

REVIEW OF APPU GOVERNING DOCUMENTATION

RULES OF PROCEDURE OF CONGRESSES: DELEGATES' CREDENTIALS (Article 4)

(Document prepared by the Sub-Group¹ of the APPU / UPU Reform Working Group for submission to Congress as reference material regarding proposals 19.4.1, 19.4.2, 19.4.3, 19.4.4 and 19.4.5.)

1. Subject	References/paragraphs
Informing Congress on: <ul style="list-style-type: none"> - the four documents involved in the review of Congress RoP - the review of Article 4 of the APPU Congress RoP regarding Delegates' Credentials - the decision to base the review on the current text of the UPU Congress RoP relating to credentials, and the reasons for this decision - the five proposals that have been drafted on Article 4 	§§ 1.1 – 1.2 § 1.3 § 1.4 § 2.1, Appendices 1 - 5
2. Decisions expected Congress is asked to: <ul style="list-style-type: none"> - note the review of Article 4 of the APPU Congress RoP regarding Delegates' Credentials - note the decision to base the review on the current text of the UPU Congress RoP relating to credentials, and the reasons for this decision - note the summary of the five proposals that have been drafted on Article 4 - note the detailed outcome of the Sub-Group's work as drafted in: <ul style="list-style-type: none"> - Congress proposal 19.4.1 - Congress proposal 19.4.2 - Congress proposal 19.4.3 - Congress proposal 19.4.4 - Congress proposal 19.4.5 - make decisions on: <ul style="list-style-type: none"> - Congress proposal 19.4.1 - Congress proposal 19.4.2 - Congress proposal 19.4.3 - Congress proposal 19.4.4 - Congress proposal 19.4.5 	§ 1.3 § 1.4 § 2.1 Appendix 1 Appendix 2 Appendix 3 Appendix 4 Appendix 5 Appendix 1 Appendix 2 Appendix 3 Appendix 4 Appendix 5

1. Introduction

1.1 There are four documents that deal with the review of the Rules of Procedure of APPU Congresses ("APPU Congress RoP" or "Congress RoP"). The principal document is Congress 2022 Doc 24.1 – "Review of APPU Governing Documentation: Rules of Procedure of Congresses: Main Document". It deals with the methodology of the review etc and presents the outcome of the review for 13 of the 16 APPU Congress RoP.

¹ The Sub-Group is the unit with responsibility for reviewing APPU governing documentation (most recently advised to the EC in EC 2021 Doc 13.3.3).

- 1.2 In paragraph 5.2 of Congress 2022 Doc 24.1 it is explained that, for various reasons, three of the Congress RoP are covered in separate, individual documents. These documents are:
- Congress 2022 Doc 24.2 which deals with RoP Article 4, Delegates' Credentials;
 - Congress 2022 Doc 24.3 which deals with RoP Article 5, Observers; and
 - Congress 2022 Doc 24.4 which deals with RoP Article 9, Quorum. The document also covers a related matter not addressed in the APPU Congress RoP i.e., conditions of approval of proposals.
- 1.3 This document (Congress 2022 Doc 24.2) presents the review findings for Article 4 (Delegates' credentials).
- 1.4 The Sub-Group dealing with the review of APPU governing documentation assessed Article 4 using the corresponding UPU Congress RoP (Article 3 – Delegates' Credentials) as a guide. The reasons for deciding on this methodology were as follows.
- (i) Article 4 of the APPU RoP has not changed since the APPU adopted permanent RoP in 1985. Contrastingly, Article 3 of the UPU RoP has been reviewed regularly and is, therefore, more up to date than the APPU provision.
 - (ii) Given that in many member countries the process for preparing credentials for UPU purposes and APPU purposes is undertaken by the same departments, unnecessary differences (between UPU and APPU requirements) in the drafting, signing and lodgement details run the risk of errors being made. Accordingly, to the extent that is appropriate, it would be efficient for there to be as much common ground as possible in the requirements issued by both organisations.
 - (iii) To illustrate the point in sub-paragraph (ii) above, the Credentials Committee at the 2017 APPU Tehran Congress noted issues that would not have occurred if the APPU requirements for credentials were in line with those of the UPU e.g., sending credentials by electronic means, credentials signed by a party permitted, via delegated authority, to do so (but not the Head of State, Head of Government, or Minister of Foreign Affairs), and documentation being in due and proper form.
 - (iv) To have an unnecessary difference between the credentials requirements for the APPU and UPU has the effect of making the APPU more restrictive than the UPU. The Sub-Group did not consider that as desirable.

2. Proposals for Congress consideration

- 2.1 There are five proposals submitted regarding APPU Congress RoP Article 4. These are as follows.
- (i) Proposal 19.4.1 (at Appendix 1) – a series of five amendments to paragraph 1 of Article 4. The general theme is updating in line with the UPU on matters such as the powers conferred on delegates, qualification of signature status, etc. The use of template documents is also referenced in the proposal.
 - (ii) Proposal 19.4.2 (at Appendix 2) – a new provision specifying that specific credentials or full powers do not need to be produced by certain parties in relation to concluding matters regarding the Acts.
 - (iii) Proposal 19.4.3 (at Appendix 3) – clarification of the process for physical or electronic depositing of credentials.

- (iv) Proposal 19.4.4 (at Appendix 4) – a new provision that introduces more precision and control on the activities of member countries whose delegates do not have credentials or have not deposited them.
- (v) Proposal 19.4.5 (at Appendix 5) – a new provision designed to streamline the credentials process by allowing the submission of credentials by secure electronic means.

3. Related item

- 3.1 In the course of reviewing APPU Congress RoP Article 4, it came to the attention of the Sub-Group that the requirement to submit credentials in “due and proper form” (reference paragraph 1 of Article 4), has been an issue for APPU members. The observation was that there is no record of the APPU setting out what is “due and proper form”.
- 3.2 For its part, the UPU has some simple template documents for credentials and proxies that it makes available to members and encourages their use.
- 3.3 The Sub-Group initially decided not to include this matter in the RoP review process. However, during a consultation of the Reform Working Group on the draft documentation, it was agreed that there should be reference to the UPU template documents in the APPU Congress RoP. Accordingly, an amendment has been drafted in proposal 19.4.1.

13th CONGRESS

Rules of Procedure of Congresses – Proposal

19.4.1

Article 4 Delegation Credentials

CHINA, NEW ZEALAND

Title and paragraph 1. Amend as follows:

2005 Seoul Text

Delegation's Credentials

1. Delegates' credentials shall be signed by the Head of State, the Head of Government or the Minister of Foreign Affairs of the country concerned. They must be drawn up in due form. Credentials authorizing the holder to sign the Acts shall implicitly include the right to vote. Delegates to whom the relevant authorities have given full powers without specifying their scope shall be authorized to debate, vote and sign the Acts unless the wording of the credentials is explicitly to the contrary.

Proposed Text

Delegates' credentials

1. Delegates' credentials **shall be drawn up in due and proper form as per the model templates circulated by the Bureau** and signed by the Head of State, the Head of Government or the Minister for Foreign Affairs of the country concerned / ... /, **or by any other government official duly authorized in writing by one of those authorities to sign the credentials. A copy of such authorization shall be presented together with the credentials. The credentials of delegates entitled to sign the Acts (plenipotentiaries) shall specify the scope of such signature (signature subject to ratification or approval, signature ad referendum, definitive signature). In the absence of such specific information, the signature shall be regarded as being subject to ratification or approval.** Credentials authorizing the holder to sign the Acts shall implicitly include the right to speak and to vote. Delegates on whom the relevant authorities have conferred full powers without specifying their scope shall be authorized to speak, to vote and to sign the Acts unless the wording of the credentials is explicitly to the contrary. **Credentials authorizing the holder to participate on behalf of the country concerned or represent the latter shall implicitly include the right to speak and to vote only.**

Explanation of changes and reasons

1. Title

This is changed for editorial consistency with the corresponding UPU text (i.e., Article 3 of the UPU Congress RoP).

2. Text change # 1

In the first to third lines of paragraph 1 of the Proposed Text, the words

“ ... shall be drawn up in due and proper form as per the model templates circulated by the Bureau... ”

are inserted. This replaces the text shown as deleted in the fifth line (being the words “ ... must be drawn up in due form” in the fourth line of the 2005 Seoul Text).

This is an editorial change for consistency with the UPU text.

3. Text change # 2

In the sixth to tenth line of paragraph 1 of the Proposed Text, the words

“ ... , or by any other government official duly authorized in writing by one of those authorities to sign the credentials. A copy of such authorization shall be presented together with the credentials.”

are inserted. This is text taken directly from the UPU RoP.

This provision is relevant to the APPU. It recognises that the process for issuing credentials has changed whereby senior political identities now delegate signing authority in many cases. Such a process can make it easier for credentials to be issued.

4. Text change # 3

In the eleventh to eighteenth line of paragraph 1 of the Proposed Text, the words

“ The credentials of delegates entitled to sign the Acts (plenipotentiaries) shall specify the scope of such signature (signature subject to ratification or approval, signature ad referendum, definitive signature). In the absence of such specific information, the signature shall be regarded as being subject to ratification or approval”

are inserted. This is text taken directly from the UPU RoP.

This provision is relevant to the APPU. In particular, documents signed at a Congress are required to be ratified or approved through a subsequent process in a member country. The benefit of “definitive signature” is that it is not subject to ratification. The same might also be said of “signature ad referendum” provided it is confirmed by the State represented.

Given the difficulties that some members have with approving or ratifying documents, the additional text is a positive step.

5. Text change # 4

In the twenty-sixth to thirtieth line of paragraph 1 of the Proposed Text, the words

“Credentials authorizing the holder to participate on behalf of the country concerned or represent the latter shall implicitly include the right to speak and to vote only”

are inserted. This is text taken directly from the UPU RoP.

The Sub-Group believes that this is a provision that adds clarity to the RoP concerning credentials. It is relevant to the APPU in that it identifies delegates who are not entitled to sign.

13th CONGRESS

Rules of Procedure of Congresses – Proposal

19.4.2

Article 4
Delegation Credentials

CHINA, NEW ZEALAND

Add a new paragraph 1 bis as follows:

2005 Seoul Text

Proposed Text

1 bis. For the purposes of this article and without having to produce specific credentials or full powers, the Heads of State, Heads of Government and Ministers for Foreign Affairs of member countries shall also be considered as representing their respective member country for the purpose of performing any act relating to the conclusion of the Acts of the Union.

Reasons. – this is a new provision that the UPU Abidjan Congress incorporated into its RoP. It reflects public international law with regard to the powers of heads of state, heads of government and ministers of foreign affairs i.e., that such personages do not need to produce specific credentials or full powers in order to perform any act relating to the conclusion of the Acts of the APPU.

13th CONGRESS

Rules of Procedure of Congresses – Proposal

19.4.3

Article 4
Delegation Credentials

CHINA, NEW ZEALAND

Paragraph 2. Amend as follows:

2005 Seoul Text

2. Delegates credentials shall be deposited with the authority designated for that purpose.

Proposed Text

2. Delegates' credentials shall be deposited, through the intermediary of the Congress Secretariat, with the authority designated for that purpose.

Reasons. – the UPU RoP makes it clear regarding the party with whom credentials shall be deposited (whereas the APPU makes only a general reference). The Sub-Group sees value in updating the APPU RoP by identifying the party with whom credentials shall be deposited.

Members generally wish to hand over credentials as soon as they can on arrival at a Congress. Given that the Credentials Committee is not established until during the first day of proceedings, it can be inconvenient to not have a designated point of deposit. Moreover, if the option is introduced for electronic transmission of credentials, then such a designated point of deposit becomes more important.

13th CONGRESS

Rules of Procedure of Congresses – Proposal

19.4.4

Article 4
Delegation Credentials

CHINA, NEW ZEALAND

Add a new paragraph 2 bis as follows:

2005 Seoul Text

Proposed Text

2 bis. Member countries whose delegates are not in possession of credentials or have not deposited their credentials may, provided the names of such delegates have been communicated by their Government to the Bureau, take part in the debates but shall not have the right to vote until such time as their respective credentials, in due and proper form, are deposited with the authority referred to in paragraph 3.

Reasons. – the proposed text is the current paragraph 4 of Article 3 (Delegates' credentials) in the UPU RoP. It provides for members who do not have credentials, or who have not deposited them, to participate in debates without the right to vote. This arrangement continues until credentials are deposited with the designated party.

From reviewing the report of Credentials Committees at past APPU Congresses, the Sub-Group notes that the practice set out in the UPU RoP Article 3 is, in fact, followed, by the APPU when necessary. Accordingly, to formalise the practice in the APPU and to be consistent with the UPU, it is logical that a new § 2 bis of Article 4 of the APPU RoP be created.

There is one aspect that should be highlighted. Prior to the UPU making the change at Abidjan to its RoP Article 3, delegates who did not have credentials or who had not deposited them, could take part in debates **and could vote**. The change at Abidjan, as reflected in the proposed paragraph 2 bis above, is to remove the ability to vote (until such time as proper credentials are presented). The reason for this is to ensure higher legal security in the proceedings of Congress.

13th CONGRESS

Rules of Procedure of Congresses – Proposal

19.4.5

Article 4
Delegation Credentials

CHINA, NEW ZEALAND

Add a new paragraph 3 bis as follows:

2005 Seoul Text

Proposed Text

3 bis. Credentials and proxies sent by secure electronic means (as well as replies to requests for information associated therewith) shall be admissible provided that compliance with the requirements set forth in paragraph 1 is confirmed by the authority referred to in paragraph 3. For the purposes of this paragraph, “secure electronic means” refers to any electronic means used for the processing, storage and transmission of data that ensure that completeness, integrity and confidentiality of such data are maintained during the submission of the aforementioned credentials and proxies by a member country.

Reasons. – the proposed text is the current paragraph 6 of Article 3 (Delegates’ credentials) in the UPU RoP. It is designed to streamline the credentials process by allowing the submission of credentials by secure electronic means.

This is relevant to the APPU. There have been cases in the past where urgent transmission of credentials has been problematic. Proposal 19.4.5 will potentially solve such issues.