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**Global Immigration: What Now?**  
***Helping Your Company Navigate the New Normal in***  
***International Business Travel and Employment as the COVID-19 Pandemic Wears On***  
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As some parts of the world finally begin to come out of months of lockdown for both international travel and day-to-day life, companies like yours are beginning to ask, “What comes next?” What can your company expect in terms of your employees’ ability to travel internationally both to tend to urgent matters left in limbo when borders closed as well as to continue to do business long term? And what will the ongoing restrictions and changes in everyday life mean for your company’s ability to transfer or hire new foreign national talent in key areas? Only time will tell exactly what will happen; however, here at Lustgarten Global, we are beginning to see patterns and hints of what is to come. In this article, we look at the likely short-term and long-term impacts of the COVID-19 pandemic on global immigration and provide guidance to help your company navigate the new normal.

**Immediate Consequences: Current Trends**

Around the globe in countries that have managed to flatten the curve of COVID-19 infections, we are seeing a gradual easing of restrictions on freedom of movement and commerce. This is typically being undertaken cautiously in a multi-step fashion. For instance, after easing domestic restrictions, Italy is now allowing travel from within the European Union (EU) and Schengen member countries as of June 3. It looks likely that EU member states will reopen their borders to travel from outside the EU on July 1. Conversely, other countries have been much slower to ease travel restrictions. A broad travel ban remains in place in China and countries in Latin America continue to extend travel limitations with a wary eye to the outbreak in Brazil. But there is enough opening that your company, like many companies, are likely beginning to consider what comes next in terms of global movement of your employees.

*Government Re-Openings and Application Backlogs*

On the domestic immigration front, relevant governmental authorities are beginning to either ramp back up where they were operating at limited capacity or to reopen where they were shut down completely. For example, the Netherlands has started to provide some limited appointments for foreign nationals to come in person and give biometrics (fingerprints) needed to issue their residence cards, France has begun scheduling appointments in some prefectures for residence registrations, and the UK has reopened some of its visa centers abroad. But although many facilities are ramping up and/or reopening, significant backlogs of applications exist. Many government offices and consulates are encouraging or requiring contactless submissions via post or even email. For instance, in some locations in Germany, residence permit submissions are being accepted via email. Where in-person submissions are required, the German authorities have also put into place measures such as limiting appointments to only the principal applicant (no one may accompany) and eliminating indoor waiting rooms in favor of outdoor queues with designated spacing to keep people at least six feet apart.

*Easing of Travel Restrictions and Implementation of Quarantines*

International travel restrictions are being eased, albeit more slowly than domestic restrictions on freedom of movement. We expect that the easing of international travel restrictions will be incremental in nature as the easing of domestic restrictions has been. We also expect that quarantine requirements for arriving travelers are likely to be put into place in many locations, significantly hampering international business travel. For example, the UK just implemented a 14-

day quarantine as of June 8; likewise, Taiwan and South Korea also have mandatory 14-day quarantines for incoming travelers.

#### *Closer Scrutiny of Travelers*

Arriving travelers are also likely to be questioned more closely than in the past regarding their recent travels, health, reason for visiting and plans for satisfying quarantine requirements. Although the primary purpose of the vetting may be to limit the spread of COVID-19, an unintended consequence may be that the purpose of the visit and whether the traveler has the correct documentation is scrutinized much more closely than in the past. If the traveler is attempting to enter to engage in productive or remunerated work – which often includes consulting, commissioning, installing, troubleshooting and, in some countries, even training or audit activities – without the proper work visa, they are very likely to be identified and denied entry.

#### **The New Normal: A Long-Term Perspective**

Looking ahead, it is somewhat challenging to predict what will happen in the global immigration space given that we do not yet know how long the pandemic will drag on. The longer it continues, the more different our new global immigration normal is likely to be. What is already clear is that even if a vaccine or effective remedy for COVID-19 is developed, things are unlikely to go back to “normal” as we knew it before the pandemic. So, what will the new normal look like for your company?

#### *Rise in Remote Work – Decrease in Global Mobility*

Like yours, many companies have discovered the ability to conduct business remotely, including across borders. What used to require an international business trip (with the corresponding time, costs and visas) now takes place via conference call. Where you used to relocate key staff across borders to facilitate teams working together in person, you most likely have now discovered that with everyone working remotely it may not matter whether your newest team member is physically sitting in Canada, China or France.

#### *New Challenges for Essential Travel*

Despite the rise in remote work, technology can't replace all short- or long-term global movement of employees. Some work – installing or commissioning equipment, quality control of a production line, testing of systems, and much more – simply cannot be done via conference call. If your company has employees who must travel for business purposes, those employees will likely continue to encounter quarantine requirements until the pandemic has been resolved. This means your employees traveling for work will need to provide evidence that they will quarantine for 14 days following arrival, before attending to their meetings and/or work duties.

In the past, citizens of privileged countries, such as the U.S., have often enjoyed a low level of scrutiny at ports of entry and have, thus, been able to avoid issues when traveling for work purposes without a visa. In fact, before the pandemic your company's employees may have been previously accustomed to traveling to certain countries with just their passport and no visa. Under the new normal, we anticipate that all international travelers will be subjected to increased scrutiny upon entry through the destination country's customs and immigration process. This means your employees are much more likely to need to secure a visa in advance of any foreign travel. For this reason, it will be very important for you to verify immigration requirements with the most recent information well in advance of your employee's planned travel date. After all, the last thing you want is for your employee to experience the unpleasant surprise of being denied entry or prevented from boarding a flight.

### *New Challenges for Long-Term Relocation and Local Hires*

While it is true for some industries that it does not matter whether a new hire is sitting in Canada, China or France, for others it very much does matter. It is probably impossible for a manager to supervise a manufacturing facility via Zoom. Unfortunately, it is likely that companies seeking to transfer or hire foreign nationals will face increased hurdles, even beyond the immediate travel-related hurdles posed by COVID-19 travel restrictions. As unemployment numbers have soared, we have already seen a significant political backlash against immigrants in the U.S. Even putting aside any politically or economically motivated reduction of work visa numbers, the labor market reality of having millions of citizens out of work will make it extremely difficult to pursue work visas that require labor market testing. This would include Labor Market Impact Assessment work permits in Canada, Tier 2 General work visas in the UK, and Subclass 482 work visas in Australia, among others.

### **Mitigating Negative Impacts: Preparation and Strategy**

It is hard to imagine how any company, let alone a company with global operations/travel needs, could avoid the negative impact of the pandemic. It is with this reality in mind that we aim here to provide guidance on how your company can deal with the new normal and mitigate (rather than eliminate) the negative impacts.

#### *Raise Awareness Inside Your Company*

Your company and your employees are likely to face many obstacles that you are not accustomed to, whether it is a requirement that an employee add 14 days to a business trip to accommodate a mandatory quarantine period, obtain a visa in advance of travel where previously she could travel without one, or delay many months before starting a new position while waiting for a work visa approval. It is absolutely crucial that all key stakeholders within your company are made aware that immigration is not business as usual.

Stakeholders include not only your HR and legal personnel, but also company managers and recruiters. To the extent that your employees are allowed to book international travel without managerial approval, it may be prudent to disseminate policies and information to all employees, regardless of level. Requirements for travel, transfer and new hires alike must be checked before business commitments and plans are made or contracts with clients are signed. We recommend providing both written and video training to ensure that managers and other employees outside of legal and HR who may not be familiar with immigration concepts have both an opportunity to ask questions and reference materials to refer back to in the future.

#### *Conduct Quarterly Planning for International Transfers and Foreign National New Hires*

In countries where international transfers or hiring of foreign nationals is not prevented by the aforementioned political and labor market challenges, it will be important for your company to plan well in advance for any transfer or new hire. It is likely that the process of obtaining the necessary work visa and/or permit will be slower for some time to come given the COVID-19-related backlogs. Even where the immigration process itself is not slower than usual, it may take significantly more time to procure the corporate and personal documents (such as apostilled or legalized birth certificates, marriage certificates and university diplomas) that often must be included in visa applications. It is also possible that there will be more requirements that must be satisfied to obtain the visa, such as medical exams and negative COVID-19 tests.

Given this, we strongly recommend that your company plan as far in advance as possible. Although it is not always possible to anticipate all business needs, it is a best practice to work to identify upcoming assignments or new hires on a quarterly basis. We have seen that having a policy and schedule in place with the relevant managers and recruiters can go a long way to reducing last-

minute immigration surprises. As part of this plan, before committing to a client contract or signing an employment contract, companies should confirm with their immigration counsel or another trusted source that the employee is able to qualify for the necessary visa and the timeline involved.

### *Implement a Centralized System for Global Mobility Management*

While we have always recommended that all companies with global mobility needs have an organized way to track and manage the global movement of their employees, the pandemic has greatly increased the need for such a system. Many companies were caught completely off guard by the fast-moving pandemic and did not know where their employees were in the world, when their visas were expiring, or how on earth they were going to get them home again.

Having a centralized system will certainly not solve all your problems, but it will at least equip your company with the information and tools you need to make informed decisions. By “system,” we do not necessarily mean the very latest and most expensive software for managing global mobility, but rather some sort of functional, organized method by which to vet and track travel, international transfers and new foreign national hires, along with a clear company global mobility policy. Key features of good systems include:

- For companies with short-term international travel –
  - Policy requiring preapproval of all international travel (prior to booking flights) by designated HR/legal/management personnel.
  - Pre-check of visa requirements for the destination country based on your employee’s citizenship, duration of stay (including any quarantine periods) and activities to be carried out.
  - Process for obtaining necessary visas via immigration counsel or another trusted, compliant source.
  - Mechanism for tracking international travel and generating reports on the type and expiry date of visas held by your employees.
  
- For companies with international transfers and foreign national new hires –
  - Policy requiring approval by designated HR/legal/management personnel prior to making a formal offer of assignment or new employment.
  - Pre-check of your employee’s eligibility for the necessary work visa or permit in the destination country via immigration counsel or another trusted, compliant source. Note that some countries have specific requirements regarding the type of position and/or qualifications of the employee.
  - Process for obtaining necessary visas and permits via immigration counsel or another trusted, compliant source.
  - Mechanism for generating reports on the type and expiry date of the visas and permits held by your employees.

### **Conclusion**

In many ways, the new normal in global immigration requires you, as a leader in HR, legal or management, to abandon your previous ways of approaching the process of moving your employees about the world for business purposes. The rules for global immigration have changed with the COVID-19 pandemic—and they will continue to shift in the weeks, months and even years to come.

At Lustgarten Global, we are working diligently to make sure you have access to resources that empower your company to navigate this new normal as successfully as possible. Available resources include:

- **COVID-19 Travel Restriction Map** – Housed on our firm’s website, this map along with country-specific details is updated whenever there’s a travel-related change in the 55 global jurisdictions we serve.
- **Global Immigration Guide: Overcoming Common Challenges Faced by Companies Sending Field Service Engineers to Work Overseas** – This guide was written expressly for companies where your business relies on field service engineers and other skilled workers performing critical work projects on-site in destinations around the world. It examines 4 common challenges when it comes to procuring the visas and work permits needed for your workers to get where they need to go legally and identifies best practices for overcoming each challenge. Request your copy of the guide today.
- **COVID-19 Global Immigration Training** – Our firm provides customized training to companies on many aspects of global immigration and have recently developed a training program on navigating international travel and assignments in the current COVID-19 environment. Reach out to me for more information or to schedule this training for your company.
- **Customized Global Mobility Compliance Program** – We help clients implement custom global mobility compliance programs, including the use of our global travel tool. Please get in touch with me to learn more.

*This article was written by Audrey Lustgarten, the Founder and Principal Attorney of Lustgarten Global PLC. Lustgarten Global is a law firm dedicated to representing employers in global immigration matters. Audrey and her team are committed to helping employers obtain the visas and work permits they need to send key employees to foreign countries. From authenticating documents to filing visa applications with consulates in the U.S. and overseeing the filing of work permit applications abroad, Lustgarten Global strives to make complex immigration processes as painless as possible for both the employer and the employee by providing comprehensive support and guidance every step of the way. Audrey can be reached at [audrey@lustgartenglobal.com](mailto:audrey@lustgartenglobal.com).*