

**PRESS RELEASE****The Indus Waters Western Rivers Arbitration
(Islamic Republic of Pakistan v. Republic of India)**

THE HAGUE, 27 JUNE 2025

The Court of Arbitration Renders a Supplemental Award on Competence

On 27 June 2025, the Court of Arbitration rendered a Supplemental Award on the Competence of the Court (“**Supplemental Award**”) in an arbitration initiated by the Islamic Republic of Pakistan (“**Pakistan**”) against the Republic of India (“**India**”) pursuant to Article IX and Annexure G of the Indus Waters Treaty.

In these proceedings, Pakistan requests the Court of Arbitration to address the interpretation and application of the Indus Waters Treaty to certain design elements of the run-of-river hydro-electric projects that India is permitted by the Treaty to construct on the tributaries of the Indus, Jhelum, and Chenab, before those rivers flow into Pakistan.

In the Supplemental Award, the Court considered the effect on the Court’s competence to address Pakistan’s request of the decision made by the Government of India on 23 and 24 April 2025 that the Treaty “will be held in abeyance with immediate effect”.

In a unanimous decision, which is binding on the Parties and without appeal, the Court found that India’s position on “abeyance” of the Treaty does not limit the competence of the Court over this dispute, which the Court previously affirmed in its Award on Competence of 6 July 2023. The Court found that its competence cannot be affected by the unilateral decision of a Party taken after the initiation of the arbitral proceedings, regardless of whether India’s recent decision is characterized under international law as a suspension of the Treaty or otherwise. The Court further found that it has a continuing responsibility to advance these proceedings in a timely, efficient, and fair manner, notwithstanding India’s position on “abeyance”.

The Court further determined that these findings apply similarly with respect to any competence that the Neutral Expert, appointed in separate proceedings commenced by India against Pakistan under the Treaty,¹ otherwise possesses.

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1. The Commencement of Proceedings

By way of a Request for Arbitration dated 19 August 2016, Pakistan initiated the present arbitral proceedings before the Court of Arbitration (an arbitral panel consisting of highly-qualified lawyers and engineers) under Article IX and Annexure G to the Indus Waters Treaty.

Subsequently, on 4 October 2016, India requested that the World Bank appoint a neutral expert (a highly-qualified engineer) under Article IX and Annexure F to the Treaty, to address certain design and operation questions that are essentially identical to some of the questions presented by Pakistan in its Request for Arbitration.

¹ Indus Waters Treaty Neutral Expert Proceedings (India v. Pakistan) (PCA Case No. 2023-14) (<https://pca-cpa.org/en/cases/297/>).

In December 2016, the World Bank, which has a special but essentially ministerial role under the Treaty, decided to “pause” the process of appointing the Chairman of the Court of Arbitration and the Neutral Expert. This pause was lifted in 2022, following which the Court of Arbitration was empaneled and the Neutral Expert was appointed.

2. The Proceedings before the Court of Arbitration

On 6 July 2023, the Court issued its Award on the Competence of the Court, in which the Court carefully considered objections to the competence of the Court raised by India (by way of correspondence to the World Bank). In a unanimous decision, the Court rejected each of the objections raised by India and determined that the Court is competent to consider and determine the disputes set forth in Pakistan’s Request for Arbitration.

The current phase of the proceedings before the Court concerns the overall interpretation and application of the Treaty’s provisions on hydro-electric project design and operation, as well as the legal effect of past decisions of dispute resolution bodies under the Treaty.

3. The Supplemental Award on Competence

On 23 April 2025, following an attack by armed individuals in India-administered Jammu and Kashmir, the Government of India issued a statement indicating that “[t]he Indus Waters Treaty of 1960 will be held in abeyance with immediate effect, until Pakistan credibly and irrevocably abjures its support for cross-border terrorism”. On 24 April 2025, the Government of India sent a letter to the Government of Pakistan communicating a decision that the Treaty “will be held in abeyance with immediate effect”.

In light of these developments, on 16 May 2025, the Court issued Procedural Order No. 15, in which it requested the Parties to provide written submissions on the effect, if any, of these recent developments on matters before the Court or the Neutral Expert, including their respective competence. Pakistan filed written submissions with the Court further to the Court’s request. While no submissions were filed by India, the Court did consider India’s position, as reflected in its 23 April Statement and 24 April Letter as well as related public statements made by Indian officials.

The Court’s Consideration

At the outset, the Court noted that the principal issue for determination concerned the implications, if any, that India’s decision to hold the Treaty in “abeyance” may have on the competence of the Court. As the Court observed, Paragraph 16 of Annexure G to the Treaty provides that “[s]ubject to the provisions of this Treaty and except as the Parties may otherwise agree, the Court shall decide all questions relating to its competence”. Accordingly, the Court found that it was for the Court—and the Court alone—to answer the question before it.

The Court first considered the terms of the Treaty, which do not provide for the unilateral “abeyance” or “suspension” of the Treaty; rather, according to its terms, the Treaty continues in force until terminated with the mutual consent of India and Pakistan. The Court also considered the Treaty’s object and purpose, including to establish procedures for the resolution of any questions that may arise in relation to the interpretation or application of the Treaty. The Court found that the terms of the Treaty, read in light of the Treaty’s object and purpose, do not allow either Party, acting unilaterally, to hold in abeyance or suspend an ongoing dispute settlement process, given that to do so would fundamentally undermine “the value and efficacy of the Treaty’s compulsory third-party dispute settlement process”.

The Court then recalled the well-settled rule of customary international law that events occurring after the initiation of proceedings can have no effect on the jurisdiction of the relevant court or tribunal. This

rule, reflected in decisions of the International Court of Justice and international arbitral tribunals, confirmed the Court’s conclusion that, once established, the Court’s jurisdiction cannot be defeated by a party’s unilateral action.

The Proceedings before the Court

Applying these findings to India’s decision that the “Indus Waters Treaty 1960 will be held in abeyance with immediate effect”, the Court found that it was not open to India to take unilateral action to suspend these proceedings, regardless of how India’s position was characterized or justified under international law. As such, the Court found that its competence remains intact and that it has a continuing responsibility to advance these proceedings in a timely, efficient, and fair manner.

Given the Court’s conclusions, the Court found it unnecessary to determine the meaning of or justification for India’s decision that the Treaty would be held in “abeyance”.

The Proceedings before the Neutral Expert

The Court recalled that, in Procedural Order No. 6, the Court refrained from taking any position on the status of the Neutral Expert’s proceedings. The Court indicated that it continues to refrain from taking a position on the competence of the Neutral Expert.

The Court nevertheless found, after considering the relevant terms of the Treaty and customary international law, that to the extent a neutral expert is competent, the analysis above with respect to a court of arbitration applies equally to a neutral expert, and applies regardless of whether the Party seeking unilaterally to place the proceedings in “abeyance” is the same Party that initiated those proceedings. Consequently, the findings reached with respect to the Court of Arbitration apply similarly with respect to any competence that the Neutral Expert otherwise possesses.

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The Court of Arbitration is chaired by Professor Sean D. Murphy of the United States. The other members are Professor Wouter Buytaert of Belgium, Professor Jeffrey P. Minear of the United States, Judge Awn Shawkat Al-Khasawneh of Jordan, and Dr. Donald Blackmore of Australia.

Pursuant to a decision by the Court of Arbitration, the PCA acts as the secretariat for the proceedings.

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Background on the Permanent Court of Arbitration

The Permanent Court of Arbitration is an intergovernmental organisation established by the 1899 Hague Convention on the Pacific Settlement of International Disputes. The PCA has 125 Contracting Parties. Headquartered at the Peace Palace in The Hague, the Netherlands, the PCA facilitates arbitration, conciliation, fact-finding, and other dispute resolution proceedings among various combinations of States, State entities, intergovernmental organisations, and private parties. The PCA’s International Bureau is currently administering 7 inter-state arbitrations, 1 other inter-state proceeding, 95 arbitrations arising under bilateral or multilateral investment treaties or national investment laws, 109 cases arising under contracts involving a State or other public entity, and 4 other proceedings. More information about the PCA can be found at www.pca-cpa.org.

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