

Tutorial for leadership teams of ITU-T study groups, TSAG, etc.

Overview of the Constitution, the Convention and the General Rules of Conferences, Assemblies and Meetings

**Arnaud GUILLOT
LEGAL ADVISER
ITU**

Geneva, 10-11 January 2013

LEGAL FRAMEWORK

- WTSA Res. 1 – Rules of Procedure of the ITU Telecommunication Standardization Sector
 - Rec. A.1. Work Methods for Study Groups of the ITU-T
- Those legal instruments as well as those working procedures adopted by any meeting of a Sector must be compatible with:
- The ITU Constitution (CS)
 - The ITU Convention (CV)
 - The General Rules of Conferences, Assemblies and Meetings (GR)

adopted by the Plenipotentiary Conference

GR shall apply to meetings of the Sectors

BASIC PREROGATIVES AND POWERS OF THE CHAIRMAN

A. Chairing meetings

B. Directing the deliberations

1. *"The chairman ... shall ... direct the deliberations ..."* (GR 59)
2. *"Persons desiring to speak must first obtain the consent of the chairman."* (GR 94)
3. *"As a general rule, they shall begin by announcing in what capacity they speak."* (GR 94)
4. *"Speakers must express themselves slowly and distinctly, separating their words and pausing as necessary in order that everybody may understand their meaning."* (GR 95)
5. *"The chairman ... may at any time submit proposals likely to accelerate the debates."* (GR 84)

BASIC PREROGATIVES AND POWERS OF THE CHAIRMAN (contd.)

A. Maintaining Order

1. "The chairman ... shall ensure that order is maintained at plenary meetings." (GR 60)

B. Ensuring that discussion is limited to the point at issue

1. "The chairman shall ensure that discussion is limited to the point at issue ..." (GR 62)
2. "The chairman ... may interrupt any speaker who departs [from the point at issue] and request such speakers to confine their remarks to the subject under discussion." (GR 62)

C. Protecting the right of each delegation/ representative of a Sector Member to express its opinion freely and fully on the point at issue

1. "It shall be the duty of the chairman to protect the right of each delegation to express its opinion freely and fully on the point at issue." (GR 61)
2. "The [Plenary] Meeting may, if necessary, decide how many speeches any one delegation may make on any particular point, and how long they may last." (GR 108)
3. "However, as regards questions of procedure, the chairman shall limit the speaking time allowed to a maximum of five minutes." (GR 109)
4. "When a speaker has exceeded the time allowed, the chairman shall notify the meeting and request the speaker to conclude briefly." (GR 110)

BASIC PREROGATIVES AND POWERS OF THE CHAIRMAN (contd.)

A. Putting questions to the vote

1. *"The chairman ... shall ... put questions to the vote ..."* (GR 59)
2. *"Any question of competence that may arise shall be settled before a vote is taken on the substance of the matter under discussion."* (GR 113)

B. Ruling on motions and points of order

- *"The chairman shall rule on motions of order and points of order ..."* (GR 60)

BASIC PREROGATIVES AND POWERS OF THE CHAIRMAN (contd.)

A. Proposing postponement of discussion, closure of list of speakers, or adjournment or suspension of a meeting

1. *"The chairman shall ... in particular, ... be empowered to propose that discussion on a question be postponed or closed, or that a meeting be suspended or adjourned." (GR 60)*
2. *"During the debate, the chairman may rule that the list of speakers wishing to take the floor be read.
[After reading the list of speakers, the] chairman shall add the names of other delegations which indicate that they wish to speak and may then, with the assent of the meeting, rule that the list be closed.
Nevertheless, as an exceptional measure, the chairman may if finding it appropriate to do so rule that a reply may be made to any previous statement, even after the list of speakers has been closed." (GR 111)*
3. *"The list of speakers having been exhausted, the chairman shall declare discussion on the matter closed." (GR 112)*

DECISION-MAKING PROCEDURE

- A. Consensus: almost all decisions are adopted by this procedure, ITU's culture being one of negotiation and consensus-building
- B. "Sounding out"
- C. Voting (last resort)
- D. Quorum
 - Only for decisions taken in Plenary
 - Presence in the room of more than half the Member States delegations registered to the meeting and having the right to vote.

Some relevant provisions of the Basic Texts to be kept in mind

- A. Recognition of the sovereign right of each Member State to regulate its telecommunications
 - Preamble of the CS
- B. Purposes of the Union
 - CS Article 1, in particular Nos. 3.A, 5, 8, 9, 13 & 16
- C. Rights of Member States and Sector Members
 - CS Article 3
- D. Functions and Structure of ITU-T
 - CS Article 17
 - CV Article 13 (WTSAs)
- E. Functions, duties and organization of Study Groups, Advisory Group
 - CV Article 14 (Study Groups)
 - CV Article 14A (Advisory Group)
 - CV Article 20 (Conduct of Business of Study Groups)
 - Some key provisions of CV Article 20
 - No. 244 relating to vacancies of chairmanship
 - Nos. 246A to 247A relating to the adoption & approval of questions & recommendations
 - No. 248A. Possibility for the Director to invite, in consultation with the Chairman of the Study Group concerned, an organization which does not participate in the Sector to send representatives to take part in the study of a specific matter in the SG concerned or its subordinate groups
 - Clause 2.3.1 of WTA Resolution 1. Possibility for the Chairman to invite experts on a case-by-case basis.

Some relevant provisions of the CS & CV to be kept in mind (contd.)

F. Associates

- CV Article 19
May only participate in the work of a given Study Group or subgroups thereof (CV 241B) => only one Study Group of a Sector
- CV Article 20
May not take part in decision-making or liaison activity of the Study Group
- Can be rapporteur for relevant Study Group

G. Academia

Based on Resolution 169 (Guadalajara, 2012) and WTSA Resolution 71, Academia may participate in SGs and other groups until the next PP with rights similar to those of Sector Members; they may not however have a role in decision-making, including adoption of recommendations, regardless of the approval procedure. A representative of Academia may service as a rapporteur, chair of working parties but not chair of vice-chair of Study Groups.

- This overview will probably raise more questions than it answers
- JUR remains at your disposal should you require any further explanation