

Third countries whose nationals are subject to or exempt from a visa requirement (Visa Regulation)

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PURPOSE: to present a report from the Commission on cases where visa waiver non-reciprocity is maintained by certain third countries.

CONTENT: Council Regulation 539/2001/EC of 15 March 2001 is at the heart of the common EU visa policy, listing the third countries whose nationals must be in possession of visas when crossing the external borders of the Member States (Annex I to the Regulation, the “negative list”) and those whose nationals are exempt from that requirement (Annex II to the Regulation, the “positive list”).

It was substantially modified by Regulation 851/2005/EC of 2 June 2005, which introduced a new reciprocity mechanism ([CNS/2004/0141](#)). The aim of the new mechanism is to establish through appropriate measures reciprocity towards third countries still requiring a visa from citizens of certain Member States for stays of less than 90 days while the Community does not apply such visa requirements towards the citizens of those third countries.

Regulation 851/2005/EC allows the visa requirement to be introduced provisionally vis-à-vis the countries concerned. In addition, a joint declaration made by the Council and the Commission when Regulation 851/2005/EC was adopted refers to the possibility of taking other provisional measures, particularly in the political, economic and commercial fields.

Pursuant to Regulation 851/2005/EC and in the light of notifications by Member States of cases of non-reciprocity, the Commission on 10 January 2006 presented a report to the Council on visa waiver reciprocity with certain third countries (COM(2006)3). This report described the Commission’s approaches towards the countries on the positive list that continued to require a visa from Member State nationals and listed the results obtained.

In view of the progress achieved, the Commission concluded that there was no need at that stage to include with the report a proposal for temporary restoration of the visa requirement or for measures such as those contained in the Council and Commission joint declaration. However, for the purposes of the second report, the Commission stated that it would monitor whether the solutions announced by certain third countries had been put into practice and whether further dialogue with others had opened up the prospect of reciprocal visa-free travel.

In its conclusions of 21 February 2006, the Council endorsed the Commission’s analysis and urged it to strengthen its efforts with the United States, Canada and Australia and to monitor progress with the other third countries concerned.

With particular regard to Australia, Canada and the United States, the Commission organised a technical meeting on 23 March 2006 with representatives of the Member States concerned in order to assess the state of the dialogue between them and the three third countries in question and the results of the dialogue. That meeting took place in advance of the high-level contacts scheduled between the Commission and the authorities of the three countries over the following weeks.

Full reciprocity is now in place in Uruguay and Costa Rica. Steps are still being taken by Brazil and Malaysia with a view to achieving reciprocity. In Paraguay, Singapore and Brunei, the solution of the non-reciprocity problem has been announced but is yet to be put into practice.

Main conclusions: the Commission considers that the dialogue with third countries under the new reciprocity mechanism has already proven effective. The steady and significant fall in the number of “non-reciprocity situations” (cases where a third country maintains a visa requirement for nationals of a Member State) is a remarkable success in the Commission's opinion. However, progress remains stalled with one third country (United States) while the situation is evolving with regard to Australia, Canada and Brunei. The future developments with these countries will determine the reflection on the appropriate approach that would allow for further and concrete progress towards the realisation of reciprocity.

In view of the importance of achieving full reciprocity, the Commission hereby announces its intention to report to the European Parliament and Council again by not later than 31.03.2007 and to make, where appropriate, concrete proposals if the non-reciprocity situations persist, although formally, under Article 1 (5) of the EC Regulation, it is not obliged to present such a report until 30.06.2008.