

International Trade Alert

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President Trump Suspends Entry of Travelers from 26 European Countries Due to COVID-19

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Key Points

- On March 11, 2020, President Trump issued a Presidential Proclamation restricting the entry of certain travelers that have been in one of 26 European countries in the 14 day period preceding their entry.
- The rule affects travelers from the Schengen Area: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland.
- The ban does not include the United Kingdom, but in President Trump's Press Conference on Friday, he indicated he may add the United Kingdom and other countries to the COVID-19 ban.
- U.S. citizens, lawful permanent residents, and their immediate family members are among the categories of people that are exempt from the restriction.
- The entry restriction became effective on Friday, March 13, 2020, at 11:59 pm EDT and will remain in effect until terminated. President Trump indicated in his address to the nation that the suspension will last for 30 days, but the Proclamation provides authority for it to continue indefinitely, at the discretion of the President.
- The restriction does not affect travelers from the United Kingdom, Ireland, or any other country not identified in the Proclamation that have not had physical presence in a listed country in the 14 days prior to entry.
- Restrictions do not affect visa services, but U.S. Embassies or Consulates may operate with reduced staff, and as a result, visa services may be limited in certain locations.
- The restriction affects individuals only and not trade in air or sea cargo, but may result in disruptions in air cargo shipments via passenger airline flights if such flights from the Schengen Area are cancelled by airlines for financial reasons.

On March 11, 2020, President Trump issued a **Presidential Proclamation** suspending the entry of certain immigrants and nonimmigrants from the 26 countries in Europe into the United States. The restriction applies to those who have been physically present in

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the Schengen Area countries and not necessarily citizens or residents of those countries. The entry ban became effective on Friday, March 13, 2020, at 11:59 pm EDT, but does not apply to persons aboard a flight scheduled to arrive in the United States that departed prior to that time.

Background

On January 31, 2020, and February 29, 2020, the White House issued travel bans on individuals that had been in **China** and **Iran** (respectively) in the 14 day period prior to their entry or attempted entry into the United States. Now, however, the largest concentration of cases outside of China is located in the Schengen Area of Europe, which is comprised of 26 countries with rules that support the free flow of people across their borders: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland.

Entry Ban and Exemptions

Citing the difficulty of managing COVID-19 in such a large area with a free flow of individuals, and subject to certain exemptions, the President has banned the entry of all individuals who were physically present in a Schengen Area country in the 14 day period preceding their entry or attempted entry into the United States. Certain categories of persons are exempt from the ban, among them:

- U.S. citizens and lawful permanent residents (“LPRs”) and their families (spouses; parents or legal guardians, provided that the U.S. citizen / LPR is unmarried and under 21; siblings, provided that both the sibling and the U.S. citizen / LPR are unmarried and under 21; children, foster children, and wards);
- Members of the U.S. Armed Forces and their spouses and children;
- Individuals traveling at the invitation of the U.S. Government for a purpose related to containment or mitigation of the virus;
- Air or sea vessel crewmembers entering the United States on C or D visas;
- Diplomats, international organization employees, and NATO employees;
- Individuals whose entry would not pose a significant risk of introducing, transmitting, or spreading the virus, as determined by the Secretary of Health and Human Services, through the CDC Director or his designee;
- Individuals whose entry would further important U.S. law enforcement objectives, as determined by the Secretary of State, the Secretary of Homeland Security, or their respective designees, based on a recommendation of the Attorney General or his designee; and
- Individuals whose entry would be in the national interest, as determined by the Secretary of State, the Secretary of Homeland Security, or their designees.

President Trump stated in his address to the nation that those exempt from the travel restrictions will be screened and not allowed to board the plane for the United States if they test positive for the virus. The Department of Homeland Security (DHS) Acting Secretary Chad Wolf issued a **statement** saying that the exempt categories of individuals arriving from Europe will be required to travel through “select airports where

the U.S. has implemented enhanced screening procedures.” On March 13, 2020, DHS issued a press release via email identifying 13 such airports and indicating that upon arrival, Americans will proceed to standard customs processing. They will then continue to enhanced entry screening where the traveler will be asked about their medical history, current condition, and asked for contact information for local health authorities. Travelers will then be given written guidance about COVID-19 and directed to proceed to their final destination and immediately home-quarantine in accordance with CDC best practices.

The Proclamation notes that physical presence in a Schengen Area country will not impact eligibility for asylum, withholding of removal, and certain other status protections (e.g., for victims of torture). The Proclamation provides authority for it to continue indefinitely, requiring the Secretary of Health and Human Services to advise the President on whether to continue, modify, or terminate the ban no longer than every 15 days after it comes into effect.

On Friday, reporters asked President Trump why the United Kingdom had been exempted despite the fact that it had reported more cases of COVID-19 than most Schengen Area countries. President Trump indicated that he may add the United Kingdom, or other countries, to the travel ban.

Impact and Analysis

The travel ban essentially implements a 14 day quarantine period on travelers from 26 European countries prior to entry in the United States. Among the many global industries affected by COVID-19, the impact will be felt especially by the passenger airline industry, which is already experiencing the broader impacts of COVID-19 and was already estimated to lose, depending upon the severity of pandemic, anywhere from approximately \$63 billion to \$113 billion in 2020, according to figures from the [International Air Transport Association \(IATA\)](#). These estimated losses do not account for the not insignificant economic losses that the passenger airline industry stands to lose as a consequence of the Presidential Proclamation. Furthermore, the IATA estimate does not account for any air cargo losses attributable to these events, nor does it account for any additional costs that U.S. air carriers are incurring as a result of the 10 to 15 percent ad valorem Section 301 tariffs applicable to import entries of new Airbus civil aircraft, following the trade dispute between the U.S. and the European Union.

Even if exempted persons, including U.S. citizens and permanent residents, wish to travel between the United States and Schengen Area countries while the Presidential Proclamation is in place, the disruption may make it economically infeasible for airlines to maintain routes between the United States and Schengen Area countries. Further, although the White House clarified that the Presidential Proclamation does not impact trade and goods, air cargo services may also be disrupted because air cargo is often transported by passenger planes. Businesses should monitor these impacts closely and reevaluate travel to and from Europe.

For more resources, information, and analysis on how best to address legal issues presented by the spread of COVID-19 and the impacts it has had on global trade and immigration, visit Akin Gump’s [COVID-19 Resource Center](#), or contact one of the attorneys below.

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