

THE HAGUE RULING ON THE INDUS WATERS TREATY: WHAT IT MEANS FOR PAKISTAN

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(Views expressed in the brief are those of the author, and do not represent those of ISSI)



Introduction

The Indus Waters Treaty (IWT) has entered perhaps its most uncertain phase since it was signed in 1960. India's decision in April 2025 to place the Treaty in "abeyance" marked a sharp departure from more than six decades of practice. On August 31, 2026, the Court of Arbitration constituted under the IWT issued its most consequential ruling in the current proceedings. It held unanimously that the Treaty remains fully in force and that India cannot place it in "abeyance" through a unilateral decision. The Court also issued limited interim measures concerning the Ratle Hydroelectric Plant while the parallel Neutral Expert process continues.¹

This clarification matters for Pakistan as the Indus system underpins irrigated agriculture, food security, rural livelihoods and a large part of the wider economy. Agriculture contributes around 23.4 per cent of GDP. The ruling therefore strengthens Pakistan's legal position, but it should not be read as a complete answer to water insecurity.²

¹ "The Indus Waters Western Rivers Arbitration (Islamic Republic of Pakistan v. Republic of India)," Permanent Court of Arbitration, August 31, 2026, <https://pcacases.com/web/sendAttach/105089>

² "Pakistan Economic Survey 25-26," Ministry of Finance, Accessed on September 5, 2026, https://finance.gov.pk/survey/chapter_26/Complete_PES2025_26.pdf

What the Hague Ruling Establishes

- The Court held that the IWT remains in force and that India cannot place it in “abeyance” or unilaterally suspend or terminate it. India remains bound by Treaty obligations, including hydropower rules on the Western Rivers.
- Arguments based on sovereignty, security, demographic change, technology, climate change and energy needs were found insufficient to justify suspension or termination.
- Article XII remains the lawful route for modification or termination through mutual agreement and a duly ratified treaty.
- On Ratle, the Court imposed limited interim construction restrictions until 90 days after the Neutral Expert’s expected July 2027 decision to avoid prejudicing the technical process.³

Key Developments in The Hague Proceedings⁴

India-Pakistan disagreements over hydropower on the Western Rivers are not new. The present proceedings emerged from disputes over the 330 MW Kishanganga and 850 MW Ratle hydroelectric projects. Pakistan sought establishment of a Court of Arbitration in 2016, while India requested appointment of a Neutral Expert. After several years of efforts by the World Bank to facilitate an agreed way forward, both processes were allowed to proceed in 2022.⁵ The present Court ruling is the latest stage in a sequence of decisions that began with jurisdiction and gradually moved into treaty interpretation, technical design standards and, finally, the legal status of the Treaty itself.

Date	Proceeding	Key Finding	Relevance for Pakistan
July 6, 2023	Award on Competence	The Court rejected India’s jurisdictional objections and held that it had been validly constituted under Article IX and Annexure G.	Kept Pakistan’s arbitral claims alive despite India’s non-participation.

³ “The Indus Waters Western Rivers Arbitration (Islamic Republic of Pakistan v. Republic of India),” Permanent Court of Arbitration, August 31, 2026, <https://pcacases.com/web/sendAttach/105089>

⁴ “The Indus Waters Western Rivers Arbitration (Islamic Republic of Pakistan v. Republic of India),” Permanent Court of Arbitration, Accessed on September 5, 2026, <https://pca-cpa.org/en/cases/284/>

⁵ “Fact Sheet: The Indus Waters Treaty 1960 and the Role of the World Bank,” World Bank, June 21, 2023, <https://www.worldbank.org/en/region/sar/brief/fact-sheet-the-indus-waters-treaty-1960-and-the-world-bank>

June 27, 2025	Supplemental Award on Competence	India's April 2025 "abeyance" declaration could not remove jurisdiction already established under the Treaty.	Protected the dispute-settlement process from unilateral interruption.
August 8, 2025	Award on General Interpretation	Reaffirmed the "let flow" principle for the Western Rivers, subject to Treaty exceptions, and treated hydropower design criteria as binding legal limits.	Strengthened Pakistan's position on design controls and downstream rights.
November 8, 2025	Decision on Clarification	Emphasised that compliance is assessed at the design and planning stage; later operational assurances cannot cure non-compliant design.	Improved Pakistan's ability to challenge problematic design features before construction is locked in.
May 15, 2026	Supplemental Award on Maximum Pondage	Required pondage assumptions to rest on realistic hydrology, expected operation, power-system needs and adequate supporting information.	Constrained the scope for excessive short-term regulation of Western River flows.
August 31, 2026	Award on Treaty Status + Interim Measures	Held the IWT fully in force; rejected unilateral "abeyance"; imposed limited interim restrictions on specified Ratle works.	Moved the dispute from technical interpretation to the continued legal operation of the Treaty itself.

What Does the Current Ruling Mean for Pakistan?

For Pakistan, the principal gain is the consolidation of its legal position. The Court has now addressed jurisdiction, general interpretation, pondage and treaty status in a connected line of decisions. The result is a clearer legal baseline allowing Pakistan to invoke the IWT not merely as a political understanding, but also as a functioning legal framework.

This also protects procedural rights that are central to Pakistan's ability to assess upstream activity. The Treaty is not concerned only with the annual quantity of water crossing the border. For a downstream irrigation system, the timing, predictability and short-term regulation of flows can be equally important. Pondage, gated spillways, low-level outlets and the cumulative effect of multiple upstream projects can affect the pattern of releases even when the broad allocation of rivers remains unchanged.

The ruling, however, should not be seen as addressing Pakistan's other water-security problems. While it reduces legal uncertainty over the Treaty and strengthens Pakistan's ability to contest non-compliant upstream design, it does not create additional water, eliminate seasonal scarcity, reverse groundwater depletion or solve inefficiencies in irrigation and cropping patterns. Pakistan's own data already show a gap between available surface water and average system requirements. Climate variability, glacier change, droughts, floods and rising demand will continue to place pressure on the basin irrespective of the legal outcome.⁶

The Implementation Question

With regards to the implementation of the Court's Award, the central weakness is the gap between legal determination and practical compliance. Pakistan welcomed the August 31 award and stated that the Treaty remained fully in force and binding.⁷ India, by contrast, rejected the decision, described the Court as illegally constituted and maintained that it had no jurisdiction over India's sovereign decisions. It further asserted that its decision to keep the Treaty in abeyance remained in force.⁸ This disagreement means that the legal position has become clearer while the implementation environment has become more difficult.

The IWT does not contain a central enforcement authority capable of physically compelling either state to comply with Arbitration Court's ruling. The World Bank's role is also limited. It can perform the procedural functions assigned to it under the Treaty, including appointments of Neutral Experts in dispute-resolution processes, but it does not decide the merits and is not an enforcement

⁶ "Pakistan Economic Survey 25-26," Ministry of Finance, Accessed on September 5, 2026, https://finance.gov.pk/survey/chapter_26/Complete_PES2025_26.pdf

⁷ "Press Briefing," Ministry of Foreign Affairs, September 2, 2026, <https://mofa.gov.pk/press-releases/transcript-of-the-press-briefing-by-the-spokesperson-on-wednesday-02nd-september-2026>

⁸ "Matters pertaining to the illegally constituted so-called Court of Arbitration," Ministry of External Affairs Government of India, August 31, 2026, https://www.mea.gov.in/press-releases?dtl/41720/Matters_pertaining_to_the_illegallyconstituted_socalled_Court_of_Arbitration

agency.⁹ After India's strong rejection the practical value of the award is frankly very limited, until India considers that non-compliance carries sufficient diplomatic, legal and reputational cost and it changes its position.

The technical dimension is especially important. The Ratle interim order is deliberately narrow: it restricts specified concreting works but does not freeze every aspect of construction. The Neutral Expert remains responsible for the technical questions assigned to that process. This makes close monitoring of construction milestones, reservoir geometry, spillway and outlet levels, pondage assumptions and project-operation data essential. If disputed structures become physically irreversible before technical questions are settled, then later legal findings may also have reduced practical effect.

Data sharing is a second implementation problem. Article VI and the wider institutional framework of the Treaty are designed to support exchange of information, inspections and continuing communication.¹⁰ If routine exchanges weaken, Pakistan faces greater difficulty in distinguishing normal hydrological variation from operational changes upstream. Independent satellite imagery, remote sensing, river gauges and hydrological modelling can reduce this information gap, but they cannot fully replace official project data, inspections and direct institutional contact.

A third issue is the coexistence of the Court of Arbitration and the Neutral Expert process. The two mechanisms address different legal and technical questions, but their findings interact. Pakistan will need to present the Court's treaty interpretations consistently before the Neutral Expert while avoiding procedural contradictions. The expected Neutral Expert decision in 2027 will therefore be an important next point in the implementation chain.

Policy Recommendations

- Adapt a proactive communication strategy to present Court's ruling as vindication of Pakistan's just and responsible stance while highlighting India's response as contrary to international norms of resolving disputes through peaceful and legal means.
- Strengthen independent monitoring of Western Rivers through satellite imagery, river gauges, remote sensing and hydrological modelling.

⁹ "Fact Sheet: The Indus Waters Treaty 1960 and the Role of the World Bank," World Bank, June 21, 2023, <https://www.worldbank.org/en/region/sar/brief/fact-sheet-the-indus-waters-treaty-1960-and-the-world-bank>

¹⁰ "Indus Waters Treaty 1960," World Bank, Accessed on September 5, 2026, <https://treaties.un.org/doc/Publication/UNTs/Volume%20419/volume-419-I-6032-English.pdf>

- Continue to press on India for restoration of the Permanent Indus Commission, inspections, advance project information and routine hydrological data exchange.
- Keep water cooperation separate from wider political disputes and frame Pakistan's case around treaty sanctity, binding dispute settlement and downstream rights.
- Remain open to mutually agreed or update of Treaty under Article XII, especially on climate change, glacier behaviour and data-sharing mechanisms.
- Reduce domestic vulnerability through better storage, irrigation efficiency, groundwater management and crop-water productivity.

Conclusion

The August 2026 Hague ruling is the latest and most consequential development in a legal process that began with questions over hydropower design and has evolved into a dispute over the survival of the Treaty itself. The rulings since 2023 now establish a coherent legal position. For Pakistan, these are important gains. They should not, however, be mistaken for complete water security. India's refusal to recognise the Court leaves a widening gap between legal interpretation and implementation.

The Court considers itself properly constituted. India's hydropower rights remain subject to Treaty limitations. Most importantly, India cannot unilaterally place the IWT in "abeyance". Pakistan must therefore combine legal action with diplomatic pressure through relevant international organisations and partners, stronger technical monitoring and improved domestic water governance. As, once water becomes a routine instrument of political coercion, the consequences will extend well beyond the Treaty itself.