

9 FAM 41.111 NOTES

*(CT:VISA-1105; 11-12-2008)
(Office of Origin: CA/VO/L/R)*

9 FAM 41.111 N1 VISA RECIPROCITY

9 FAM 41.111 N1.1 Goal of Visa Reciprocity

(CT:VISA-1105; 11-12-2008)

The goal of visa reciprocity is to obtain progressive visa regimes, consistent with U.S. national interests, laws and regulations, to encourage international travel that benefits U.S. travelers and business. Posts are encouraged to contact the Post Liaison Division (CA/VO/F/P) with questions or suggestions about how to make the visa schedules for the host country simpler and more practicable.

9 FAM 41.111 N1.2 Role of the Consular Officer

(CT:VISA-1105; 11-12-2008)

You have an important responsibility to ensure that the United States practices reciprocity "insofar as practicable" with host governments. 9 FAM 41.111 N1.2-2 describes your responsibility to keep the Department informed of any changes that would affect the period of validity of nonimmigrant visas, the number of admissions allowed under the visa, or fees charged. You should maintain good contacts with the host government's Ministry of Foreign Affairs (MFA), along with other ministries that have a stake in visa issues. You should encourage the host government to adopt a visa regime that is progressive and mutually beneficial. Many developing countries seek greater business investment from abroad, as well as increased tourism revenue, and may prove receptive to liberalizing their visa regimes.

9 FAM 41.111 N1.2-1 Dialogue With U.S. Travelers

(CT:VISA-1105; 11-12-2008)

Informal discussions with U.S. travelers can shed light on how closely the host government follows its official reciprocity schedule. Some countries fail to observe their official schedules, either over-charging for visas or issuing

visas of more limited validity than specified. If a pattern of non-compliance with the posted schedule is detected, you should approach appropriate representatives of the host government regarding the inconsistency. If you are unable to work out the problem with the host government, then the situation should be brought to the attention of CA/VO/F/P, suggesting that the reciprocity schedule for that country be changed to reflect actual practice.

9 FAM 41.111 N1.2-2 Reports Required to Maintain Reciprocity Schedules

(CT:VISA-1105; 11-12-2008)

- a. The Department must have current information on the visa requirements for U.S. nationals entering foreign countries in all nonimmigrant categories. A cable should be submitted promptly to CA/VO/F/P whenever any significant change occurs that would affect the period of validity of nonimmigrant visas, the number of admissions permitted under the visa, or the fees charged.
- b. The collection of data on the fees charged by foreign governments for nonimmigrant visas issued to U.S. citizens, and the periods for which these visas are valid, shall be updated on a continuing basis.

9 FAM 41.111 N2 PRACTICABLE RECIPROCITY

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- a. The U.S. Government seeks conditions which accord with the U.S. national interest, consistent with U.S. laws and regulations, to govern the validity of nonimmigrant visas and the fees charged on a reciprocal basis as required by INA 221(c) and INA 281. To achieve reciprocity, the INA does not require that our visa schedules mirror those of the host countries exactly. Visa validity, numbers of entries, and fees should be reciprocal "insofar as practicable." This important qualification recognizes that many countries' visa regimes are so complex, arbitrary, or ill-considered that matching them item for item would be unwise. For example, certain countries maintain an extensive tiered fee schedule. Tiered fee schedules are difficult for posts to practice and maintain, and can cause confusion for both applicants and officers. In order to eliminate the maintenance of complicated schedules, post may need to look to the average fee cost and validity as the basis for establishing a single fee and validity.

- b. Department practice is to discount from our reciprocity fee calculations the amount of our machine-readable visa (MRV) fee from any fee charged by the host government. For example, if the host government charges American citizens (Amcits) \$150 to apply for a visa, our reciprocal issuance fee for nationals of that country would appropriately be set at \$19 (\$150 minus the \$131 MRV fee).

9 FAM 41.111 N3 DEPARTMENT APPROVAL NECESSARY FOR RECIPROCITY CHANGE

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Posts should inform CA/VO/F/P of any plans to pursue changes to the reciprocity schedule. Posts are to work with host country authorities to develop suitable suggested visa validity periods for submission to the Department for clearance. Posts should clear any plans to discuss changes in visa reciprocity regimes with CA/VO/F/P prior to beginning negotiations with the host government. Negotiated changes must be cleared with the Department (L/CA and CA/VO/F/P) before being finalized. After determining what changes are appropriate, posts should send a cable to CA/VO/F/P identifying the specific changes they are requesting, and corresponding background information and justification. CA/VO/F/P will consult with the appropriate Department offices and respond to the reciprocity change request. CA/VO will also consult with the Department of Homeland Security (DHS) before establishing or increasing any validity period.

9 FAM 41.111 N4 FORMAL RECIPROCITY AGREEMENTS NOT NECESSARY

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- a. It is not necessary or desirable for a formal reciprocity agreement to be in existence between the United States and the host country. U.S. reciprocity schedules are based on what the host government imposes on U.S. travelers in practice.
- b. Occasionally, a host government may insist on an exchange of notes or letters to formalize a change to the existing reciprocity schedule. In such cases, posts should ensure that the notes or letters:
 - (1) Do not create any binding legal obligations;
 - (2) Specify that the United States may limit the validity of the visa to

certain applicants where warranted; and

- (3) Make clear that the United States will continue to collect the application (MRV) fee, except from those individuals who are exempt from this requirement. (See 22 CFR 41.107(c)).
- c. On the basis of reciprocity, the maximum validity possible for a nonimmigrant B visas is 120 months (to eligible nationals of most foreign countries) without charge other than the required MRV processing fee. (See 22 CFR 22.1.) Most other categories of nonimmigrant visas may be issued with a maximum validity of 60 months and for multiple entries. (This 60-month validity, however, does not apply to the A-3, C-2, G-3, G-5, K-1, K-2, or Q visa categories.) For current country specific validity periods, refer to the Reciprocity Schedule via the Consular Affairs' Web site.

9 FAM 41.111 N4.1 When Diplomatic Relations Have Been Severed

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In a case where the United States does not enjoy diplomatic relations with a particular country, our visa schedules should be established on the basis of reciprocity, and should match as nearly as practicable, the visa regimes that those countries apply to U.S. travelers.

9 FAM 41.111 N5 RESTRICTIONS OR CONDITIONS IMPOSED ON U.S. GOVERNMENT OFFICIALS

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- a. In accordance with INA 212(d)(8), upon the basis of reciprocity, accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of INA 212(a), except paragraphs (3)(A), (B), (C), and (7)(B).
- b. The Department assumes that the reciprocity required by INA 212(d)(8) exists with respect to A visas unless a report is received to the contrary. Posts should submit such reports to CA/VO/F/P via cable or e-mail whenever a foreign government imposes restrictions or conditions on U.S.

Government officials. These reports are in addition to those required by 9 FAM 41.111 N1.

9 FAM 41.111 N6 INSTANCES WHERE TEMPORARY VISA SCHEDULE IS USED

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A temporary schedule shall be used until a reciprocity schedule has been determined with respect to a particular country. See 9 FAM 41.111 Exhibit I for a temporary reciprocity schedule.