



Section-by-Section of the New Travel Ban (Presidential Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats)

Updated September 27, 2017

Preamble

In Executive Order 13780, the president instructed the Department of Homeland Security to create a program detailing what information would be necessary for each country to provide in order to effectively screen potential immigrants for terroristic or other threats, and what procedures countries should enact in order to limit the risk of terrorism. Some countries did not meet these standards or were unable or unwilling to provide this information to the United States. These countries are now being restricted as a result of this effort.

The Proclamation cites sections 212(f) and 215(a) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(f) and 1185(a), and section 301 of title 3, United States Code, as the legal basis that allows the president to enact these restrictions.

Section 1: Policy and Purpose

It is the policy of the United States to prevent terrorist attacks and preserve the public safety. In order to this, it is necessary to screen potential immigrants and nonimmigrants who wish to travel to the United States. For this, the Department of Homeland Security has established three baseline requirements that all nations must abide by in order for the United States to allow its people into the country:

1. **Identity-management information.** A country should be able to prove that people attempting to enter the United States are who they say they are. There are a number of ways to accomplish this, including passports with data chips and sharing information with the United States.
2. **National security and public-safety information.** A country should be able to provide information as to whether a given person has a history of terrorist activity or criminal behavior.
3. **National security and public-safety risk assessment.** A country should not be a haven for terrorists and cooperate with certain United States laws (for example, allowing an immigrant from that country who has been deported from the United States to return).

Of all the countries presented, 16 had “inadequate” measures and 47 were either “inadequate” or “at risk.” Of these, the Department of Homeland Security identified Chad, Iran, Libya, North Korea, Syria, Venezuela, and Yemen as having national security measures that were so inadequate as to require a travel ban. Many of these countries also refused to cooperate with United States officials. Iraq was also identified as a place with inadequate measures, but as Iraq is cooperating with the United States in the fight against ISIS and there is a strong military presence there, a travel ban would not be appropriate.

The president is adopting a more tailored approach than a blanket ban. For some countries that are attempting to improve their measures, some nonimmigrant classifications (such as student visas) are exempt from the ban.

Section 2: Suspension of Entry for Nationals of Countries of Identified Concern

Chad, Libya, and Yemen contain multiple terrorist groups and do not meet the risk assessment requirements. Therefore, all immigrants, and nonimmigrants traveling on business or tourist visas, are suspended from entering the United States.

Iran has refused to cooperate with the United States in identifying security risks and contains multiple terrorist groups. All immigrant and nonimmigrant visas are suspended except for student visas (F and M) and exchange visitor visas (J). However, students and visitors who are exempt from the ban will still be subject to extreme vetting and screening.

North Korea refuses to cooperate in any capacity, therefore all immigrants and nonimmigrants are suspended from entry.

Syria is an identified haven for terrorist groups and refuses to cooperate with the United States in risk assessment. Therefore all immigrants and nonimmigrants are suspended from entry.

Venezuela is also refusing to cooperate with the United States, but as other methods of identification verification exist, the only people who are affected by the restrictions are members of particular Venezuelan government agencies and their immediate family members. These government officials and family members are only barred from entering on business or tourist visas: all other visas are permitted.

Somalia is an identified haven for terrorists, and while Somalia meets the criteria for information sharing and identification verification, they are still inadequate. For this reason, all immigrants are suspended from entry. Nonimmigrants may enter but are subject to increased screening and vetting.

Section 3: Scope and Implementation of Suspensions and Limitations

These suspensions only apply to people who:

- are outside the United States on the applicable effective date (see section 7)
- do not have a valid visa on the effective date, and
- do not qualify for a visa or other travel document under section 6(d) of the Proclamation.

Exemptions:

- Lawful permanent residents (green card holders)
- Foreign nationals admitted or paroled to the United States on or after the effective date
- Foreign nationals with travel documents that are not visas that are valid before or issued after the effective date
- Dual nationals traveling on a passport that is not one of the affected countries
- Those travelling on a diplomatic or related visa
- Foreign nationals who have already been granted asylum, refugees who have already been granted admittance, and those who have been granted withholding of removal, advanced parole, or protections under the Convention Against Torture

Waivers:

A consular officer may, on a case-by-case basis and within their discretion, grant a waiver to affected immigrants for certain reasons. The person seeking entry must prove that:

- (A) denying entry would cause the foreign national undue hardship;
- (B) entry would not pose a threat to the national security or public safety of the United States; and
- (C) entry would be in the national interest.

Some examples of this include:

- foreign nationals with significant past contacts, study, work, or business in the United States
- foreign nationals with immediate family members in the United States where a denial of entry would cause undue hardship to the foreign national
- people with uniquely compelling circumstances (such as children, adoptees, or those seeking urgent medical care)
- people employed by the United States government or an international organization

Section 4: Adjustments to and Removal of Suspensions and Limitations

The Secretary of Homeland Security, in consultation with the Secretary of State, is responsible for devising a process to assess whether the suspensions and limitations listed in the Proclamation should continue, be terminated, modified, or supplemented. The process will take into account whether the countries listed in the Proclamation have made any improvements. The Secretary of Homeland Security, in consultation with the Secretary of State, the Attorney General, the Director of National Intelligence, and other appropriate heads of agencies, will submit the report every 180 days, starting 180 days from the date of the Proclamation. The report should address the United States' interest in the continuation of the restrictions listed in the Proclamation and whether the restrictions and limitations should be continued, modified, terminated, or supplemented. The report should also address the interest of the United States, which may require the suspension or limitations on the entry of other foreign nationals not identified in the Proclamation.

Within the boundaries of foreign policy, national security, and public safety objectives of the United States, the Secretary of State, in consultation with the Secretary of Homeland Security, the Secretary of Defense, the Attorney General, the Director of National Intelligence, and the head of any other executive department or agency that the Secretary of State deems appropriate shall work with the countries listed in the Proclamation and any other countries that have information-sharing, identity-management, or risk-factor deficiencies.

Upon consultation with the Secretary of State, the Attorney General, and the Director of the National Intelligence, the Secretary of Homeland Security may recommend to the President the removal or modification of any restrictions and limitations. The Secretary of Homeland Security, the Secretary of State, or the Attorney General may also recommend any additional restrictions or limitations deemed necessary for security and the welfare of the United States.

Section 5: Reports on Screening and Vetting Procedures

The following key players will have to submit a periodic report to the President: the Secretary of Homeland Security, Secretary of State, Attorney General, Director of National Intelligence, and other appropriate heads. The report must (1) describe the steps that the United States has taken to improve

vetting of foreign nationals, (2) describe the scope and magnitude of fraud, errors, false information, and unverifiable claims made in applications for immigration benefits, and (3) evaluate the screening and vetting procedures established by the Department of State's Bureau of Consular Affairs to enhance safety and security in the United States.

The first report is due 180 days after the date of the Proclamation. The second report is due 270 days after the first report, and subsequent reports are due annually. The agency heads responsible for the report must coordinate any policy developments through the Assistants to the President.

Section 6: Enforcement

This Proclamation will be enforced with the help of national and international partners. Individuals who have credible claims of fear of persecution or torture will not be affected by the Proclamation. No visas issued before the effective date of the Proclamation will be revoked. Individuals whose visas were revoked as a result of EO 13769, will be allowed to seek entry; the prior revocation of a visa under EO 13769 will not be the basis for inadmissibility. Finally, this Proclamation does not apply to individuals who have been granted asylum nor does not limit the ability of any individual to seek asylum, refugee status, withholding of removal, or protection under the Convention Against Torture.

Section 7: Effective Dates

For nationals of the five countries covered by EO 13780 and who lack a bona fide relationship with a United States person or entity, excluding Sudan, the restrictions and limitations are effective as of **3:30 p.m. on September 24, 2017**.

For nationals from the eight countries covered under the new Proclamation, regardless of a bona fide relationship, the restrictions and limitations are effective as of **12:01 a.m. on October 18, 2017**.

Section 8: Severability

Given the United States policy to enforce the Proclamation to the fullest extent possible to advance national security, the provisions of the Proclamation are severable. Therefore, if any provision or its application is held invalid, the remaining provisions will remain valid. If any provision or its application is held invalid for procedural reasons, then the appropriate executive branch official will implement the appropriate procedures to ensure the provision complies with the required procedures.

Section 9: General Provisions

The Proclamation does not affect the Executive department's authority or the functions of the Director of the Office of Management and Budget. The Proclamation must be enforced consistent with all existent law. Moreover, the Proclamation does not create or grant any benefit.