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Unanimous Consent Agreements in the Senate

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The Senate is fundamentally a “unanimous consent” institution. This means that the rules and precedents of the Senate are set aside regularly by the unanimous consent of the membership. Party leaders and other Senators propound unanimous consent requests every day the Senate is in session. Without its tradition of unanimous consent, the Senate would find it harder to process its complex workload. As a Senator pointed out during a September 25, 1990, discussion on the floor:

[T]he way the Senate conducts its business hour after hour, day after day, week after week, year after year, is Senators voluntarily waive the rights which they possess under the rules. I would guess in the course of a typical week we probably enter into anywhere from 10 to 200 unanimous consent agreements, literally, where Senators by unanimous consent, with 100 Senators agreeing to yield some right that they may have — the right to debate, the right to do this, that or the other thing — waive their rights so that the body may proceed in a way that seems expeditious.

It is worth distinguishing between simple unanimous consent requests and complex unanimous consent agreements. *Simple unanimous consent requests* cover such routine matters as dispensing with quorum calls, asking that certain staff aides have floor privileges during consideration of a proposition, waiving the reading of amendments, setting aside amendments, or inserting material in the *Congressional Record*.

Complex unanimous consent agreements (sometimes called “time limitation” agreements or, informally, “u.c. agreements”) establish the procedural guidelines for considering measures or matters on the floor. They are proposed orally on the floor, often by the majority leader, and they often result from lengthy negotiations among numerous Senators. They are printed in the *Congressional Record*, the daily *Calendar of Business*, and the *Senate Journal*. The Senate often begins consideration of a measure without such an agreement, but then adopts, piecemeal, agreements that are limited in their procedural scope (restricting debate on amendments, for instance).

These tailor-made procedural agreements differ in content and coverage. For example, some are more comprehensive than others in addressing procedural issues with respect to floor action on a measure or matter. They may identify when a measure is to be brought to the floor, set time limitations for debate on all amendments and motions, structure the offering of amendments, waive points of order against the measure or

amendments thereto, or impose a requirement that all amendments be relevant to the measure under consideration.

In sum, a complex unanimous consent agreement is akin to a negotiated “contract” among all Senators, and it can only be changed by another unanimous consent agreement. Whether comprehensive (covering floor consideration of an entire bill) or piecemeal, these agreements both expedite floor decisionmaking and establish some predictability in the processing of legislation and other matters. They are a form of “voluntary cloture,” and their use facilitates the management of the Senate’s agenda and workload.

Purposes and Features of a Complex Unanimous Consent (or “Time Limitation”) Agreement

Broad Purposes	General Features
— Impose time limits on debate	— A negotiated “contract” accepted by all Senators
— Expedite scheduling the Senate’s workload	— Changed only by another unanimous consent agreement
— Establish predictability and permit flexibility	— Comprehensive or partial in character
	— Limits debate on measures and any motions related thereto
	— Structures the amendment process
	— Requires the germaneness or relevancy of amendments
	— Waives points of order