

India Rejects Arbitration Court Ruling Under Indus Waters Treaty

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Indus Waters Treaty Latest News

- India has rejected a Court of Arbitration ruling that issued a “supplemental award” on its competence concerning the Kishenganga and Ratle hydroelectric projects in Jammu and Kashmir.

Grievance Redressal Mechanism under the Indus Waters Treaty

- The **Indus Waters Treaty** (IWT), signed in 1960 between India and Pakistan with the **World Bank** as a guarantor, includes structured mechanisms for resolving disputes and differences over the interpretation and application of its provisions.
- These mechanisms include:
 - **Permanent Indus Commission (PIC):**
 - Comprising one commissioner from each country, the PIC serves as the first tier for resolving issues.

- It conducts annual meetings and field visits and works to resolve technical and operational matters through mutual consultation.
- **Neutral Expert Mechanism:**
 - For technical differences that cannot be resolved at the PIC level, either party can approach the World Bank to appoint a neutral expert.
 - The expert's mandate is limited to factual and technical questions, and their decisions are binding on both parties.
- **Court of Arbitration (CoA):**
 - For disputes involving legal interpretations or the validity of treaty provisions, a Court of Arbitration can be constituted.
 - However, both countries must agree on invoking this mechanism. Any deviation from mutual consent challenges the treaty's fundamental design.
- India has consistently favoured the Neutral Expert route, while Pakistan has pushed for the arbitration court on issues like the design of hydropower projects.
- India maintains that parallel proceedings before both mechanisms violate the treaty's structure and purpose.

India's Rejection of the Court of Arbitration's Authority

- Recently, the Hague-based Court of Arbitration issued a supplemental award asserting its jurisdiction over disputes concerning the Kishenganga and Ratle hydropower projects in Jammu and Kashmir.
- India has categorically rejected the authority of the Court of Arbitration, labelling it ***"illegally constituted"*** and devoid of legal legitimacy.
- Ministry of External Affairs (MEA) stated that the **very constitution of the court violates the provisions of the IWT, and hence, any decisions or awards issued by it are "per se void."**
 - India reiterated that it never recognised the court's authority and views its functioning as lacking legal standing.
- In response to Pakistan's request, the arbitration court examined India's move to place the IWT in abeyance after the April 22 Pahalgam terror attack, which killed 26 Indian civilians.
- India clarified that its suspension of treaty obligations was a sovereign act justified under international law and that **a tribunal formed without mutual consent has no jurisdiction over such decisions.**

Pakistan's Legal Strategy and India's Firm Opposition

- India has accused Pakistan of manipulating international legal mechanisms to divert global attention from its support of cross-border terrorism.
- The MEA described the court's proceedings as a ***"charade at Pakistan's behest"*** and reiterated that Pakistan must permanently renounce terrorism before India considers resuming its treaty obligations.
- The legal confrontation stems from longstanding differences over the design parameters of the Kishenganga (Jhelum tributary) and Ratle (Chenab) hydroelectric projects.
- In 2015, Pakistan approached the World Bank for the appointment of a Neutral Expert, but later shifted to seek arbitration in 2016.

- India, upholding the original treaty provisions, continued to insist on the Neutral Expert route, rejecting arbitration as a breach of the IWT's sequential dispute resolution framework.

Treaty Review, Neutral Expert Engagement, and Strategic Implications

- On October 13, 2022, in an unusual move, the World Bank appointed both a Neutral Expert and constituted a Court of Arbitration simultaneously, based on separate requests by India and Pakistan.
- India objected to this parallel process, asserting it violated the treaty's single-track mechanism for handling disputes.
- Consequently, while India has actively participated in the Neutral Expert proceedings, it has refused to recognise or engage with the arbitration court.
- This legal escalation coincides with the 65th anniversary of the Indus Waters Treaty.
- Reflecting a broader strategic posture, India issued formal notices to Pakistan in January 2023 and September 2024, calling for a comprehensive review and potential modification of the treaty, in light of evolving geopolitical and hydrological conditions.
- India's recent decision to suspend treaty obligations is part of this larger recalibration.
- The government maintains that under international law, this action is valid until Pakistan takes verifiable steps to cease support for terrorism.
- These developments mark a significant turning point in the water-sharing relationship between the two nations, with far-reaching diplomatic and political implications for the future of the treaty.

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