

## BRIEFING ROOM

# Proclamation on the Suspension of Entry as Immigrants and Non-Immigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus Disease

JANUARY 25, 2021 • PRESIDENTIAL ACTIONS

The Federal Government must act swiftly and aggressively to combat coronavirus disease 2019 (COVID-19). The national emergency caused by the COVID-19 outbreak in the United States continues to pose a grave threat to our health and security. As of January 20, 2021, the United States had experienced more than 24 million confirmed COVID-19 cases and more than 400,000 COVID-19 deaths. It is the policy of my Administration to implement science-based public health measures, across all areas of the Federal Government, to prevent further spread of the disease.

The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services, working in close coordination with the Department of Homeland Security, has determined that the Republic of South Africa is experiencing widespread, ongoing person-to-person transmission of SARS-CoV-2, the virus that causes COVID-19, including a variant strain of the virus known as B.1.351. The World Health Organization has reported that the Republic of South Africa has over 1,400,000 confirmed cases of COVID-19. Another variant strain, known as B.1.1.7, is widely circulating and has been traced to the United Kingdom. Furthermore, a third variant strain, which is known as B.1.1.28.1 and may impact the potential for re-infection, has been identified in Brazil. Based on developments with respect to the variants and the continued spread of the disease, CDC has reexamined its policies on international travel and, after reviewing the public health situations within the Schengen Area, the United Kingdom (excluding overseas territories outside of Europe), the Republic of Ireland, the Federative Republic of Brazil, and the Republic of South Africa, has concluded that continued and further measures are required to protect the public health from travelers entering the United States from those jurisdictions.

In my Executive Order of January 21, 2021, entitled “Promoting COVID-19 Safety in Domestic and International Travel,” I directed the Secretary of Health and Human Services, including through the Director of CDC, and in coordination with the Secretary of Transportation

(including through the Administrator of the Federal Aviation Administration) and the Secretary of Homeland Security (including through the Administrator of the Transportation Security Administration), to further examine certain current public health precautions for international travel and take additional appropriate regulatory action, to the extent feasible and consistent with CDC guidelines and applicable law.

While that review continues, and given the determination of CDC, working in close coordination with the Department of Homeland Security, described above, I have determined that it is in the interests of the United States to take action to restrict and suspend the entry into the United States, as immigrants or nonimmigrants, of noncitizens of the United States (“noncitizens”) who were physically present within the Schengen Area, the United Kingdom (excluding overseas territories outside of Europe), the Republic of Ireland, the Federative Republic of Brazil, and the Republic of South Africa during the 14-day period preceding their entry or attempted entry into the United States.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(f) and 1185(a), and section 301 of title 3, United States Code, hereby find that the unrestricted entry into the United States of persons described in section 1 of this proclamation would, except as provided for in section 2 of this proclamation, be detrimental to the interests of the United States, and that their entry should be subject to certain restrictions, limitations, and exceptions. I therefore hereby proclaim the following:

Section 1. Suspension and Limitation on Entry. (a) The entry into the United States, as immigrants or nonimmigrants, of noncitizens who were physically present within the Schengen Area, the United Kingdom (excluding overseas territories outside of Europe), the Republic of Ireland, and the Federative Republic of Brazil during the 14-day period preceding their entry or attempted entry into the United States, is hereby suspended and limited subject to section 2 of this proclamation.

(b) The entry into the United States, as immigrants or nonimmigrants, of noncitizens who were physically present within the Republic of South Africa during the 14-day period preceding their entry or attempted entry into the United States, is hereby suspended and limited subject to section 2 of this proclamation.

Sec. 2. Scope of Suspension and Limitation on Entry.

(a) Section 1 of this proclamation shall not apply to:

(i) any lawful permanent resident of the United States;

- (ii) any noncitizen national of the United States;
- (iii) any noncitizen who is the spouse of a U.S. citizen or lawful permanent resident;
- (iv) any noncitizen who is the parent or legal guardian of a U.S. citizen or lawful permanent resident, provided that the U.S. citizen or lawful permanent resident is unmarried and under the age of 21;
- (v) any noncitizen who is the sibling of a U.S. citizen or lawful permanent resident, provided that both are unmarried and under the age of 21;
- (vi) any noncitizen who is the child, foster child, or ward of a U.S. citizen or lawful permanent resident, or who is a prospective adoptee seeking to enter the United States pursuant to the IR-4 or IH-4 visa classifications
- (vii) any noncitizen traveling at the invitation of the United States Government for a purpose related to containment or mitigation of the virus;
- (viii) any noncitizen traveling as a nonimmigrant pursuant to a C-1, D, or C-1/D nonimmigrant visa as a crewmember or any noncitizen otherwise traveling to the United States as air or sea crew;
- (ix) any noncitizen
  - (A) seeking entry into or transiting the United States pursuant to one of the following visas: A-1, A-2, C-2, C-3 (as a foreign government official or immediate family member of an official), E-1 (as an employee of TECRO or TECO or the employee's immediate family members), G-1, G-2, G-3, G-4, NATO-1 through NATO-4, or NATO-6 (or seeking to enter as a nonimmigrant in one of those NATO categories); or
  - (B) whose travel falls within the scope of section 11 of the United Nations Headquarters Agreement;
- (x) any noncitizen who is a member of the U.S. Armed Forces and any noncitizen who is a spouse or child of a member of the U.S. Armed Forces
- (xi) any noncitizen whose entry would further important United States 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; or

(xii) any noncitizen whose entry would be in the national interest, as determined by the Secretary of State, the Secretary of Homeland Security, or their designees.

(b) Nothing in this proclamation shall be construed to affect any individual's eligibility for asylum, withholding of removal, or protection under the regulations issued pursuant to the legislation implementing the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, consistent with the laws and regulations of the United States.

Sec. 3. Implementation and Enforcement. (a) The Secretary of State shall implement this proclamation as it applies to visas pursuant to such procedures as the Secretary of State, in consultation with the Secretary of Homeland Security, may establish. The Secretary of Homeland Security shall implement this proclamation as it applies to the entry of noncitizens pursuant to such procedures as the Secretary of Homeland Security, in consultation with the Secretary of State, may establish.

(b) The Secretary of State, the Secretary of Transportation, and the Secretary of Homeland Security shall ensure that any noncitizen subject to this proclamation does not board an aircraft traveling to the United States, to the extent permitted by law.

(c) The Secretary of Homeland Security may establish standards and procedures to ensure the application of this proclamation at and between all United States ports of entry.

(d) Where a noncitizen circumvents the application of this proclamation through fraud, willful misrepresentation of a material fact, or illegal entry, the Secretary of Homeland Security shall consider prioritizing such noncitizen for removal.

Sec. 4. Termination. This proclamation shall remain in effect until terminated by the President. The Secretary of Health and Human Services shall, as circumstances warrant and no more than 30 days after the date of this proclamation and by the final day of each calendar month thereafter, recommend whether the President should continue, modify, or terminate this proclamation.

Sec. 5. Amendment. Section 5 of Proclamation 9984 of January 31, 2020 (Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus and Other Appropriate Measures To Address This Risk), and section 5 of Proclamation 9992 of February 29, 2020 (Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus), are each amended to read as follows:

“Sec. 5. Termination. This proclamation shall remain in effect until terminated by the President. The Secretary of Health and Human Services shall, as circumstances warrant and no more than 30 days after the date of the Proclamation of January 25, 2021, entitled “Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus Disease 2019,” and by the final day of each calendar month thereafter, recommend whether the President should continue, modify, or terminate this proclamation.”

Sec. 6. Effective Dates. (a) The suspension and limitation on entry set forth in section 1(a) of this proclamation is effective at 12:01 a.m. eastern standard time on January 26, 2021. The suspension and limitation on entry set forth in section 1(a) of this proclamation does not apply to persons aboard a flight scheduled to arrive in the United States that departed prior to 12:01 a.m. eastern standard time on January 26, 2021.

(b) The suspension and limitation on entry set forth in section 1(b) of this proclamation is effective at 12:01 a.m. eastern standard time on January 30, 2021. The suspension and limitation on entry set forth in section 1(b) of this proclamation does not apply to persons aboard a flight scheduled to arrive in the United States that departed prior to 12:01 a.m. eastern standard time on January 30, 2021.

Sec. 7. Severability. It is the policy of the United States to enforce this proclamation to the maximum extent possible to advance the national security, public safety, and foreign policy interests of the United States. Accordingly:

(a) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this proclamation and the application of its provisions to any other persons or circumstances shall not be affected thereby; and

(b) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid because of the lack of certain procedural requirements, the relevant executive branch officials shall implement those procedural requirements to conform with existing law and with any applicable court orders.

Sec. 8. General Provisions. (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of January, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-fifth.

JOSEPH R. BIDEN JR.