



FEBRUARY 02, 2017

CIRCULAR NO. 05/17

TO MEMBERS OF THE ASSOCIATION

Dear Member:

US PRESIDENT'S EXECUTIVE ORDER ON IMMIGRATION AND ITS EFFECT ON VESSELS AND THEIR CREWS ENTERING THE UNITED STATES

On January 27, 2017, President Trump issued an Executive Order (EO) which essentially imposed a 90-day ban on the entry into the United States of any foreign citizens from certain countries including Iraq, Iran, Libya, Somalia, Sudan, Syria and Yemen.

While the EO does not expressly refer to seaman nationals from these countries, it is anticipated that the travel ban imposed by the EO will very likely create delays and difficulties for foreign flagged vessels calling at US ports and traversing US waters with crew who are nationals of these specified countries. If a vessel with such crew members calls at a US port or sails through US waters, it is expected that such crew will be denied access to shore leave.

The EO also provides for a potential suspension of the Visa Interview Waiver Program, which allows visitors from 38 countries to renew travel authorizations without a personal interview.

Given the confusion that has been encountered at airports and other immigration points of entry in the US over the past few days, it is presently unclear to predict how the Department of Homeland Security (DHS) or the United States Coast Guard (USCG) will address circumstances where a vessel with nationals from the enumerated countries calls at a US port. It is possible that the prior practice of requiring a vessel to take a certain number of local armed security guards on board -- a practice which was more prevalent in the years following 9/11 -- may be re-implemented in the short term.

Bearing in mind these considerations, your Managers recommend that Members who expect to call at US ports in the immediate future take certain precautions to avert or minimize any delays or potential expenses or exposures that might result from any enforcement by the travel ban by local authorities:

- Members with crew from any of the countries listed above are encouraged to avoid any crew changes while in the US.
- Members should review their charter party wordings and provisions to ensure that, if the local authorities mandate that armed security guards be placed on board the vessel, such expenses and delays / time lost be appropriately allocated to it contract

partner. The BIMCO US Security Clause for Time Chartering should provide sufficient protection in this regard.

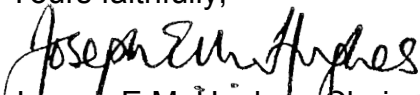
- If a medical emergency arises and requires a crew change in the US, and either the outgoing or replacement crew member is a national of one of the seven countries identified in the EO, Members should immediately contact the Managers to assist with any efforts to petition the DHS, the USCG, or other applicable authority to review the matter on a case-by-case basis for the issuance of appropriate visas, immigration benefits or other appropriate relief.
- For any crew members or port captains anticipating entry into the US who are nationals affected by the Visa Interview Waiver Program, Members should consult with the local US embassy or consulate for further guidance, or alternatively, Members can contact the Managers for additional assistance.

Your Managers also hereby attach a Client Alert issued by Messrs. Freehill, Hogan & Mahar LLP which discusses the EO and its effect on foreign crew members in more detail. Their permission to attach it is much appreciated.

Because the landscape regarding the EO and its implementation is in flux at the moment, your Managers further urge Members to contact them with any inquiries regarding this issue.

Such requests, and any other inquiries associated with this publication, should be directed to Mr. George J. Tsimis, Senior Vice President – Global Claims Director & General Counsel, at george.tsimis@american-club.com, or Ms. Danielle Centeno, Assistant Vice President – Loss Prevention & Survey Compliance, at danielle.centeno@american-club.com.

Yours faithfully,



Joseph E.M. Hughes, Chairman & CEO
Shipowners Claims Bureau, Inc., Managers for
THE AMERICAN CLUB

CLIENT ALERT:

**EXECUTIVE ORDER ON IMMIGRATION
AFFECTS VESSEL CREWS**

January 30, 2017

Introduction

On January 27, 2017 President Trump issued an Executive Order (“E.O.”) entitled “Protecting the Nation From Foreign Terrorist Entry Into the United States.” This E.O. will impact vessels calling in the U.S. with crewmembers on board who are citizens of Syria, Yemen, Sudan, Somalia, Iraq, Iran and Libya.

Temporary Ban on Immigrant and Non-immigrant Entry Into the U.S.

The key provision of the Order which will impact vessels’ crew is Section 3(c), banning for 90 days any immigrant or non-immigrant entry into the U.S. of foreign citizens from Syria, Yemen, Sudan, Somalia, Iran and Libya. Having reviewed the Order, we think it is clear that for the next 90 days crewmembers from Syria, Yemen, Sudan, Somalia, Iraq, Iran and Libya, whether or not they hold visas, will be denied entry to the U.S. Shipowners should anticipate that crew from the seven affected countries will be denied shore leave if their vessel calls at a U.S. port. Although it is difficult to predict how the E.O. will be fully implemented, we do not believe that vessels carrying crew from the seven countries will be denied entry into a U.S. port. However, we would not be surprised if a vessel were ordered to post hired security guards at the vessel’s gangway to insure that such crewmembers do not depart the vessel.

In addition, crew replacements in the U.S. will be complicated, if not prohibited, by the E.O., if they involve crew from any of the seven designated countries. At least initially, we would expect CBP, Homeland Security and INS to exercise very limited, if any, discretion in the enforcement of this E.O. News reports of the initial implementation suggest that the E.O. was being applied to the letter of its terms. Therefore, it is recommended that for the next 90 days, shipowners should avoid crew changes in the U.S. involving crew from any of the seven countries.

Of course, a medical emergency may necessitate a crew replacement in the U.S. Section 3(g) of the E.O. provides that, notwithstanding the 90 day ban on the entry in to the U.S. of immigrant and non-immigrant persons from the seven designated countries, “...the Secretaries of State and Homeland Security may, on a case-by-case basis, and when in the national interest, issue visas or other immigration benefits to nationals of countries for which visas and benefits are otherwise blocked.” If a medical emergency necessitates a crew change in the U.S., and if either the crewmember to be

removed from the vessel, or the replacement crew member, is from one of the seven designated countries, Section 3(g) may serve as a basis to seek an exception to the 90 day immigration ban.

At this point the implementation of the E.O. is not entirely clear. For example, initially, it appeared that it would apply to foreign citizens who are permanent residents of the U.S. (green-card holders), but on January 29th the Secretary of the Department of Homeland Security issued a statement that the re-entry into the U.S. of foreign permanent residents was in the national interest and their entry would be permitted "...absent the receipt of significant derogatory information indicating a serious threat to public safety and welfare..." There may be further clarity regarding the implementation of the E.O. in the days to come.

Should we become aware of further developments regarding this E.O., we will advise.

Disclaimer: This Client Alert provides only a general summary of the January 27, 2017 Executive Order on immigration, and is not intended to constitute comprehensive legal advice. Specific legal advice should be taken with respect to each individual inquiry regarding trade with Cuba. For additional clarification, please feel free to contact Bill Juska (juska@freehill.com), Gina Venezia (venezia@freehill.com) or Bill Pallas (pallas@freehill.com).

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