|  |  |
| --- | --- |
|  | **Addendum 13 to Document EG-ITRs-1/2** |
| **7 September 2023** |
| **English only** |
|  |  |
| Contribution from HILL | |
| ART. 13: SPECIAL ARRANGEMENTS | |
| **Purpose**  Discussion  **Action required**  The document is submitted to EG-ITRs **for discussion**.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Reference**  [Council Resolution 1379, revised 2023](https://www.itu.int/md/S23-CL-C-0121/en) | |

1. The work of the current ITR-EG is specified in its Terms of Reference[[1]](#footnote-1):

*2 Taking into consideration the work of the previous two Expert Groups, the review may consider, among others:*

*a) new trends in telecommunications/ICT and emerging issues in international telecommunications/ICT environment which may impact the ITRs,*

*b) empirical data on the current use of the ITRs by operating agencies and/or administrations and the proportion of global telecommunication services which now rely on the ITRs, and*

*c) the relevance of the ITRs which “consist of high-level guiding principles” in the current telecommunication/ICT environment.*

2. This contribution focuses on Art. 13 of the 2012 ITRs, Special Arrangements, which states:

*13.1 a) Pursuant to Article 42 of the Constitution, special arrangements may be entered into on telecommunication matters which do not concern Member States in general. Subject to national laws, Member States may allow authorized operating agencies or other organizations or persons to enter into such special mutual arrangements with Member States and authorized operating agencies, or other organizations or persons that are so allowed in another country for the establishment, operation and use of special international telecommunication networks, systems and services, in order to meet specialized international telecommunication needs within and/or between the territories of the Member States concerned, and including, as necessary, the financial, technical or operating conditions to be observed .*

*b) Any such special arrangements shall endeavour to avoid technical harm to the operation of the telecommunication facilities of third countries.*

*13.2 Member States should, where appropriate, encourage the parties to any special arrangements that are made pursuant to No. 73 (13.1) above to take into account relevant provisions of ITU-T Recommendations.*

**Discussion of Article 13**

3. As stated in an academic writing [[2]](#footnote-2) this provision overlaps considerably with article 8.1.1 of the 2012 ITRs and with Article 42 of the ITU Constitution.

4. Therefore, Member States are invited to consider the situation and to consider how to address it in the context of the review of the ITRs: Member States could consider either abrogating Article 42 of the ITU Constitution, or revising it to conform to art. 13 of the 2012 ITRs and abrogating that article.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. <https://www.itu.int/md/S23-CL-C-0121/en> [↑](#footnote-ref-1)
2. Hill, Richard (2013) *The New International Telecommunications Regulations and the Internet: A Commentary and Legislative History*,Schulthess/Springer, p. 112 [↑](#footnote-ref-2)