent) of 392 required statements and exhibits were not received by the Department within prescribed time limits.
- 157 (33 percent) of 476 dissemination reports were not received by the Department within prescribed time limits.
- 154 (70 percent) of the 222 sup-

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

Department officials said that, although the supplemental statements should have been prepared correctly, overall the statements were not misleading. They said the questions may have confused certain registrants or registrants were simply careless in preparing the statements.

Late, incomplete, or uninformative registration material does not meet the full and adequate public disclosure requirements of the act and related regulations.

Because the cases reviewed were randomly selected, GAO believes the deficiencies found represent a general problem with registered agents' activities.

The Department's monitoring
and enforcement actions

Since enactment of the 1966 amendments, the Department has not adequately monitored foreign agents' activities nor adequately enforced the act and related regulations. The Department has appeared reluctant to use available enforcement tools to insure compliance, although there has been some recent improvement.

The Department has no assurance that foreign agents are properly identifying themselves and disclosing the

¹About 5 percent of the 883 registered agents who were active at one time or another after the 1966 amendments became effective October 2, 1966.

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

Despite the enforcement tools available as a result of the 1966 amendments, the Department's enforcement actions have been limited mainly to sending letters to the agents and, in dealing with agents of foreign governments, requesting diplomatic assistance from the Department of State.

The Department has made little use of its authority to

- issue formal notices of deficiency and noncompliance and
- inspect the books and records of registered foreign agents. (See pp. 23 and 25.)

Some recent improvement in inspection has been noted. However, despite numerous instances of agents' noncompliance with the act, the Department has applied for only one court-ordered injunctive remedy. (See p. 18.)

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

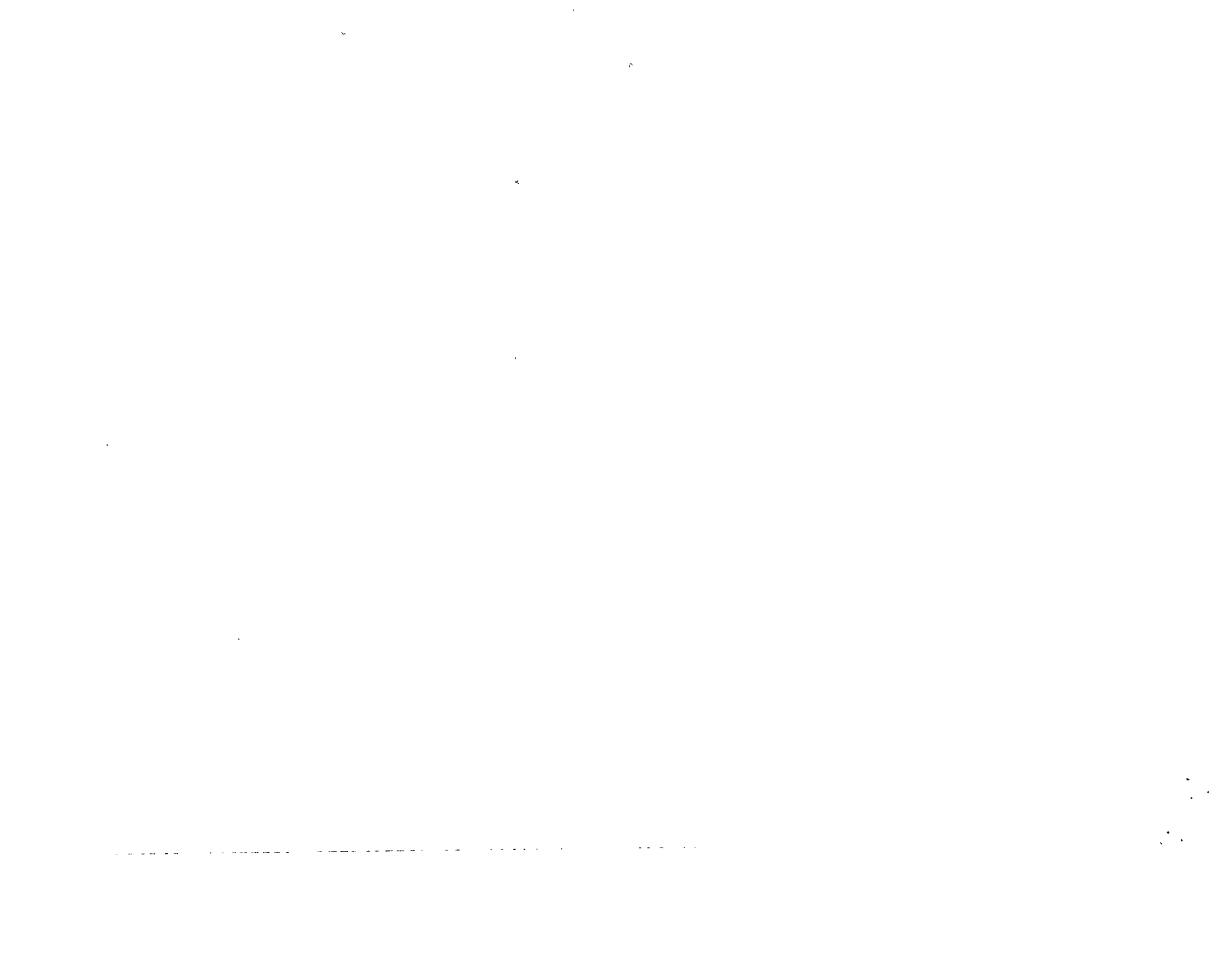
noncompliance. (See p. 18.)

During the last 10 years, staffing in the Department's Registration Section--which monitors and enforces the act--has decreased despite significant increases in its administrative workload. Staffing problems are the underlying cause for the Department's inability to monitor and enforce provisions of the act. (See p. 19.)

RECOMMENDATIONS

GAO recommends that the Attorney General:

- Establish a system which would bring all foreign agent files up to date and require that filings be made on time. (See p. 17.)
- Review supplemental statements to identify and revise all questions which confused the registrants, to reduce or eliminate the high incidence of insufficient responses. (See p. 17.)
- Assess the Registration Section's needs, including those for more staff, and establish a review system to insure that the Department carries out its registration and enforcement activities effectively. (See p. 31.)



CHAPTER 1

INTRODUCTION

On November 21, 1972, the Chairman, Senate Committee on Foreign Relations, asked GAO to review certain aspects of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611-621), and to point out areas needing additional corrective action. The Committee was specifically interested in:

- The effects of the 1966 amendments on the number and types of registered foreign agents.
- An appraisal of the sufficiency and timeliness of the information filed by registered agents in fulfilling the purposes of the act.
- An analysis of the monitoring and enforcement actions taken by the Department of Justice.

FOREIGN AGENTS REGISTRATION ACT

The purpose of the Foreign Agents Registration Act is

"* * * to protect the national defense, internal security, and foreign relations of the United States by requiring public disclosure by persons engaging in propaganda activities and other activities for or on behalf of foreign governments, foreign political parties, and other foreign principals so that the Government and the people of the United States may be informed of the identity of such persons and may appraise their statements and actions in the light of their associations and activities."

The act (1) defines who must register with the Department as a foreign agent, (2) specifies how such agents are to register and report on their activities, (3) exempts certain types of foreign agents from registration, (4) has specific filing and labeling requirements for political propaganda disseminated by registered agents, (5) requires all registered agents to preserve books of account and other records on all their activities and to make

these records available for inspection by the officials responsible for enforcing the act, (6) provides for public examination of all agents' registration statements, reports, and political propaganda filed with the Department, (7) imposes penalties for willful violation of the act or related regulations, and (8) specifies certain administrative and judicial enforcement procedures available to the Attorney General in having foreign agents comply with the act.

Amendments to the act

Since 1938, the act has been amended several times, including a general revision in 1942 and major amendments in 1966. The 1942 revisions (56 Stat. 248), (1) stated the act's purpose to include protecting U.S. foreign policy as well as national defense and internal security, (2) established a new requirement that all political propaganda disseminated in the United States by foreign agents be labeled as such, (3) added a definition of political propaganda for the first time, and (4) formally transferred responsibility for administering and enforcing the act from the Department of State to the Department of Justice.

The 1966 amendments (Public Law 89-486), enacted after an extensive study and hearings by the Committee beginning in 1962, were designed to strengthen the basic purposes of the original act. The 1966 amendments

- revised the definitions of "foreign principal" and "agent of a foreign principal" and defined the new terms "political consultant" and "political activities"; all of these changes were aimed at better focusing the act on those individuals attempting to influence Government policies through political activities;
- made stricter requirements for foreign agents' disclosure of political activities and expenditures;
- broadened the commercial exemption to exempt all private and nonpolitical activities with a bona fide commercial purpose and other activities not serving predominately a foreign interest, even though they might be political in nature;

- required foreign agents to disclose their status as agents and to identify their foreign principals when contacting committees or Members of Congress or Government officials on policy matters in behalf of their principals;
- required a foreign agent appearing for, or in the interest of, his principal before a congressional committee to file his latest registration statement as part of his testimony;
- authorized an injunctive remedy for the Attorney General, in addition to the criminal sanctions in the act, when compliance with the act or the regulations is considered inadequate; and
- outlawed contingent fee contracts between agents and foreign principals based on the agents' success in political activities.

Public Law 89-486 also added new sections to title 18 U.S.C. (crimes and criminal procedures) to (1) prohibit campaign contributions for or in behalf of a foreign principal in connection with any election to public office or in connection with any primary election or convention to select candidates for any political office in the United States and (2) prohibit Government officers and employees from acting as agents of foreign principals.

Administration of the act

The act is administered by the Registration Unit of the Internal Security Section, Criminal Division.¹ Since 1942, when the Department began administering the act, more than 2,400 individuals and organizations have registered as agents of foreign principals, including more than 400 since the 1966 amendments became effective. As of December 31, 1972, 481 agents were registered.

¹Effective March 1973, the functions and duties of the former Internal Security Division were transferred to the Department's Criminal Division. Accordingly, the former Registration Section became a unit within the Internal Security Section of the Criminal Division.

SCOPE OF REVIEW

We made our review at the headquarters offices of the Departments of Justice and State in Washington, D.C. We examined the legislative history of the act, with particular emphasis on the amendments enacted by Public Law 89-486 in 1966; studied the Attorney General's rules and regulations for administering the act; examined Department files and records, including the public and nonpublic registration files of selected foreign agents; and interviewed appropriate officials and personnel of the Department and of the Visa Office, Department of State.

CHAPTER 2

EFFECTS OF THE 1966 AMENDMENTS

ON THE NUMBER AND TYPES OF REGISTRANTS

After 1966, the number of registrations steadily decreased through December 1968. However, since then, the number of registrations has been increasing.

The greatest decreases were in the number of registered agents engaged in legal services (down 48 percent between calendar years 1965 and 1972) and those in press, film, and literary services (down 39 percent during the same period). On the other hand, the number of registered agents engaged in travel, tourism, and information services increased 53 percent between calendar years 1965 and 1972 and the number in trade promotion and economic development increased 43 percent.

Other changes were: a 5-percent decrease in registrants categorized as representatives, advisors, and commercial agents; a 6-percent increase for those in political activities and fund raising; and a 9-percent increase for those categorized as public relations and advertising agents.

Whether an individual or organization has to register as a foreign agent is determined by whether activities on behalf of the foreign principal (1) fall within the meaning of agent of a foreign principal as defined in section 1(c) of the act (22 U.S.C. 611(c)) and (2) are not exempt from registration under section 3 of the act (22 U.S.C. 613). A person may be a foreign agent as defined in section 1(c) but be exempt from registration under section 3.

The 1966 amendments redefined the exemptions and agent of a foreign principal. These changes were designed to focus the act on those who attempt to influence public opinion and/or U.S. Government policies.

Under the new definition of agent of a foreign principal, collecting information for or reporting information to a foreign principal were no longer activities requiring registration. Thus, news agencies and foreign correspondents whose foreign principals were controlled or owned by a foreign government no longer had to register.

The word "attorney" was also eliminated in the new definition. This change, along with changes in the exemptions under section 3, removed the registration requirement for attorneys performing normal professional services for foreign clients or agents of foreign principals before U.S. courts or Federal agencies, provided that they make full disclosure of the identity of their principal and they do not attempt to lobby or influence agency personnel or officials.

We believe the above changes relating to news media and attorneys account for some of the decreases in the number and type of registrants.

EFFECT ON NUMBER OF ACTIVE REGISTRATIONS

At the beginning of 1966 registrations had reached an all-time high of 511. This was due, in part, to a U.S. Supreme Court ruling in March 1964 that attorneys engaged in certain activities on behalf of foreign principals were required to register.

The number of registrations dropped steadily to 446 at the end of 1968; then it rose again until it reached 481 in December 1972. The Department told us in November 1973 that the total number of registrants had remained fairly constant during the year. Because the 1966 amendments both narrowed and broadened the definition of those persons or organizations subject to registrations, we were unable to positively attribute the overall increase and decrease to their enactment.

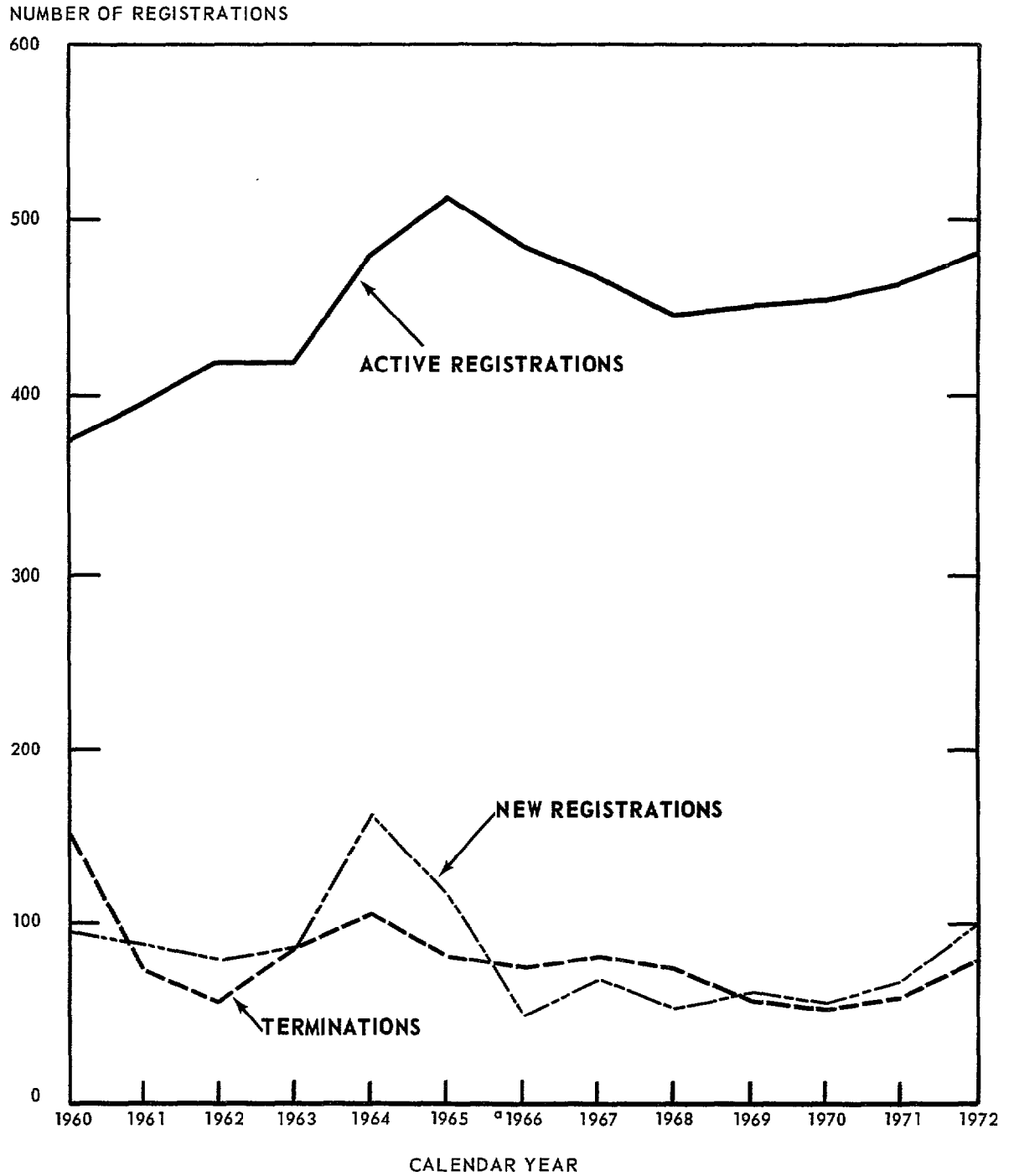
The registration activity from 1960 through 1972 is illustrated by the graph on the following page.

EFFECT ON REGISTERED AGENTS' ACTIVITIES

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

¹The Department does not believe that classifying agents by activities is needed for adequately administering the act.

**NEW REGISTRATIONS AND TERMINATIONS DURING
CALENDAR YEARS 1960-1972 AND ACTIVE REGISTRATIONS
AT THE END OF CALENDAR YEARS 1960-1972**



^a Effective date of 1966 Amendment

The number of registrants engaged in travel, tourism, and information services increased gradually from 112 during 1965 to 136 in 1971, then jumped to 171 during 1972. The number engaged in trade promotion and economic development activities increased gradually from 49 in 1965 to 70 in 1972. We believe these increases were caused by foreign countries' recent efforts to attract U.S. tourist, trade, and investment dollars.

The number of registrants performing legal services decreased from 102 in 1965 to 48 in 1969 and increased to 53 in 1971, remaining the same in 1972. The number of registered agents engaged in press, film, and literary services decreased from 98 in 1965 to 60 in 1972.

The following table compares the number of agents in each category in 1965 with the number in 1972.

<u>Category</u>	<u>Number of agents</u>		<u>Increase or decrease (-)</u>	
	<u>1965</u>	<u>1972</u>	<u>Number</u>	<u>Percent</u>
Travel, tourism, and information services	112	171	59	53
Public relations and advertising	97	106	9	9
Legal services	102	53	-49	-48
Representatives, advisors, and commercial agents	88	84	-4	-5
Press, film, and literary services	98	60	-38	-39
Trade promotion and economic development	49	70	21	43
Political activities and fund raising	36	38	2	6
All others	<u>29</u>	<u>24</u>	-5	-17
Total	<u>^a611</u>	<u>^a606</u>	-5	-.8

^aThis figure is larger than the number of active registrants because some agents performed more than one type of activity.

CHAPTER 3

TIMELINESS AND SUFFICIENCY OF INFORMATION FILED BY REGISTRANTS

A total of 883 registered agents were active at one time or another between October 2, 1966--the effective date of the 1966 amendments--and December 31, 1972. Of these, 474 registered before October 2, 1966, and 409 registered on or after that date. To appraise the timeliness and sufficiency of information filed after the effective date, we randomly selected the public files of 45 (about 5 percent) of the 883 registrants.

Our review showed that (1) 261 (67 percent) of the 392 required statements and exhibits were not received by the Registration Section within the specified time limitations, (2) 157 (33 percent) of the 476 dissemination reports were not received by the Department within the prescribed time limits and (3) 154 (70 percent) of the 222 supplemental statements were incomplete or lacked sufficient detail to adequately describe the registered agents' activities on behalf of their foreign principals.

REGISTRATION REQUIREMENTS

To register, a foreign agent must file with the Registration Section an initial registration statement, together with required exhibits, within 10 days after the agent-principal relationship is established. Then, for the duration of this relationship, the agent must file supplemental statements within 30 days after the expiration of each 6-month period. Also, within 10 days after the relationship is established, a short-form registration statement must be filed by each partner, officer, director, associate, employee, and agent of the registrant who engages directly in furthering the interests of the registrant's foreign principal. Employees and agents of the registrant who render indirect services, such as clerical or secretarial services, are exempt from this filing.

Amendments to the statements must also be filed when (1) any changes occur in the information previously filed or

(2) the Registration Section determines that information submitted is erroneous or lacking in sufficient detail for proper disclosure. Finally, the agent must file a final statement of activities within 30 days after the agent-principal relationship is terminated.

The act also requires that, under certain conditions, two copies of political propaganda material be filed with the Registration Section--along with a dissemination report setting forth the places, times, and extent of the dissemination--within 48 hours after beginning distribution. This material must also be conspicuously labeled or marked with an accurate statement containing certain information specified in the act, including the fact that the person transmitting the propaganda is registered as a foreign agent. Our review showed that the labeling requirement is being met.

Appraisal of timeliness

A significant proportion of the 45 agents' required filings were late. For example, of the 21 initial registration statements reviewed (filed by agents who initially registered after the effective date of the 1966 amendments), 16 were received after the 10-day deadline. Of these 16, 10 were more than 90 days late and 1 was received more than 6 years after the agent had to register under the act. Of the 222 supplemental statements reviewed, 135 were received after the 30-day deadline; 1 statement purporting to cover a 6-month period of activity was received about 16 months late.

Late filing deprives the Government and the general public of information needed to appraise foreign agents' activities and to take timely and appropriate action whenever it is felt that an agent's activities are not in the United States' best interests.

The following schedule summarizes the information we found for the 45 cases.

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

^aMaterial reviewed did not show when the agents' activities started and/or terminated.

We also noted a few instances when a single supplemental statement was being used to report activities for more than one 6-month reporting period; one such statement covered more than a 40-month period.

Some reasons for late filings were: (1) newly elected officers of the registered organization were unaware of their responsibilities under the act, (2) office management changed and employees were unfamiliar with the reporting routine, (3) forms supplied by the Department were mislaid, (4) statements were returned to the agent because they were improperly prepared, (5) the agent was out of the country or away from the office on business when the statements were due, and (6) financial reporting periods did not coincide with the due dates for the 6-month statements and agents delayed filing until this financial information was available.

The Department administratively encourages registrants to file required material on time; however, as discussed in chapter 4, such efforts often go unheeded and fall far short of the stronger and more effective enforcement measures available to the Department.

Appraisal of sufficiency

Except for supplemental statements, the statements in the 45 agents' files were generally complete and correct. However, of the 222 supplemental statements we reviewed, 154 were incomplete or lacked sufficient detail to adequately describe the registered agents' activities.

The supplemental statement contains 27 questions, some requiring detailed narration. These questions are to obtain

information on (1) the registrant's business status, (2) foreign principals represented, (3) activities performed for foreign principals, (4) an accounting of financial data, (5) dissemination of political propaganda, and (6) the filing of certain required exhibits and short-form registration statements.

Filing an incomplete or false statement may subject registrants to criminal prosecution. To successfully prosecute such a case, willful intent must be proven; we found no evidence in the files to indicate willful intent on the part of the registrants.

Of the supplemental statements reviewed, 96 had unanswered questions and 103 had contradictory answers. For example, one agent stated, in response to a question, that he had not engaged in political activities on behalf of his foreign principal. However, in response to another question he stated that he had disseminated political propaganda, which the act defines as a political activity. Sometimes registrants answered a question as being inapplicable although the question clearly applied to the type of activity in which the registrant was engaged.

We were unable to determine why so many supplemental statements contained unanswered questions or contradictory answers. Department officials informed us that, although they agreed that the supplemental statements should have been prepared correctly, they did not believe the unanswered questions or contradictory answers caused the overall statements to be misleading. They said the questions may have been confusing to certain registrants or the registrants were simply careless.

Although registrants can be requested to amend incomplete or inaccurate statements, the files we reviewed contained amendments for only a few of the deficient statements. Department officials informed us that an amendment is requested only when the attorney reviewing the supplemental statement believes the information reported or omitted does not provide adequate public disclosure. They stated that, when answers to certain questions are omitted, incomplete, or contradictory but do not make the statement misleading, they remind the registrant at the time the next filing is due to be more careful in completing his statement.

Twenty-five supplemental statements, submitted by 7 of the 45 agents, contained 1 or more questions which, in our opinion, were not answered in sufficient detail to adequately describe the agents' activities. The inadequate answers were confined to questions requesting (1) detailed information concerning the registrant's activities on behalf of his foreign principal and (2) a detailed explanation of the registrant's disbursements on behalf of his foreign principal.

The registrants later amended 6 of the 25 statements for all questions lacking sufficiently detailed answers; 3 of the 25 statements were only partially amended.

Department officials said 14 of the 19 supplemental statements we believed needed more detailed answers should have been amended. They said the remaining 5 supplemental statements were detailed enough.

CONCLUSIONS

We believe the high incidence of late filing and the large number of insufficient supplemental statements indicate general conditions needing correction.

The Department of Justice needs to bring all foreign agent files up to date and insure that registration material is filed on time. Also, the Department should revise all questions in the supplemental statements which confuse the registrants, to reduce or eliminate inadequate responses.

RECOMMENDATIONS TO THE ATTORNEY GENERAL

We recommend that the Attorney General establish a system which would bring all foreign agent files up to date and require that filings be made on time. We recommend also that the supplemental statements be reviewed to identify and revise all questions which appear to be confusing to the registrants in order to reduce or eliminate the high incidence of omitted, incomplete, and inconsistent responses.

CHAPTER 4

ANALYSIS OF MONITORING AND

ENFORCEMENT ACTIONS

Since October 1966, the Department has not adequately monitored foreign agents' activities nor adequately enforced the act and related regulations. The Department has appeared reluctant to use available enforcement tools to insure compliance, although there has been some recent improvement.

The Department has no assurance that foreign agents are properly identifying themselves and disclosing the identities of their foreign principals when dealing with Government agencies and officials, including committees and Members of Congress.

Despite the enforcement tools available to it as a result of the 1966 amendments, the Department's enforcement actions have been limited mainly to sending letters to the agents and, in dealing with agents of foreign governments, requesting diplomatic assistance from the Department of State. The Department has made little use of its authority to (1) issue formal notices of deficiency and noncompliance and (2) inspect foreign agents' books and records. Some recent improvement in the latter area has been noted. Moreover, despite numerous instances of agents' noncompliance with the act, the Department has applied for only one court-ordered injunctive remedy.

Department officials told us it is Department policy to prosecute alleged violators only in clear cases of recalcitrant noncompliance.

During the last 10 years, staffing in the Registration Section--which monitors and enforces the act--has decreased despite significant increases in its administrative workload. Staffing problems are, in our opinion, the underlying cause for the Department's inability to monitor agents and enforce the act.

STAFFING IN THE REGISTRATION SECTION

In July 1962 a preliminary study¹ by the Senate Foreign Relations Committee's staff revealed that:

"Five years ago [in 1957] when its files contained 307 active foreign agents' statements, the Justice Department registration section operated with 14 employees, 8 of them attorneys. Today [in 1962], with 404 active statements (a 33-percent heavier workload than 5 years ago), the registration section has only 13 employees, 7 of whom are lawyers (only 5 are currently at work, the other 2 are on extended leaves)."

This situation has not improved in the last 10 years. As of December 31, 1972, the Registration Section's files contained 481 active foreign agents' statements (a 20-percent increase over that reported in 1962); however, the Registration Section had only 9 employees, 5 of them attorneys (a decrease of 4 employees overall, 2 of them lawyers).

Because of the increased workload and the personnel reductions, Section personnel have had less time to adequately review foreign agents' registration material and monitor their activities. This situation, in our opinion, has also contributed to the minimal enforcement efforts discussed below.

INABILITY TO MONITOR COMPLIANCE WITH IDENTIFICATION REQUIREMENTS

The Department does not determine whether all foreign agents are properly identifying themselves and their foreign principals when dealing with Government agencies and officials. The act provides that:

"It shall be unlawful for any person within the United States who is an agent of a foreign principal required to register under the provisions of this Act to transmit, convey, or otherwise furnish

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

to any agency or official of the Government (including a member or committee of either House of Congress) for or in the interests of such foreign principal any political propaganda or to request from any such agency or official for or in the interests of such foreign principal any information or advice with respect to any matter pertaining to the political or public interests, policies or relations of a foreign country or of a political party or pertaining to the foreign or domestic policies of the United States unless the propaganda or the request is prefaced or accompanied by a true and accurate statement to the effect that such person is registered as an agent of such foreign principal under this Act. (Underscoring supplied.)

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

The Department's regulations for administering the act require that all agents exempt from registration under the so-called commercial and attorney exemption provisions of sections 3 (d) and (g) of the act disclose the identities of their foreign principals to each Government official with whom they conduct business. The agent claiming the exemption must also establish that he made the required disclosure.

The Department does not ascertain whether foreign agents adhere to the disclosure and identification requirements. We believe the Department should periodically question registered and exempt agents, selected Government agencies, and/or committees and Members of Congress regarding the extent to which agents are complying with these requirements. This questioning would periodically bring the requirements to the attention of the agencies, Members, and committees and

would help the Department determine whether more frequent or increased enforcement effort was needed.

LACK OF FOLLOWUP PROCEDURE TO INSURE
REGISTRATION OF AGENTS OF FOREIGN PRINCIPALS
COMING INTO THE UNITED STATES ON VISAS

The Departments of Justice and State do not have an interagency procedure for following up on persons coming into the United States on visas who may have an obligation to register as agents of foreign principals.

Consular officers of the Department of State are expected to determine whether visa applicants' prospective activities may obligate them to register under the act and, if so, to inform the applicants. However, the consular officers are not required to--and therefore do not--notify the Department of the impending arrival of such persons. The Department therefore cannot follow up to determine such persons' actual obligations and, when necessary, to require registration.

In issuing visas, consular officers are guided by the Department of State's Foreign Affairs Manual which states that:

"If statements obtained from the alien in connection with his visa application suggest that he may be subject to the registration requirement * * * [of the Foreign Agents Registration Act] the consular officer should inform him accordingly and advise him that registration forms may be obtained, after arrival in the United States, from the Department of Justice, Washington, D.C."

The Chief of the Registration Section informed us that he was unaware of the above procedure. He stated that, although such a procedure is beneficial, the Department would need certain information--such as anticipated mailing addresses in the United States and the names of apparent foreign principals--in order to follow up on aliens.

The Department of State issued more than 2.4 million visas in fiscal year 1971. However, information simply was

not available on the numbers who may have been advised of their possible obligations to register.

We believe the Department should work out an interagency agreement with the Department of State concerning referral and followup of persons who are potentially subject to registration.

ENFORCEMENT OF THE ACT

The Department ordinarily obtains agents' compliance through normal "low tone" administrative procedures. When these procedures are not effective, the Department warns the foreign agents of the more drastic measures available to it under the act. However, the Department has seldom used such measures, even when the circumstances clearly warranted their use.

For example, since 1966, the Department has used its injunctive remedy authority only once. Most of the Department's enforcement actions have been limited to sending letters to the agents requesting compliance with the act and requesting assistance from the Department of State in cases involving agents of foreign governments. According to the Chief of the Registration Section, enforcement of the act has been mostly by threat of injunction and/or prosecution, rather than actual use of these remedies. He stated also that the registration act is considered a "compliance" act rather than a "criminal" act, even though it does provide criminal sanctions for willful violations. He stated further that the Department does not prosecute or attempt to prosecute foreign agents except in clear cases of recalcitrant noncompliance. Following is a discussion of the Department's enforcement actions since the 1966 amendments.

Evaluation of notice of deficiency
procedure

The 1966 amendments provided that:

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

Department regulations provide that a formal notice of deficiency be sent to a registered agent who fails to respond to a request for correction of a deficiency in his registration statement. The agent has 10 days after receiving the notice to file the requested material. The notice states that, if the agent fails to comply within that 10-day period, it will be unlawful for him to act as an agent on behalf of any foreign principals.

The regulations provide further that, if the agent responds to the notice but does not fully comply with the requirements stated in the notice, the agent will be issued a notice of noncompliance prohibiting him from acting as a foreign agent until he has fully complied with the previously issued notice of deficiency. If the agent fully complies with the notice of deficiency, he is issued a notice of compliance permitting him to resume his activities on behalf of his foreign principals.

Violation of the above provision is a misdemeanor; if convicted, the agent can be fined not more than \$5,000 or imprisoned for not more than 6 months or both.

Registration Section personnel informed us that, between October 1966 and August 1971, they issued few, if any, formal notices of deficiency because certain former chiefs of the Section and a former Assistant Attorney General, Internal Security Division, wanted to enforce the filing provisions of

the act with a "low tone." We could not determine the number of notices of deficiency issued before August 1971.

In contrast, 40 formal notices of deficiency were issued between August 1971 and December 1972. We examined the 31 notices issued in 1972. For each case we determined (1) what enforcement actions occurred both before and after the notices were issued and (2) the nature and ultimate disposition of the deficiencies involved.

The 31 notices involved 27 registered agents and 69 deficiencies: 58 failures to file required registration statements and other material, 9 failures to amend previously filed material, and 2 failures to disclose required information.

The Department had tried to obtain compliance, usually through strongly worded letters before issuing the 31 notices. The agents ignored most of these attempts.

Issuing formal notices of deficiency to the agents was more effective than the letter approach. At the time of our review in May 1973, the deficiencies cited in 27 of the 31 notices had been corrected or resolved to the satisfaction of the Department within 2 to 55 days after the notices were issued. The four remaining notices--all issued in November 1972 or earlier--were still outstanding.

It is unlawful for an agent to continue acting on behalf of his foreign principal if he fails to fully comply with a notice of deficiency within 10 days after receiving it. The Department has not enforced this requirement by following through with notices of noncompliance and ultimately prosecution, when warranted. Besides the 4 notices still outstanding, 20 of the deficiencies cited above were corrected after the 10-day period had expired; 9 were corrected in 11 to 19 days and 11 in 20 to 55 days.

Sending notices of deficiency seems to have brought about much more effective compliance than has been experienced previously. To make the notice an even more effective enforcement tool we believe the Department should (1) immediately and automatically issue formal notices of deficiency when the established filing time limits expire and (2) enforce the prescribed 10-day period for correcting deficiencies

by following through with notices of noncompliance and, when warranted, prosecution.

Limited use of authority to inspect
foreign agents' books and records

The act requires every registered agent to keep detailed books of account and other records on all activities required to be disclosed under the act and to preserve such books and records for 3 years following termination of his registration as an agent. These books and records must be open to inspection by any official charged with enforcing the act; the willful concealment, destruction, obliteration, mutilation, or falsification of such books and records, or any attempt to do so, is unlawful.

The Department's regulations for administering the act specify the types of books and records agents must preserve and the manner of doing so; they also authorize Internal Security Division officials and special agents of the Federal Bureau of Investigation to make the inspections authorized by the act.

Despite these extensive recordkeeping requirements, only limited use has been made of them since 1966 in insuring foreign agents' compliance with the act. The records show that no inspections were made from April 1967 to December 1970. In December three inspections were scheduled and completed by March 1971.

The Department has relied heavily on the requirement that all submitted registration statements and supplements be executed under oath by the registrant. Although this requirement may provide the Department with an additional basis for prosecuting an agent who is found to have willfully made a fraudulent statement, there is little assurance that a fraudulent statement would be detected without inspecting the agent's books and records.

The Department knows that it should use this enforcement tool, as evidenced by an August 1967 memorandum from the Chief of the Registration Section to the Assistant Attorney General, Internal Security Division, which stated that:

"Come September [1967] it will be just about five months since we have conducted any personal examinations of the books and records of any person registered under the Foreign Agents Registration Act, and this despite the representations we have made to the Senate Foreign Relations Committee that we would conduct these personal inspections on a regular and continuing basis. Actually there have not been too many matters that appeared to require examination, but a few things have now arisen which I believe warrant personal visits." (Underscoring supplied.)

The Section's file, which contained the above-quoted memorandum, also contained an earlier memorandum, dated April 7, 1967, from one of the Section's attorneys to the Section Chief in which it was recommended that the books and records of two particular registered agents be inspected pursuant to the act. In justifying his recommendations, the attorney stated that:

"On November 25, 1964, * * * [the first foreign agent mentioned] filed a registration statement listing * * * [a government tourist agency] as foreign principal. The registrant stated that they were engaged in creating and placing advertising in United States media to attract tourism from the United States * * *. Despite numerous letters we wrote to the registrant not a single supplement has been filed.

* * * * *

"The [second-mentioned] registrant has recently made inconsistent statements and has been dilatory and evasive * * *." (Underscoring supplied.)

These two foreign agents' books and records were not inspected. Instead, more letters were sent to the agents, who ignored them.

The Section Chief eventually made a personal visit to the first agent early in 1968 to obtain compliance. The agent continued to be delinquent in filing periodic

registration statements, and the Department terminated its registration in March 1971 even though the final statement was deficient. This termination was the result of a memorandum prepared by the same Section attorney who had previously recommended inspection in April 1967. That memorandum stated that:

"The registrant has failed to answer item 11 [of its final statement]. However, it would be a waste of time to try to get an answer. That firm is one of the worst in my area. 4 letters were needed to induce them to file a final statement."

The Department's files on the second agent showed a long history of late filing. The Department had conducted a grand jury inquiry in the early 1960s concerning the agent's failure to disclose required information, and in 1964 the Section had inspected the agent's books and records. A second inspection--the one recommended in April 1967--was not made and the Department's files on this agent contained no information about it.

The files showed further that this agent had been sent formal notices of deficiency in November 1971 and May 1972 and had again been recommended for inspection in September 1972. This inspection was approved but was not made for reasons not evident in the Department's files nor known to Department personnel we interviewed.

In March 1973, an inspection of the agent's books and records was again recommended and approved. This inspection was completed in May 1973.

In March 1971, a newly appointed Section Chief began a more aggressive enforcement policy, which he described in a May 1971 memorandum to the Deputy Assistant Attorney General, Internal Security Division:

"As you know I am placing more emphasis on these Section 5 inspections than did my predecessors, and
* * * [the then Assistant Attorney General, Internal Security Division] has indicated that since such inspections are investigative in nature they should be conducted by Special Agents of the [Federal] Bureau [of Investigation] rather than by our

attorneys. In view of this, I would recommend that in all future requests to the Bureau for Section 5 inspections we include a specific request that we be notified immediately by phone regarding any difficulties encountered by the Bureau in the course of their Section 5 inspections in order that we may, if we wish, consider some form of immediate legal action. In this connection, we are attempting to determine just what actions may be available to us in the event a registrant refuses to produce his records for an inspection under Section 5." (Underscoring supplied.)

Department records show that, during the 2 years from April 1971 through March 1973, 15 inspections were requested and approved--a sharp contrast with the previous 4 years. Of these 15, 3 were made by Registration Section attorneys and the remaining 12 were referred to the Bureau.

The probability that the Bureau actually made one inspection requested in February 1972 appears doubtful because, although the Bureau contacted the agent's attorney several times, it could not gain access to the agent's books and records. Despite this noncompliance, no legal action had been taken against the agent. Department records showed that the agent was registered as an importer, seller, and distributor within the United States of Communist political propaganda for foreign principals in China, North Vietnam, Hong Kong, and Macau.

All but one inspection made from December 1970 through March 1973 identified or confirmed deficiencies in agents' registration statements or provided information which resulted in termination of the agents' registrations.

Although the Department has stepped up its use of inspection as an enforcement measure, we believe inspection should be further expanded to include routine checks on the accuracy and reliability of information reported by other registered agents and not be limited to just those agents suspected of violating the act. Also, when agents do not permit access to authorized officials, we believe swift judicial remedies should be sought.

We also found that, although agents must preserve their books and records for 3 years after their registrations have ended, former registrants' books and records had never been inspected to determine the accuracy and reliability of the information they reported.

Therefore, the Department should also consider inspecting selected former registered foreign agents. This not only would have a deterrent effect but would furnish the Department with information on the need for scheduling more frequent investigations during active periods of an agent-principal relationship.

Enforcement of final statement filing requirement

A registrant must file a final statement within 30 days after his agent-principal relationship is terminated. Failure to file the required statement may subject the agent to enforcement and penalty provisions of the act.

In calendar year 1972, the Department terminated the registrations of 87 agents; however, 16 of these agents did not file final statements. The Department took followup action, primarily in the form of correspondence with the agents, to obtain 10 of the 16 statements. It took no followup action to obtain the rest.

The reasons for termination were that 7 agents' activities were determined to be either exempt from registration or no longer within the scope of the act; 4 agents either returned to their foreign countries or their activities were exclusively outside the United States; 4 agents went out of business; and 1 agent ended its relationship with its foreign principal.

We believe the Department should not have terminated these 16 registrations. Enforcement action should be taken against registered agents and their officers and directors who fail to file required final statements and such agents' registrations should be terminated only after these statements have been properly executed and filed.

Without final statements the public registration files are incomplete, which negates the full public disclosure objective of the act.

Coordination of enforcement efforts
with the Department of State

The Department of Justice coordinates its enforcement efforts with the Department of State with respect to agents of foreign governments. This coordination is reasonably effective.

The Department notifies State when certain registrations are being initially solicited and when they are being terminated. It occasionally contacts State for advice on the advisability of soliciting certain registrations.

When an agent fails to comply with the registration requirements, the Department often asks State to contact the foreign embassy of the country involved in an effort to persuade the agent to comply with the filing requirements. The Department normally exhausts all possible diplomatic means of persuading agents to comply with the act before issuing formal notices of deficiency, seeking injunctive remedies, or prosecuting agents under the penalty provisions.

The Department contacts State on a variety of other matters, including requests for determining the diplomatic status of apparent foreign agents whose registrations may be solicited and requests for translations of material filed with the Department by foreign agents.

A total of 44 requests for assistance were directed to State from July 1972 to April 1973 regarding 29 agents. These requests involved such matters as agents' failure to register under the act, file required supplemental and other statements, and correct deficiencies in filed statements. Our review showed that (1) 21--about 75 percent--of the 29 foreign agents eventually submitted the required registration material or corrected filed statements, (2) 4 agents' registrations were still deficient, and (3) the initial registrations of the remaining 4 foreign agents were pending.

We could not ascertain the extent to which State's assistance contributed to the 21 agents' compliance with the act because available records did not positively indicate that the agents had complied as a result of State's diplomatic contacts. The Chief of the Registration Section informed us, however, that, although he had never attempted

to measure State's effectiveness on a case-by-case basis, he believed that, overall, State had been very cooperative and had been instrumental in obtaining agents' compliance.

CONCLUSIONS

The Department has been unable to adequately monitor foreign agents' activities. Therefore, it has had no assurance that foreign agents are properly identifying themselves and disclosing the identities of their foreign principals when dealing with Government agencies and officials, including committees and Members of Congress. Nor can the Department be sure that those persons that have an obligation to register do so.

The Department has made little effort to enforce the act and related regulations and, until recently, has been reluctant to use the available enforcement tools in insuring foreign agents' full compliance.

Contributing to the Department's monitoring and enforcement problems are its failure to (1) allocate enough resources to adequately monitor foreign agents' activities and (2) prosecute alleged violators of the act and related regulations except in clear cases of recalcitrant noncompliance.

RECOMMENDATIONS TO THE ATTORNEY GENERAL

We recommend that the Attorney General assess the needs of the Registration Section, including its need for more staff, and establish a review system to insure that the Department carries out its registration and enforcement activities effectively. In establishing this system he should consider

- periodically asking registered and exempt agents, Government agencies, and committees or Members of Congress about the extent to which agents are complying with the act's identification and disclosure requirements;
- working out an interagency agreement with State concerning the referral and followup of persons who are potentially subject to registration as agents of foreign principals;

- immediately and automatically issuing formal notices of deficiency when established filing time limits have expired and enforcing the prescribed 10-day period for correcting deficiencies cited in the notices;
- expanding its use of the inspection authority to routinely check on the accuracy and reliability of information reported by current and former registered foreign agents and not limiting inspections to those agents suspected of violating the act and, when agents do not permit access to authorized officials, seeking swift judicial remedies; and
- taking enforcement actions against registered agents and their officers and directors who fail to file required final registration statements and terminating such agents' registrations only after the statements have been properly executed and filed.

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

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

APPENDIX

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

^a Effective March 26, 1973, the functions and duties of the Internal Security Division were transferred to the Department's Criminal Division. Accordingly, the Registration Section became a unit within the Internal Security Section of the Criminal Division.