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NOTE

from: Presidency

to: Visa Working Party

No. Cion prop.: 11752/1/06 VISA 190 CODEC 771 COMIX 662 + ADD 2 (en)

Subject: Draft Regulation of the European Parliament and of the Council establishing a Community Code on Visas

Delegations will find in the Annex the text of Articles 1 to 49 and of Annexes I to XIII of the draft Regulation, as it results from the discussions within the Visa Working Party/Mixed Committee.¹

¹ The outcome of discussions at the Visa Working Party/Mixed Committee on the above articles and annexes is set out in docs. 13611/06, 15660/1/06, 6060/2/07 + COR 1 + COR 2, 8245/07, 9502/07, 11831/1/07 + COR 1, 12666/07, 15303/07 and 16127/07.

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing a Community Code on Visas

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 62 (2) (a) and (b) (ii) thereof,

Having regard to the proposal from the Commission¹,

Acting in accordance with the procedure laid down in Article 251 of the Treaty²,

Whereas:

- (1) In accordance with Article 61 of the Treaty, the creation of an area in which persons may move freely should be accompanied by measures with respect to external border controls, asylum and immigration.
- (2) Under Article 62(2) of the Treaty, measures on the crossing of the external borders of the Member States must establish rules on visas for intended stays of no more than three months, for example the procedures and conditions for issuing visas by Member States.

¹ OJ C , , p. .

² OJ C , , p. .

- (3) As regards visa policy, the establishment of a “common corpus” of legislation, particularly via consolidation and development of the *acquis* (the relevant provisions of the Convention implementing the Schengen Agreement of 14 June 1985¹ and the Common Consular Instructions²), is one of the fundamental components of “further development of the common visa policy as part of a multi-layer system aimed at facilitating legitimate travel and tackling illegal immigration through further harmonisation of national legislation and handling practices at local consular missions”, as defined in the Hague Programme: strengthening freedom, security and justice in the European Union³.
- (4) Member States should be represented for visa purposes in all third countries whose nationals are subject to visa requirements. They may decide that visa applications from nationals of specific third countries or applications for a particular type of visa must be submitted directly at a permanent consular post or diplomatic mission of the State that is the applicant’s main destination.
- (5) Local consular cooperation is crucial for the harmonised application of the common visa policy and for proper assessment of migratory risk. Given the differences in local circumstances, the operational application of particular legislative provisions should be assessed among the Member States’ diplomatic missions and consular posts in individual locations as differences in their application of the legal provisions may not only give rise to “visa shopping” but also lead to different treatment of visa applicants.
- (6) It is necessary to set out rules on the transit through international areas of airports in order to combat illegal immigration. Thus nationals from a common list of third countries should be required to hold airport transit visas, while putting an end to the possibility for Member States to require this type of visa from nationals of additional third countries.

¹ OJ L 230, 22.9.2000, p. 19.

² OJ C 326, 22.12.2005.

³ OJ C 53, 3.3.2005.

- (7) When a Member State hosts the Olympic Games and the Paralympic Games, a particular scheme facilitating the issuance of visas to members of the Olympic Family should apply.
- (8) Bilateral agreements concluded between the Community and third-countries aiming at facilitating the processing of applications for short-stay visas may derogate from the provisions set out in this Regulation.
- (9) The reception arrangements for applicants should be made with due respect for human dignity. Processing of visa applications should be conducted in a professional and respectful manner and be proportionate to the objectives pursued.
- (10) Member States should ensure that the quality of the service offered to the public is reasonable and follows good administrative practices. To this end they should allocate appropriate numbers of trained staff as well as sufficient resources.
- (11) The integration of biometric identifiers is an important step towards the use of new elements, which establish a more reliable link between the visa holder and the passport in order to avoid false identities. Therefore the personal appearance of the visa applicant - at least for the first application - should be one of the basic requirements for issuing a visa with the registration of biometric identifiers in the Visa Information System (VIS); first time applicants should not be allowed to submit applications via commercial intermediaries, such as travel agencies.

- (12) New options for the organisation of consular offices such as co-location, common application centres and outsourcing should be introduced for receiving visa applications and capturing biometrics. An appropriate legal framework for these options should be established, in particular with regard to data protection. These forms of consular cooperation and outsourcing should be established in strict compliance with the general principles for issuing visas, respecting the data protection requirements set out in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.
- (13) The applicant should appear in person for the first enrolment of biometric identifiers. In order to facilitate the procedure of any subsequent application, it should be possible to copy the biometric data from the first application within a time frame of 48 months taking into account the retention period laid down in the VIS. After this period the biometric identifiers should be captured again.
- (14) Statistical data is an important means of monitoring migratory movements and can serve as an efficient management tool. Therefore, such data should be compiled regularly in a common format.
- (15) Provision should be made for a procedure enabling the Commission to adapt certain detailed practical rules governing the issuance of short-stay visas. In these cases, the measures needed to implement this Regulation should be taken pursuant to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹.

¹ OJ L 184, 17.9.1999, p. 23.

- (16) In order to assure the harmonised application of the Regulation at operational level, instructions should be drawn up on the practice and procedures to be followed by Member States' diplomatic missions and consular posts when processing visa applications.
- (17) As the Regulation of the European Parliament and of the Council concerning the Visa Information System and the exchange of data between Member States on short-stay visas (hereinafter: the "VIS Regulation") is based on the current legislation, it should be amended in order to take account of the changes made to the legislation relevant for the VIS.
- (18) As regards the objectives of the proposed action, it should be recalled that under Article 62(1) and (2)(b) of the ECT, the Community has the power – and even the obligation – to adopt measures relating to rules on visas for intended stays of no more than three months; in accordance with the principle of proportionality, as set out in Article 5 of the Treaty, this Regulation does not go beyond what is necessary in order to achieve these objectives.
- (19) This Regulation respects fundamental rights and observes the principles recognised in particular by the European Convention on Human Rights and Fundamental Freedoms and by the Charter of Fundamental Rights of the European Union.
- (20) By way of derogation from Article 299 of the Treaty, the only territories of France and the Netherlands to which this Regulation applies are those in Europe as the overseas territories do not form part of the area without internal borders.
- (21) The conditions governing entry into the territory of the Member States or the issue of visas do not affect the rules currently governing recognition of the validity of travel documents.

- (22) In order to allow Member States' authorities to prepare for the implementation of this Regulation, the application of this Regulation should only start six months after the day of its entry into force, except for the Articles 46 (Comitology) and 47 (notifications by Member States).
- (23) In accordance with Articles 1 and 2 of the Protocol on the Position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation and is not bound by it, or subject to its application. Given that this Regulation builds upon the Schengen acquis under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark should, in accordance with Article 5 of the said Protocol, decide within a period of six months after the date of adoption of this Regulation whether it will implement it in its national law or not.
- (24) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis¹ which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement².
- (25) An arrangement has to be made to allow representatives of Iceland and Norway to be associated with the work of committees assisting the Commission in the exercise of its implementing powers as will be the case under the present Regulation. Such an arrangement has been contemplated in the Exchange of Letters between the Community and Iceland and Norway³, annexed to the abovementioned Agreement. The Commission has submitted to the Council a draft recommendation in view of negotiating this arrangement.

¹ OJ L 176, 10.7.1999, p. 36.

² OJ L 176, 10.7.1999, p. 31.

³ OJ L 176, 10.7.1999, p. 53.

- (26) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement signed between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen acquis¹, which fall in the area referred to in Article 4(1) of Council Decision 2004/860/EC² on the signing on behalf of the European Union, and on the signing on behalf of the European Community, and on the provisional application of certain provisions of that Agreement³.
- (27) This Regulation constitutes a development of the provisions of the Schengen acquis in which the United Kingdom is not participating, in accordance with Council Decision 2000/365/EC of 29 May 2000 on the request by the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis.⁴ The United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (28) This Regulation constitutes a development of the provisions of the Schengen acquis in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis⁵. Ireland is therefore not taking part in the adoption of the Regulation and is not bound by it or subject to its application.
- (29) This Regulation constitutes provisions, except for Article 22, building on the Schengen acquis or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession.

HAVE ADOPTED THIS REGULATION:

¹ Council doc. 13054/04 accessible on <http://register.consilium.eu.int>

² OJ L 370 of 17.12.2004, p. 78.

³ OJ L 368, 15.12.2004, p. 26 and OJ L 370, 17.12.2004, p. 78.

⁴ OJ L 131, 1.6.2000, p. 43.

⁵ OJ L 64, 7.3.2002, p. 20.

TITLE I: General provisions

Article 1¹

Objective and scope

1. This Regulation establishes the rules for processing visa applications for intended stays in the territory of the Member States, not exceeding three months in any six month period.
2. Those rules shall apply to any third country national, who must be in possession of a visa when crossing the external borders pursuant to Council Regulation (EC) No 539/2001², without prejudice to
 - (a) the rights of free movement enjoyed by third country nationals who are family members of citizens of the Union,³
 - (b) the equivalent rights enjoyed by third-country nationals, who, under agreements between the Community and its Member States, on the one hand, and these third-countries, on the other, enjoy rights of free movement equivalent to those of Union citizens and members of their families³.
3. This Regulation also defines the list⁴ of third countries whose nationals require an airport transit visa and establishes the rules for processing visa applications for transit through the international transit areas of Member States' airports.

¹ **SE**: scrutiny reservation.

² OJ L 81, 21.3.2001, p. 1.

³ **COM** emphasised that paragraphs a) and b) only referred to existing rights of these categories of persons and did not create any new ones. COM would be willing to clarify the text if need be.

⁴ **FR** suggested the following formulation of this paragraph as this delegation was not in favour of introducing one single list of third countries whose nationals require ATVs:

"3. This Regulation also defines the lists of third countries whose nationals require an airport transit visa and establishes the rules for processing visa applications for transit through the international transit areas of Member States' airports."

Article 2¹

Definitions

For the purpose of this Regulation the following definitions shall apply:

- (1) "third-country national" means any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty;
- (2) "a visa" shall mean an authorisation issued by a Member State with a view to:
 - (c) entry² for an intended stay in that Member State or in several Member States of a duration of no more than three months in total³,
 - (d) entry for transit through the territory of that Member State or several Member States, or
 - (e) transit through the international transit areas of the airports of a Member State.
- (3) A "uniform visa" means a visa valid for the entire territory of the Member States, and is either:
 - (a) a "short-stay visa" (type "C" visa) entitling the holder to stay for a period not exceeding three months in any six months period from the first date of entry in the territories of the Member States⁴;
 - or

¹ **SE**: scrutiny reservation.

² Responding to queries from **AT** and **PT** who wished to include the fact that mere possession of a visa does not confer automatic right of entry, **COM** recalled that that principle was a right flowing from the issued visa and should not be contained in the definition. The principle is covered by Article 24 of the draft Visa Code.

³ Replying to a question from **AT**, who wished to add a reference to multi-annual visa, **COM** noted that this definition had been copied for Regulation 539/2001. **HU** wished to add a reference to double-entry visa.

⁴ **HU** found that there ought to be a reference to the number of entries in the same way as in the definition of a transit visa. **COM** would reflect on this.

- (b) a "transit visa" ¹(type "B" visa) entitling the holder, travelling from one third country to another, to pass through the territories of the Member States once, twice or exceptionally several times, each transit not exceeding five days;
- (4) "visa with limited territorial validity" (type "LTV B" or "LTV C" visa) means a short-stay² visa entitling the holder only to stay in or transit through the territory of the issuing Member State or several Member States³.
- (5) "airport transit visa" (type "A" visa) means a visa required with a view to a transit through the international transit areas of the airports of Member States by nationals from certain third countries, as an exception to the principle of free transit laid down in annex 9 to the Chicago Convention on International Civil Aviation.
- (6) "recognised travel document" means a travel document issued by a third country, whose nationals must be in possession of a visa when crossing the external borders pursuant to Regulation (EC) No 539/2001, and recognised by Member States for the purpose of affixing visas⁴;
- (7) "visa sticker" means the uniform format for visas as defined by Regulation (EC) No 1683/95 and is the physical form of the visas defined in paragraphs 3, 4 and 5.

¹ **FR**, supported by **AT**, was of the opinion that the distinction between visa "B" and "C" was artificial and noted that the distinction added an element of unnecessary complication in practice. **FR** found that after the flat rate handling fee had been introduced there was no justification for maintaining the distinction. **COM** would be open to convincing arguments for abolishing the "B" visa, but was surprised that this issue was only raised now, given the problems described by the two delegations.

² **SK** suggested the following formulation of this paragraph:
 "(4) "visa with limited territorial validity" (type "LTV B" or "LTV C" visa) means a short-stay **and transit** visa entitling the holder only to stay in or transit through the territory of the issuing Member State or several Member States."

³ **COM** confirmed that even if an LTV was issued on the basis of the lack of recognition by one Member State of the applicant's travel document, the LTV issued - although allowing the holder to travel to 14 Member States, it would not be a "uniform" visa in the sense of the definition in Article 2 (3).

⁴ **COM** recognised that this definition did not cover travel documents issued by for instance international organisations and would reflect upon a better formulation. **HU** suggested that if this definition were to remain in the text reference should be made to the various organisations etc issuing travel documents as well as to "holders" of these documents rather than "nationals".

- (8) "separate sheet for affixing a visa" means the uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up to form as defined by Regulation (EC) No 333/2002^{1 2}.

¹ **HU** found that the definition should also refer to the use of the separate sheet, when the applicant's passport has no more free pages to affix the visa. **COM** noted that this practical aspect was known, but that in the definition had to stick to the title of the Regulation

² **HU** suggested that the following definition be added "**consulate**": "**diplomatic mission or consular post entitled to issue uniform visas**" in order to avoid having to use the long formulation throughout the text.

TITLE II: Receipt and processing of visa applications

Chapter I

Authorities taking part in the processing of visa applications

Article 3

Authorities competent for processing visa applications

1. Without prejudice to Article 37, only diplomatic missions or consular posts¹ of Member States shall be entitled to process visa applications.

¹ **BE** wished to add a reference to central authorities as these are involved as well and in charge of extending visas in the Schengen territory. **NO**, **SE**, **NL**, **AT**, **DK** and **LT** supported this suggestion, whereas

FR noted that extension of visas of persons already present in the Schengen territory should be distinguished from issuance of entry visas.

EE wondered whether "processing" was not a too general term. **PL** warned against mixing up "central authorities" and "competent authorities".

FR recalled that in French DOM-TOM did not belong to the Schengen territory and that prefectures were in charge of issuing visas in these locations. **COM** agreed that a provision should be added to cover this situation, but suggested that such text might fit better in Title V "Final Provisions".

COM maintained that diplomatic missions and consular posts are responsible for the processing of visa applications and drew delegations' attention to the articles that specifically referred to cases where central authorities were involved in the processing: Articles 6, 8, 9 and 28. A cross reference to these provisions could be added in the text. As far as COM was concerned the draft Regulation only contained one exception from the principle set out in Article 3 (1), i.e. Article 37 ("outsourcing").

BE, **DK**, **SE** and **NO** did not find that such cross reference would cover all cases. **IT** was not in favour of such specification and found that the current wording was adequate as diplomatic missions and consular posts are the ones who process visa applications although consulting central authorities during the processing.

FR found that it could be useful to introduce a clear distinction between the different parts of the handling of visa applications: submission, processing, issuance.

AT noted that Austrian authorities cannot extend visas in Austria. In case such a request be made, a full examination of the application starts from scratch. **COM** referred to the existing Schengen acquis in relation to extension of visa which is applicable to all Member States applying that acquis and reminded delegations that the Visa Code will be directly applicable in Member States.

2. By way of derogation from paragraph 1, short-stay and transit visas may, in exceptional cases, be issued at the border by the authorities responsible for checks on persons; ~~including the issue of such visas to seamen~~¹.

Article 4

"Territorial" competence

1. Third country nationals shall apply for a visa at the diplomatic mission or consular post of a Member State in their country of ² residence^{3 4}.

¹ **DK, PL, BE, SE, LT, NL** and **AT** wondered whether the reference to seafarers was necessary. The **Chair** suggested that this reference be deleted. **COM** could accept this. **NL** could accept such deletion but did not agree that issuance of visa to seafarers at the border be considered as an exception: **NL** suggested that text to this effect be added somewhere in the draft Code that "short stay and transit visa maybe issued to seamen at the border."

² **CZ** suggested to add "legal" in order to ensure that only legally residing persons can apply for a visa.

³ **HU** suggested to insert "or origin" and add the following:
"The consulate located in the applicant's country of origin has to consult (by e-mail, fax) with the consulate located in the applicant's country of residence, if there is such consulate."

SI and **AT** supported the first part of the suggestion.

COM noted that the word "country of residence" has been chosen deliberately as it has both a legal and practical meaning contrary to "country of origin".

⁴ **LT** mentioned that all Schengen States were not present in all third countries and therefore applicants might be forced to apply for a visa in a country other than his/her country of residence, because a diplomatic mission or consular post might cover a jurisdiction of several countries and the text should take account of such situations as well. **COM** would reflect on how to express this.

2. By way of derogation from paragraph 1, applications may be lodged by third country nationals, legally present in a third-country different from their country of residence in that third-country. Such applicants shall provide justification¹, for lodging the application in that country and there must be no doubt as to the applicant's intention to return² to the country of residence.

In that case, the diplomatic mission or consular post located in the applicant's country of residence or the central authorities of the issuing Member State may³ be consulted.

Article 5

Member State responsible for processing a visa application

1. The diplomatic mission or consular post responsible for processing an application for a short-stay visa shall be :
- (a) the diplomatic mission or consular post of the Member State in whose territory the sole or main destination⁴ of the visit is located⁵, or
 - (b) if the Member State of main destination cannot be determined, the diplomatic mission or consular post of the Member State whose external border the applicant intends to cross in order to enter into the territory of the Member States.

¹ **IT** wondered what "justification" referred to and found that it was superfluous as the applicant would always have to have a valid reason for applying for a visa.

² **NL** wondered whether it was appropriate to refer to "doubts about the intention to return to the country of residence", as this is not listed as a ground for refusal

³ **BE** and **DE** were of the opinion that this requirement should remain mandatory. **COM** recalled that the current rules required such consultation only in case of doubt. **IT** found this paragraph redundant as it describes what is current practice. **COM** recalled that the draft Regulation sets out the rights and obligations of visa applicants, and the rules should be spelt out.

⁴ **AT** and **DE** did not find this definition satisfactory. **COM** noted that the text of the CCI was merely practical guidelines but if Member States wished some of the elements to be added, COM would be open to suggestions.

BE wished to maintain the wording of Part II, section 1.1, a) and b), emphasising that such specification ought to be inserted into the legal instrument rather than contained in the separate "Instructions". Such addition would "legally" clarify which Member State mission would be responsible for examining a given visa application.

⁵ "When the Member State responsible for processing the application does not have a consulate in the applicant's country of residence, the applicant may apply for a visa at any consulate of the Member State concerned."

When a visa with multiple entries is applied for, the Member State of usual¹ destination shall be responsible for processing the application. Such visas shall be issued only in the applicant's country of residence².

2. The diplomatic mission or consular post responsible for processing an application for a transit visa shall be :
 - (a) in the case of transit through only one Member State, the diplomatic mission or consular post of the Member State concerned, or
 - (b) in the case of transit through several Member States, the diplomatic mission or consular post of the Member State whose external border the applicant intends to cross to start the transit.
3. The diplomatic mission or consular post responsible for processing an application for an airport transit visa³ shall be :
 - (a) in the case of a single airport transit, the diplomatic mission or consular post of the Member States on whose territory the transit airport is situated, or
 - (b) in the case of double or multiple airport transit, the diplomatic mission or consular post of the Member State on whose territory the first transit airport is situated⁴.

¹ **IT** and **PT** found that this wording problematic. **NL** suggested that this me changed to "main destination". **COM** recalled that the second paragraph of Article 5 was not covered in the current acquis and the reason for adding a reference to "usual destination" was to give concrete expression to the main destination in the case of an application for a multiple entry visa.

² **NL** wished to delete "only in the applicant's country of residence, as business travellers would often be compelled to apply for a visa outside their country of residence. **COM** maintained that the diplomatic mission in the applicant's country of residence would always be the most appropriate for examining the application and was of the opinion that business travellers would plan trips well in advance. However, should the need arise for applying elsewhere than in one's country of residence, Article 4 (2) would apply. **SI** and **HU**: scrutiny reservation. **BE** and **DE** wished to maintain the text, **DE** adding that flexibility must be added in relation to multiple entry business visa. **FR** suggested this addition: "unless special circumstances apply"

³ Cf.: **FR** comment in introduction, page 2

⁴ **BE** and **FR** gave examples of how this formulation could give rise to problems of interpretation and wished the text to be clarified. **COM** would reflect on these practical aspects but referred delegations to the definition of an "internal flight" in the "Schengen Borders Code" (Article 2 (3)).

Article 6

Competence in relation to issuance of visas to third country nationals legally present within a Member State's territory

Third country nationals who are legally staying in the territory of a Member State, without holding a residence permit of that Member State, allowing them to travel without holding a visa as provided for in Article 5(1)(b) and Article 34(1)(a) of the Schengen Borders Code, and who have justified reasons for travelling to another Member State, shall apply for a visa at the diplomatic mission or consular post of the Member State of destination.

Article 7

Arrangements on representation

1. Without prejudice to Article 5, the diplomatic mission or consular post of a Member State may agree to represent another Member State for processing applications for short stay visas, transit visas and airport transit visas. The arrangement shall specify the duration, if only temporary, and procedures for termination of such representation, as well as arrangements in relation to possible provision of premises, staff and payments by the represented Member State.

Such bilateral arrangements may stipulate that visa applications from certain categories of third country nationals are to be transmitted by the representing Member State to the authorities of the represented Member State for prior consultation, as provided for in Article 9(3).

- [2. A Member State may also represent one or more other Member States solely for the reception of applications and the enrolment of biometric identifiers. The reception and transmission of files and data to the represented consular post shall be carried out respecting the relevant data protection and security rules.]¹

¹ This paragraph was not examined as it is part of the separate proposal amending the CCI, currently under examination.

3. The represented Member State shall inform the Commission about new arrangements on representation or the termination of such arrangements at the latest three months¹ before the agreement enters into force or terminates.
4. Simultaneously², the representing Member State shall inform both the diplomatic missions and consular posts of other Member States and the delegation of the European Commission in the jurisdiction concerned when arrangements on representation have been concluded and when they enter into force³.
5. The diplomatic mission or consular post of the representing Member State shall, ~~when acting on behalf of another Member State,~~⁴ comply with all the rules on the processing of applications for short stay visas, transit visas and airport transit visas⁵ set out in this Regulation and the issuing times set out in Article 20(1) shall apply.

¹ **PT** found this provision problematic, as such representation might be necessary in situations of emergency. **FR, AT, IT, BE, DK** and **NL** wished to delete the reference to 3 months. **COM** emphasised that it was important to increase the transparency of the visa policy and for applicants to know where they should apply for a visa (the 3 months period corresponds to the deadline set for applying for a visa (cf Article 10 (1)), and moreover experience had shown that Member States often notify agreements of representation several months after they have entered into force. As for notification of "temporary representation", **COM** would not be opposed to reformulate the text, but wondered whether this would be necessary as such ad hoc representation seemed to be very rare. As major sports events are planned a long time in advance notification on temporary representation related to such events could be made according to the deadline proposed in the text.

² **COM** noted that a more vague term had been chosen for the representing Member State to inform other diplomatic missions locally.

³ The **Chair** suggested to add: "and when they terminate" in order for this provision to be parallel to the provision in paragraph 3. **COM** approved this addition.

⁴ **BE** found this sentence redundant and suggested that it be deleted. **COM** could accept that.

⁵ Replying to a question from **HU**, **COM** noted that due to their specific nature, it would not seem appropriate that this type of visa be issued in representation.

6. When a diplomatic mission or consular post of the representing Member State envisages refusing an application, the complete file shall be [submitted to the central authorities]¹ of the represented Member State in order for them to take the final decision on the application within the time limit set out in Article 20(1).
7. If the diplomatic mission or consular post of the representing Member State decides to cooperate with commercial intermediaries or to outsource part of the visa handling process², such procedures shall also cover applications handled by way of representation. However, the central authorities of the represented Member State shall be duly informed in advance.³

¹ Some delegations (**NL, AT, PT**) expressed concern about the implication of this provision. **FI** suggested to replace the text in square brackets by the following: "sent to the nearest regional embassy". Thus the obligation to motivate refusals (cf. Article 23) would be done by the represented Member State, which would make possible appeal procedures easier. **SE** and **SI** supported this suggestion. **BE** found the suggestion good but maintained a scrutiny reservation. **EE** supported the Finnish suggestion but noted that this should only be an option as it would not make sense to transmit all this when all information would be stored in the VIS. **DK** and **LT** preferred the original proposal.

IT wondered why this would be necessary as the representing Member State should take upon itself to take all decisions in relation to applications.

FR recalled that the problem with "refusals in representation" arise in the case of dispute, as national rules govern appeal etc. However, since the introduction of the handling fee to be paid upon application, additional problems had been created. **FR** could accept that not too voluminous files be transmitted to central authorities, and suggested that this be an option in order to maintain as many solutions as possible.

COM maintained that this was a legal problem and not one of trust when it came to negative decisions on visa applications and referred to examples of unsatisfactory situations encountered on the ground where applicants were not formally refused but advised to contact the nearest mission of the represented Member State which might be situated far away. Therefore, **COM** maintained the text, acknowledging that transfer of files would be facilitated by VIS. **COM** drew delegations' attention to Article 19 (1) which introduced the concept of "inadmissibility" of applications, noting that this might be an element that would reduce the scale of the problems related to representation.

² **NL** wondered what the difference was between the cooperation with commercial intermediaries and outsourcing was.

³ **COM** informed delegations that this paragraph had been added because of practical experience in New Delhi ("TM 2004"), but suggested that this paragraph be examined, once the separate proposal amending the CCI had been dealt with.

IT could not accept that the represented Member State should have a say on the way the representing Member State organised its consular post, recalling that the system of representation is based on works on a voluntary basis. **AT** supported this point of view.

Article 8

Prior consultation of the Member States' own central authorities

1. A Member State may require its diplomatic missions or consular posts to consult¹ its central authorities before issuing visas to nationals of certain third countries or specific categories of such nationals.

The third countries in respect of whose nationals or specific categories of nationals such consultation is required shall be as set out in Annex I.

2. Such consultation shall be without prejudice to the time limit² for examining visa applications, set out in Article 20(1)³.
3. If a Member State represents another Member State pursuant to Article 7(1), the central authorities of the representing Member State shall carry out the consultation provided in paragraph 1.

¹ **PL** suggested that border control authorities when issuing visa should not be obliged to carry out such consultation. **COM** suggested that this matter be raised in relation to Article 32, if necessary.

² **IT** found the formulation too vague and suggested this text: "within the time limits set out in...".

³ **HU** and **DE** found that this would not allow enough time to carry out necessary checks. **COM** referred to the explanatory memorandum (11752/1/06, page 8-9).

Article 9¹

Prior consultation and information of central authorities of other Member States

1. A Member State may require the central authorities of other Member States to consult its central authorities before issuing visas to nationals of specific third countries or specific categories of such nationals.

The third countries in respect of whose nationals or specific categories of nationals such consultation is required shall be as set out in Annex II².

¹ Alternative text submitted by HU after the meeting on 14-15.11.2006:

HU suggests that the "simplified" consultation as proposed in paragraph 3 becomes general practice and suggests reformulating the first three paragraphs of Article 9, by changing the order of the paragraphs as follows:

"1. A Member State may require that its central authorities be informed of visas issued by diplomatic missions or consular posts of other Member States to nationals of specific third countries or to specific categories of such nationals.

The third countries in respect of whose nationals or specific categories of nationals such information is required shall be as set out in Annex II.

2. A Member State may furthermore require the central authorities of other Member States to consult its central authorities before issuing visas to nationals of specific third countries or specific categories of such nationals.

The third countries in respect of whose nationals or specific categories of nationals such consultation is required are marked by () in Annex II.*

3. The central authorities consulted shall react within three working days of receiving the request. The absence of a reply from the consulted authorities within this deadline shall be deemed an authorisation for the consulting central authorities to allow their diplomatic mission or consular post to issue the visa."

² COM recalled that currently these lists are not available to the public, but had proposed that they be published for the sake of transparency and such disclosure might also make Member States more cautious about adding third countries for which consultation was required.

FR, NL and IT were not in favour of making this information publicly available because of the likely negative political repercussions. COM noted that a final compromise might be to keep secret who had launched the request for prior consultation but to publish the list of third countries subject to such consultation. However, this provision should also be examined in the light of the introduction of mandatory motivation of refusals.

2. The central authorities consulted shall react within three¹ working days² of receiving the request. The absence of a reply from the consulted authorities within this deadline shall be deemed an authorisation for the consulting central authorities to allow their diplomatic mission or consular post to issue the visa.³
3. A Member State may require that its central authorities be informed only of visas issued by diplomatic missions or consular posts of other Member States to nationals of specific third countries or to specific categories of such nationals.
The third countries for whose nationals such information is required are marked by (*) in Annex II.⁴
4. Prior consultation and information shall be carried out in accordance with Article 14 (2) of the VIS Regulation n°....⁵

¹ **BE** and **IT** found this deadline too short, other delegations suggested different deadlines: 5 working days (**NL**), 7 working days (**SK**, **PL**). **FR** wondered why current deadlines could not be maintained.

COM recalled that the current system does not function well and it has been stated at several occasions that only in extremely few cases a response was given by the consulted Member State. In addition previous attempts to change the system had revealed that in many cases Member States merely wish to be informed and therefore the distinction between "consultation" and "information" had been introduced. The **Chair** recalled that sometimes the prolonged issuing times give rise to political problems.

² A number of delegations wondered what 3 working days meant.

The Council Legal Service referred to the existing Community legislation on deadlines, of which the 2 basic elements are that the day which triggers the deadline does not count and if the deadline would never start on a holiday but be postponed to the first working day after that. (cf. Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits, OJ L 038, 15/02/1980, p. 35).

³ **DK**: scrutiny reservation.

⁴ **IT** and **ES** supported this provision.

⁵ **COM** informed delegations that the basic idea would be to carry out the consultation via the VIS and should the draft Regulation be adopted before the VIS was operational, it might be necessary to introduce a transitional period.

5. If a Member State represents another Member State pursuant to Article 7(1), the central authorities of the representing Member State shall carry out the consultation provided for in paragraph 1 and/or the information provided for in paragraph 3.¹

¹ **PL** suggested that this provision could be made more flexible but adding the following: "unless agreed differently between the representing and the represented Member States". **COM** would reflect upon this.

Chapter II

The application

Article 10

Practical modalities for submission of the application

1. Applications shall be submitted no more than three months before the start of the planned visit¹².
2. Applicants³ may be required to obtain an appointment for the submission of an application. This appointment may be arranged directly with the diplomatic mission or consular post or where applicable, via an intermediary. The appointment shall⁴ take place within two weeks⁵.

¹ **FR** suggested the following addition: "or before the expiry date of a multiple entry visa with a long validity.".

² **AT** was of the opinion that the following formulation of paragraph 1 would be more appropriate: "Visas shall be issued no more than three months before the start of the planned visit"

³ **NL** wished to replace this word by "Foreigners subject to visa requirements", but **COM** found that the definition in Article 2(1) was sufficient.

⁴ **HU** wished to replace this word by "should".

⁵ A number of delegations (**AT, IT, BE, ES, LT, BG, PL**) found this deadline too short, particularly in peak seasons. **AT** added that this type of provision should go into the Instructions on how to apply the Code. Further to the general comments made about the contents of the Code and the practical Instructions (see introduction), **COM** emphasised that the length of the deadline could be reviewed but that a fixed deadline was not to be considered merely as a practical detail. **COM** reminded delegations that Member States were obliged to establish decent procedures and fair treatment of applicants.

BE was of the opinion that if a fixed deadline was introduced, the consequences of failure to meet that deadline would have to be established. **BE** suggested that the text be worded as follows: "within a reasonable deadline", and then the deadline could be quantified in the Instructions.

FR and **IT** supported this suggestion given the enormous diversity of situations/third countries/circumstances under which visas are issued, meaning that a fixed deadline could never be applied throughout the world.

- 3.¹ In appropriately justified cases or in justified cases of urgency, applicants shall be allowed to submit their application either without prior appointment or an appointment shall be given immediately².
4. If the information supplied in support of the application is incomplete, the applicant shall be informed of what additional documentation is required³. The applicant shall be invited to provide the additional information/documentation promptly⁴ and shall be informed that after 1⁵ calendar month after the date of this invitation, the application will be declared inadmissible if the required information is not submitted.⁶

¹ **LU** found that this provision should be transferred to the future Instructions. Explaining the link between paragraphs (2) and (3), **COM** noted that the purpose was to allow Member States to cooperate with an external service provider for receiving applications, while maintaining the possibility for applicants to apply directly at the consulate.

EE found that the wording of paragraphs 2 and 3 was too imprecise. **COM** recalled that - as stated by several delegations - this was the current practice and the Commission had merely translated that practice into a general rule.

² **FR** and **NL** wondered what this word implied.

³ **COM** would consider the suggestion made by **HU** and **LV** to draw up a uniform form for the request for additional documents.

⁴ **DK** and **LV** wondered what this word implied.

⁵ **SE**, **IT** and **LV** found that 2 weeks would be more appropriate to avoid that consulates had to store large numbers of incomplete files, whereas **BE** and **LU** found 1 month appropriate. **COM** maintained that a universal deadline was necessary.

⁶ **NL** was of the opinion that a distinction should be made between essential documents (i.e. passport) and additional documents and entered a scrutiny reservation on this paragraph. **COM** was willing to consider the idea of such a distinction in relation to Article 12. **NO** entered a reservation because according to national Norwegian law as all decisions taken in relation to visa applications, including declaring them "inadmissible" (Article 19 (1)), had to be motivated and could be appealed.

Capturing of biometric data

1. Member States shall collect biometric identifiers comprising the facial image and ten fingerprints from the applicant in accordance with the safeguards laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and in the United Nations Convention on the Rights of the Child.

At the moment of submission of his/her first visa application each applicant shall be required to appear in person. At that time the following biometric identifiers shall be collected:

- (a) a photograph, scanned or taken at the time of application and
- (b) ten fingerprints taken flat and digitally captured.

2. For any subsequent application the biometric identifiers shall be copied from the first application, provided the last entry is not older than 48 months. After this period a subsequent application is to be considered as a "first application".

* This Article was not examined as it is part of the draft Regulation amending the CCI (13610/2/06).

¹ **FR** wondered whether the chronology of events in Article 10 was logic: Paragraphs 1-3 concerned "access to the counters" whereas paragraph 4 dealt with "certain aspects of the examination". **FR** suggested that if the concept of a "complete file" was introduced, an exhaustive list of necessary supporting documents should be drawn up in order to have a clear definition of "conditions for admissibility". **HU** shared this point of view. **COM** suggested that the possible moving of Article 10 (4) to another Article be discussed when Articles 12 and 19 were examined. **COM** drew delegations' attention to the fact that Article 12 listed the criteria of admissibility (necessary documentation) which were then presented one by one in Articles 13-15. However, **COM** would consider the French suggestions. **AT** found that the expression "declared inadmissible" was not accurate enough. Currently a visa is either issued or the application is refused on the basis of material or formal grounds. **CZ** agreed with **FR** and **AT**.

3. The technical requirements for the photograph and the fingerprints shall be in accordance with the international standards as set out in ICAO document 9303 part 1 (passports) 6th edition¹.
4. The biometric identifiers shall be taken by qualified and duly authorised staff of the diplomatic mission or consular post or, under their supervision, of the external service provider referred to in Article 37(c).

The data shall be entered in the Visa Information System (VIS) only by duly authorised consular staff according to Articles 4(1), Article 5 and Article 6(5) and (6) of the VIS Regulation.

5. The following applicants shall be exempt from the requirement to give fingerprints:
 - (a) Children under the age of 6;
 - (b) Persons where fingerprinting is physically impossible. If, however, fingerprinting of less than ten fingers is possible, the respective number of fingerprints shall be taken.

A Member State may provide for exceptions from the requirement of collecting biometric identifiers for holders of diplomatic passports, service/official passports and special passports.

In each of these cases an entry “not applicable” shall be introduced in the VIS.

6. For each location, Member States shall either equip their consular office with the required material for capturing/collecting biometric identifiers or without prejudice to the options of representation provided for in Article 7, decide to use one of the forms of cooperation described in Article 37.

¹ The technical requirements are the same as for the passports delivered by Member States to their nationals in accordance with Regulation (EC) No 2252/2004.

Submission of a visa application¹

- 1.² When applying for a visa, the applicant shall:
- (f) complete the application form referred to in Article 13;
 - (g) present a valid travel document the expiry date of which must³ be at least three months after the intended departure from the territory of the Member States, and which contains one⁴ or more free pages for affixing the visa⁵;
 - (h) provide supporting documents, in accordance with Article 14 and Annex IV⁶, proving the purpose and the duration of the stay;

¹ **DE** noted that the general principle of the necessity of a personal interview with each applicant (as well as possible exemptions) should be stated explicitly in the Regulation.

DE also found that restructuring of Articles 12,14,15,18 and 23 was called for in order to introduce a clear distinction between a) material requirements b) procedural requirements, and c) legal rights of appeal. **EE**, **NL**, **FR** and **AT** supported the points raised by **DE**, **FR** adding that the basic conditions of "admissibility" should be presentation of a filled in application form, a valid travel document and payment of the administrative fee. Then the second part of the supporting documents should prove fulfilment of the entry conditions as referred to in the SBC; means of subsistence; appropriate TMI; means of repatriation; socio-economic situation in the country of residence.

COM drew delegations' attention to Article 11 (to be taken on board once the amendment of the CCI had been agreed upon) which contained the key to the issue of personal appearance (upon first application).

² **FR** found it peculiar that this paragraph listed a number of requirements and supporting documents without substantiating these. **COM** would reconsider this paragraph but in principle these elements constituted the "conditions of admissibility".

³ **DK** suggested adding "in principle" as other deadlines might apply. **COM** recalled that 3 months was the validity period applied in current legislation but if Member States require longer periods in practice, account could be taken of that.

⁴ **FR** was of the opinion that at least 2 pages must be free in order to allow for affixing the sticker and stamps (the latter at the border).

⁵ **LT** preferred the current version of this provision in the CCI, finding this formulation too restrictive.

⁶ **COM** emphasised that this structure was identical to the one contained in the SBC.

- (i) provide evidence of the possession of sufficient means of subsistence, in accordance with Article 5(3) of the Schengen Borders Code¹;
 - (j) allow the capturing of his/her biometric data in accordance with Article 11(2);
 - (k) pay the handling fee as provided for in Article 16.
2. Where applicable, the applicant shall present proof of possession of adequate travel medical insurance as provided for in Article 15². Member States' diplomatic missions and consular posts may under local consular cooperation arrangements agree that this proof is to be presented only when the visa is issued³.

¹ **NL** found that the reference to the SBC should be left out as the situation at the borders is different from the situation when a person applies for a visa at the consular post. **DK** supported this suggestion, adding that it should not be compulsory for all applicants to prove that they had sufficient means of subsistence, i.e. for instance bona fide business travellers. In reaction to a comment made by **BE**, the **Chair** reminded delegations that the previous Annex 7 to the CCI had been repealed the SBC and the means of subsistence necessary for entering the Schengen area were now referred to in Article 5(1) of that Regulation. **COM** reminded delegations that proof of sufficient means of subsistence was one of the conditions for entry and thus for obtaining a visa.

² **FR**, supported by **AT**, wished that exemptions from this requirement be allowed for and preferred the formulation in the CCI (Part V, 1.4, 9th paragraph, page 30 (12357/1/05). **COM** emphasised that entry conditions, conditions for obtaining a visa and conditions for circulating within the Schengen area were identical, whereas the means of proving that the person concerned were in possession of sufficient means of subsistence differed. **LU** agreed with this and drew delegations attention to the fact that even bona fide applicants could be requested to present proof of sufficient means of subsistence at the border, cf. also Article 41 of the draft Regulation. **COM** noted that Article 12 (2) and Article 15 were based on the revised Guidelines drawn up in 2005 and updated in 2006 after the introduction of TMI (9654/06 VISA 137 COMIX 482) but would be open to amending this text.

³ **EE** and **LV** were of the opinion that TMI should be part of the supporting documents and presented upon application and never when the visa is issued. **BE** and **FR** supported this point of view, arguing that it caused problems for consular authorities when the TMI was presented upon issuance only. **NO** found that it was difficult to require the applicant to pay for an insurance before he/she knew whether a visa would be granted, and suggested that text be added referring to "prior confirmation".

3. Where applicable, a stamp as described in Article 17 shall be affixed to the passport of the applicant¹.

Article 13

The application form

1. Visa applicants shall complete and sign the application form², set out in Annex III. Accompanying persons included in the applicant's travel document shall complete separate application forms.
2. The diplomatic mission or consular post shall make the application form available to applicants free of charge and it shall be widely available and easily accessible in hard copy and electronic form.
3. The form shall be available in the following languages^{3 4}:
 - (a) the official language(s) of the Member State for which a visa is requested,
 - (b) the official language(s) of the host country, or
 - (c) the official language(s) of the host country and the official language(s) of the Member State for which a visa is requested.

¹ **IT** and **AT** noted that this was not worth while as all information would be stored in VIS. **COM** drew delegations' attention to Article 17 (5), whereby this provision would be abolished once data is being transmitted to the VIS.

² **AT** and **FR** found this formulation more appropriate: "the applicant shall submit a filled in and signed application form" and a provision should be added indicating that in the case of minors this should be done by the parental authority. **COM** found that it was necessary to differentiate between filling in, signature and category of applicant. **IT** was of the opinion that the application form should be signed in the presence of consular staff. **COM** noted that this would be the ideal solution but wondered how this would work in practice when applications are handed in via travel agencies etc.

³ **NL** and **CZ** suggested the deletion of subparagraphs (b) and (c).

⁴ **COM** emphasised that it was important not to mix up the form and the filling in of the form and what might seem to be a simple procedural issue (availability of the application form in various relevant languages) is problematic, as can be seen from the many complaints from visa applicants that the Commission receives.

In addition to the languages referred to in the first subparagraph, the form may be made available in another of the official languages of the European Union.

If the form is available only in the official languages of the Member State for which a visa is requested, a translation of the application form into the official language(s) of the host country shall be made available to visa applicants, separately.

A translation of the application form into the official language(s) of the host country shall be produced under local consular cooperation arrangements.¹

4. Applicants shall be informed of the language(s) which may be used when filling in the application form.¹

¹ **HU** found that these provisions should be contained in the practical Instructions.

Article 14

Supporting documents

1. The visa applicant shall¹ produce the following documents:
 - (a) documents indicating the purpose² of the journey³;
 - (b) documents in relation to accommodation⁴;

¹ **SE** and **IT** wished to replace this word by "may" or "should". **FR** supported this, noting that bona fide applicants (for instance business men) should be exempted from providing all documentation. This would also free consular staff to focus on more problematic applicants. **FR** preferred the wording used in the CCI. **COM** recalled that all applicants were obliged to present these documents. Bona fide persons could then possibly be granted multiple entry visa with a long validity. But when such person applied another time, their bona fide "status" would have to be proved again.

² **FR** noted that this should be translated into "motif de voyage".

³ Responding to a query from **ES**, **COM** drew delegations' attention to Article 18 (6), from which it could be deducted that persons applying for an airport transit visa would for obvious reasons not have to provide proof of journey/stay. **COM** could accept adding "without prejudice to Article 18 (6)". **ES** suggested that the heading of (1) be reformulated: "Persons applying for a uniform visa".

⁴ **LV** supports the introduction of a new harmonised form providing proof of invitation, sponsorship and accommodation, considering that such a measure will contribute to a more harmonised implementation of the common visa policy. However, the Draft Regulation in its current wording provides for the possibility to use this form only in paper format. While recognising the usefulness of this possibility (especially in the cases when the paper format is the only possible format to be used, for instance in the case of "representation"), **LV** is of the opinion that such a restriction on the format is inconsistent with the aim of a more efficient processing of visa applications. Referring to the current national Latvian practice, **LV** believes that Member States must be allowed to use this form also in electronic format. Processing and storing of invitations electronically present substantial advantages in the comparison to the paper format invitations, as the electronic procedure simplifies and accelerates the administrative procedures connected with the submission and approval of the invitations. The electronic processing of the invitation relieves both the involvement of the invitee in the process of visa issuance and the work of the diplomatic and consular representations. This procedure ensures that the invitee in most of the cases has to come to the responsible authority only once ("one-stop agency" principle) and does not have to submit a confirmed invitation to the responsible representation. At the same time employees of the diplomatic and consular representation who have direct access to the database can check the status of the invitation much faster and easier. Furthermore, the electronic processing and storing of the invitations reduces the risk of falsification and misuse and provides the possibility, where appropriate, of checking previous invitations submitted by the same invitee and thus the use of the electronic form of invitation makes the process of the approval of the invitations simpler and safer, securing both fast and effective examination of visa applications and adequate control of the illegal immigration.

- (c) documents indicating the financial means available to cover subsistence costs;¹
- (d) documents indicating the applicant's intention to return to the country of departure.²

3

The form providing proof of invitation, sponsorship and accommodation is set out in Annex V.⁴

- 2. A non-exhaustive list of supporting documents which the diplomatic mission or consular post may request from the visa applicant in order to verify the fulfilment of the conditions set out in Article 12(1)(c) and (d), is set out in Annex IV.
- 3. Within local consular cooperation, shall be assessed the need to complete and harmonise the lists of supporting documents contained in Annex IV, within each jurisdiction so as to take account of local circumstances.

¹ **NL** was of the opinion that the financial means should also cover the travel costs. According to **COM**, the means of subsistence covered both the costs of travel and of stay. This could be spelt out but coherence with the SBC should be maintained.

² **FR** suggested the following formulation: "documents allowing to assess the applicant's intention to return to the country of departure." **COM** could accept this.

³ **FR** wished to add "(e) proof of travel medical insurance". **COM** was not in favour of this suggestion, emphasising that presenting proof of TMI was could not be considered as presenting a supporting document, but rather as one of the conditions to be fulfilled before a visa could be issued.

FI wondered whether the photograph ought not to be mentioned somewhere. **COM** noted that the photo was to be attached to the application form and therefore there was no need to mention it specifically.

⁴ **DK** and **NO** wished to continue to use national forms. **COM** noted that the purpose of introducing a harmonised form was precisely to avoid that everybody used different forms.

Article 15

Travel medical insurance

1. Applicants for short-stay visas and transit¹ visas shall prove that they are in possession of adequate and valid travel insurance to cover any expenses which might arise in connection with repatriation for medical reasons, urgent medical attention and/or emergency hospital treatment².

Without prejudice to Article 12(2) last sentence, proof of travel insurance shall be presented when the application is lodged.³

2. Applicants applying for multiple entry⁴ visas with a long validity shall prove that they are in possession of adequate travel medical insurance covering the period of the first intended visit.

In addition, such applicants shall sign the statement, set out in the application form, declaring that they are aware of the need to be in possession of travel medical insurance for subsequent stays.

¹ **BE** considered it exaggerated to insist on this for persons applying for a transit visa (of a validity of 1-5 days) and found that against that background it was even more illogical that persons applying for a visa at the border would be exempt from having a TMI (sub-paragraph (5)). **COM** would not insist on maintaining the requirement for persons applying for a transit visa.

Replying to a query from **FR**, **COM** confirmed that ATVs were not covered.

² **FR** wished to add a reference to "*aide sociale*". **COM** wondered what type of expenses these would be.

³ **BE** was of the opinion that for practical reasons the proof of TMI should always be presented at the time of submission of the application, adding that if the proof is presented only when the applicant collects the visa, the whole purpose of TMI would be undermined. **ES** and **LV** supported these points of view, adding that a harmonised practice would prevent visa shopping. **NO**, **DK** and **PT** preferred to maintain the two options.

⁴ Replying to a query from **SI**, **COM** noted that it was the multiple entry aspect that was important and not the duration of stays or the length of validity of the visa.

3. The insurance must be valid throughout the territory of the Member States and cover the entire period of the person's stay or transit. The minimum coverage shall be EUR 30 000.

When a visa with limited territorial validity or a transit visa is issued, the insurance cover may be confined to the Member State(s) concerned.¹

4. Applicants shall, in principle, take out insurance in their State of residence. Where this is not possible, they should seek to obtain insurance in any other country.

The person signing the form provided for in Annex V may take out insurance for the applicant, in which case, the conditions set out in paragraph 3 shall apply.²

5. Holders of diplomatic passports³, seafarers⁴ as covered by the ILO Conventions n° 108 and 185, and third-country nationals applying for a visa at the border⁵ shall be exempt from the requirement to hold adequate and valid travel insurance.⁶
6. The need for further exemptions may be assessed within local consular cooperation.⁷

¹ **HU** suggested the deletion of the reference to "transit". **COM** noted that this type of visa had been added due to the maximum length of such a visa, which implied that the holder could only travel via a rather limited number of Schengen States.

² **NL** suggested that it be spelt out that the insurance should be subscribed in the name of the person travelling. **COM** could accept such an amendment.

³ Replying to a query from **IT**, **COM** noted that this general exemption concerned a clearly defined category of persons, contrary to what is the case for holders of service passports.

⁴ **FR** wished to delete the reference to seafarers as the insurance provided for under the ILO convention covered matters other than TMI. **COM** suggested that **FR** submit an alternative text.

⁵ Responding to a query from **LU**, **COM** recalled that visas could only exceptionally (in most cases for reasons of urgency) be applied for at the border, and therefore this exemption was justified. Moreover, it would in most cases be impossible to obtain an insurance at the border.

⁶ **HU** suggested that a reference to family member of EU citizens be added. **COM** recalled that all provisions concerning family members of EU citizens were governed by Directive 2004/38.

⁷ **FR** was not in favour of this provision.

7. The insurance requirement may be considered to have been met where it is established that an adequate level¹ of insurance may be assumed in the light of the applicant's professional situation. This exemption may concern particular professional groups already covered by travel medical insurance as a result of their professional activities.
8. Within local consular cooperation in a given jurisdiction it shall be assessed whether it is possible to acquire appropriate travel medical insurance.
9. When assessing whether insurance is adequate¹ diplomatic missions or consular posts shall ascertain whether claims against the insurance company would be recoverable² in a Member State³.
10. When the requirement to be in possession of travel medical insurance has been waived, the relevant authority shall affix the following code, "N-INS", in the "comments" section of the visa sticker.

¹ **BE** suggested that guidelines as to the assessment of the "adequate level" be added in the practical Instructions to be drawn up later. **COM** would consider a more appropriate and "legal" wording.

² Responding to a comment made by **FR**, and referring to the reservation made by **FR** in relation to paragraph (6), **COM** noted that the purpose of paragraphs (6) and (8) was to allow "LCC" to agree on alternative solutions.

³ **BE** recalled that previously there also had been a reference to Switzerland and Liechtenstein.

Article 16

The handling¹ fee

1. When lodging a visa application, applicants shall pay a handling fee² of 60 EUR, corresponding to the administrative costs of processing the visa application. The fee shall be charged in EURO or in the national currency of the third country³ where the application is made and shall not be refundable.

¹ **NL** suggested that given the issues related to the fees charged for "outsourced services", a more precise definition of what is exactly covered by "handling" should be drawn up. **COM** noted that this issue would be dealt with in detail when the separate draft proposal amending the CCI was to be examined again. As far as the Commission Services were concerned, the "handling" covered all aspects from the reception of the application until the final decision on the application, adding that this tallied with the feasibility study drawn up by **FR** in relation to the recent increase of the handling fee. **FR** recalled that the result of the feasibility study had been that the administrative expenses amounted to 60 EUR.

Recognising that the current Schengen acquis does not contain a precise definition of what "handling" covers, **COM** emphasised that "administrative expenses" related to the handling of visa applications should cover all tasks related to this handling, irrespective of whether external service providers performed parts of these tasks.

² **NL** also suggested adding that it is the consular representation who decides the currency to be used. **COM** could accept such an addition if considered relevant by delegations.

³ **HU**, supported by **AT** and **DE**, suggested the addition of "the currency usually used in the third country concerned" and of "US \$", as it would not be possible for applicants to pay in EUR throughout the world. **COM** would consider the addition of US \$, recalling that this reference had been deleted when the flat rate had been introduced in 2003.

BG suggested that it should be agreed in the LCC which currency is to be used by all consular representations in a given location. **COM** would consider this suggestion.

Recalling the situation in Luanda as reported by **IT** in a previous meeting (see 6110/07 VISA 50 COMIX 150, page 9), **IT** strongly advocated that the EUR be used as a reference currency (not as the currency to be used for the actual payment) and the ECB exchange rate be used. **COM** could accept this suggestion.

2. Applicants shall be given a receipt for the fee paid.¹ The receipt shall indicate that the handling fee is not refundable.²
3. If the handling fee is charged in the national currency of the third country where the application is made, Member States' diplomatic missions and consular posts shall apply the Euro foreign exchange reference rate established by the European Central Bank³. They ensure under local consular cooperation that all Member States adapt the amount of the handling fee in national currency at the same time.
4. The handling fee shall be waived for visa applicants belonging to one of the following categories:
 - (a) children under 6 years;
 - (b) school pupils, students, post graduate students and accompanying teachers who undertake trips for the purpose of study or educational training; and
 - (c) researchers from third countries travelling within the Community for the purpose of carrying out scientific research as defined in the Recommendation (No. 2005/761/EC) of the European Parliament and of the Council of 28 September 2005.⁴

¹ **AT** found this superfluous and **HU** found that a receipt should only be given upon request.

² **LV**, supported by **NL**, **FI** and **BG** suggested that this information be added on the application form as applicants who pay the handling fee via bank transfer will not receive a receipt as described in this paragraph. **ES** preferred to maintain the Commission's proposal. **COM** noted that the main purpose was to inform the applicant and thus it might be a better idea to add this information in the application form.

³ **PT**, **BE**, **FR**, **IT**, **NL**, **SI** and **AT**: scrutiny reservation. According to these delegations this provision would create problems for their respective national accounts departments. **NL** wondered how often this exchange rate was adjusted. **COM** would verify this. **HU** recalled that the EUR had not yet been introduced in all Member States, and suggested the following addition: "or the exchange rate applied by their respective central bank." **IT** supported this and suggested that paragraphs 1, 2 and 3 be reworded to make them more readable. **COM** was not in favour of the suggestion made by **HU**, fearing that it would give rise to further problems.

⁴ **EE** and **LV** suggested the addition of a general exemption for holders of diplomatic passports (a new paragraph (d)). **HU** suggested that reference to possible exemptions from paying the handling fee for holders of diplomatic and service passports be added in the practical Instructions to be drawn up later. **COM** would follow the wishes of delegations in this matter, but recalled that by virtue of paragraph (5) Member States could exempt any individual applicant from paying the handling fee.

5. In individual cases, the amount of the fee to be charged may be waived or reduced in accordance with national law when this measure serves to promote cultural interests as well as interests in the field of foreign policy, development policy, other areas of vital public interest or for humanitarian reasons.
6. Until 1 January 2008, nationals of third countries in respect of which the Council has given the Commission a mandate to negotiate a visa facilitation agreement by 1 January 2007 shall pay a handling fee of 35 EUR.¹
7. When the holder of an LTV issued in accordance with Article 21(1), third paragraph, needs to travel – within the period of validity of that visa - to a Member State not included in the territorial validity of the LTV, no handling fee shall be charged for the processing of the second visa application.²

¹ **NL, EE** and **HU** requested that a reference to the visa facilitation agreements already concluded should also be added. Replying to a query from **PL, COM** noted that the agreements currently under negotiation would be covered if, by the dates indicated, they had been initialled and signed by not yet entered into force.

² **AT, DE, FR** and **EL**: scrutiny reservation. **COM** noted that if an applicant is issued with an LTV as a result of a SIS alert, this could be considered as that person's individual responsibility. On the other hand, if a person is issued an LTV because a given Member State does not recognise the travel document that he/she holds, the person concerned has no influence on that situation. According to the Commission, it is therefore not justified - in the latter case - that the person concerned should have to reapply for a visa (and pay a second fee) since the reasons were beyond his/her control.

8. The fee shall be doubled in cases where the visa application is submitted by the visa applicant three days or less before the envisaged date of departure without justification.¹

Article 17

Stamp indicating that an application has been lodged

1. In order to avoid the simultaneous lodging of multiple applications, the Member State's diplomatic mission or consular post to which an application is made shall stamp the applicant's travel document indicating that a visa has been applied for. The stamp shall be placed on the first available page that contains no entries or stamps in the travel document, when the diplomatic mission or consular post receives the application.²
2. The stamp shall have no legal implication for future applications.
3. The stamp shall be as set out in the model in Annex VI and shall be affixed in accordance with that annex.

¹ **FR** found that what could seem as an additional service to the applicant, would add to the complexity of the various fees that apply and could be detrimental to the quality of the examination of the application and even give the impression that a visa could be obtained if a double fee was paid. **PT, LV, IT, BE**: scrutiny reservation.
NL preferred to delete this provision. **SE** wondered what "without justification" meant. While acknowledging that the collection of fees had become rather complicated because of the visa facilitation agreements, **ES** preferred to maintain this provision in order to prevent pressure on consular staff due to "last minute" applications. **HU** was in favour of maintaining the provision, but specifying that a fast track examination did not mean that a visa was automatically issued.

COM would not insist on this provision which was meant to compensate for the extra efforts made by consular staff. **COM** wondered whether it actually entailed additional costs to examine an application speedily? **PL** was of the opinion that - also in the light of the widespread use of external service providers charging additional fees for their services - such a "fast track" fee would be politically sensitive. **ES** emphasised that applicants were never obliged to submit their applications via a service provider, but if he/she chose to do so, he/she would have to pay for the services.

² **HU** noted that the stamp only served a purpose when a visa has not been issued or when the applicant needed to make use of the passport during the examination of the application. **COM** recalled the numerous examples of uncertainty among applicants and third countries' authorities as to the actual value of this stamp. Therefore a systematic use of the stamp would prevent such misunderstanding that were bound to occur if the stamp is only put in the passport in case of refusal. **IT** expressed doubts about the utility of this provision.

4. Diplomatic passports shall not be stamped. A harmonised approach as to whether to derogate from the requirement for other specified categories of persons shall be agreed upon within local consular cooperation.¹
5. The provisions of this Article shall cease to apply to Member States' diplomatic missions and consular posts from the date they transmit the visa data to the VIS.²

¹ **FR** was not in favour of such exemptions.

² **FR** suggested the following formulation: "... from the date where the VIS is fully operational." **COM** recalled the regional roll-out of the VIS and it would seem archaic to continue to use the "application stamp" when a Member State had started transmitting data to the VIS.

Chapter III

Examination and processing of visa applications

Article 18

Examination of the application

1. In the examination of a visa applications and supporting documents, particular consideration shall be given to the risk of illegal immigration and the security of Member States and the applicant's intention of returning¹.

¹ Replying to queries from **BE** and **NL**, who found that the references to "risk of illegal immigration" and "intention to return" were overlapping, the **Commission representative (COM)** emphasised that assessing an applicant's intention to return was a means of assessing the risk of illegal immigration and therefore both expressions should be maintained, although the sentence could be redrafted as follows: "... and, **in particular**, the applicant's intention of returning.". **HU** suggested that both terms be added in Article 23 (1).

2. If there is any¹ doubt as to the purpose of the applicant's stay or intention of return, or the documentation submitted, the applicant may be called for an interview at the diplomatic mission or consular post of the Member State responsible for examining the application to provide additional information.²

¹ **IT** found this formulation too vague. If an applicant is called for a second interview there must be well-founded and serious reasons of doubt. **FR**, supported by **DE** and **SI**, suggested deleting "any" and to replace "may" by "shall". **DE** wondered whether the interview mentioned here just concerns an additional "in depth" interview after having submitted the application. The principle of personal appearance when submitting the application to the diplomatic mission or consular post should remain mandatory, unless the applicant falls under one of the exemptions (e.g. a bona-fide applicant).

² **NL** and **BE**, supported by **LT**, suggested adding a reference to "doubt of identity" in which case the applicant should be called for a further interview, **BE** adding that it would be more logic to combine paragraphs (2) and (7) and delete the reference in (7) to issuance or not of a visa. **BE** suggested the following alternative formulation of paragraph (2):
"Visa applicants can either initially be requested to provide further documentary proof, or be invited then or later to an interview ...". **IT** shared the points of view of **BE**, noting that the current drafting gave the impression that submission was distinct from the interview, which ought not to be the case. Applicants could be called for second interview.
Referring to Article 37 (b) (part of the draft Regulation of the European Parliament and of the Council amending the Common Consular Instructions on visas for diplomatic and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications), **HU** wondered whether staff at CACs would have the right to conduct interviews, and suggested that "diplomatic mission or consular post be replaced by "competent authorities". **FR** supported this suggestion and **COM** would consider it. **COM** drew delegations' attention to a number of "contradictions" which should be borne in mind in relation to "personal appearance" - "interview" - "collection of biometric data":

- in reality a large number of persons are currently exempted from personal appearance;
- according to the previously mentioned draft Regulation, all applicants had to submit the first application in person, but would be exempted for subsequent applications within a period of 48 months;
- in future large numbers of persons were likely to be considered as bona fide persons who would not have to apply for a visa in person.

For these reasons, **COM** found that it would be too delicate to use a too precise formulation.

3. In respect of each visa application the VIS shall be consulted in accordance with Articles 5 and 13 of the VIS Regulation.¹
4. The examination of the visa application shall ascertain whether the applicant fulfils the entry conditions set out in Article 5(1) of the Schengen Borders Code and verify:
 - (a) the validity and authenticity of the travel document presented by the applicant²;
 - (b) that the person does not constitute a danger to public order, internal security, public health or the international relations of any Member States by consulting the SIS and national databases;³

¹ **DE** suggested the following alternative formulation:

"In respect of each visa application the VIS shall, **as a rule**, be consulted in accordance with Articles 5 and 13 of the VIS Regulation. **In well-founded exceptional cases (technical problems) a visa may be issued without prior consultation of the VIS if the failed consultation process is repeated and made up for as soon as possible without any negligent delay or the part of the responsible authority. In such a case, the visa issued shall have limited territorial validity.**"

COM would consider this suggestion in relation to Article 21 (1)

² **HU** suggested that it be described in the additional Instructions how to proceed when a false or counterfeit document is detected: how to inform the central/ local authorities, other Member States' representations, etc.

³ **BE, NL** and **FR** wished to keep these two criteria separate like it is currently done in the CCI and in the Schengen Borders Code (SBC). **FR** suggested the following addition "..., **in particular** by consulting the SIS and ...".

Although these criteria are separated in the SBC (Article 5 (1) (c) and (d), **COM** preferred the suggestion by **FR**.

PT wondered whether there ought to be a reference to the applicant's possible family link with an EU citizen, but **COM** found that this was not right place. The **Chair** reminded delegations that it is indicated in the application form whether the applicant is a family member of an EU citizen.

- (c) the points of departure and destination of the third country national concerned and the purpose of the intended stay, by checking the supporting documents referred to in Article 14 and Annex IV;
- (d) where appropriate, previously issued uniform visas on the travel document of the third country national concerned, in order to verify that the person has not exceeded the maximum duration of authorised stay in the territory of the Member States;¹
- (e) that the applicant has sufficient means of subsistence for the duration and purpose of the intended stay, for his or her return to the country of origin or transit to a third country [into which he or she is certain to be admitted]², or that he or she is in a position to acquire these means lawfully. In this verification account shall be taken of the reference amounts³, as referred to in Article 5(3) of the Schengen Borders Code, and of the proof of accommodation or bearing of cost, as stated in form set out in Annex V.
- (f) that the applicant is in possession of adequate travel medical insurance⁴, where applicable.^{5 6}

¹ **COM** was not in favour of adding any reference to checks of entry and exit stamps, as suggested by **HU**, but found that such practical information could be put into the Instructions (cf. Article 45).

² **NL** wished to replace this phrase by "where access is guaranteed". The **Chair** reminded delegations that the current wording corresponded to SBC, Article 5 (3).

³ **EE** found that a reference should be added to the accommodation arrangement for all applicants. **COM** noted that verification of accommodation is only to be carried out on the basis of Annex V, whereas this paragraph concerns a more general verification of the means of subsistence (cf. also Article 14 (1) and Annex IV).

⁴ **FR** referred to the comments made in relation to Annex V to the draft Visa Code (6060/2/07, page 27). **COM** recalled that Article 15 (1) covered expenses in relation to repatriation.

⁵ **PT** maintained that proof of TMI should only be submitted when the visa is issued.

⁶ **NL** wondered whether there ought not to be a specific reference in paragraph (4) to verification of the applicant's intention to return. **DE** supported this suggestion. **COM** found such an addition superfluous given the general reference in paragraph (1). **COM** was not in favour of moving paragraph (4) into Article 20 as that would be detrimental to the coherence of the draft Regulation.

5. If the applicant is a national of a third country listed in Annexe II, the central authorities of the Member State(s) concerned shall be consulted in accordance with Article 14(1) and (2) of the VIS Regulation.
6. Only¹ the checks referred to in paragraph 4(a), (b) and (d) shall be carried out on third-country nationals applying for an airport transit visa. In such cases the purpose of the onward journey shall be verified.²
7. If there is any doubt as to the authenticity of the documents submitted or the veracity of their contents, the reliability of the statements recorded during the interview or the purpose of the applicant's stay or his intention to return, the diplomatic mission or consular post³ shall not issue the visa^{4 5}.

¹ **COM** could accept a deletion of "only", as suggested by some delegations.

² **BE** wondered why (a) and (d) should be verified for applicants of ATVs as the main point was to check the itinerary and the relevance of the transit. **COM** would reflect on this comment.

³ **PL** suggested that "diplomatic mission or consular post" be replaced by "competent authorities" in order to cover situations where a visa is applied for at the border. **COM** would consider this suggestion.

⁴ **LT, IS** and **HU** suggested adding a reference to the grounds for refusal listed in Article 23 (1). **PL** and **AT** suggested that paragraph (7) be deleted and added in Article 23 (1), whereas **PT** preferred to maintain it in Article 18 with a slight amendment of the text: "If any doubt **remains....**", and noting that Article 23 (1) concerned situations where there was certainty as to the ground on which the application could be refused.

IT and **SE** noted that "doubt" was not enough to motivate a refusal. The **Council Legal Service representative (CLS)** supported the suggestion from **PL**. **COM** would consider adapting the text to ensure legal clarity.

⁵ Referring to Annex 12, Part 1, **DE** suggested that a reference be made to verification by diplomatic missions or consular posts of applications from seafarers either in this article, in a separate Article or in the final provisions.

Inadmissibility^{2 3 4 5}

1. Where the applicant does not provide the additional information required pursuant to Article 10(4) within one calendar month⁶ from the date of the invitation to submit additional information/documentation, the application shall be declared inadmissible.

¹ **NL**: scrutiny reservation

² **COM** recalled that a full system of refusal, motivation of refusal and right of appeal had been introduced in the draft Code. The procedures implementing these requirements should be set up at national level (cf. Article 23). The notion of inadmissibility had been introduced to formalise what is currently the practice among Member States who in their statistics often distinguish between "refused" (after examination of the application) and "rejected" visa (the application has not been accepted).

³ See also 6060/2/07, pages 2 and 5

⁴ **AT** supported the principle but feared that it would create legal problems, among others in relation to the handling fee. **IT** added that if the applicant had paid the handling fee, the application should be examined.

BE was not in favour of this article, noting that an application could only be rejected if the applicant refused to give biometric data (in future) or if the travel document was not valid. If the notion of inadmissibility should be retained the wording would have to be changed and it should be indicated that if the applicant does not submit certain documents, the consular authorities reserve the right not to examine the application.

⁵ **HU** suggested that the title be changed to: "Procedure to follow in case of incomplete documentation".

⁶ **IT** found this period too long. **SI** wondered how 1 month should be interpreted. **PT** noted that sometimes 1 month would not be long enough for the applicant to get hold of certain documents. **COM** recalled that in the context of applications for short stay visa the supporting documentation would be easier accessible than in the case of applications for longer stays.

A number of delegations were in favour of introducing the notion of inadmissibility but the application should be rejected at the submission (**FR**, **PL**), whereas **HU** suggested that it be left at the discretion of the consulate to set a deadline. **ES** suggested 10 days and **LU** 2 weeks. **SE** were in favour of either of these.

COM was not in favour of rejecting applications at the counter accompanied by an explanation to the applicant of which documents were missing (suggestion by **NL**), as this could give rise to visa shopping

IS noted that according to national law all administrative acts, such as declaring an application inadmissible, had to be motivated. **BE** noted that similar provisions exist in national Belgian law. **COM** drew delegations attention to the fact that a declaration on inadmissibility would not have negative implications for the person concerned, which was for instance the implications of a rejection of an unfounded application for asylum. **COM** added that this provision should also be seen in the context of representation: currently applications are not rejected because a Member State cannot reject (refuse) on behalf of another.

2. In the cases referred to in paragraph 1, the diplomatic mission or consular post shall replace the status information in the VIS, as referred to in Article 8(2) of the VIS Regulation.
3. Where the application has been declared inadmissible, the applicant shall have no right to appeal.¹

¹ CLS noted that this provision was not acceptable, referring to the general and recognised principle of right of appeal stipulated by national administrative law and Community law. However, CLS found it appropriate to separate the cases of formal refusal of an application and inadmissibility of an application.

Decision on the visa application

1. Member States' diplomatic missions and consular¹ posts shall decide upon visa applications within 10^{2 3} working days of the date of submission of the application, or after the date of the completion of the file. This period may be extended to a maximum of 30⁴ days in individual cases, notably when further scrutiny of the application is needed, including the situation referred to in Article 7(6).⁵

¹ **NL** recalled that central authorities are also involved in the decision making, adding that the term "visa authorities" which is used in the draft VIS Regulation might be more appropriate. **DK**, **SE** and **NO** referred to the comments made in relation to Article 3 (15560/1/06, page 3).

² **FR** entered as reservation as to the deadlines of 10 and 30 days in this paragraph, finding that the implementation of these deadlines, which had been copied from the visa facilitation agreement with Russia, should be evaluated first. **AT** supported this point of view.

In order to fix realistic deadlines, **BE** suggested that these be fixed according to the procedures involved (interview/"5B consultation"/representation etc), adding that it might be more appropriate if the deadline started running (possibly from the date where the application was complete). **SI** and **ES** supported the Belgian point of view. **COM** would consider this suggestion. **NL** suggested replacing the reference to a specific number of days by "a reasonable period". **SK**, **HU**, **DK**, **SE** and **NO** found these deadlines too short. **HU** suggested the deletion of "in individual cases".

³ Referring to Article 9 (2), **PL** found this deadline too long.

⁴ According to **PL** it should be possible to prolong this deadline by 30 days.

⁵ **COM** took note of the general reluctance expressed by delegations in relation to the harmonised deadlines, but emphasised that it was unthinkable to draw up a Code on Visas without referring to this essential aspect of the visa processing as large differences in issuing times is a cause for visa shopping. **COM** reminded delegations that the deadlines for responding to prior consultation have been shortened (cf. Article 9) and a system of "information" rather than consultation has been proposed. The **Chair** wondered what would be the consequence if the prescribed deadlines were not respected.

2. The diplomatic missions or consular posts shall decide on the period of validity of the visa and the length of the authorised stay on the basis of all the information available to them concerning the purpose and duration of the intended stay or transit and bearing in mind the specific situation of the applicant. For single entry transit visas and ATVs the additional "period of grace"¹ granted shall be seven days and for single² entry "C" visas fifteen days.

¹ **CZ** and **NL** were not in favour of granting systematically a "period of grace" of a fixed number of days, but suggested adding "may be up to seven/fifteen days" or adding "in principle". **FR** was of the opinion that only a single "period of grace" of 15 days should be retained as a recommendation.

Replying to a comment from **HU** and **EE**, the **representative of the Commission (COM)** noted that the validity of the passport was irrelevant in this context. **COM** also recalled that the formulation and the length of the periods had been copied from the existing examples set out in Annex 13 to the CCI, but **COM** would consider an explicit indication that the "period of grace" concerns the validity of the visa and not the duration of stay and that the length of such a period should be assessed on a case by case basis.

² Replying to a comment from **FR**, **COM** noted that this provision only referred to "single entry" visa because the factors that justify a period of grace of a specific number of days for such visa are irrelevant in the case of visa allowing for 2 or several entries over a period of 1 year. **FR** then suggested that the reference to "single entry" be deleted in order to maintain a general principle of allowing for a "period of grace".

3. Multiple-entry¹, visas entitling the holder to several entries, three month stays or several transits during any half-year, may be issued with a period of validity of maximum 5 years.²

The following criteria are in particular relevant for taking the decision to issue such visas:

- (a) the applicant's need to travel frequently and/or regularly due to his/her occupational or family status, such as businessmen and women, civil servants engaged in regular official contacts with Member States and the Community institutions, family members of citizens of the Union, members of the family of third country nationals residing in Member States, seafarers,^{3 4 5}

¹ **FR** drew delegations' attention to the technical specifications of the VISION network, that only allow for issuing visas valid for periods of 1 - 2 - 3 etc years but not for instance 1/2 or 1 1/2 year. This causes problems in relation to applicants who hold passports (issued by certain third countries) that have a very short validity. **FR** recalled that the justification for visas of type "C1"- "C2"- "C3" etc had only been the different fees charged but since the flat rate has been introduced there was no justification for maintaining this distinction.

PT noted that the technical specifications could be adapted, but it should be considered thoroughly as such a change would have many technical ramifications, possibly also on the technical implementation of the VIS.

² **DE** preferred to maintain the formulation of the CCI (Part V, Section 2.1) emphasising that multiple entry visa with a validity of more than 1 year should only be issued in exceptional cases and only if a previous visa with a validity of 1 year had been used correctly. **IT** did not agree with this interpretation. **COM** could not accept the suggestion from **DE** either. See also comments by **NO** in relation to Annex X, point 4.

³ **FR** found that a legal text should not contain such examples. **COM** noted that a simple description of the rules would have been insufficient when considering the practices followed currently. The further treatment of the examples given in paragraph (3) (a) would be developed further in the Instructions.

⁴ Delegations' attention is drawn to the conclusions drawn by the Visa Working Party in June 2003: *Issuance of visas to seamen signing off the ship* (15803/02 FRONT 148 VISA 187 COMIX 721, 6579/03 FRONT 16 VISA 33 COMIX 114:

"The Chair noted that Part I, 2.1.2 of the Common Consular Instructions deals with transit visas without mentioning a maximum period of validity for such visas, while various examples of transit visas are set out in Annex 13 of the CCI. The Chair concluded from the discussion that delegations considered that a dual entry transit visa with a period of validity of up to one year could be issued to a seaman where the competent authority is satisfied that he/she has produced the requisite supporting documents proving the existence of a contract with a shipping company (such contracts typically have a duration of 9-12 months). This would help to avoid the practical problems raised in the above-mentioned documents. The Chair added that it would be advisable to clarify the relevant parts of the CCI at some stage in order to introduce specific language on the maximum period of validity for transit visas, as well as additional examples of possible transit visas."

⁵ **DE** and **PL** suggested the addition of an "and" between sub-paragraph (a) and (b). **COM** would consider this.

- (b) the integrity and reliability of the applicant, in particular the lawful use of previous Schengen¹ visas, his economic situation in the country of origin² and his genuine intention to return to that country.

3

4. Member States' diplomatic missions and consular posts⁴ shall enter the data set out in Article 10 (1) of the VIS Regulation into the VIS when a decision on issuing a visa has been taken.

¹ **LT** suggested that a reference be made to national visas as well (including short-stay visas issued by Member States who do not yet apply the Schengen acquis in full). **COM** recalled that the VIS would contain no information on neither short stay visas issued by "nMS" nor national visas. **PL** suggested the deletion of the reference to "Schengen" in order to cover all visas. Although recognising that in practice the possession of for instance a Canadian visa is sometimes taken into consideration when an application is examined, **COM** was not in favour of including a reference to the correct use of visas from non-Schengen countries because on the one hand any such correct use cannot be verified and on the other hand the legal basis for issuing visas by non-Schengen countries is unknown.

HU drew delegations' attention to the wording of the heading of paragraph 3, meaning that the use of Schengen visas was just one element to take into consideration without excluding others. However, **HU** suggested the following formulation to meet the wishes of all: "the lawful use of visas issued by Schengen States...".

² **FR** wondered what was meant by "country of origin" and "genuine" intention to return. **COM** noted that country of origin could also be the country of residence if the applicant does not live in his country of origin. This aspect could be specified in the Instructions.

³ **FR** suggested the addition of a sub-paragraph (c) referring to the validity of the passport although there is already such a reference in Article 12 (1) (b).

⁴ **NO** and **SE** referred to the comments made previously in relation to Article 3 (15560/1/06, page 3), and suggested the addition of (or replacement of "diplomatic missions and consular posts" by) "competent authorities" or "visa authorities". **COM** noted that the formulation would be aligned to the one use in the VIS Regulation.

Visa with Limited Territorial Validity

1. A visa with limited territorial validity (LTV) shall be issued exceptionally in the following cases¹:
 - (a) when a diplomatic mission or consular post considers it necessary, on humanitarian grounds, for reasons of national interest or because of international obligations, to derogate from the principle that the entry conditions laid down in Article 5(1) of the Schengen Borders Code, must be fulfilled;
 - (b) when a diplomatic mission or consular post considers it necessary, on humanitarian grounds, for reasons of national interest or because of international obligations, to issue a visa, although the prior consultation procedure has given rise to objections on the part of the consulted Member State² or if prior consultation has not been carried out for reasons of urgency (on humanitarian grounds, reasons of national interest or because of international obligations);³
 - (c) when a diplomatic mission or consular post for urgent reasons, justified by the applicant, issues a new visa for a stay during the same six-month period to an applicant who, over this six-month period⁴, has already used a visa allowing for a stay of three months.

5

¹ **BE** supported by **NL**, noted that a reference to LTVs valid for Benelux should be maintained as provided for in the CCI. **COM** was of the opinion that given the general Schengen rules, it was no longer necessary to maintain such particular provisions, adding that this might be a political issue rather than a technical one. **BE** recalled the historic context of this cooperation adding that the Benelux Convention continued to be in force.

² **DE** suggested that in such cases, the consulted Member State (having opposed the issuance of a uniform visa) should be informed within reasonable time before the visa is issued.

³ **BE** suggested that this sub-paragraph be split into two as reference is made to two different criteria for issuing LTVs. **COM** would consider this.

AT suggested that it be specified that in individual cases such LTVs could be valid for more than the issuing Member State. **COM** feared that such a provision would completely alter the idea of an LTV and create "traditional LTVs" and "LTVs upon request". **FR** and **EL** were not in favour of this suggestion from **AT** either.

⁴ **NL** suggested that this calculation be clarified in the Instructions.

⁵ **DE** suggested the addition of a reference to the case where an LTV was issued because it had been impossible to consult the VIS.

In the cases referred to in the first subparagraph, the visa issued shall be valid only for the territory of the issuing Member State¹.

If the applicant holds a travel document that is not recognised by one or more, but not all, Member States, a visa valid for the territories of the Member States recognising the travel document shall be issued. If the visa issuing Member State does not recognise the applicant's travel document, the visa issued shall only be valid for that Member State².

2. The central authorities of the Member State whose diplomatic mission or consular post has issued LTVs in the cases described in points (a) and (b) of the first subparagraph of paragraph 1 shall immediately circulate³ the relevant information to the central authorities of the other Member States.

¹ **BE** and **NL** found that this paragraph should also cover sub-paragraph c).

² **HU**, supported by **FR**, suggested that a reference be made to the separate sheet for affixing visa (Regulation 333/2002).

³ **FR** wondered how this should be done. The **Chair** suggested that this be specified in the Instructions. **IT** was of the opinion that the transmission of such information was of little relevance. **COM** emphasised that the draft proposal had been adapted to reality: the existing requirement on informing other Member States about all cases of issuance of LTVs had been eased and only the cases linked to "sensitive" applicants had been retained and the exchange of information should be carried out at central level only. Finally **COM** drew delegations' attention to Article 16 (3) of the VIS Regulation (*"The procedure set out in paragraph 2 may also apply for the transmission of information on the issuance of visas with limited territorial validity and other messages related to consular cooperation as well as"*).

COM was not in favour of adding a reference to (c) as suggested by **DE**, as such cases could not be considered "sensitive".

SI wondered what the percentages of LTVs issued was. **COM** invited delegations to find the precise figures in the recently published statistics, but noted that currently France, Greece, Italy and Germany issue the highest number of LTVs.

The **Chair** drew delegations' attention to the heading of Article 21, where it is stated that LTVs should only be issued exceptionally.

Article 22

Airport transit visas

1. Nationals of the third countries included in the list¹ set out in Annex VII², shall be required to hold an airport transit visa, when passing through the international transit areas of airports situated on the territory of Member States.
2. The following categories of persons shall be exempt from this requirement to hold an airport transit visa provided for in paragraph 1:
 - (a) holders of uniform short stay or transit visa³ issued by a Member State⁴,
 - (b) third-country nationals holding residence permits issued by Andorra, Japan, Canada, Monaco, San Marino, or the United States of America guaranteeing the holder's unqualified return⁵, and listed in Annex VIII⁶;

¹ **COM** recalled the initial discussions on this issue (13611/06, page 2). On behalf of Benelux, **BE** suggested the maintenance of two separate lists in order for Member States to be able to act quickly in case of massive influx of illegal immigrants. **CZ**, **FR** and **PL** supported this suggestion.

COM recalled that the possibility of rapid reaction already exists under Article 64 (2) of the Treaty where it is stipulated that in emergency situations "provisional measures" could be adopted and that that mechanism might meet the delegations' concerns.

HU entered a scrutiny reservation on Article 22 and Annex VII.

² Set out on page 15 of this document.

³ **FR** suggested adding that the visa held should still be valid. **COM** could accept this.

⁴ **HU** suggested the addition of a reference to long stay visas and to residence permits issued by Member States. **COM** recalled that persons holding a residence permit do not need an ATV, but would consider adding such a reference for the sake of clarity.

⁵ **IT** wished to add a reference to the Vatican.

⁶ Set out on page 16 of this document.

- (c) family members of citizens of the Union¹;
- (d) holders of diplomatic passports²;
- (e) flight crew who are nationals of a contracting Party to the Chicago Convention on International Civil Aviation³.

¹ **FR** suggested that it be added that the person concerned should be in possession of documentation proving this family link. **COM** was not in favour of adding this, as a general reference to this category of persons is made in Article 1 (2) and if an "explanatory" addition is made here, it should be made each time specific privileges, following from other legal acts, apply to this category of persons. Moreover, border guards could obtain information on these cases in the Handbook to the Schengen Borders Code (SBC).

² Recalling the concerns expressed by Member States in relation to the arbitrary issuance of service passports by certain third countries, **COM** noted that the Commission had preferred only to introduce a general exemption for holders of diplomatic passports. **DE**, **FR** and **BE** were not in favour of extending the general exemption to holders of other types of passport.

³ **FR** suggested the addition of "when on duty", but since this formulation did not seem to have caused problems of misuse so far, **COM** preferred to maintain the text.

Refusal of a visa²

1. Without prejudice to Article 21(1), a visa shall³ be refused if the applicant:
 - (a) presents a false, counterfeited or forged⁴ travel document;
 - (b) does not prove that he has sufficient means of subsistence for the whole duration of the stay, and for return to his country of origin or departure, or that he is in a position to acquire such means lawfully⁵;

¹ By way of introduction, **COM** recalled the distinction between refusal of a visa - after examination of the application - and inadmissibility (Article 19), and that this Article only covered refusals. **COM** once more also recalled that the VIS Regulation (Article 12) is based on the existing acquis, and once the Visa Code has been adopted the VIS Regulation will be amended in order to take account the changes of the acquis.

² **FI** and **EE** entered a reservation on this article.

³ **NL, FR, PL** and **IT** suggested the addition of "in principle". **EE** suggested that the article be divided in to two, where one would cover the reasons for which a visa "shall" be refused and the second the reasons for which a visa "may" be refused.

COM expressed surprise at these comments, as this wish to introduce a certain extent of flexibility seemed to indicate that Member States were willing to issue uniform visa to persons not fulfilling the entry conditions as stated in the SBC, adding that sub-paragraphs a) - g) corresponds to Art 5 (1) of SBC and for that reason **COM** could not accept introducing such flexibility.

LV, supported by **NL**, suggested that the reasons for refusal be linked to the provisions of Article 18 (1). **LV** also found that a reference should be made to risk of illegal immigration, contact to country of origin and intention to return. A specific reference to Article 18(7) should also be added. **COM** recalled that the maintenance in the VIS Regulation of a reference to "risk of illegal immigration" had been one of the most sensitive issues in the negotiations with the European Parliament on that Regulation.

⁴ **NL** suggested the addition of "invalid". **AT**, supported by **IT**, suggested the addition of "or other false/counterfeited or forged documents."

FR recalled the general problem with lists of conditions: they are too restrictive and never really complete. In the case of the travel document, the applicant could for instance also be refused if the document is in bad condition, if changes have been made, if the entries are unreadable etc.

FR therefore suggested the addition of "in particular". **COM** recalled that this list covered the reasons for refusing entry as stated in the SBC, and suggested that a table be drawn up in order to illustrate this parallelism for delegations.

⁵ **LU** suggested that the issue of "sponsorship" be highlighted.

- (c) does not provide sufficient evidence justifying the purpose and duration of the stay;
- (d) does not provide proof of holding adequate travel medical insurance, where applicable;
- (e) has already stayed for three months during a six-month period on the territory of the Member States;
- (f) is a person for whom an alert has been issued in the SIS or in a national register for the purposes of refusing entry;
- (g) is considered to be a threat to public order, internal security, public health or the international relations of the European Union or its Member States.

2. The decision stating the precise^{1 2} reasons for the refusal shall be given by means of the standard form set out in Annex IX³. This form shall also be used when the visa is refused at the border.

¹ **PL**, supported by **LV**, suggested the deletion of this word.

LV, **PL**, **BE** and **FR** entered as specific reservation on this paragraph. **FR** added that systematic motivation of all refusals would be a too heavy burden, in particular if a legal dispute (falling under national competence) would follow. **IT** shared this point of view, noting that Italian authorities do not motivate refused applications for short stay visas for the purpose of tourism or business.

ES could not accept the introduction of systematic motivation of refusal of applications for short stay visa.

HU was of the opinion that reasons should only be given upon request from the refused applicant.

DK could accept the principle of systematic refusal but preferred to continue to use the national form.

EE noted that a negative side effect of introducing systematic motivation and a right to appeal against refusals could be loss of control of the issuance of visa, because consular staff might prefer to issue visas rather than refusing them in order to avoid the cumbersome procedures.

Therefore **EE** suggested giving the form an informative character.

- ² **COM** recalled that these provisions and the form are strictly in line with the SBC and the Standard form for refusal of entry at the border set out in Annex V, Part B, to the SBC. **COM** added that the introduction of mandatory motivation of refusal and right of appeal are fundamental issues for the Commission. **COM** noted that delegations' fear of the number of court cases was exaggerated, adding that an applicant who had been refused because his passport was invalid was unlikely to appeal the refusal. Referring to the common visa policy, **COM** noted that Member States could not maintain a discretionary power in relation to the right of appeal. **FR** found that a distinction should be made between what falls under Community legislation and what falls under national competence, i.e. contentious appeals, therefore **FR** suggested the maintenance of paragraph 2) and the deletion of paragraph 3). **PL** and **IT** supported this suggestion.

- ³ As Norwegian authorities are obliged to motivate all refusals according to a national form, **NO** would prefer if the form in IX would just set out minimum standards for the grounds to be given. **NL** supported the suggestion of adding more grounds. **COM** would not be opposed to adding more boxes in the standard form depending on the outcome of discussions of Article 23, but reminded delegations that the reference to national legislation would not be valid once this Regulation entered into force, as a Regulation is directly applicable by Member States.

3. Applicants refused visa shall have the right to appeal¹. Appeals shall be conducted in accordance with national law.² A written indication of contact points able to provide information on representatives competent to act on behalf of the applicants in accordance with national law shall be given to the applicants.³
4. If cases referred to in Article 7(6), the diplomatic mission or consular post of the representing Member State shall inform the applicant of the decision taken by the represented Member State.
5. A refusal shall not affect any future visa application, which shall be assessed on its own merits⁴.

¹ **COM** noted that this provision was an important innovation and emphasised that the right to appeal only concerns refusal and not cases of inadmissibility.

EE entered a reservation as current national Estonian law does not grant a right of appeal to refused visa applicants. **HU, CZ, LV, AT** and **SK** entered a substantial reservation on this paragraph, **HU** fearing that this provision would put a too heavy burden on consular staff who should rather use their efforts on examining visa applications.

DE also entered a scrutiny reservation on this paragraph, because national law only allows for such appeal in specific cases. **DE** found that what as indicated in the last box, but one, of the standard form (Annex IX) was sufficient as information to applicants.

² **PT** suggested that the third sentence of this paragraph be deleted. **FR, PL, LU, IT, PT, NL, ES, SE, SI** and **EL** supported this suggestion. **COM** noted that this could be redrafted as the purpose was not to have a detailed list of lawyers but to give general information as provided for in the SBC. **HU** suggested the following formulation of the first sentence: "Applicants refused visa shall have the right to appeal in accordance with national law."

BE was in favour of maintaining the text as proposed by the Commission, finding that delegations' concern that refused applicants would massively appeal such negative decisions was exaggerated. The majority of refused applicants just apply again. **EL** shared this point of view, noting that Greek law already provides for refused applicants' right to appeal.

Replying to a comment from **NL**, **COM** noted that nothing prevented Member States from maintaining a double system of appeal (i.e. an administrative and a judicial procedure). The aim of this provision is only to enshrine the right to appeal.

³ **SE** entered a specific reservation on this paragraph and found that it should be examined in the light of the "Judgment of the Court of Justice in Case C-503/03 of 31 January 2006". **PL** supported this request.

⁴ **NL, HU, AT** and **FR** were not in favour of this formulation and **NL** suggested that such text could be maybe be added in the Instructions. **COM** would be willing to redraft the text, but emphasised that it is important to state this explicitly in the legal text, also bearing in mind the past negotiations with the European Parliament on the VIS Regulation, where EP had put much emphasis on this principle.

*Article 24***Rights flowing from an issued visa**

Mere possession of a short stay visa or a transit visa does not confer automatic right of entry.

*Article 25***Filling in the visa sticker**

1. When filling in the visa sticker, Member States' diplomatic missions and consular posts² shall insert the mandatory entries set out in Annex X and fill in the machine readable zone, as provided for in ICAO document 9303, Part 1n 6th edition (June 2006).
2. Member States may add national entries in the "comments" section of the visa sticker, which shall not duplicate the mandatory entries in Annex X.
3. All entries on the visa sticker shall be printed. Visa stickers may be filled in manually only in case of technical force majeure.³

¹ **COM** noted that a reference to Article 12 of the VIS Regulation should be added.

"Information on refused visas shall be entered into the VIS in accordance with Article 12 of the VIS Regulation."

² **NL** suggested the addition of "visa authorities". Commenting on a suggestion from the **Chair**, **COM** stressed that "diplomatic missions and consular posts" could not systematically be replaced by "visa authorities" throughout the text.

³ **EE** wondered whether this provision was still relevant, given the fact that visa stickers must be issued with a photo of the holder (cf. also Annex X, point 9). **AT** wondered whether such cases should be notified. **LU** found that exchange of such information had no added value.

Article 26

Invalidation of completed visa stickers

1. No ¹ manual changes shall be made to a printed² visa sticker.³
2. If an error is detected on a sticker which has not yet been affixed to the passport, the sticker shall be destroyed.
3. If an error is detected after the sticker has been affixed to the passport, the sticker shall be invalidated by drawing a red cross⁴ on the sticker and a new sticker shall be affixed.
4. If an error is detected after the relevant data have been introduced into the VIS in accordance with Article 8 of the VIS Regulation, the error shall be corrected in accordance with Article 21(1) of the VIS Regulation.

Article 27

Affixing visa stickers

1. The printed visa sticker containing the data provided for in Article 25 and Annex X shall be affixed to the first page of the passport that contains no entries or stamps - other than the stamp indicating that an application has been lodged.

The sticker shall be aligned with and affixed to the edge of the page of the travel document. The machine-readable zone of the sticker shall be aligned with the edge of the page.

¹ **HU** suggested adding "additional".

² **EL** suggested replacing "printed" by "completed"

³ **HU** suggested that this paragraph be moved to Article 25. **NL** wondered how this provision tallied with Article 31 (1).

⁴ **NL** wondered why this provision had been introduced. **HU** suggested that the following indication be added in such cases, in order to avoid problems for the holder at the border or when applying for a new visa: "cancelled without prejudice".

2. ^{1 2}The stamp of the issuing diplomatic mission or consular post³ shall be placed in the "COMMENTS section in such a manner that it extends beyond the sticker onto the page of the travel document.

Only in cases⁴ where it is necessary to dispense with the completion of the section to be scanned electronically may the stamp be placed in this section to render it unusable. The size and content of the stamp and the ink to be used shall be determined by the national rules of the Member State.

3. ⁵To prevent re-use of a visa sticker affixed to a uniform format form, the seal of the issuing diplomatic mission or consular office shall be stamped to the right, straddling the sticker and the form, in such a way as neither to impede reading of the headings and the comments nor to enter the machine readable zone, if completed.
4. Where the visa-issuing Member State does not recognise the applicant's travel document, the separate sheet for affixing a visa shall be used⁶.
5. Individual visas issued to accompanying persons according to Article 13(1) who are included in the travel document of the applicant shall be affixed in that travel document. Where the travel document in which accompanying persons are included is not recognised by the visa-issuing Member State, the individual visas shall be affixed to the separate sheet for affixing visas.

¹ **HU** is not in favour of having all these technical specifications in a legal text. **COM** agreed with the latter but wants to maintain the detailed specifications here for legal certainty, namely to ensure that the consulates process the same way.

² **AT** entered a reservation on paragraphs 2 and 3 on the question of the added value of a stamp.

³ **PL** and **FR** suggested the replacement of "diplomatic mission or consular post" by "administrative authorities", which **COM** agreed recalling that it was a horizontal issue appearing through the whole text.

⁴ **NL** was of the opinion that the formulation is too complicated and asked what exactly is meant by "...in cases...".

⁵ **PT** suggested to invert paragraphs 3 and 4 and to read "separate sheet" instead of "uniform format". **COM** will reflect on these two comments.

⁶ **COM** will check whether a reference to Art.10(1)(j) is needed here as **SI** suggested.

Chapter IV

Modifying the period of validity of an issued visa

Article 28¹

Extension

1. The period of validity and/or the duration of stay of an issued short stay or transit visa shall² be extended, at the request of the holder if he can provide proof of force majeure, humanitarian reasons, serious occupational reasons and/or personal reasons³.
2. An extension of a visa, as provided for in paragraph 1, shall not, under any circumstances, result in the type of the visa being changed or in the duration of the stay exceeding three months (short stay) or 10 days (transit).
3. Unless otherwise decided by the administrative authority extending the visa, the territorial validity of the extended visa shall remain the same as the original visa.
4. The administrative authority competent to extend the visa shall be that of the Member State on whose territory the third country national is present at the moment of applying for an extension.

Member States shall notify to the Commission the authorities competent for extending visas.

¹ **EL, AT and PT** entered a general reservation on the whole article. **EL** asked what is meant by "force majeure and humanitarian reasons". **FR** wondered why the applicant for the extension of a visa should not be obliged to prove her/his personal resources where the applicant for a visa is. **BE** entered a scrutiny reservation. **SI** asked whether the procedure was due to apply when the visa is applied for at the border. **COM** would consider this.

² **NL, SK, AU, PT, NO, IT and FR** suggested "may" instead of "shall".

³ **HU** suggested to maintain only the last "reasons" and to delete the previous ones and asked what the form of the request should be (oral, written). Moreover, **HU** suggested to add a wording to cover the case where the extension could be applicable "ex officio". The **Chair** proposed to split paragraph 1 in two to cover two different situations:

1) extension for force majeure and humanitarian reasons

2) extension for serious occupational reasons and/or personal reasons where the conditions would have to be proved.

COM will consider these suggestions.

5. A fee of 30 EUR¹ shall be charged for extending a visa.
6. Extension of uniform visas shall take the form of a stamp², corresponding to the model set out in Annex XI. The competent authority shall also affix its seal.
7. Information on extended visas shall be entered into the VIS in accordance with Article 12 of the VIS Regulation.

Article 29

Annulment

1. A visa may³ be annulled :
 - (a) by the issuing diplomatic mission or consular post in order to prevent the holder from entering the territory of the Member States, if it becomes evident after the visa has been issued that the holder does not fulfil the conditions justifying the issue of the visa.
 - (b) by border control authorities in conformity with the provisions of Article 13(1) and Annex V, Part A, (2) of the Schengen Borders Code.
2. Information on annulled visas shall be entered into the VIS, in accordance with Article 11 of the VIS Regulation.
3. If a visa is annulled pursuant to paragraph 1(b) by the border control authorities of a Member State other than the issuing Member State, the issuing Member State shall be informed of the annulment of its visas.

¹ **NL** suggested to fix the amount in an annex so that it can be smoothly amended. **COM** wished to maintain it in the body of the text meaning that a legal procedure would have to be followed in case the amount is to be changed.

² Several MS challenged the stamp solution and would prefer the sticker for safety reasons. **COM** noted that the sticker solution would mean that every authority competent to deliver the extension would have to have blank stickers at their disposal.

³ **PL** and **HU** suggested to replace "may be" by "shall be".

Article 30

Revocation of a visa

1. A visa may be revoked in the following cases:
 - (a) by the issuing diplomatic mission or consular post at the request of the holder in which case a stamp must be affixed to the visa sticker indicating that the visa has been revoked at the request of the holder.
 - (b) by the competent authorities after the holder has entered the territory of the Member States, if the holder no longer fulfils the entry conditions as set out in Article 5(1) of the Schengen Borders Code¹.
2. Information on revoked visas shall be entered into the VIS in accordance with Article 11² of the VIS Regulation.
3. If the visa is revoked pursuant to paragraph 1(b) by the competent authorities of a Member State other than the issuing Member State, the issuing Member State shall be informed of the revocation of its visas³.

¹ **COM** agreed with **NL** that a reference to a stamp was necessary as in (a).

² **COM** indicated that the correct reference was to Article 13.

³ **COM** emphasised that as no automatic alert was issued by the VIS after information had been entered into, it would be advisable to inform the issuing Member State but could agree to delete this obligation if needed.

Article 31

Shortening the length of duration of stay authorised by a visa

1. Border control authorities¹ may decide to shorten the duration of stay authorised by a visa² if it is established that the holder does not have adequate means of support³ for the initially intended duration of the stay⁴.
2. Information on the shortening of the duration of stay authorised by a visa shall be entered into the VIS, in accordance with Article 11 of the VIS Regulation.

Chapter V

Visas issued at the external borders

Article 32

Visas issued at the external borders

1. Short-stay visas or transit visas may only be issued at the external borders if the following conditions are satisfied⁵:
 - (a) the applicant fulfils the conditions laid down in Article 5(1) of the Schengen Borders Code;
 - (b) the applicant has not been in a position to apply for a visa in advance,

¹ **EE** suggested to replace "Border control authorities" by "Authorities that supervise immigration".

² **NL**, **PL** and **DE** asked how to proceed in practice for the purpose of recording the decision to shorten the duration of the visa.

³ **LU** and **SI** stressed that checking the means of support would be difficult for border guards. **COM** reminded delegations that this check was already foreseen in the Schengen system (SCH/Com-ex (93) 24) and is also applicable in accordance with the Schengen Borders Code. **NO** informed that its authorities could withdraw the visa if this condition was not fulfilled anymore.

⁴ On the request of several delegations **COM** will define precisely how the decision about the shortening of the visa must be made in practice (visa to be revoked, issuing a new visa sticker...).

⁵ **FR** suggested to add "in exceptional cases".

- (c) the applicant submits supporting documents substantiating unforeseeable and imperative reasons for entry¹, and
 - (d) the applicant's return to his country of origin or transit through States other than Member States fully implementing the Schengen acquis is assessed as certain.
- 2. Where a visa is applied for at the external border, the requirement that the applicant be in possession of travel medical insurance shall be waived².
- 3. A visa issued at the external border may, as appropriate, be either
 - (a) a single entry short-stay visa, entitling the holder to stay for a maximum period of 15 days in all Member States, or
 - (b) a single entry transit visa, entitling the holder to a transit of a maximum duration of 5 days, valid for all Member States.
- 4. Where the conditions laid down in Article 5(1) of the Schengen Borders Code are not fulfilled, the authorities responsible for issuing the visa at the border may issue a visa with limited territorial validity for the territory of the issuing Member State only, in accordance with Article 21(1)(a).

¹ **BE, NL, MT** suggested to merge (b) and (c).

² **EE, LU, FI, LV** were of the opinion that the applicant should still be obliged to prove that he benefits a travel medical insurance (TMI). **EE** intended to forward a proposal for a new drafting.

5. A third-country national falling within a category of persons for whom prior consultation is required in accordance with Article 9 shall, in principle, not be issued with a visa at the border.

However, a visa with limited territorial validity only for the territory of the visa issuing Member State, may be issued at the border for such persons in exceptional cases, in accordance with Article 21(1)(b).

6. The provisions on justification and notification of refusals and possibilities of appeal¹ set out in Article 23 and Annex IX shall apply².

Article 33³

Visas issued to seafarers⁴ in transit at the external border

1. A seafarer who is required to be in possession of a visa⁵ when crossing the external borders of the Member States may be issued with a transit visa at the border where:

- (e) he fulfils the conditions set out in Article 32(1) and
- (f) he is crossing the border in question in order to embark on, re-embark on or disembark from a ship on which he will work or has worked as a seafarer⁶.

¹ **DE** entered a scrutiny reservation.

² **SE, FI, DE, AT, SK, PL, EE, LT** entered a scrutiny reservation. **FR** suggested to delete this paragraph. **BE** and **NL** emphasised the risk of possible dual application of the Borders Code and the Visa Code on the same scope.

³ **EL** and **CY** entered a reservation.

⁴ **SK** asked whether there is a distinction to be made between seamen and seafarers.

⁵ **FI** and **DE** are of the opinion that the possibility of issuing collective visas should be foreseen. **COM** is not favourable to keeping this kind of visas.

⁶ **PT** was of the opinion that it should be left open to Member States to allow seamen to disembark without a visa and proposed to add the following drafting at the end of this point "...or for the purpose of a licence to go ashore." **COM** took note of the proposal. **BE** warned that the PT proposal could constitute an example of incompatibilities between the FAL Convention and EC Law in relation to the seamen, which was on the agenda of SCIFA/Mixed Committee on 21 November 2007.

2. Before issuing a visa at the border to a seafarer in transit, the competent national authorities shall comply with the rules set out in Annex XII, Part 1, and make sure that the necessary information concerning the seaman in question has been exchanged by means of a duly completed form for seamen in transit, as set out in Annex XII, Part 2¹.
3. This Article shall apply without prejudice to Article 32(3), (4) and (5)².

¹ **NO** asked whether seamen have to hold both a passport's number and a seamen book. **COM** replied that Annex XII, Part 2 had been taken out from Regulation (EC) No 415/2003 and that the Member States have been applying this Regulation since then without any problem. **COM** is ready to amend the drafting if necessary.

² On the request of BE and NL, **COM** proposed to add a reference to 32(2) and (6).

TITLE III: Administrative management and organisation

Article 34¹

Organisation of visa sections

- 1². Member States shall be responsible³ for organising the visa sections of their diplomatic missions and consular posts⁴.

In order to prevent any decline in the level of vigilance and to protect staff from being exposed to pressure at local level, rotation schemes for staff dealing directly with applicants shall be set up. Without prejudice to the quality of services or knowledge of tasks, the staff shall be rotated at least every six months⁵. Particular attention shall be attached to clear work structures and distinct allocation/division of responsibilities in relation to the taking of final decisions on visa applications. Access to consultation of the VIS and the SIS and other confidential information shall be restricted to a limited number of duly authorised expatriate permanent staff members⁶. Appropriate measures shall be taken to prevent unauthorised access to such databases.

¹ **SE** entered a reservation on the whole article.

² **NL** entered a reservation.

³ **COM** proposed to change the lay-out in order to have "Member States shall be responsible" covering the provisions of the whole article.

⁴ **NL and SI** proposed to replace "diplomatic missions and consular posts" by Visa authorities throughout the text.

⁵ **NL, BE, SE, SK, EE, PT, DK, NO, EL, FR, CY and FI** were of the opinion that a 6 months period is too short and stressed that rotation is sometimes impossible when there is only one person. **LV** and **IT** agreed on the principle of rotation but stressed on the need for flexibility in applying that principle. **LU** proposed to delete the two first sentences of this subparagraph. **FR** suggested to delete the whole subparagraph.

⁶ **NL, BE, SE, SK, DK and FI** proposed to replace "duly authorised expatriate permanent staff members" by "duly authorised staff" as in VIS Regulation. **LU** was of the opinion that the choice should be left up to the Member State concerned. **LT** proposed to delete the term "expatriate".

2. The storage and handling of visa stickers shall be subject to stringent security measures to avoid fraud or loss¹. Both issued visa stickers and cancelled visa stickers shall be registered².
3. Member States' diplomatic missions and consular posts shall keep archives of paper copies of visa applications. Each individual file shall contain the application form, copies of relevant supporting documents, a record of checks made and a copy of the visa issued³, in order for staff to be able to reconstruct, if need be, the background for the decision taken on the application.
- Individual files shall be kept for five years both when a visa has been issued and when it has been refused⁴.

¹ **SK** and **FR** proposed to delete the first sentence, finding it too technical to be introduced here.

² **DE** found the paragraph too technical for a legal text. It should appear in the Manual Handbook. Moreover **DE** added that the list of visa stickers and the stickers themselves should be stored apart to avoid the loss of information about the visa No. in case of theft.

³ **NL, DE, DK, BE** and **LV** were of the opinion that a copy of the visa is unnecessary because it is already stored in VIS.

⁴ **EE, HU** and **SE** did not agree with the requirements contained in this paragraph. **SE, DK, NO, BE, LV** and **PT** wanted to have "copies" only instead of "paper copies". **SK** agreed with Commission proposal and proposed some flexibility on the question of electronic or paper copies. Moreover **SK** is of the opinion that the end of the first subparagraph is not needed. **COM** emphasised that delegations had opposed an electronic copy to be made in the framework of the discussions of the VIS Regulation. The **Chair** stressed on the need for keeping the paper form because it contains the signature of the applicant by which she/he recognises that the information given in the form is correct. **SE, NL, DK, BE, LV** and **CZ** found 5 years a too long period. **LT** stressed that a difference should be made between negative decisions on visa applications (5 years would be fine) and positive decisions (a shorter period should be foreseen). **FR** entered a scrutiny reservation on the whole paragraph. **NL, DE** and **BE** asked when the counting period starts: at the date of approval, date of application...? **COM** replied it should be on the date of the decision taken. **HU** stated that the wording about invalidated, revoked, cancelled, refused visas should be aligned. **COM** agreed to rectify it. **BE** entered a scrutiny reservation on the principle of keeping documents when the visa is issued.

Article 35¹

Resources for processing visa applications and monitoring of diplomatic missions and consular posts

1. Member States shall deploy appropriate staff in sufficient numbers to carry out the tasks relating to the processing of visa applications, in such a way as to ensure an efficient and harmonised level of treatment of applications and applicants in their diplomatic missions and consular posts². Premises should meet appropriate functional requirements of adequacy and allow for appropriate security measures.
2. Member States' central authorities shall provide adequate training to both expatriate staff and locally employed staff and shall be responsible for providing them with complete, precise and updated information on the relevant Community and national law.
3. Member States' central authorities shall ensure frequent and adequate monitoring of the conduct of processing of visa applications and take corrective measures when deviations from provisions are detected.

¹ **FR** and **NL** proposed to delete the whole article.

² **CZ** emphasised that recommendations should be made about the number of employees to be hired in relation to the level of difficulties the staff could encounter given the level of illegal migration in the place concerned. **PL** was of the opinion that a acceptable work burden and remuneration must be addressed in relation to consulates confronted with a high level of illegal immigration. **IT** found it too hard to insert that kind of information in a legal document. **BE** referred to Recital 10 of the proposal for the Regulation and stated that was sufficient to address the matter. **COM** insisted on the importance of maintaining those provisions, especially the terms "sufficient numbers" for the EP in relation to the need for outsourcing.

Article 36¹

Conduct of staff processing visa applications

1. Member States' diplomatic missions and consular post shall ensure that applicants are received courteously.
2. Consular staff shall, in the performance of their duties, fully respect human dignity. Any measures taken shall be proportionate to the objectives pursued by such measures.
3. While performing their tasks, consular staff shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Article 37

Forms of cooperation in relation to the reception of visa applications

Member States may engage in the following forms of cooperation:

- (a) "co-location": staff from the diplomatic posts and consular missions of one or more Member States process the applications (including biometric identifiers) addressed to them at the diplomatic post and consular mission of another Member State and share the equipment of that Member State. The Member States concerned shall agree on the duration and conditions for the termination of the co-location as well as the part of the administrative fee to be received by the Member State whose diplomatic post or consular mission is being used.

¹ **NL, FR, IT, EE** and **SK** entered a reservation arguing this is not to be kept in legal provisions but rather in recitals.

- (b) "Common Application Centres": staff of diplomatic posts and consular missions of two or more Member States are pooled in one building in order to receive the visa applications (including biometric identifiers) addressed to them. Applicants shall be directed to the Member State responsible for the processing of the visa application. Member States shall agree on the duration and conditions for the termination of this co-operation as well as the cost sharing among the participating Member States. One Member State shall be responsible for contracts in relation to logistics and diplomatic relations with the host country.
- (c) Co-operation with external service providers: where for reasons relating to the local situation of the consular post it is not appropriate to equip the consular office for capturing/collecting biometric identifiers or to organise co-location or a Common Application Centre, a Member State or several Member States jointly may co-operate with an external service provider for the reception of visa applications (including biometric identifiers). In such a case, the Member State(s) concerned shall remain liable for compliance with data protection rules for the processing of visa applications.

Article 38

Co-operation with external service providers

1. Cooperation with external service providers shall take the following form:
 - (a) the external service provider acts as a call-centre providing general information on the requirements for applying for a visa and in charge of the appointment system; and/or,

(b) the external service provider provides general information on the requirements for applying for a visa, collects applications, supporting documents and biometric data from visa applicants and collects the handling fee (as provided for in Article 16) and transmits completed files and data to the diplomatic mission or consular post of the Member State competent for the processing of the application.

2. The Member State(s) concerned shall select an external service provider who is able to ensure all the technical and organisational security measures and appropriate technical and organisational measures requested by the Member State(s) to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network as well as the reception and transmission of files and data to the consular post, and against all other unlawful forms of processing.

When selecting external service providers, Member States' diplomatic missions or consular posts shall scrutinise the solvency and reliability of the company (including necessary licences, commercial registration, company statutes, bank contracts and shall ensure there is no conflict of interests.

3. External service providers shall not have access to the VIS for any purpose. Access to the VIS shall be reserved exclusively to duly authorised staff of diplomatic missions or consular posts.

4. The Member State(s) concerned shall conclude a contract with the external service provider in accordance with Article 17 of Directive 95/46/EC. Before concluding such a contract, the diplomatic mission or consular post of the Member State concerned shall within local consular cooperation inform the diplomatic missions and consular posts of other Member States and the Commission delegation why the contract is necessary.
5. In addition to the obligations set out in Article 17 of Directive 95/46/EC, the contract shall also contain provisions which:
 - (a) define the exact responsibilities of the service provider;
 - (b) require the service provider to act under the instructions of the responsible Member States and to process the data only for the purposes of processing of personal data of visa applications on behalf of the responsible Member States in compliance with Directive 95/46;
 - (c) require the service provider to provide the applicants with the information required under the VIS Regulation;
 - (d) provide for access by consular staff to the premises of the service provider at all times;
 - (e) require the service provider to observe rules of confidentiality (including the protection of the data collected in relation to visa applications;
 - (f) contain a suspension and termination clause.

6. The Member State(s) concerned shall monitor implementation of the contract, including:
- (a) the general information provided by the service provider to visa applicants;
 - (b) the technical and organisational security measures and appropriate technical and organisational measures to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing as well as the reception and transmission of files and data to the consular post;
 - (c) the capturing of biometric identifiers;
 - (d) the measures taken to ensure compliance with data protection provisions.
7. The total amount of fees charged by the external service provider for processing the visa application shall not exceed the fee set out in Article 16.
8. The consular staff of the Member State(s) concerned shall give training to the service provider, corresponding to the knowledge needed to offer appropriate service and sufficient information to visa applicants.

Organisational aspects

1. Precise information on the means of obtaining an appointment and submitting a visa application shall be displayed by Member States' diplomatic missions and consular posts for the general public.
2. Irrespective of the type of cooperation chosen, Member States may decide to maintain the possibility of allowing for applicants' direct access to lodge an application for a visa directly at the premises of its diplomatic mission or consular posts. Member States shall assure the continuity of reception and processing of visa application, in the event of sudden termination of cooperation with other Member States or any type of external service provider.
3. Member States shall inform the Commission of how they intend to organise the reception and processing of visa applications in each consular location. The Commission will ensure appropriate publication.

Member States shall provide the Commission with the contracts they conclude.

Article 40¹

Submission of visa applications by commercial intermediaries

1. For repeated² applications within the meaning of Article 11(2), Member States may allow their diplomatic missions or consular posts³ to cooperate with commercial intermediaries (i.e. private administrative agencies, transport⁴ or travel agencies (tour operators and retailers); hereinafter: “commercial intermediaries”) for the collection of applications, supporting documents and the handling fee and the transmission of completed files⁵ to the diplomatic mission or consular post of the Member State competent for the processing of the application.
2. Before granting accreditation to commercial intermediaries carrying out the tasks described in paragraph 1, Member States’ diplomatic missions and consular posts shall, in particular, verify the following aspects:
 - (a) the current status of the intermediary: current licence, the commercial register, contracts with banks;
 - (b) existing contracts with commercial partners based in the Member States offering accommodation and other package tour services;
 - (c) contracts with airlines, which must include outward and guaranteed, fixed return journeys.

¹ **FR** entered a reservation on the whole article.

² **NL** proposed to have "subsequent" applications.

³ **BE** and **HU** asked why the external service providers were not referred to as well. **ES** entered a reservation on any differentiation between travel agencies and external service providers. **COM** replied that under the provisions of Chapter VIII, Point 5, of the CCI a clear distinction is to be made between commercial intermediaries and external service providers because the first ones intervene in the framework of a contract with the visa applicants where the other ones are only bound by legal commitments regarding the visa authorities.

⁴ **EE** and **LT** asked what was meant by "transport agency". **COM** indicated that different kinds of transport were covered: air, road,...

⁵ **DE** proposed to add the returning of passports.

3. Accredited commercial intermediaries shall be monitored constantly¹ by spot checks involving personal or telephone interviews with applicants, verification of trips and accommodation, verification that the travel medical insurance provided is adequate and covers individual travellers, and wherever possible², verification of the documents relating to group return.
4. Within local consular cooperation, information shall be exchanged on irregularities detected, refusal of applications submitted by commercial intermediaries, and on detected forms of travel document fraud and failure to effect scheduled trips.
5. Within local consular cooperation, lists shall be exchanged of commercial intermediaries to which accreditation has been given by each diplomatic mission or consular post or from which accreditation has been withdrawn, together with the reasons for any such withdrawal³.

Each diplomatic mission or consular post shall make sure that the public is informed about the list of accredited intermediaries with which it cooperates.

Article 41

Information of the general public

1. Member States and their diplomatic missions or consular posts shall provide the general public with all relevant information⁴ in relation to the application for a visa⁵:
 - (a) the criteria, conditions and procedures for applying for a visa;
 - (b) the means of obtaining an appointment, if applicable;
 - (c) where the application should be submitted (competent diplomatic mission or consular post, common application centre or external service provider).¹

¹ **NL** and **BE** found this wording in contradiction with "spot checks". **DE** entered a scrutiny reservation.

² **HU** proposed to add "...and deemed necessary...".

³ **IT** and **LT** are in favour of a positive list instead of a negative one.

⁴ **SK** was of the opinion that "actual information" would constitute a better wording.

⁵ **SE** asked whether information on a web site was sufficient.

2. The representing Member State and the represented Member State shall inform the general public about arrangements on representation as provided in Article 7 three months before such arrangements enter into force². This information shall contain details of possible categories of applicants who must apply directly at a diplomatic mission or consular post of the represented Member.
3. The general public as well as the host country's authorities shall be informed that the stamp as provided for by Article 17 has no legal implications³.
4. The general public shall be informed of the time limits for examining visa applications provided for in Article 20(1). It shall also be informed of the third countries whose nationals or specific categories of such nationals are subject to prior consultation as set out in Annexes I and II⁴.
5. The general public shall be informed that negative decisions on visa applications must be notified to the applicant, that such decisions must state the reasons on which they are based and that applicants whose applications are refused have a right to appeal. Information shall be given on the possibilities of appeal, the competent legal instance, as well as the time-limit for lodging an appeal⁵.

¹ **SK** proposed to include the visa fees. **NL** proposed to have Art. 39(1) under Art.41(1) because it concerns information on appointments only made with diplomatic missions and consular posts, not with external service providers. **COM** disagreed because Art.39(1) must be read together with the different forms of cooperation referred to in Art.39.

² **PL, DK, NO, IT, EE, DE, NL, PT, HU** and **SE** found the deadline too long and asked for more flexibility. **BE** stressed that the general rule could be 3 months but particular circumstances could allow for a shorter period. **COM** opposed to amending its proposal because MS know this kind of representation long in advance.

³ **COM** informed delegations that this provision should no longer stay once the VIS Regulation enters into force.

⁴ **DE** referred to its position on Art.8 & 9. **DE** and **SK** insisted that confidentiality should be maintained regarding the countries for which prior consultation is applicable. **NL** opposed to 2nd sentence. **PT** suggested deleting the whole paragraph. **COM** stressed that this provision must be maintained. **IT** agreed with **COM**.

⁵ **SE** entered a scrutiny reservation, referring to its comments on Art.23.

6. The general public shall be informed that mere possession of a visa does not confer automatic¹ right of entry and that the holders of visa may be requested to present supporting documents at the border.
7. The general public shall be informed about the exchange rate applied by Member State's diplomatic missions and consular posts when the handling fee is charged in local currency².

¹ **NL** suggested to replace "automatic right" with "irrevocable right", and in Art.24 as well.

² **SK** and **PL** proposed to remove this paragraph to (1).

TITLE IV: Local Consular Cooperation

Article 42¹

Member States' diplomatic missions and consular posts' local consular cooperation

1. In order to ensure a harmonised application of the common visa policy taking into account, where appropriate, local circumstances, Member States' diplomatic missions and consular posts and the Commission shall cooperate within each jurisdiction and assess the need to establish in particular²:
 - (a) a harmonised list of supporting documents to be submitted by applicants, taking into account Article 14 and Annex IV;
 - (b) common criteria for examining visa applications, in particular in relation to the requirement that the applicant hold travel medical insurance (including the exemptions and the impossibility to acquire locally appropriate travel medical insurance), the handling fee , the use of the stamp indicating that a visa has been applied for and matters relating to the application form.
 - (c) common criteria for treating the different types of travel documents and an exhaustive list of travel documents issued by the host country, which shall be updated regularly.

¹ **FR** suggested deleting this article because it is not normative and indicated it should be removed to Practical Handbook. **BE** and **PL** disagreed because legally binding measures are needed to foster the Local Consular Cooperation (LCC) between MS.

² **DE** suggested to add a point (e) along these lines: "a harmonised approach to checks on return including the length, scope and method of the measures to be applied (e.g. random control of boarding cards and interviews upon return)".

- (d) a harmonised approach in relation to cooperation with external service providers and commercial intermediaries.

If regarding one or more of the points (a) to (d), the assessment within the local consular cooperation confirms the need for a local harmonised approach, measures on such a harmonised approach shall be adopted pursuant to the procedure provided by Article 46(2)¹.

2. Within local consular cooperation shall be established a common information sheet on short-stay visa, transit and airport transit visas (the rights that it implies, the conditions for applying for it).
3. The following information shall be exchanged within local consular cooperation:
 - (a) monthly² statistics on short-stay visas, visas with limited territorial validity, transit visas and airport transit visas issued, as well as the number of rejected visa applications,
 - (b) information on
 - (i) the socio-economic structure of the host country;
 - (ii) sources of information at local level (on social security, health insurance, fiscal registers, entry-exit registrations etc.);
 - (iii) the use of false and falsified documents;
 - (iv) illegal immigration routes;
 - (v) refusals;
 - (vi) cooperation with airline companies;
 - (vii) insurance companies providing adequate travel medical insurance (including verification of type of coverage, possible excess amount).

¹ **NL** found it unclear: on what basis the decisions are going to be adopted. **COM** informed delegations Art.46(2) is based on Comitology procedure.

² **NL** was in favour of "regular" rather than "monthly". **COM** wanted the text to be maintained.

4. Local consular cooperation meetings among Member States and Commission to deal specifically with operational issues in relation to the application of the common visa policy shall be organised once a month¹. These meetings shall be convened by the Commission², unless otherwise agreed at the request of the Commission within the jurisdiction.

Single-topic meetings may be organised and sub-groups set up to study specific issues within local consular cooperation³.

5. Summary reports of local consular cooperation meetings shall be drawn up systematically and circulated locally. The Commission may delegate the drawing up of reports to a Member State⁴. The diplomatic mission or consular post of each Member State shall forward the reports to their central authorities⁵.
On the basis of these monthly reports, the Commission shall draw up an annual report within each jurisdiction to be submitted to Council.
6. Representatives of diplomatic missions or consular posts of Member States not applying the community acquis in relation to visas⁶, or of third countries, may, on an ad hoc bases, be invited to participate in meetings for the exchange of information on specific issues relating to the issuance of visa.
7. Issues of particular general interest or which cannot be solved locally shall be submitted by the Commission to the Council⁷ for examination⁸.

¹ **NL, BE, HU, PL, EL, IT** and **SK** were of the opinion that the once a month requirement is too hard to apply and wanted more flexibility.

² The **Chair** was in favour of meetings convened by the Presidency.

³ **NL** found those organisational details too explicit and suggested removing them in the Practical Handbook.

⁴ **IT** and **DE** stated that the reports should be drawn up by the Commission.

⁵ **NL** found those organisational details too explicit and suggested removing them in the Practical Handbook.

⁶ **HU** suggested to refer to nMS already partially applying the Schengen acquis. **COM** agreed to have the sentence redrafted in order to cover those nMS. **NO** stressed on the importance to make sure **NO** is not excluded from the LCC and the Schengen cooperation.

⁷ **COM** informed delegations that the Visa WP was to be understood here.

⁸ The **Chair** informed delegations that they could send their questions on that item directly to the Commission

TITLE V: Final provisions

Article 43

Exceptional arrangements

Member States hosting the Olympic Games and Paralympic Games shall apply the specific procedures and conditions facilitating the issuance of visa set out in Annex XIII¹.

Article 44²

Amendments to the Annexes

- (2) Annexes III, IV, V, VI, VIII, IX, X and XI³ shall be amended in accordance with the procedure referred to in Article 46(2).
- (3) Without prejudice to Article 47(2)⁴ the changes of Annexes I and II shall be decided in accordance with the procedure set out in Article 46(2).

Article 45

Instructions on the practical application of the Visa Code

Operational instructions establishing the harmonised practices and procedures to be followed by Member States' diplomatic posts and consular missions when processing visa applications shall be drawn up in accordance with the procedure referred to in Article 46(2).

¹ **FR** stated that the specific procedures and conditions about visas, as referred to in Annex XIII were problematic regarding security. **COM** emphasised that those procedures were successfully applied for the Olympic games in Athens.

² **FR** and **NL** entered a scrutiny reservation on Art.44, 45, 46.

³ Following **COM** a reference to Annex XII is to be added.

⁴ **DE** and **IT** challenged the need to have a reference to Art.47(2).

Article 46

Committee

1. The Commission shall be assisted by a committee, hereinafter "the Visa Committee".
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof and provided that the implementing measures adopted in accordance with this procedure do not modify the essential provisions of this Regulation.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.
3. The Visa Committee shall adopt its rules of procedure.

Article 47

Notification

1. Member States shall notify the Commission of:
 - (a) Situations of representation referred to in Article 7;
 - (b) the list of third countries for which information procedures referred to in Article 9(3) are required¹;
 - (c) the additional national entries in the "comments" section of the visa sticker as referred to in Article 25(2);

¹ **LT** asked whether this information should be published.

- (d) authorities competent for extending visas, referred to in Article 28(4);
- (e) the situations of cooperation referred to in Article 37¹;
- (f) statistics on all types of visas issued every six months (1st March and 1st September of each calendar year) using the uniform table² for exchanging statistics³.

The Commission shall make the information notified pursuant to paragraph 1 available to the Member States and the public via a constantly updated electronic publication.

2. Member States shall also notify the Commission of envisaged changes of the lists of third countries for which the prior consultation or information procedures referred to in Articles 8 and 9 are required.

Article 48

Repeals

1. Articles 9 to 17 of the Convention implementing the Schengen Agreement of 14 June 1985 are replaced.

¹ **PL** suggested to merge points (a) and (e).

² **NL** and **IT** suggested to have annual statistics and **NL** asked what was meant by "uniform table".

³ **FR** suggested to remove those provisions on a new paragraph 3. Moreover **FR** was of the opinion that the statistics should be annually only and not published.

2. The following shall be repealed:

- (a) The Common Consular Instructions, including the annexes.
- (b) The decisions of the Schengen Executive Committee of 14 December 1993 (SCH/Com-ex (93) 21), (SCH/Com-ex (93)24) (SCH/Com-ex (94) 25), (SCH/Com-ex (98)12) SCH/Com-ex (98)57.
- (c) Joint Action 96/197/JHA of 4 March 1996 adopted by the Council on the basis of Article K.3 of the TEU on airport transit arrangements¹.
- (d) Regulation (EC) No 789/2001.
- (e) Regulation (EC) No 1091/2001.
- (f) Regulation (EC) No 415/2003.

3. References to repealed instruments shall be construed as references to this Regulation and read in accordance with the correlation table in Annex XIV.

¹ **FR** entered a scrutiny reservation.

Article 49

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply 6 months after that day of its entry into force. Articles 46 and 47 shall apply from the date of entry into force.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

**ANNEX I: LIST OF THIRD COUNTRIES FOR WHICH PRIOR CONSULTATION OF
MEMBER STATES' OWN CENTRAL AUTHORITIES IS REQUESTED, PURSUANT TO
ARTICLE 8 OF THE COMMUNITY CODE ON VISAS**

Within the framework of agreements on representation the central authorities of the representing Member State shall consult the authorities of the represented Member State, pursuant to Article 9(2) of the Community Code on Visas.

ANNEX II: LIST OF THIRD COUNTRIES FOR WHICH PRIOR CONSULTATION OR INFORMATION OF THE CENTRAL AUTHORITIES OF OTHER MEMBER STATES' IS REQUESTED, PURSUANT TO ARTICLE 9 OF THE COMMUNITY CODE ON VISAS

The indication (*) means that only information on issued visas is requested, pursuant to Article 9(3) of the Community Code on Visas



ANNEX III: HARMONISED APPLICATION FORM

Photo

Stamp Embassy or
Consulate

Application for Schengen Visa

This application form is free

1. Surname(s) (family name(s))			FOR EMBASSY/ CONSULATE USE ONLY Date of application : Application submitted at ☐ embassy/consulate ☐ CAC ☐ travel agency Name: ☐ service provider Name: ☐ Other Name: File handled by : ☐ Invitation ☐ Means of transport ☐ Link with other application ☐ Other : Visa : ☐ Refused ☐ Granted ☐ LTV ☐ A ☐ B ☐ C ☐ D Number of entries : ☐ 1 ☐ 2 ☐ Multiple Valid from To
2. Surname(s) at birth (earlier family name(s))			
3. First names (given names)			
4. Date of birth (year-month-day)	5. Place and country of birth	6. Nationality	
7. Sex ☐ Male ☐ Female		8. Marital status : ☐ Single ☐ Married ☐ Separated ☐ Divorced ☐ Widow(er) ☐ Other	
9. Type of travel document: ☐ Ordinary passport ☐ Diplomatic passport ☐ Service passport ☐ Official passport ☐ Special passport ☐ Other travel document (please specify):			
10. Number of travel document	11. Issued by Valid until		
12. If you reside in a country other than your country of origin, do you have permission to return to that country? ☐ No ☐ Yes, (number and validity)			
* 13. Current occupation			
* 14. Employer and employer's address and telephone number. For students, name and address of educational establishment.			
15. Member State of main destination			
16. Number of entries requested ☐ Single entry ☐ Two entries ☐ Multiple entries	17. Duration of stay or transit Visa is requested for: ☐ stay , indicate number of days _____ ☐ airport transit		
18. Previous visas (issued during the past three years)			
19. Entry permit for the final country of destination (in the case of application for a transit or airport transit visa Issued by: Valid until:			

* The fields marked with * do not have to be filled in by family members of EU or EEA citizens (spouse, child or dependent ascendant). Family members of EU or EEA citizens have to present documents to prove this relationship and fill in field no XX.

20. Purpose of travel Tourism Business Visit of family or friends Cultural Sports Official visit Medical reasons Other (please specify):						FOR EMBASSY / CONSULATE USE ONLY	
* 21. Intended date of arrival				* 22. Intended date of departure			
* 23. Name of host in the Member States. If not applicable, give name of hotel or temporary address in the Member States							
Address (and e-mail address) of host				Telephone(and telefax)			
24. Name and address (and of inviting company/organisation				Telephone (and telefax) of company/organisation			
Name, address, Telephone (and telefax) (and e-mail address) of contact person in company/organisation:							
* 25. Cost of travelling and living during the applicant's stay is covered by the applicant himself/herself ☐ Other sponsor ☐ Means of support during stay Cash Traveller's cheques Credit cards Accommodation Other:							
* 26. If the cost of travelling and living during the applicant's stay is covered by a host/a company/an organisation Means of support during your stay Cash Traveller's cheques Credit cards Accommodation Other: Proof of invitation, sponsorship and accommodation submitted ☐							
27. Travel and/or health insurance. ☐ Not applicable Name of insurance company No of policy: Valid until:							
28. Personal data of the family member who is a EU or EEA citizen							
Name				First Name			
Date of birth			Nationality			Number of passport	
Family relationship with an EU or EEA citizen ☐ spouse ☐ child ☐ dependent ascendant							
29. Applicant's home address /and e-mail address					Telephone number		
30. Place and date				31. Signature (for minors, signature of custodian/guardian)			

Statement to be signed in case a multiple entry visa is applied for (cf. field no 16)

I am aware of the need to have an adequate travel medical insurance for my first stay and in connection with subsequent visits to the area of Member States.

Signature

COMMENTS MADE TO ANNEX III:

COM recalled that the uniform application form had been introduced only in 2002 and that no revolutionary changes had been introduced as the original version seemed on the whole to be satisfactory. However, a few amendments had been made in order to

- take account of certain choices made in the draft Regulation: i.e. the reference to D+C visas and group visa had been deleted, and a statement in relation to TMI (to be signed in case a multiple entry visas had been issued) had been added;
- anticipate the amendment of Regulation 539/2001: change of wording in field no 9 making them match the wording of Regulation 1932/2006;
- anticipate the VIS: a number of fields in the current application form had been deleted, as they concerned information judged less pertinent when certainty about the applicant's identity would be ensured by the collection of biometric identifiers and the final data protection statement had been adapted to take account of the storage of data in the VIS.

NL, supported by **FR**, suggested that for practical reasons the layout of the application form be changed so that the photo would be placed to the right and the embassy stamp to the left. **COM** could accept this change. **COM** would reflect further on the lay out (incl. the electronic presentation) and possible changes to be made for the purpose of on-line filling in of the form.

IT suggested that the title be reformulated in this manner: "Application for a visa for a Schengen State" as the form should be used both for applications for Schengen visas and national visas. **COM** could accept a deletion of the reference to "Schengen".

Responding to a query from **EE**, **COM** emphasised that this was a harmonised form, which among other things served as a means of exchange of information among Member States (and would in future be the basis of the entry of data into the VIS), and therefore any "national" deviation is unacceptable.

Ad Fields 1-3: **FR** drew delegations' attention to the problems in relation to the filling in of these fields in countries where the Latin alphabet was not used, meaning that the entries in the application form did not correspond to what was in the passport, noting that it had to be ensured that the entries in the application form corresponded to the information contained in the applicant's travel document.

Ad Field 4: DK wished to the date of birth to be indicated in this manner: "day-month-year".

Although current order was copied from the CCI and did not seem to have given rise to problems, **COM** could accept this.

Ad Field 6: BE wished to maintain a reference to "original nationality"(field 8 of Annex16 to the CCI). **COM** was of the opinion that information on original nationality was only of interest in a limited number of cases and ought therefore not to be part of standard form. **COM** repeated that the fact that reference was made to this entry in the draft VIS Regulation was not an argument for keeping it in the draft Visa Code. The changes to the acquis made in the Visa Code would later be reflected in an amendment to the VIS Regulation.

SE wished to add a field on "current residence address" as well as additional information on spouse and children of the applicant. **COM** failed to see the purpose of such addition, given that all applicants would have to submit individual applications. Moreover a link between applications would be provided for in the VIS.

EL wished to reinsert a reference to the name of the applicant's father as this information was essential for the verification of the applicant's identity. **NL** and **HU** supported this suggestion.

Ad Field 10-11: FR was not in favour of the deletion of the "date of issue" of the travel document, given certain practices of issuing several travel documents simultaneously. **COM** acknowledged the problem but was of the opinion that the solution would not be to amend the application form but rather to add a provision establishing that the travel document presented with the application should have been issued within the last five years.

Ad Field 12: Although this text had been taken over from the current application form, **IT** was of the opinion that it should be clarified that the applicant would have to declare by some means that he/she had the right to return to his/her country of residence.

Ad Field 14: IT found that indication of "student, name and address of educational establishment" did not add much. **COM** noted that this was essential information on the applicant's "status".

Ad Field 15: IT and **HU** wished to add information on Member State of first entry. Noting that expressions like "destination of first entry" and "main destination" were often confusing for applicants, **FR** wondered whether clearer formulations could be found. **COM** suggested: ""Member State (s) visited".

Ad Fields 16 and 17: **FR** found these acceptable but wished to add a reference to "length of validity" as requested by the applicant. **ES** did not agree, noting that a reference to multiple entry was sufficient. **NL** wished a reference to "long stay" to remain in. **SE** suggested that fields 21-22 be moved to follow immediately after 17.

Ad Field 18: **HU** and **FR** wondered why this was in and whether it only concerned previous Schengen visa. **COM** noted that it covered all previous visas, adding that the formulation should maybe be clarified although such visas would often still be in the applicant's travel document. Once the VIS became operational the information in relation to Schengen visa would be recorded there. **DK** wished to reintroduce a reference to "previous stays in a Schengen State" (Field 28 of current application form). **COM** found this superfluous as information on previous visas issued would in future be recorded in the VIS.

Ad Field 20: **HU** wished to add "study". **IT** and **FR** found that this field should be moved to the top of the form. **BE** suggested that the title be in plural ("Purpose(s) of travel"). Although all formulations had been taken over from the CCI, **COM** could accept **HU** and **BE** suggestions.

Ad Fields 21 and 22: **NL**, **HU**, **IT** and **FR** found that family members of EU citizens should also fill in these fields. **HU** wondered what should be indicated in field 22 in the case of an application for a multiple entry visa. **COM** recalled why there had to be a reference (in the form of "fields not to be filled in") to the rights enjoyed by family members of EU citizens under Directive 38/2004/EC, but **COM** understood delegations' concern in relation to the intentions of stay of family members and would consider removing the *.

Ad Field 23: **NL** wished to add date of birth of the host. **DE** agreed, wishing to add also sex and address. **COM** could accept adding date of birth and address but wondered what would be the added value of indication of the person's sex, recalling that applicants would have to submit a number of supporting documents together with the application form and that in order to meet Member States' public order and other security concerns a number of instruments and procedures were already in place (i.e. "prior consultation", Visa. SIS).

IT wished to formulate field 23 as follows: "Name and **first name** of host in the Member States. If not applicable, give name of hotel **and**/or temporary address in the Member States.".

FR found that this field should also be filled in by family members of EU citizens. **COM** emphasised that this request went beyond purely operational concerns and that prior control of the right to free movement enjoyed by this category of persons was unacceptable and contrary to the above mentioned Directive, adding that family members of EU citizens could not be considered to present illegal immigration risk, and therefore the * in relation to fields 23, 25 and 26 should remain. In relation to fields 23-25, **COM** noted that the formulations could be clarified in order to distinguish between "private" and "public" matters.

Ad Field 27: **BE** wondered whether the applicant could be requested to fill this in. **FR** suggested that "not applicable" be deleted but that "expiry date" had to be maintained as it would square with a requirement that the TMI should always be presented upon application and not room for manoeuvre should be allowed for in LSC (cf. Article 15 (8)). **COM** understood the concerns and suggested that in cases where the proof of TMI was only presented upon issuance of the visa, the expiry date of the TMI could be added in the vertical column by consular staff.

Ad Field 28: **DK** suggested the addition of ID card number. **COM** could accept this. Responding to a query from **IT**, **COM** noted that only the categories of persons covered by Directive 38/2004/EC were mentioned.

Ad Field 28: *"Family relationship with an EU or EEA citizen"*: some delegations questioned the meaning of "dependent ascendant". **COM** noted that the terminology should correspond to the one used in Directive 38/2004/EC. **COM** took upon himself to clarify this matter.

Ad Field 29: **NL** suggested that this field follow directly after field no 11.

Ad Field 31: **FR** suggested the addition of "parental authority" as "custodian/guardian" does not cover all cases.

DK wished to reintroduce fields 36 and 42 of the current application form

Statement related to TMI: **NL** found that it was inconvenient that persons applying for a multiple-entry visa had to sign twice (i.e. field 31 statement) and suggested that the two be combined.

VERTICAL COLUMN: "For Embassy/Consulate use only":

IT found that generally the previous lay out and formulation was clearer.

BE, supported by **NL** and **HU**, was not in favour of indicating in the form where the application has been submitted and travel agencies ought not to be associated with CACs and service providers. **ES**, on the contrary, wished the reference to travel agencies to remain in. **COM** found that information on the circumstances (via which intermediary) under which the application had been submitted was important but would consider deleting the option "embassy/consulate".

Commenting on a point raised by **IT**, **COM** noted that it could be considered to distinguish between the person who "handled" and the one who "processed/examined" the application. **COM** would consider reinserting the same references to supporting documents as in the current CCI version.

HU suggested that reference be made to situations of "representation" in case the application is eventually handed over to the Member State of destination.

IT found that reference to "D" visa should be maintained. **NL** regretted the deletion of both D and D+C visas.

COM would consider reinserting the entry "valid for: ..."

STATEMENT TO BE SIGNED BY THE APPLICANT:¹

I am aware of and consent² to the following: the taking of my photograph and, if applicable, the taking of fingerprints, are mandatory for the examination of the visa application. Any personal data concerning me which appear on the visa application form, as well as my fingerprints and my photograph will be supplied to the relevant authorities of the Member States and processed by those authorities, for the purposes of a decision on my visa application.

Such data as well as the decision taken on my application or a decision whether to annul, revoke or extend a visa issued will be input into, and stored in the VIS for a period of five years, accessible to the authorities competent for carrying out checks on visas at external borders and within the Member States, immigration and asylum authorities in the Member States for the purposes to verify whether the conditions for the legal entry, stay and residence on the territory of the Member States are fulfilled, to identify persons, who do not, or who no longer fulfil these conditions, to examine an asylum application and to determine the responsibility for such examination. Under certain conditions the data will be also available to authorities responsible for the internal security of the Member States. The authority responsible for processing the data is: [*the Ministry of the Interior/of Foreign Affairs of the MS concerned and contact details*].

Any I am aware that I have the right to obtain in any of the Member States communication of the data related to me recorded in the VIS and of the Member State which transmitted it to it, and to request that data relating to me which is inaccurate be corrected and that data recorded unlawfully be deleted. At my express request³, the consular authority processing my application will inform me of the manner in which I may exercise my right to check the personal data concerning me and have them corrected or deleted, including the related remedies according to the national law of the State concerned. The national supervisory authority of this Member State [*contact details*], which will assist and advise me to exercise these rights

¹ **NL** and **FR**: Scrutiny reservation. **IT** found the statement should be made simpler and clearer. **COM** emphasised that the wording of the statement had mainly been taken over from the current application form, but that certain parts had been added for the purpose of storage of data in the VIS and for the access by border control authorities to this data because the visa applicant/holder would have to address those who had entered the data.

² **DE** wished to delete the word "consent" as it gives the impression that consent is sufficient. According to data protection experts a reference to a legal provision must be in (i.e. Article 2 (h) of the Data Protection Directive). **PT** found that "consent" was not the appropriate word as the taking of fingerprints and a digital photo is mandatory for the submission of an application.

³ **BE** found that the statement gave the impression that the applicant/holder of a visa could only complain or ask for the correction of data at the consulate. According to this delegation it had to be specified which authorities are responsible. **COM** noted that it would not be possible to list all the authorities responsible in all Member States. The applicant/holder of a visa could seek information at the consulate who might then guide him/her elsewhere.

I declare that to the best of my knowledge all particulars supplied by me are correct and complete. I am aware that any false statements will lead to my application being rejected or to the annulment of a visa already granted and may also render me liable to prosecution under the law of the Member State which deals with the application.

I undertake to leave the territory of the Member States upon the expiry of the visa, if granted. I have been informed that possession of a visa is only one of the prerequisites for entry into the European territory of the Member States. The mere fact that a visa has been granted to me does not mean that I will be entitled to compensation if I fail to comply with the relevant provisions of Article 5(1) of the Schengen Borders' Code and am thus refused entry. The prerequisites for entry will be checked again on entry into the European territory of the Member States.

ANNEX IV: NON-EXHAUSTIVE LIST OF SUPPORTING DOCUMENTS¹

The supporting documents, referred to in Article 14, to be submitted by visa applicants may include the following:

A. DOCUMENTATION RELATED TO THE PURPOSE OF THE JOURNEY

(1) for business trips:

- (i)** an invitation from a firm or an authority to attend meetings, conferences or events connected with trade, industry or work;
- (ii)** other documents which show the existence of trade relations or relations for work purposes;
- (iii)** entry tickets for fairs and congresses, if appropriate;
- (iv)** documents proving the business activities of the company;
- (v)** documents proving the applicants employment [status][situation] in the company.

(2) for journeys undertaken for the purposes of study or other types of training:

- (i)** a certificate of enrolment at a teaching institute for the purposes of attending vocational or theoretical courses in the framework of basic and further training;
- (ii)** student card or certificates for the courses attended to;

¹ By way of presentation, **COM** noted that this non-exhaustive list had been drawn up in order to structure the supporting documents necessary for different purposes better. In addition, account had been taken of the analogue list set out in Annex I to the SBC, as the entry conditions to be fulfilled by visa applicants and by persons wishing to cross the external borders are identical. **COM** emphasised that the non-exhaustive list corresponded to the approach followed in the SBC and according to Article 14(3), the list could be adapted to local circumstances

- (3) for journeys undertaken for the purposes of tourism or for private reasons:
- (i) documents as regards lodging:
 - an invitation from the host if staying with one;
 - a document from the establishment providing lodging or any other appropriate document indicating the accommodation envisaged;
 - (ii) documents as regards the itinerary:
 - confirmation of the booking of an organised trip or any other appropriate document indicating the envisaged travel plans;
- (4) for journeys undertaken for political, scientific, cultural, sports or religious events or other reasons¹:
- invitations, entry tickets, enrolments or programmes stating wherever possible the name of the host organisation and the length of stay or any other appropriate document indicating the purpose of the visit.

¹ EE wished to add a reference to "humanitarian reasons", "funerals", "pilgrimage" either in this paragraph or in a separate point (5). PL and PT were not in favour of this addition, PT drawing the attention to point (3) : ".. for private reasons" which could cover such travel purposes.

B. DOCUMENTATION ALLOWING FOR THE ASSESSMENT OF THE APPLICANT'S INTENTION OF RETURN¹

- 1) return or round ticket;
- 2) proof of financial means;²
- 3) proof of employment: bank statements;
- 4) proof of real estate property;
- 5) proof of integration into the country of residence: family ties; professional status.

C. DOCUMENTATION IN RELATION TO THE APPLICANTS FAMILY SITUATION

- 1) parental consent (when minor does not travel with parents);
- 2) proof of family ties with the inviting person.

3

¹ **IT** suggested that a reference to "hotel reservation" be added. **COM** found this unnecessary as presentation of the return ticket would prove the applicant's intention to return.

² **LU** wondered why this should be requested when the applicant was also asked to present proof of bearing of costs, adding that the proof of return would maybe sufficient. **COM** stressed that the purpose of this requirement was to assess the applicant's financial situation in the place of residence. However, **COM** recalled that the same supporting documents might serve several purposes and would thus be repeated.

³ **FR** suggested the addition of "family member of an EU citizen". **COM** would consider this, noting that overlapping with the application form should be avoided.

**ANNEX V: HARMONISED FORM FOR PROOF OF ACCOMMODATION AND/OR
BEARING OF COSTS¹**

[Member State]

Proof of accommodation* bearing of costs*
in accordance with Article 14.1 of the Visa Code
for the purpose of inviting a third-country national subject to the visa obligation

(This form is issued and processed by the competent authority free of charge)

I, the undersigned

Surname	Name
Date of birth	Place of birth
Nationality	
Identity card no.	Passport no.
Residence permit no.:	
Date of issue	Place of issue
Address:	
Owner	Tenant
Occupation:	

declare being able to accommodate* :

1. Surname	Name	Nationality
Date of birth	Place of birth	
Address		
Relationship to the invitee		
Passport no.		

2. Surname	Name	Nationality
Date of birth	Place of birth	
Address		
Relationship to the invitee		
Passport no.		

3. From Until

at my abovementioned address.

at the following secondary address:

declare being able to bear living costs and repatriation *

- for the person(s) mentioned under* 1. 2.
- during the period of stay indicated under 3.

* Please tick the appropriate box(es)

Additional information:

the person(s) mentioned * under 1. under 2. subscribe(s) to their own travel medical insurance for the duration of stay, as required by Article 15 of the Code on Visas.

I subscribe to health insurance on their behalf during the period of stay.

I am aware that the personal data contained in this form are stored and handled by the services receiving this form, that they are stored in the Visa Information System (VIS) and made accessible to the authorities of the other Member States and I have right to have them altered or deleted, in particular, should they be inaccurate.

I am aware that *[list of national provisions to be added by the Member State concerned]*:

- reference to penalties for giving false data;
- reference to penalties for facilitating irregular stay.
-
- the original of the present statement, duly stamped by the competent authority, must be presented in original within six months to the consular authorities competent for examining the visa application of the person(s) invited

I declare, on my word of honour, that the information provided above is true

Read and approved

Witnessed for certification of the signature
of

Date and signature of the inviting person Date Stamp of the competent authority

Documents to be attached:

- **copy of the inviting ID card or of the biodata page of his/her passport;**
- **proof of residence (ex.: property title deeds, rental agreements, electricity/water/gas bills)**
- **proof of income (salary slip, receipt of pension, official document stating the amount of income);**
- **if, applicable, health insurance policy for the invited person(s).**

This section is for use by the competent authorities only

Proof of accommodation	Proof of bearing of costs
The accommodation conditions	The level of financial means of the inviting
have not been verified	has not been verified
have been judged compatible with the intended invitation	has been judged sufficient in relation to the applicable reference amounts and the duration of stay of the invited person(s)
Date:	Place:
Stamp of the competent authority:	

¹ See footnote 4 on p. 32.

² **FR** would therefore like to make the following comments:

- There is no entry [in French version of form] for the host's nationality. The gender of the host and of the invitee are not requested; this is an important element, as the forename is not always enough for identification purposes.
- The passport number of the invitee and a copy of the invitee's passport or identity card must be produced. It is not stated that the prospective host must go in person to the town hall to fill out the proof-of-accommodation form.
- There is only room on the form for the details for two invitees, which is a problem if children who are minors have to be accounted for.
- There is no entry for any previous proof-of-accommodation forms issued to the host. Such information is essential to enable the authorities to detect abuses.
- While the form contains the line "declare being able to bear living costs and repatriation [costs]", repatriation costs are covered by insurance and there is no mention of the requisite EUR 30 000 cover. Unlike the French regulations, the form makes no provision for the host's explicit undertaking to meet the foreigner's living expenses should he default, unless the host's declaration on page 1 of the form that he can bear the living and repatriation costs is to be considered an equivalent undertaking. Moreover, the draft form makes no mention of the documents that the host must produce as evidence of his means.
- With reference to the evidence to be produced of the host's means, unlike the French form the Commission's draft does not mention a specific amount (e.g. the guaranteed minimum wage (SMIC) in France).
- The Commission's harmonised form makes no provision for the consular services to inform mayors whether or not visas have been issued. The reply-coupon system applied by France could be used for this purpose. There is no box for the stamps of the consular authorities or border control (entry) evidencing that they have carried out their checks. The entry "date and signature of the invitee" should read "date and signature of the applicant".
- There is no mention in the draft European form of any fees to be paid by the prospective host (stamp duty in France is currently EUR 15) nor is there any reference to a home visit to check on the state of the accommodation being provided. The reformed proof-of-accommodation form arrangements under the Act of 26 November 2003 targeted the host facilities, in particular the conditions of accommodation, in order to avoid abuses on the part of hosts. The harmonised form makes no specific reference to the accommodation (surface area, number of rooms, number of occupants, sanitary arrangements, etc.).
- The Commission's proposed harmonised form covers visa applicants only. Under French legislation a proof-of-accommodation form is also required for nationals of non-visa third countries. What kind of proof of accommodation form should be issued to such persons?

- **GENERAL COMMENTS MADE TO ANNEX V**

COM recalled that the existing Annex 15 to the CCI on "*Specimen of harmonised forms providing proof of invitation, sponsorship and accommodation*" only contained specimen of such forms drawn up by four Member States, despite the fact that according to information provided on the websites of a number of Member States' MFA, such forms (albeit not notified) are used. This is not satisfactory, and is moreover problematic for border guards, and therefore the Commission had judged necessary to draw up a harmonised form.

NL wondered whether it was useful to have one form for two purposes. **COM** recognised that the two issues were legally distinct and that the consequences were different, but found that given the clearly distinct purposes this should not be a problem.

LV, supported by **EE** and **LT**, suggested that use of electronic versions of this form be provided for in order to allow for the storage of the information in the national database. **COM** would not be opposed to this option.

EE, **SI** and **LT** wondered whether the form could be used both when the inviting party was a natural person and a legal person.

LT, supported by **DE**, **FR** and **HU**, was of the opinion that the form should contain security features.

NO was in favour of introducing a harmonised form but emphasised that the use should not be mandatory, i.e. not systematic use for all applicants. **DK**, **ES**, **HU** and **SE** were also in favour of optional use of the form.

EE wondered whether the document would be handed over to the applicant, so that he/she could show it at the border.

LV, **CZ**, **SK**, **HU**, **DE** and **FR** were of the opinion that a fee should be charged for this form. **COM** was categorically against this as there was a growing tendency to charge applicants with all sorts of additional fees.

LU and **BE** noted that there is no legal basis for retrieving the money from an inviting person in case the applicant went to a Schengen State different from the one where the inviting person lived.

BE was of the opinion that that this issue should be covered in general terms and maybe only in an article. **COM** recognised the problem of retrieving coverage of costs of living if the inviting person lived in another country. As far as the concerns in relation to the use of this form in the case of "representation", **COM** recalled that the system of representation was based on mutual confidence which should be "*élargie*". to local authorities.

- **COMMENTS ON SPECIFIC POINTS**

HU suggested the addition of "original surname" in the form.

FR wished to add the following information in the form:

- gender of the host and the invitee, (DE supported this suggestion)
- passport number of the invitee and a copy of this passport or identity card,
- possibility of adding details of more than two invitees,
- reference to previous proof-of-accommodation forms,
- indication that the prospective host must fill in the form personally,
- reference to a specific amount (e.g. in France: the guaranteed minimum wage (SMIC),
- reference to the evidence to be produced of the host's means,
- box for the stamps of the consular authorities or border control (entry) evidencing that they have carried out their checks.
- a "reply-coupon" system in order for the consular services to inform mayors whether or not visas have been issued,
- the entry "date and signature of the invitee" should read "date and signature of the applicant".
- reference to a home visit to check on the state of the accommodation in order to avoid abuses on the part of hosts.
- specific reference to the accommodation (surface area, number of rooms, number of occupants, sanitary arrangements, etc.).

In addition, **FR** noted that while the form contains the line "declare being able to bear living costs and repatriation [costs]", repatriation costs are covered by insurance and there is no mention of the requisite EUR 30 000 cover and therefore **FR** suggested that provision be made for the host's explicit undertaking to meet the foreigner's living expenses should he default, unless the host's declaration on page 1 of the form that he can bear the living and repatriation costs is to be considered an equivalent undertaking. Reference should be made to the documents that the host must produce as evidence of his means. Finally, **FR** wondered which proof of accommodation form should be used in the case of nationals from third countries not subject to visa requirements.

PL suggested the following formulation under "Additional information" (top of 2nd page of form):
"..subscribe(s) to their own travel medical insurance for the duration of the stay **and for repatriation for health reasons**, as required by...".

DE found that the declaration should also cover the costs of a compulsory repatriation.

DE, supported by **PL**, were of the opinion that declarations in points 1 and 3 of the form were ambiguous and the aspect of obligation ought to be strengthened.

PL suggested that addition in the last indent of "Documents to be attached" of a reference to **travel health insurance policy**...".

**ANNEX VI: UNIFORM FORMAT OF STAMP INDICATING THAT AN APPLICATION
FOR A VISA HAS BEEN LODGED ***

...¹ visa ...² R/ ...³
xx/xx/xxxx⁴ ⁵

Example :

C visa FR R/ IT
22/04/2006 Consulat de France
Djibouti

* **AT**: scrutiny reservation.

¹ Code of the visa applied for.

² Code of the Member State processing the application.

³ If applicable, code of the Member State represented by the Member State processing the visa application.

⁴ Date of application (eight digits: xx day, xx month, xxxx year).

⁵ Authority processing the visa application.

**ANNEX VII: COMMON LIST OF THIRD COUNTRIES, LISTED IN REGULATION (EC)
No 539/2001, ANNEX I, WHOSE NATIONALS ARE REQUIRED TO BE IN POSSESSION
OF AN AIRPORT TRANSIT VISA WHEN PASSING THROUGH THE INTERNATIONAL
TRANSIT AREA OF AIRPORTS SITUATED IN THE TERRITORY OF THE MEMBER
STATES**

AFGHANISTAN

BANGLADESH

CONGO (Democratic Republic)

ERITREA

ETHIOPIA

GHANA

IRAN

IRAQ

NIGERIA

PAKISTAN

SOMALIA

SRI LANKA

**ANNEX VIII: LIST OF THE RESIDENCE PERMITS ENTITLING THEIR HOLDERS TO
TRANSIT THROUGH THE AIRPORTS OF MEMBER STATES WITHOUT REQUIRING
AN AIRPORT TRANSIT VISA**

ANDORRA:

- *Tarjeta provisional de estancia y de trabajo* (provisional residence and work permit) (white). These are issued to seasonal workers; the period of validity depends on the duration of employment, but never exceeds 6 months. This permit is not renewable
- *Tarjeta de estancia y de trabajo* (residence and work permit) (white). This permit is issued for 6 months and may be renewed for another year
- *Tarjeta de estancia* (residence permit) (white). This permit is issued for 6 months and may be renewed for another year
- *Tarjeta temporal de residencia* (temporary residence permit) (pink). This permit is issued for 1 year and may be renewed twice, each time for another year
- *Tarjeta ordinaria de residencia* (ordinary residence permit) (yellow). This permit is issued for 3 years and may be renewed for another 3 years
- *Tarjeta privilegiada de residencia* (special residence permit) (green). This permit is issued for 5 years and is renewable, each time for another 5 years
- *Autorización de residencia* (residence *authorisation*) (green). This permit is issued for one year and is renewable, each time for another 3 years
- *Autorización temporal de residencia y de trabajo* (temporary residence and work *authorisation*) (pink). This permit is issued for 2 years and may be renewed for another 2 years
- *Autorización ordinaria de residencia y de trabajo* (ordinary residence and work *authorisation*) (yellow). This permit is issued for 5 years
- *Autorización privilegiada de residencia y de trabajo* (special residence and work *authorisation*) (green). This permit is issued for 10 years and is renewable, each time for another 10 years

CANADA:

- Permanent resident card (plastic card)

JAPAN:

- Re-entry permit to Japan

MONACO:

- *Carte de séjour de résident temporaire* de Monaco (temporary resident's permit)
- *Carte de séjour de résident ordinaire* de Monaco (ordinary resident's permit)
- *Carte de séjour de résident privilégié* (privileged resident's permit)
- *Carte de séjour de conjoint de ressortissant monégasque* (residence permit for the spouse of a Monegasque national)

SAN MARINO:

- *Permesso di soggiorno ordinario (validità illimitata)* [ordinary residence permit (no expiry date)]
- *Permesso di soggiorno continuativo speciale (validità illimitata)* [special permanent residence permit (no expiry date)]
- *Carta d'identità de San Marino (validità illimitata)* [San Marino identity card (no expiry date)]

UNITED STATES OF AMERICA:

- Form I-551 permanent resident card (valid for 2 to 10 years)
- Form I-551 Alien registration receipt card (valid for 2 to 10 years)
- Form I-551 Alien registration receipt card (no expiry date)
- Form I-327 Re-entry document (valid for 2 years – issued to holders of a I-551)
- Resident alien card (valid for 2 or 10 years or no expiry date. This document guarantees the holder's return only if his or her stay outside the USA has not exceeded one year.)
- Permit to re-enter (valid for 2 years. This document guarantees the holder's return only if his or her stay outside the USA has not exceeded two years.)
- Valid temporary residence stamp in a valid passport (valid for one year from the date of issue)

**ANNEX IX: STANDARD FORM FOR NOTIFYING AND MOTIVATING REFUSAL OF A
VISA**

**DIPLOMATIC MISSION OR
CONSULAR POST OF MEMBER STATE 1)**



1

REFUSAL OF VISA,

in accordance with Article 23 of the Community Code on visas

Dear Mr/Ms _____,

**The _____ Embassy/Consulate-General/Consulate in _____ has
[on behalf of (*name of represented Member State*)] examined your visa application dated xx
Month 200x. The visa has been refused.**

The refusal of your visa is based on one or several of the following reasons 2) (marked with a tick)
which prevent the issue of a visa:

- ☐ **a false/counterfeit/forged travel document was submitted 3)**
- ☐ **the purpose and conditions of your stay could not be ascertained**
- ☐ **your intention of return to your country of origin could not be ascertained**
- ☐ **proof of sufficient means of subsistence in relation to the period and form of stay, or
the means to return to the country of origin or transit, was not provided**
- ☐ **you have already stayed for three months 4) during a 6-month period on the
territory _____ of the Member States**
- ☐ **an alert has been issued for the purposes of refusing entry**
 - ☐ in the SIS by(*indication of Member State*)
 - ☐ in the national register
- ☐ **one or more Member State(s) consider you to be a threat to public policy, internal
security, public health or the international relations of one or more of the Member
States of the European Union (*each Member State must indicate the references to national
legislation relating to such cases of refusal of entry*).5)**
- ☐ **you did not provide sufficient proof of urgency justifying application for a visa at the
border**

6)

Date and Stamp of diplomatic mission or consular post

Signature of person concerned

¹ No logo is required for Norway, Iceland and Switzerland.

COMMENTS ON ANNEX IX (See also comments on Article 23)

1) **PL** suggested the addition of a reference to border authorities. **FR** entered a reservation on the entire Annex. **IT** preferred a more streamlined form and found the second and third box problematic for legal reasons.

Replying to a comment from **NL**, **COM** reminded delegations that the lay out, including the flag, corresponds to the standard form set out in the SBC.

2) **SI** suggested that specific reasons for refusing a visa at the border be added.

3) **AT** suggested the addition of "or other false/counterfeited or forged documents".

4) **NL** wished to replace 3 months by 90 days.

5) **PL** suggested the deletion of the wording in brackets. **COM** could not accept this deletion.

6) **NL** suggested the addition of a standard clause on how to proceed appeal and where.

ANNEX X: FILLING IN THE VISA STICKER

I. Common entries section

1.1. "VALID FOR" heading:

This heading indicates the territory in which the visa holder is entitled to travel.

This heading may be completed in one of the following ways only:

- (a) Schengen States;
- (b) Schengen State or Schengen States to whose territory the validity of the visa is limited (in this case the following abbreviations are used)¹:

A = Austria

BNL = Belgium, the Netherlands and Luxembourg²

CY=Cyprus

CZE=the Czech Republic

D = Germany

DK= Denmark

E = Spain

EST=Estonia

F= France

FIN = Finland

GR = Greece

H= Hungary

I = Italy

L T= Lithuania

LVA=Lativa

M=Malta

P= Portugal

PL= Poland,

S = Sweden

SK=Slovakia

SVN=Slovenia

IS = Iceland

N = Norway

- (c) Member State (using the abbreviations in (b)) which issued the national long-stay visa

1.2. When the sticker is used to issue the uniform short-stay or transit visa the heading "valid for" is filled in using the words "Schengen States", in the language of the Member State which issued the visa.

¹ HU wondered why the full name of the Member State could not be used, as in the case of visa issued for the territory of one Member State (point 1.3).

² Replying to a comment made by BE, COM noted that codes for the individual states should replace this one in order to be in line with the points made in relation to Article 21.

1.3. When the sticker is used to issue visas which restrict entry, stay and exit to the territory of one Member State, this heading shall be filled in with the name of the Member State to which the visa holder's entry, stay and exit are limited, in the language of that Member State.

1.4. When the sticker is used to issue visas with limited territorial validity pursuant to Article 21(1), last paragraph, of this Regulation, the following options for the codes to be entered may be used:

- (a) entry of the codes for the Member States concerned;
- (b) entry of the words "Schengen States", followed in brackets by the minus sign and the codes of the Member States for whose territory the visa is not valid.

2. "FROM ... TO" heading:

This heading indicates the period of the holder's stay as authorised by the visa.

The date from which the visa holder may enter the territory for which the visa is valid is written as below, following the word "FROM":

- the day is written using two digits, the first of which is a zero if the day in question is a single digit.
- horizontal dash.
- the month is written using two digits, the first of which is a zero if the month in question is a single digit.
- horizontal dash.
- the year is written using two digits, which correspond with the last two digits of the year.

For example: 05-12-07 = 5 December 2007.

The date of the last day of the period of the visa holder's authorised stay is entered after the word "TO". The visa holder must have left the territory for which the visa is valid by midnight on this date

This date is written in the same way as the first date above.

3. "NUMBER OF ENTRIES" heading:

This heading shows the number of times the visa holder may enter the territory for which the visa is valid, i.e. it refers to the number of periods of stay which may be spread over the entire period of validity, see 4.

The number of entries may be one, two or more¹. This number is written to the right hand-side of the pre-printed part, using "01", "02" or the abbreviation "MULT", where the visa authorises more than two entries.

For a transit visa, only one or two entries may be authorised ("01" or "02" is entered). Multiple entries shall be indicated as "MULT".

The visa is no longer valid when the total number of exits made by the holder equals the number of authorised entries, even if the holder has not used up the number of days authorised by the visa.²

4. "DURATION OF VISIT ... DAYS" heading

This heading indicates the number of days during which the holder may stay in the territory for which the visa is valid. This stay may be continuous or, depending on the number of days authorised, spread over several periods between the dates mentioned under 2, bearing in mind the number of entries authorised under 3.³

The number of days authorised is written in the blank space between "DURATION OF VISIT" and "DAYS", in the form of two digits, the first of which is a zero if the number of days is less than 10.

The maximum number of days that can be entered under this heading is 90 in any half-year.⁴

When a visa valid for more than six months is issued, the mention of 90 days means 90 days within every 6 months.

¹ **FR** noted that it was important to indicate "1", "2" or "multiple" in order to simplify matters for staff operating the technical part of visa systems. For reasons of saving space, **LU** wondered whether "MULT" could be replaced by "M". **COM** would verify whether this was compatible with the technical specifications.

² **HU** suggested that this paragraph be moved to the Instructions.

³ **NO** wondered whether a multiple visa with a total validity for one, two or more years could be issued with allowed stay of maximum number of days inferior to 90 days in any half-year period. If this is the case, Article 20(3) should clarify this better, for instance "Multiple visa, entitling the holder to several entries, up to three months or...". The reason behind this suggestion is that Norway has experienced the need for issuing such visa in practice and it seems that some Schengen States issue multiple entry visa with an indication of for instance 45 days. **COM** found this suggestion somewhat awkward and wished to study this matter.

⁴ **HU** suggested that the third and fourth paragraphs moved to the Instructions.

5. "ISSUED IN ... ON ..." heading

This heading gives the name of the town in which the diplomatic mission or consular post which is issuing the visa is situated. The date of issue is indicated after "ON".

The date of issue is written in the same way as the date referred to in 2.

6. "PASSPORT NUMBER" heading:

This heading indicates the number of the travel document to which the visa sticker is affixed.

In case the person to which the visa is issued is included in the passport of spouse, mother or father, the number of the travel document of that person shall be indicated.

When the applicants' travel document is not recognised by the visa-issuing Member State, the uniform format for the separate sheet for affixing visas shall be used for affixing the visa.

The number to be entered under this heading, in the case of the visa sticker is affixed to the separate sheet, is not the passport number but the same typographical number as appears on the form, made up of six digits.

7. "TYPE OF VISA" heading:

In order to facilitate matters for the control authorities, this heading shall specify the type of visa using the letters A, B, C and D as follows:

- A: airport transit visa
- B: transit visa
- LTV B: transit visa with limited territorial validity²
- C: short-stay visa
- LTV C: short-stay visa with limited territorial validity
- D: long-stay national visa³

8. "SURNAME AND FIRST NAME" heading:

The first word in the "surname" box followed by the first word in the "first name" box of the visa holder's travel document shall be written in that order. The diplomatic mission or consular post shall verify that the name and first name which appear in the travel document and which are to be entered under this heading and in the section to be electronically scanned are the same as those appearing in the visa application.

¹ **COM** would consider the possible addition of information in relation to the filling in of a sticker for a multiple entry ATV corresponding to the CCI, Annex 13, Example 3, as suggested by **LT**.

² **PL** wished to delete the reference to LTV B and LTV C as it is already covered in point 1. **FR**, **BE** and **LU** supported this suggestion.

³ **DE** wondered why a reference to "D" visas had been maintained. **FR**, supported by **BE** suggested the reintroduction of a reference to D+C visa.

9.¹

I. Mandatory entries to be added in the "COMMENTS" section²

- a) Code indicating "No Insurance Required"

In case the holder of the visa has been exempted from the requirement of being in possession of a travel medical insurance, as set out in Article 15, the code "N-INS" shall be entered in this section.

- b) Code indicating that proof of accommodation and/or bearing of costs by the invitee has been submitted

In case the applicant has submitted

- proof of accommodation, when applying for a visa, the code "Annex V-H³", shall be added
- proof of bearing of costs, when applying for a visa, the code "Annex V-G", shall be added

When proof of both has been submitted, the code "Annex V-H+G" shall be added.

II National entries in "COMMENTS" section

This section shall also contain the comments in the language of the visa-issuing Member State relating to national provisions. However, such comments may not duplicate the mandatory comments referred to in part I of this Annex.

¹ **FI** wondered whether the entries in this point would be relevant, once VIS became operational. **COM** recalled that the roll-out of the VIS would be progressive and therefore these entries would continue to be relevant for quite some time.

² **PL** was not in favour of the addition of such codes.

³ Replying to a query from **HU**, **COM** noted that "V" referred to Annex V of the draft Visa Code (i.e. the harmonised form for proof of accommodation and/or bearing of costs) and "H" referred to proof accommodation and "G" to bearing of costs, the purpose being to introduce standard codes.

III Section for the photograph

The visa-holder's photograph, in colour, shall be integrated in the space reserved for that purpose.

The following rules shall be observed with respect to the photograph to be integrated into the visa sticker.

The size of the head from chin to crown shall be between 70% and 80% of the vertical dimension of the surface of the photograph.

The minimum resolution requirements shall be:

- 300 pixels per inch (ppi), uncompressed, for scanning,
- 720 dots per inch (dpi) for colour printing of photos.

IV Machine-readable zone

This section is made up of two lines of 36 characters (OCR B-10 cpi).

**ANNEX XI: UNIFORM FORMAT FOR THE STAMP FOR EXTENDING THE
DURATION OF STAY AUTHORISED BY A VISA**

VISA n°	
7.3.06 ¹	15.3.06 ²
30 ³	35 ⁴
Ausländeramt ⁵	20.2.06 ⁶

¹ Date of expiration of the period of validity.

² Length of initial authorised period of stay.

³ New date of expiration of the period of validity.

⁴ New length of authorised stay.

⁵ Authority taking the decision on the extension.

⁶ Date of the decision of the extension.

ANNEX XII¹ Part 1: OPERATIONAL INSTRUCTIONS FOR ISSUING VISAS AT THE BORDER TO SEAMEN IN TRANSIT WHO ARE SUBJECT TO VISA REQUIREMENTS

The objective of these operational instructions is to provide rules for the exchange of information between the competent authorities of the Member States applying the Community acquis with respect to seamen in transit subject to visa requirements. Insofar as a visa is issued at the border on the basis of the information that has been exchanged, the responsibility lies with the Member State issuing the visa.

For the purposes of these operational instructions:

"Member State port": means a port constituting an external border of a Member State

"Member State airport": means an airport constituting an external border of a Member State; and

I. Signing on a vessel berthed or expected at a Member State port

(a) entry into the Member States' territory via an airport situated in another Member State²

- the shipping company or its agent shall inform the competent authorities at the Member State port where the ship is berthed or expected that seamen subject to visa requirements are due to enter via a Member State airport. The shipping company or its agent shall sign a guarantee in respect of those seamen;

¹ **PT** intends to present a note on technical specifications about this Annex.

² **NL** proposed to delete the end of the sentence from "...via an airport...".

- the said competent authorities shall verify as soon as possible whether the information provided by the shipping company or its agent is correct and examine whether the other conditions for entry into the Member State territory have been satisfied. The travel route within the Member States' territory shall also be verified e.g. by reference to the airline tickets;
 - the competent authorities at the Member State port shall inform the competent authorities at the Member State airport of entry, by means of a duly completed form for seamen in transit who are subject to visa requirements (as set out in Annex XIII, Part 2), sent by fax, electronic mail or other means, of the results of the verification and indicate whether a visa can in principle be issued at the border;
 - where the verification of the available data is positive and the outcome clearly concurs with the seaman's declaration or documents, the competent authorities at the Member State airport of entry or exit can issue a transit visa at the border with a maximum validity of five days. Furthermore, in such cases the seaman's travel document referred to above shall be stamped with a Member State entry or exit stamp and given to the seaman concerned.
- (b) entry into the Member States' territory via a land or sea border situated in another Member State
- the procedure is the same as that for entry via a Member State airport except that the competent authorities at the border post via which the seaman concerned enters the Member State territory shall be informed.

II. Leaving service from a vessel that has entered a Member State port

- (a) exit from the Member States' territory via an airport situated in another Member State
 - the shipping company or its agent shall inform the competent authorities at the said Member State port of the entry of seamen subject to visa requirements who are due to leave their service and exit from the Member States' territory via a Member State airport. The shipping company or its agent shall sign a guarantee in respect of those seamen;
 - the competent authorities shall verify as soon as possible whether the information provided by the shipping company or its agent is correct and examine whether the other conditions for entry into the Member States' territory have been satisfied. The travel route within the Member States' territory shall also be verified e.g. by reference to the airline tickets;
 - where the verification of the available data is positive, the competent authorities may issue a transit visa with a maximum validity of five days.
- (b) exit from the Member States' territory via a land or sea border situated in another Member State
 - the procedure is the same as that for exit via a Member State airport.

III. Transferring from a vessel that entered a Member State port to a vessel that will sail from a port situated in another Member State

- the shipping company or its agent shall inform the competent authorities at the said Member State port of the entry of seamen subject to visa requirements who are due to leave their service and exit from the Member States' territory via another Member State port. The shipping company or its agent shall sign a guarantee in respect of those seamen;
- the competent authorities shall verify as soon as possible whether the information provided by the shipping company or its agent is correct and examine whether the other conditions for entry into the Member States' territory have been satisfied. The competent authorities at the Member State port from which the seamen will leave the Member States' territory by ship shall be contacted for the examination. A check shall be carried out to establish whether the ship they are joining is berthed or expected there. The travel route within the Member States' territory shall also be verified;
- where the verification of the available data is positive, the competent authorities may issue a transit visa with a maximum validity of five days.

ANNEX XII: Part 2¹

FORM FOR SEAMEN IN TRANSIT WHO ARE SUBJECT TO VISA REQUIREMENTS			
FOR OFFICIAL USE:			
ISSUER: (STAMP) SURNAME/CODE OF OFFICIAL:		RECIPIENT: AUTHORITY	
DATA ON SEAMAN:			
SURNAME(S): 1A		FORENAME(S): 1B	
NATIONALITY: 1C		RANK/GRADE: 1D	
PLACE OF BIRTH: 2A		DATE OF BIRTH: 2B	
PASSPORT NUMBER: 3A		SEAMAN'S BOOK NUMBER: 4A	
DATE OF ISSUE: 3B		DATE OF ISSUE: 4B	
PERIOD OF VALIDITY: 3C		PERIOD OF VALIDITY: 4C	
DATA ON VESSEL AND SHIPPING AGENT:			
NAME OF SHIPPING AGENT:		5	
NAME OF VESSEL: 6A		FLAG: 6B	
DATE OF ARRIVAL: 7A		ORIGIN OF VESSEL: 7B	
DATE OF DEPARTURE: 8A		DESTINATION OF VESSEL: 8B	
DATA ON MOVEMENT OF SEAMAN:			
FINAL DESTINATION OF SEAMAN:		9	
REASONS FOR APPLICATION: SIGNING ON ☐		TRANSFER ☐ LEAVING SERVICE ☐ 10	
MEANS OF TRANSPORT		CAR ☐ TRAIN ☐ AEROPLANE ☐ 11	
DATE OF: ARRIVAL:		TRANSIT: DEPARTURE: 12	
CAR* ☐ REGISTRATION N° :		TRAIN* ☐ JOURNEY ROUTE:	
FLIGHT INFORMATION: DATE:		TIME: FLIGHT NUMBER:	
Formal declaration signed by the shipping agent or the ship-owner confirming his responsibility for the stay and, if necessary, for the repatriation costs of the seaman.		13	

* = to be completed only if data available

¹ NL proposed to add the phone number and the IMO number of the ship. DE supported NL on the IMO number.

DETAILED DESCRIPTION OF FORM

The first four points deal with the identity of the seaman.

(1)	A. Surname(s) ¹
	B. Forename(s)
	C. Nationality
	D. Rank/Grade
(2)	A. Place of birth
	B. Date of birth
(3)	A. Passport number
	B. Date of issue
	C. Period of validity
(4)	A. Seaman's book number
	B. Date of issue
	C. Period of validity

Points 3 and 4 have been shown separately for clarity since, depending on the nationality of the seaman and the Member State being entered, a passport or a seaman's book can be used for identification purposes.

The next four points deal with the shipping agent and the vessel concerned.

- (5) Name of shipping agent (the individual or corporation who represents the ship-owner on the spot in all matters relating to the ship-owner's duties in fitting out the vessel).

¹ Please give the surname(s) that appear in the passport.

(6)	A. Name of vessel
	B. Flag (under which the merchant vessel is sailing)
(7)	A. Date of arrival of vessel
	B. Origin (port) of vessel
	Letter "A" refers to the vessel's date of arrival in the port where the seaman is to sign on.
(8)	A. Date of departure of vessel
	B. Destination of vessel (next port)

Points 7A and 8A give indications regarding the length of time for which the seaman may travel in order to sign on. It should be remembered that the route followed is very much subject to unexpected interferences and external factors such as storms, breakdowns, etc.

The next four points clarify the reason for the seaman's journey and his destination.

- (9) The "final destination" is the end of the seaman's journey. This may be either the port at which he is to sign on or the country to which he is heading if he is leaving service.
- (10) Reasons for application
- (a) In the case of signing on, the final destination is the port at which the seaman is to sign on.
 - (b) In the case of transfer to another vessel within the Member States' territory, it is also the port at which the seaman is to sign on. Transfer to a vessel situated outside the Member States' territory must be regarded as leaving service.
 - (c) In the case of leaving service, this can occur for various reasons, such as end of contract, accident at work, urgent family reasons, etc.

(11) Means of transport

List of means used within the Member States' territory by the seaman in transit who is subject to a visa requirement to reach his final destination. On the form, the following three possibilities are envisaged:

(a) Car (or coach)

(b) Train

(c) Aeroplane

(12) Date of arrival (on the Member States' territory)

Applies primarily to a seaman at the first Member State airport or border-crossing point (since it may not always be an airport) at the external border via which he wishes to enter the Member States' territory.

Date of transit

This is the date on which the seaman signs off at a port in the Member States' territory and heads towards another port also situated in the Member States' territory.

Date of departure

This is the date on which the seaman signs off at a port in the Member States' territory to transfer to another vessel at a port situated outside the Member States' territory or the date on which the seaman signs off at a port in the Member States' territory to return to his home (outside the Member States' territory).

After determining the three means of travel, available information should also be provided concerning those means:

- (a) car, coach: registration
 - (b) train: name, number, etc.
 - (c) flight data: date, time, number
- (13) Formal declaration signed by the shipping agent or the ship- owner confirming his responsibility for the stay and, if necessary, for the repatriation costs of the seaman

If the seamen are travelling in a group, each one has to fill in the data for points 1A to 4C.

**ANNEX XIII: SPECIFIC PROCEDURES AND CONDITIONS FACILITATING THE
ISSUANCE OF VISAS TO MEMBER OF THE OLYMPIC FAMILY PARTICIPATING IN
THE OLYMPIC GAMES AND PARLYMPIC GAMES**

Chapter I

PURPOSE AND DEFINITIONS

Article 1

Purpose

The following specific procedures and conditions facilitating the application for visas and issuing of uniform short-stay visas to members of the Olympic family for the duration of the [year] Olympic and Paralympic Games.

In addition, the relevant provisions of the Community *acquis* concerning procedures for applying for and issuing the uniform visa apply.

Article 2

Definitions

For the purposes of this Regulation:

- 1) "Responsible organisations" relating to measures envisaged to facilitate the procedures for applying for and issuing visas for members of the Olympic family taking part in the [year] Olympic and/or Paralympic Games means the official organisations, in terms of the Olympic Charter, which are entitled to submit lists of members of the Olympic family to the Organising Committee of the [year] Olympic and Paralympic Games with a view to the issue of accreditation cards for the Games;

- 2) "Member of the Olympic family" means any person who is a member of the International Olympic Committee, the International Paralympic Committee, International Federations, the National Olympic and Paralympic Committees, the Organising Committees of the Olympic Games and the national associations, such as athletes, judges/referees, coaches and other sports technicians, medical personnel attached to teams or individual sportsmen/women and media-accredited journalists, senior executives, donors, sponsors or other official invitees, who agree to be guided by the Olympic Charter, act under the control and supreme authority of the International Olympic Committee, are included on the lists of the responsible organisations and are accredited by the Organising Committee of the [year] Olympic and Paralympic Games as participants in the [year] Olympics and/or Paralympic Games;
- 3) "Olympic accreditation cards" issued by the Organising Committee of the [year] Olympic and Paralympic Games, in accordance with [reference to national legislation] means one of two secure documents, one for the Olympic Games and one for the Paralympic Games, each bearing a photograph of its holder, establishing the identity of the member of the Olympic family and authorising access to the facilities at which competitions are held and to other events scheduled throughout the duration of the Games;
- 4) "Duration of the Olympic Games and Paralympic Games" means the period from To for the [year] Winter Olympic Games and the period from to for the [year] Paralympic Games;
- 5) "Organising Committee of the [year] Olympic and Paralympic Games" means the Committee set up on [reference to national provisions] to organise the [year] Olympic and Paralympic Games in.... , which decides on accreditation of members of the Olympic family taking part in those Games;
- 6) "Services responsible for issuing visas" means the services designated in [the Member State hosting the Olympic Games and Paralympic Games] to examine applications and issue visas to members of the Olympic family.

Chapter II

ISSUE OF VISAS

Article 3

Conditions

A visa may be issued pursuant to this Regulation only where the person concerned:

- (a) has been designated by one of the responsible organisations and accredited by the Organising Committee of the [year] Olympic and Paralympic Games as a participant in the [year] Olympic and/or Paralympic Games;
- (b) holds a valid travel document authorising the crossing of the external borders, as referred to in Article 5 of the Schengen Borders Code³¹⁹;
- (c) is not a person for whom an alert has been issued for the purposes of refusing entry;
- (d) is not considered to be a threat to public policy, national security or the international relations of any of the Member States.

Article 4

Filing of the application

1. Where a responsible organisation draws up a list of the persons selected to take part in the [year] Olympic and/or Paralympic Games, it may, together with the application for an Olympic accreditation card for the persons selected, file a collective application for visas for those persons selected who are required to be in possession of a visa in accordance with Regulation (EC) No 539/2001, except where those persons hold a residence permit issued by a Member State, or a residence permit, issued by United Kingdom or Ireland, in accordance with Directive 2004/38/EC.

³¹⁹ OJ L 105, 13.4.2006.

2. Collective applications for visas for the persons concerned shall be forwarded at the same time as applications for the issue of an Olympic accreditation card to the Organising Committee of the [year] Olympic and Paralympic Games in accordance with the procedure established by it.
3. A single visa application per person shall be filed for persons taking part in the [year] Olympic and/or Paralympic Games.
4. The Organising Committee of the [year] Olympic and Paralympic Games shall forward to the services responsible for issuing visas, collective applications for visas as quickly as possible, together with copies of applications for the issue of an Olympic accreditation card for the persons concerned, bearing their full name, nationality, sex and date and place of birth and the number, type and expiry date of their passport.

Article 5

Examination of the collective application for visas and type of the visa issued

1. The visa shall be issued by the services responsible for issuing visas following an examination designed to ensure that the conditions set out in Article 3 are met.
2. The visa issued shall be a uniform short-stay, multiple entry visa authorising a stay of not more than 3 months for the duration of the [year] Olympics and/or Paralympic Games.
3. Where the member of the Olympic family concerned does not meet the conditions set out in point (c) or (d) of Article 3, the services responsible for issuing visas may issue a visa with limited territorial validity in accordance with Article 21 of the Code on Visas.

Article 6
Form of the visa

1. The visa shall take the form of two numbers entered on the Olympic accreditation card.
The first number shall be the visa number. In the case of a uniform visa, that number shall be made up of seven (7) characters comprising six (6) digits preceded by the letter "C". In the case of a visa with limited territorial validity, that number shall be made up of eight (8) characters comprising six (6) digits preceded by the letters "XX"³²⁰. The second number shall be the number of the passport of the person concerned.
2. The services responsible for issuing visas shall forward the visa numbers to the Organising Committee of the [year] Olympic and Paralympic Games for the purposes of issuing accreditation cards.

Article 7
Waiver of fees

The processing of visa applications and the issue of visas shall not give rise to any fees being charged by the services responsible for issuing visas.

³²⁰ Following **COM** a reference to the ISO code of the organising country should be added here.

Chapter III

GENERAL AND FINAL PROVISIONS

Article 8

Cancellation of a visa

Where the list of persons put forward as participants in the [year] Olympic and/or Paralympic Games is amended before the Games begin, the responsible organisations shall inform without any delay the Organising Committee of the [year] Olympic and Paralympic Games thereof so that the accreditation cards of the persons removed from the list may be revoked. The Organising Committee shall notify the services responsible for issuing visas thereof and shall inform them of the numbers of the visas in question.

The services responsible for issuing visas shall cancel the visas of the persons concerned. They shall immediately inform the authorities responsible for border checks thereof, and the latter shall without delay forward that information to the competent authorities of the other Member States.

Article 9

External border checks

1. The entry checks carried out on members of the Olympic family who have been issued visas in accordance with this Regulation shall, when such members cross the external borders of the Member States, be limited to checking compliance with the conditions set out in Article 3.

2. For the duration of the Olympic and/or Paralympic Games:
- (a) entry and exit stamps shall be affixed to the first free page of the passport of those members of the Olympic family for whom it is necessary to affix such stamps in accordance with Article 10(1) of the Schengen Borders Code . Upon first entry, the visa number shall be indicated on that same page;
 - (b) the conditions for entry provided in Article 5(1)(c) of the Schengen Borders Code shall be presumed to be fulfilled once a member of the Olympic family has been duly accredited.
3. Paragraph 2 shall apply to members of the Olympic family who are third-country nationals, whether or not they are subject to the visa requirement under Regulation (EC) No 539/2001.
-