



# PCA Asserts Competence in India-Pakistan Hydroelectric Projects Dispute

**For Prelims:** Court of Arbitration, [Indus Waters Treaty](#), [Permanent Court of Arbitration \(PCA\)](#), [World Bank](#)

**For Mains:** Indus Waters Treaty and associated implementation issues.

## Why in News?

The **Hague-based Permanent Court of Arbitration (PCA)** recently ruled that it has the **competence to hear Pakistan's objections to India's Kishenganga and Ratle hydroelectric projects** in Jammu and Kashmir.

- India, however, rejects the constitution of the **"Court of Arbitration,"** asserting that it goes against the provisions of the [Indus Waters Treaty \(IWT\)](#).

## What is Indus Waters Treaty?

// **The Indus Waters Treaty (IWT)**

- The distribution of waters of the Indus and its tributaries between India and Pakistan is governed by the Indus Water Treaty (IWT).
- Was signed on Sept 19, 1960, between India, Pakistan and a representative of World Bank after nine years of negotiations.
- Partition of India cut across the Indus river basin, which has the Indus river, plus five of its main tributaries.

**Western rivers**  
**Chenab, Jhelum, Indus**

India's rights over these rivers: Limited — can set up certain irrigation, run-of-the-river power plants, very limited storage, domestic and non-consumptive use, all subject to conditions

**Eastern rivers**  
**Sutlej, Beas, Ravi**

India's rights over these rivers: All exclusive rights lie with India.

**Indus Waters Commission a success story**

- Once every five years, conducts a general inspection of all rivers in parts. Total inspection tours so far: Over 100
- Regularly meets once a year. Total meetings thus far, including those for taking up Pak objections: Over 100

**Baglihar dam on Chenab**

MAP NOT TO SCALE

- About:**
  - The Indus Waters Treaty is a **water-sharing agreement** between **India and Pakistan**.

- The treaty was brokered by the [World Bank](#) and signed on September 19, 1960.
- It governs the **distribution and utilization** of the waters of the **Indus River system**, which includes six rivers: **Indus, Jhelum, Chenab, Ravi, Beas, and Sutlej**.
- The treaty aims to promote **cooperation and peaceful** management of transboundary water resources between India and Pakistan.
- **Allocation of Rivers:**
  - Under the treaty, **three eastern rivers (Ravi, Beas, and Sutlej)** are allocated to **India** for unrestricted use.
  - The **three western rivers (Indus, Jhelum, and Chenab)** are allocated to **Pakistan** for unrestricted use.
  - India is allowed **limited use of the western rivers** for domestic, non-consumptive, and agricultural purposes.
- **Key Provisions:**
  - **Construction of Projects:**
    - The treaty permits **India to construct run-of-the-river hydroelectric projects** on the western rivers, subject to certain conditions.
  - **Dispute Resolution:**
    - **Communication via Permanent Indus Commission (PIC):**
      - PIC has a commissioner from each country.
      - Parties inform each other about planned projects on the Indus River.
      - PIC **facilitates the exchange of necessary information**.
      - Aimed at **resolving differences and avoiding escalation**.
    - **Neutral Expert:**
      - If the PIC fails to resolve the issue, it advances to the next level.
      - **The World Bank appoints a neutral expert**.
      - Expert attempts to **resolve differences**.
    - **Court of Arbitration (CoA):**
      - If a neutral expert fails, the dispute goes to CoA.
      - CoA resolves the dispute through **arbitration**.
      - The IWT states that **Neutral Expert and CoA steps are mutually exclusive**, meaning that **only one of them can be used at a time for a given dispute**.

## What is the Hydroelectric Project Dispute Between India and Pakistan?

- **Hydroelectric Projects:**
  - The case involves a dispute between India and Pakistan over the **Kishenganga hydroelectric project** (on the **Kishanganga River, a tributary of the Jhelum River**), and the **Ratle hydroelectric project** (on the **Chenab River**) in Jammu and Kashmir.
    - The two countries disagree over **whether the technical design features of these two hydroelectric plants** contravene the IWT.
- **Pakistan's Objections:**
  - Pakistan objects to the hydroelectric projects, **citing violations of the IWT**, concerns about **reduced water flow, environmental impact, and differing treaty interpretations**.
  - In 2016, Pakistan **retracted its request for a Neutral Expert** and proposed a **CoA** instead.
  - India requested the **appointment of a Neutral Expert in 2016**, emphasizing its importance in the process, which Pakistan sought to bypass.
- **World Bank Intervention:**
  - World Bank **paused the process due to separate requests** from India and Pakistan, urging resolution through the **PIC**.
  - Pakistan refused to discuss the issue during PIC meetings, leading the World Bank to initiate actions on Neutral Expert and Court of Arbitration.
    - The Treaty does not empower the World Bank to decide **whether one procedure should take precedence over the other**.
    - The World Bank sought to fulfill its procedural obligations with respect to both the CoA and the Neutral Expert.
- **India's Opposition:**

- **India opposes the constitution of the CoA**, citing contravention of Indus Waters Treaty provisions.
- India also **questioned the jurisdiction and competence of the CoA**, stating that it was not properly constituted as per the treaty.
- India has **not appointed arbitrators or attended the court's proceedings**, emphasizing the **need for a single dispute resolution process**.

## What is the Ruling of the Permanent Court of Arbitration?

### ▪ Ruling:

- The PCA ruled that the Court of Arbitration (CoA) has the **competence to consider Pakistan's objections** to India's hydroelectric projects in Jammu and Kashmir.
- The ruling was based on a unanimous decision, binding on both parties and without any possibility of appeal.
- The PCA rejected **India's objections to the competence of the CoA**, as raised through its communications with the World Bank.

### ▪ India's Response:

- India has been maintaining that **it will not join the Pakistan-initiated proceedings at the PCA** as the dispute is being already examined by a neutral expert under the framework of the IWT.

### ▪ Implications:

- The PCA's ruling adds **complexity and uncertainty to the ongoing dispute** between India and Pakistan regarding the hydroelectric projects.
- The ruling challenges India's position and raises questions about the **effectiveness and interpretation** of the IWT.
- The implications of the ruling extend beyond the specific dispute, potentially impacting **bilateral relations between India and Pakistan**, particularly concerning **water-sharing and cooperation**.

## What is Permanent Court of Arbitration?

- It was **established in 1899** and is **headquartered in The Hague, Netherlands**.
- **Purpose:** It is an **intergovernmental organization** dedicated to serve the international community in the field of dispute resolution and to facilitate arbitration and other forms of dispute resolution between States.
- It has a **three-part organizational structure** consisting of:
  - **Administrative Council** - to oversee its policies and budgets,
  - **Members of the Court** - a panel of independent potential arbitrators, and
  - **International Bureau** - its Secretariat, headed by the Secretary-General.
- **Funds:** It has a **Financial Assistance Fund** which aims at helping developing countries meet part of the costs involved in international arbitration or other means of dispute settlement offered by the PCA.

## UPSC Civil Services Examination Previous Year Question (PYQ)

### Prelims

**Q1. With reference to the Indus river system, of the following four rivers, three of them pour into one of them which joins the Indus directly. Among the following, which one is such a river that joins the Indus direct? (2021)**

- (a) Chenab
- (b) Jhelum
- (c) Ravi
- (d) Sutlej

**Ans: (d)**

**Exp:**

- The Jhelum joins the Chenab near Jhang in Pakistan. The Ravi joins the Chenab near Sarai Sidhu.
- Satluj is joined by the Chenab in Pakistan. Thus, Satluj receives the collective drainage of the Ravi, Chenab, and Jhelum rivers. It joins the Indus a few kilometers above Mithankot.
- Therefore, option (d) is the correct answer.

### **Mains**

**Q.** Present an account of the Indus Water Treaty and examine its ecological, economic and political implications in the context of changing bilateral relations. **(2016)**

**Source: IE**

PDF Reference URL: <https://www.drishtias.com/printpdf/pca-asserts-competence-in-india-pakistan-hydroelectric-projects-dispute>

