

PCA Case No. 2023-01

IN THE MATTER OF AN ARBITRATION

-before-

THE COURT OF ARBITRATION CONSTITUTED
IN ACCORDANCE WITH THE INDUS WATERS TREATY 1960

-between-

THE ISLAMIC REPUBLIC OF PAKISTAN

-and-

THE REPUBLIC OF INDIA

CERTIFIED TRANSCRIPT
(HEARING ON COMPETENCE)

COURT OF ARBITRATION:

Professor Sean D. Murphy (Chairman)
Professor Wouter Buytaert
Mr. Jeffrey P. Minear
Judge Awn Shawkat Al-Khasawneh
Dr. Donald Blackmore

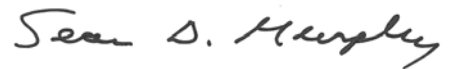
SECRETARIAT:

The Permanent Court of Arbitration

ON BEHALF OF THE COURT OF
ARBITRATION:

CERTIFIED PURSUANT
TO
PARAGRAPH 19 OF ANNEXURE G

13 May 2023



Professor Sean D. Murphy
Chairman

Arbitration pursuant to Article IX and Annexure G
of the Indus Waters Treaty 1960

Permanent Court of Arbitration
Peace Palace
The Hague
The Netherlands

Day 3
Hearing on Competence

Saturday, 13th May 2023

Before:

PROFESSOR SEAN D MURPHY
HE JUDGE AWN AL-KHASAWNEH
DR DON BLACKMORE
MR JEFFREY P MINEAR
PROFESSOR WOUTER BUYTAERT

BETWEEN:

THE ISLAMIC REPUBLIC OF PAKISTAN

-and-

THE REPUBLIC OF INDIA

Certified pursuant to paragraph 19 of Annexure G

Professor Sean D Murphy
On behalf of the Court of Arbitration

Transcript produced by Trevor McGowan
Georgina Vaughn and Lisa Gulland

APPEARANCES

FOR THE ISLAMIC REPUBLIC OF PAKISTAN

SIR DANIEL BETHLEHEM KC, Twenty Essex, London
PROFESSOR ATTILA TANZI, 3 Verulam Buildings, London
PROFESSOR PHILIPPA WEBB, Twenty Essex, London
DR CAMERON MILES, 3 Verulam Buildings, London
MR STEPHEN FIETTA KC, Fietta LLP, London
MR JIRIES SAADEH, Fietta LLP, London
MS LAURA REES-EVANS, Fietta LLP, London
MR AHMAD I ASLAM, Additional Attorney General
Head, International Disputes Unit, Office of the
Attorney General for Pakistan (Agent)
MR HASSAN NASIR JAMY, Secretary, Ministry of Water Resources
MR SYED MUHAMMAD MEHAR ALI SHAH, Commissioner for
Indus Waters
HE MR SULJUK MUSTANSAR TARAR, Ambassador of Pakistan to
the Netherlands
MR MUHAMMAD WASIF, First Secretary, Embassy of Pakistan
MS FATIMA HAMDIA TANWEER, First Secretary-II, Embassy of
Pakistan
MS LEENA NISHTAR, Consultant, Office of the Attorney General
MR ZOHAIK WAHEED, Consultant, Office of the Attorney General

THE REPUBLIC OF INDIA WAS NOT REPRESENTED

FOR THE PERMANENT COURT OF ARBITRATION

MR GARTH SCHOFIELD, Deputy Secretary General
MR BRYCE WILLIAMS, Legal Counsel
MR SEBASTIAN KING, Assistant Legal Counsel

Discussion re procedural matters1

Closing submissions on behalf of9

the Islamic Republic of Pakistan

 By Dr Miles9

 Questions from the Court36

 By Sir Daniel Bethlehem KC38

 Questions from the Court61

 By Mr Aslam81

Closing remarks86

09:12 1 Saturday, 13 May 2023
 2 (9.30 am)
 3 THE CHAIRMAN: I think we are all assembled and ready to
 4 start with the closing submissions from the Government
 5 of Pakistan. Sir Daniel, would you like to begin?
 6 SIR DANIEL: Thank you very much, Mr Chairman, members of
 7 the Court. I am going to be here just for a couple of
 8 minutes and then hand over to Dr Miles. But there were
 9 two points that I just wanted to make briefly in
 10 opening. One was to give you a sense of the script, the
 11 scheme of our submissions and the timing, so that you
 12 have that in mind; and the second is just to mention
 13 a point about documents.
 14 On the scheme of submissions, when I sit down, there
 15 will be three more submissions to follow. First of all,
 16 Dr Miles. I think he will probably be on his feet for
 17 about 45 minutes or so, and he is going to be addressing
 18 all of the various factual and evidential questions:
 19 both two of the questions that arose from your written
 20 questions yesterday and some of those that arose from
 21 the hearing. And I will come back to one aspect of that
 22 in just a moment.
 23 I will follow him, and I will sweep up the rest of
 24 the legal questions that came to us yesterday. I expect
 25 that probably I will be on my feet for about 35 minutes

Page 1

09:33 1 short order after the proceedings close -- perhaps not
 2 immediately after the proceedings close, but in short
 3 order -- I think we will make an application to you to
 4 introduce those documents into the record, with exhibit
 5 numbers, so that you've got them there.
 6 Dr Miles will -- I'm not stepping into his
 7 submissions here, but he will identify for you that we
 8 have undertaken a review of documents. We've got some
 9 to put before you, but there is a very considerable
 10 repository of other documents. I think once you hear
 11 Dr Miles, it would be helpful to have some guidance from
 12 you, Mr Chairman, members of the Court, as to whether
 13 you would like to see the other documents once we've
 14 been able to locate them all, identify them all and
 15 undertake a review.
 16 We suspect that they are not relevant, but they
 17 would be of the order, I imagine, of the site visit
 18 documents, so in the numbers of tens or the numbers of
 19 scores of documents that we would have to review. That
 20 would take a little bit of time. We could put those
 21 into the record if needs be, if you thought that they
 22 were relevant, perhaps over the course of the next week
 23 or so.
 24 Which just brings me to the last point, and that is
 25 that we are very mindful of the requirements of due

Page 3

09:32 1 or so. You may have some questions there.
 2 And then Pakistan's Agent will close the
 3 proceedings.
 4 So we expect -- and I'm also looking at our esteemed
 5 court reporter here -- we expect that we may be able to
 6 actually finish by the time of the coffee break. But if
 7 not, that will be, as it were, my fault, and I'll alert
 8 you to that. And it may be that if we go over just five
 9 or ten minutes, we'll be able to avoid having
 10 a half-an-hour coffee break and then coming back. So
 11 particularly as the sky is blue outside, we didn't want
 12 to spend all of the time indoors.
 13 The second point is just to reference that in
 14 a couple of your questions you raised issues about
 15 documents. And you will have seen -- or I presume you
 16 saw the covering letter from Pakistan this morning
 17 submitting those additional documents, where we
 18 referenced not just the procedural order in respect of
 19 the hearing but also Article 22, paragraph 6 of the
 20 Supplemental Rules, which, as it were, address your
 21 competence to ask us for documents at any point in time.
 22 We note that, and we are grateful for that.
 23 We are also though mindful of the good order
 24 injunction that the documents should be on the record.
 25 So with your permission, Mr Chairman, at some point, in

Page 2

09:35 1 process, and these will be documents that India will
 2 only see today when they are communicated to India. So
 3 we expect that you will consider it appropriate to give
 4 India an opportunity -- whether they take it or not is
 5 a matter for them -- but give them an opportunity to
 6 address those documents.
 7 I think again it will be a matter for you as to
 8 whether you want to ask us for the additional documents
 9 and then invite India to respond, or whether you don't
 10 want to ask for the additional documents and just take
 11 the documents that Dr Miles will take you to, in which
 12 case India could be given an opportunity to respond in
 13 relatively short order. But in the absence of our
 14 friends from the other side, we don't want there to be
 15 any sense of cutting corners on these due process
 16 issues.
 17 Related to that, there is a last point which
 18 perhaps, Mr Chairman, we could get your guidance on,
 19 although we have been proceeding on the basis of
 20 an assumption which I made express yesterday, but
 21 a number of my colleagues are also proceeding on that
 22 basis. Where, in response to questions, there is
 23 jurisprudence out there, international case law which is
 24 manifestly in the public domain -- it's on the PCA
 25 website or elsewhere -- we have proceeded on the basis

Page 4

09:36 1 that it is appropriate to draw your attention to it
 2 because, as we contended, you could take judicial notice
 3 of it in any event. So this, in a sense, is making
 4 transparent what otherwise would be invisible.
 5 We will reflect further on whether we want to apply
 6 to you to actually put those documents into the record
 7 with document numbers so that you've got a full docket.
 8 But it may be that you would like to give us a guidance
 9 or a direction as to whether those not quite
 10 extemporaneous, but nonetheless responsive references to
 11 public domain jurisprudence are something that you are
 12 happy to take without the documents being in the record,
 13 or whether you would actually like them to have exhibit
 14 numbers, and the extracts on the record.
 15 THE CHAIRMAN: Thank you, Sir Daniel. Just a quick
 16 immediate reaction to a couple of your points.
 17 The first would be that I think as a general
 18 proposition, to the extent that the jurisprudence is in
 19 the public domain and easily accessible, I don't see any
 20 difficulty in not introducing it into the record
 21 formally. On the other hand, if the Government of
 22 Pakistan would like to submit a request that you do so,
 23 with the appropriate document numbers, we're certainly
 24 not adverse to that. It's just that I think, as
 25 a general proposition, we know where to find these

Page 5

09:39 1 unfairness issue because India might be said to have
 2 been sort of doorstepped by new material. So it's not
 3 a question of that at all. It's a question of: there
 4 was a question from the members of the Court, we've gone
 5 back to our document repository, we've identified
 6 a number of documents, Dr Miles will make some
 7 submissions about them.
 8 I have in mind, I think, from memory -- but I may be
 9 wrong on this -- I think it's paragraph 3.7 of
 10 Procedural Order No. 3, which addresses the issue of not
 11 just demonstratives but hearing materials; and that, in
 12 principle, absent a reasoned application to introduce
 13 them, we should not be using anything that is not in the
 14 record.
 15 Now, we take Article 22.6 -- is it 22.6 or 22.3?
 16 I forget now -- as a codicil to that because the Court
 17 has expressly requested it. But in either 3.6 or 3.7 of
 18 Procedural Order No. 3, it also says quite expressly
 19 that the other party shall be given an opportunity to
 20 respond; and it also says quite expressly that this
 21 question session, this second-round session, will be
 22 deemed to be that opportunity to respond.
 23 If we are only introducing the documents in that
 24 second session, it doesn't follow reasonably that this
 25 can be the deemed opportunity for India to respond. And

Page 7

09:38 1 cases, and both parties know where to find them. So
 2 I don't see any difficulty in terms of transparency.
 3 The other immediate reaction is just to clarify that
 4 the documents that you are presenting to us this
 5 morning, and that possibly, as you indicated, the Court
 6 would request further documents that are of a similar
 7 nature, these are all documents that the Government of
 8 India has access to itself? In other words, there's
 9 nothing new or surprising; it's just a question of
 10 whether, in the context of this proceeding, the
 11 Government of India should be given an opportunity to
 12 speak to them, in the event that it wished to do so. Is
 13 that correct?
 14 SIR DANIEL: Yes, Mr Chairman, that's exactly correct, and
 15 I can make it a little bit more specific.
 16 Mr Minear, you'll recall you asked a number of
 17 questions about the Baglihar record: the notification of
 18 the intention to request a Neutral Expert, the request
 19 itself. Obviously that goes back a very long way: we're
 20 going back two decades. We've had to go back and have
 21 a look at that record; it hasn't been, as it were, in
 22 our laptops.
 23 But this is all material that India has, because
 24 there have been exchanges or they've come out of
 25 meetings. So there is no, as it were, due process

Page 6

09:41 1 as I say, we don't want there to be in sense out there,
 2 in the absence of the other party, that there is not
 3 meticulous attention to due process. And we have no
 4 difficulty in you giving them an opportunity to respond;
 5 we think that is right and proper. That will run in
 6 parallel to your deliberations, so it has no
 7 implications for timing or anything like that.
 8 THE CHAIRMAN: Just a reaction on that.
 9 I think, at least from my perspective -- I haven't
 10 discussed this with my colleagues -- because these were
 11 questions coming from the Court seeking to identify
 12 information that would be of value to us, it does fall
 13 more squarely within Article 22.3, perhaps Article 22.2
 14 as well, and therefore isn't of the type of submission
 15 of documents coming from the parties' own initiative,
 16 and therefore we're in a little bit of a different place
 17 in that regard.
 18 So I do think that's the approach that we're taking
 19 to it. But I fully understand your point of providing
 20 the Government of India with an opportunity to speak to
 21 these documents in the event that it wishes to do so.
 22 SIR DANIEL: Thank you very much, Mr Chairman. I think
 23 without more ado, much ado about nothing -- we've had
 24 Julie Andrews and now we have Shakespeare -- perhaps you
 25 would invite Dr Miles to come and give his submissions.

Page 8

09:42 1 THE CHAIRMAN: Very good. Thank you very much,
 2 Mr Bethlehem.
 3 In that case, I invite Dr Miles to come to the
 4 podium.
 5 (9.43 am)
 6 Closing submissions on behalf of
 7 the Islamic Republic of Pakistan
 8 DR MILES: (Slide 1) Mr Chairman, members of the Court, as
 9 Sir Daniel said, I will be performing something of
 10 a sweep-up role this morning, providing answers to the
 11 some of the outstanding questions asked of Pakistan over
 12 the past few days, before handing over to Sir Daniel to
 13 address you on the balance, and then indirectly to
 14 Mr Aslam to close Pakistan's case on competence as
 15 Agent.
 16 (Slide 2) Now, I have for you on the slide a roadmap
 17 of our time together this morning, and you'll see that
 18 I broke my task into three parts.
 19 First, I will be looking at the provision of
 20 technical information by Pakistan to India in the
 21 context of the Commission, responding to a question that
 22 you asked me, Mr Chairman.
 23 Secondly, I will be examining the process by which
 24 a Neutral Expert process is commenced under the Treaty,
 25 and the difference between the intention to request

Page 9

09:45 1 if you're not being given access to the relevant site
 2 and things of that [nature]?"
 3 Now, I gave you a brief answer, Mr Chairman, on
 4 Thursday. I'm now able to give you an answer in
 5 a little more detail, and I'm grateful for the
 6 opportunity to do so.
 7 (Slide 5) You should have copies with you of P-0074;
 8 I think I handed it up with the slide deck.
 9 THE CHAIRMAN: Maybe I'll just pause you for a moment as we
 10 sort out a technical issue. Sorry for the delay.
 11 (Pause to resolve a technical problem)
 12 THE CHAIRMAN: We seem to be back in action. Dr Miles,
 13 whenever you're ready.
 14 DR MILES: Thank you, sir.
 15 So P-0074. Now, we've looked at this beforehand.
 16 This is the letter that Pakistan's Commissioner sent to
 17 the Indian Commissioner when he was trying to
 18 effectively restart the discussions on the KHEP after
 19 the Kishenganga final award was handed down. And it's
 20 quite important for the question that you asked me,
 21 Mr Chairman.
 22 Now, in the opening paragraph of that letter, you'll
 23 see Pakistan's Commissioner saying, "You asked me for
 24 this data: here it is". And in the following paragraph,
 25 you'll see his description of where it was provided. We

Page 11

09:44 1 a Neutral Expert and the actual request itself, which is
 2 critical. Again, that comes out of questions asked by
 3 you, Mr Chairman, of Ms Rees-Evans and Mr Fietta. I did
 4 my best to answer one of those on my feet, and I'm
 5 coming back for another try at the others on my
 6 colleagues' behalf.
 7 Thirdly, I will be satisfying Mr Minear's curiosity
 8 regarding the Baglihar Neutral Expert proceedings. And
 9 I'll be taking that opportunity as well to wrap up some
 10 of the Court's other questions on the record of those
 11 proceedings and on the effect of the Baglihar decision
 12 and the decision of the Kishenganga Court on this
 13 Court's competence.
 14 (Slide 3) So with that said, let's turn to the first
 15 issue.
 16 (Slide 4) Mr Chairman, on Thursday (Day 1, page 112)
 17 we had an exchange about matters technical, and I have
 18 it for us on the slide:
 19 "THE CHAIRMAN: Dr Miles on the prior slide (15),
 20 it's an example, I think, of the Indian Commissioner
 21 saying [to you] that you 'must provide the technical
 22 basis/grounds for your objections' ... And maybe you're
 23 going to get to this, but my question is [this]: what is
 24 it that India is expecting from Pakistan? And can
 25 Pakistan provide many of that information being sought

Page 10

09:47 1 have references there to the 99th, 100th and
 2 101st meetings, and the formulation of the six questions
 3 for the Kishenganga Court and the Neutral Expert;
 4 questions that you would think could not be formulated
 5 without an adequate technical basis.
 6 At paragraph 6, over the page, we can see reference
 7 to yet further discussions at the 103rd meeting of the
 8 Commission, which I understand was given over almost
 9 entirely to Kishenganga.
 10 Then at paragraph 11, over the page again, you can
 11 see Pakistan's Commissioner saying that he's giving this
 12 information again not because he has to, but because he
 13 wants to move things along after years and years of
 14 delay.
 15 If you turn over the page again, you'll see the
 16 seven-page discussion that I referred to on Thursday.
 17 And we see there, with respect to each line item,
 18 Pakistan's concern, followed by a detailed technical
 19 basis.
 20 It's my understanding that this is the kind of raw
 21 material with which the Commission usually conducts its
 22 business. And if you wanted more data and calculations,
 23 Mr Chairman -- this is in response to your instinct, to
 24 the extent that there was one -- that would require
 25 a site visit of considerable scrutiny. Indeed, that is

Page 12

09:49 1 one of the very purposes contemplated by the site visit
 2 provisions of the Treaty to which Sir Daniel took you on
 3 Thursday.
 4 (Slide 6) Now, what was the Indian Commissioner's
 5 response to all this? Of course, it was that the data
 6 was not sufficient.
 7 I have on the slide an extract from the minutes of
 8 the 110th meeting of the Commission (P-24), which was
 9 the meeting immediately after the provision of this
 10 information, and it took place on 23 to 27 August 2014.
 11 It's quite voluminous, so I've just given you the
 12 extract on the slide for now, but this is at paragraph 7
 13 of those minutes. And we can see the Indian
 14 Commissioner stating that:
 15 "... he requested a detailed note for the technical
 16 basis behind the objections of [Pakistan's Commissioner]
 17 on ... ([the] KHEP) via his letter of 6 February 2014.
 18 [Pakistan] provided a note through his letter dated
 19 31 March 2014."
 20 We just looked at that.
 21 "However, the detailed calculations were not
 22 provided [to allow] for meaningful discussions in the
 23 meeting. Nevertheless, the same could be discussed in
 24 the present meeting for an early resolution [to] those
 25 issues."

Page 13

09:50 1 So we've got a bit of a contradiction there
 2 automatically, members of the Court. We have India's
 3 Commissioner saying, "It's not enough detail, but it's
 4 enough detail for us to have a discussion that will
 5 resolve the matter". So there's a tension there. And
 6 the inconsistency of that position is borne out by the
 7 involved and substantive discussion the Commissioners in
 8 that meeting then have on the KHEP, which, if you turn
 9 the minutes up in a slower time, you will find at
 10 paragraphs 41 to 50.
 11 (Slide 7) Members of the Court, the same pattern
 12 plays out again at the 111th meeting (P-25), held on
 13 31 January to 4 February 2015. We see there again the
 14 Indian Commissioner complaining that he does not have
 15 enough information to seriously engage with the Pakistan
 16 Commissioner. We've got paragraph 24 for you on the
 17 slide. Coming in midway down:
 18 "Technical basis mentioned by Pakistan are mostly
 19 general in nature. As the objections relate to designs
 20 which are kept to meet the technical requirements of
 21 projects, the ground of objections should ... be based
 22 upon and supported by engineering technology, in the
 23 absence of which, the objections simply remained
 24 [an objection] without any justifiable ground."
 25 Pakistan's Commissioner immediately rejected this

Page 14

09:51 1 criticism as baseless, and I've got paragraph 26 for you
 2 on the slide, where he does just that:
 3 "While responding to [the Indian Commissioner's]
 4 contention that Pakistan's contentions are [mostly]
 5 general in nature and ... made without technical
 6 grounds, [Pakistan's Commissioner] denied [India's
 7 Commissioner's] assertion and highlighted the instances
 8 where specific technical substantiations were provided
 9 by Pakistan along with supporting calculations."
 10 (Slide 8) Then he makes a number of points -- and
 11 these are quite important, in my submission -- as to why
 12 the data provided is more than enough. So, for example,
 13 he points in paragraph 7 of these minutes to the
 14 calculations for the freeboard. And he points out that
 15 when Pakistan has complained about the freeboard height,
 16 it has done so by reference to various technical inputs
 17 like wind speed, wave run-up and wind setup.
 18 All of these are standardised measurements, and --
 19 this is me editorialising here -- if you wanted more
 20 precise and site-specific information about those kinds
 21 of variables, you would require a site visit.
 22 At paragraph 27, he also notes that the debate
 23 between the parties on the question of pondage revolves
 24 around the difference between the parties as to the
 25 correct interpretation of paragraph 8(c) of Annexure D

Page 15

09:52 1 of the Treaty; that is to say, was Baglihar right or
 2 wrong? It doesn't require any technical information.
 3 Then we have paragraph 28, talking about respect to
 4 the low-level outlets. Again, the difference between
 5 the parties here revolves around the effect of the
 6 Kishenganga partial award: were low-level outlets of
 7 this nature still permitted to be part of the KHEP
 8 design, in circumstances where you could not draw down
 9 the reservoir below dead storage level?
 10 Then at paragraph 28, he points out that there are
 11 multiple HEPs under discussion within the Commission on
 12 the basis of similar technical information, like the
 13 RHEP, Miyar, the KHEP, Pakul Dul and Lower Kalnal.
 14 Then finally, at paragraphs 49 to 71 -- so over
 15 20 paragraphs, members of the Court -- the Commissioners
 16 then engage in a lengthy, involved and technical
 17 discussion about the KHEP. Plainly it was still
 18 possible for the Commissioners to engage in a robust
 19 dialogue -- even if it did not result in convergence --
 20 on the basis of the material provided.
 21 So that's the long analysis, members of the Court.
 22 But the short answer to your question, Mr Chairman, is
 23 as follows: the Indian Commissioner failed to specify
 24 what further detailed technical calculations were
 25 necessary before substantive discussions could take

Page 16

09:54 1 place. Substantive discussion of much of the
 2 disagreement between the parties -- and I'm referring
 3 here, in particular, to Baglihar and Kishenganga -- did
 4 not require the provision of any additional information,
 5 and the absence of that information did not prevent
 6 substantive discussion over the KHEP from taking place.
 7 Essentially, members of the Court, for Pakistan to
 8 get the information necessary to satisfy the Indian
 9 Commissioner, it would have required a site visit, which
 10 the Indian Commissioner was consistently refusing to
 11 allow. It's a catch-22. The Indian Commissioner was
 12 thus imposing an inappropriate precondition on
 13 substantive discussions, and at the same time ensuring
 14 that there was no possible way that the precondition
 15 could possibly be met.
 16 In those circumstances, Mr Chairman and members of
 17 the Court, the Indian Commissioner's attitude towards
 18 the supposed lack of technical information by Pakistan
 19 is reflective of India's attitude towards these matters
 20 overall: delay, dissemble and distract in the
 21 Commission; and build, build, build on the Western
 22 Rivers.
 23 So that's the answer to the first question,
 24 Mr Chairman.
 25 (Slide 9) I'm now on to my part II, on the

Page 17

09:57 1 that it sets out three steps.
 2 So we start with step 1, which is paragraph 5(a),
 3 under which the first Commissioner is notifying the
 4 other Commissioner of his intention to ask for a Neutral
 5 Expert. Now, I emphasise this reference to
 6 a notification of an intention to ask for a Neutral
 7 Expert, as this makes clear that the distinction between
 8 an intention to request and an actual request is rooted
 9 in the clear text of the Treaty, which we must have in
 10 mind at all times.
 11 Then step 2, we've got paragraph 5(b), and that sets
 12 out the two-week period in which the two Commissioners
 13 work together -- or not, as the case may be -- to
 14 produce the joint statement of points of difference.
 15 Finally, we have paragraph 5(c), which sets when the
 16 request is actually made by the first Commissioner to
 17 the appointing authority specified in paragraph 4.
 18 I note that when we come to paragraph 4 -- and we'll
 19 come on to paragraph 4 in a little bit -- there are two
 20 possible variables which would operate sequentially for
 21 when the appointment is actually made, for when it
 22 crystallises. And I'll come back to this aspect, as
 23 I said, in just a moment.
 24 So: intention, collaboration, request and
 25 appointment. And the question that you asked,

Page 19

09:55 1 commencement of the Neutral Expert proceedings. There
 2 was a brace of questions around these, asked at
 3 different times over the course of Thursday, and I'm
 4 going to try and scoop them all up in this section.
 5 Mr Chairman, on Thursday you asked two questions of
 6 Ms Rees-Evans and Mr Fietta about the point at which,
 7 under the Treaty, a Neutral Expert proceeding is deemed
 8 to commence, and whether there was any relevant practice
 9 between the parties in this respect.
 10 (Slide 10) The first question was to Ms Rees-Evans.
 11 I've got it on the slide (Day 1, page 78, lines 16-22):
 12 "THE CHAIRMAN: ... what I'm trying to drive at is
 13 understanding the parties' postures in a situation where
 14 there's been either an intention to pursue a Neutral
 15 Expert or a request that the other party agree to pursue
 16 a Neutral Expert, whether that's viewed, in the practice
 17 of the parties, as initiating a Neutral Expert
 18 proceeding or not."
 19 Now, to answer this, we're going to look at the
 20 provisions of Annexure F. If you would like to turn up
 21 your Treaties, please, to paragraph 5 of Annexure F.
 22 And you'll be able to find that at internal page 206 of
 23 the UNTS at the top left-hand side of the page; internal
 24 page 45 of the PCA's bundle.
 25 (Slide 11) We can see, looking at this provision,

Page 18

09:58 1 Mr Chairman, is: which one, out of the intention or the
 2 request, kicks off the Neutral Expert proceeding under
 3 the Treaty? Which act in Annexure F performs the role
 4 similar to paragraph 3 of Annexure G with respect to the
 5 Court of Arbitration?
 6 (Slide 12) Now, this question was asked and
 7 answered, in my submission, by the Kishenganga Court in
 8 a passage that I took the Court to briefly on Thursday,
 9 and I'll take the opportunity now to go through it with
 10 a bit more care. It's on the slide. And we can see the
 11 Court dealing with the fact that Article IX(2)(a) of the
 12 Treaty also refers to an intention and request.
 13 At paragraph 473 of the partial award (PLA-3), the
 14 Court says:
 15 "In the Court's view, the conjunction within
 16 Article IX(2)(a) of both references manifests the
 17 Parties' intention for the Commissioners to exercise
 18 a dual role under that Article, both as the initiators
 19 of the neutral expert process and [as] part of
 20 a mechanism that requires recourse to a neutral expert
 21 in certain circumstances. Article IX(2)(a) thus
 22 requires that a difference be referred to a neutral
 23 expert if either Commissioner believes that it relates
 24 to one of the identified technical matters and prefers
 25 that it be resolved by a neutral expert."

Page 20

10:00 1 But, and this is the important bit, as I said on
 2 Thursday:
 3 "[The] requirement only becomes effective, however,
 4 if a request for the appointment of a Neutral expert is
 5 actually made. It is insufficient for a Commissioner
 6 merely to express the view ..."
 7 That's step 1, paragraph 5(a):
 8 "... [to] merely [actually] express the view that
 9 a difference would, at some point, be an appropriate
 10 matter for a neutral expert."
 11 So it's the actual request that matters, and not the
 12 prior notification of an intention to request.
 13 (Slide 13) The Court explains why in the following
 14 paragraph, at 474:
 15 "At the same time, the requirement of an actual
 16 request is necessary, in the Court's view, to avoid the
 17 procedural impasse that could arise, for example, under
 18 the formulation recalled in the December 1959 draft [of
 19 the Treaty]: a Commissioner could express the view that
 20 a difference fell within Annexure F, thereby
 21 unequivocally foreclosing access to a court of
 22 arbitration, and yet decline to request a neutral expert
 23 to resolve the difference. Such a 'pathological clause'
 24 ... was commendably avoided in the final version of
 25 Article IX."

Page 21

10:03 1 I just showed you. Such a dead-end, a cul-de-sac, could
 2 also be created where a Commissioner made a request to
 3 the parties under paragraph 4(b)(i) of Annexure F, but
 4 when the parties failed to agree, the Commissioner then
 5 refused to refer his request -- in bad faith or with
 6 some dilatory intent, or without some implicit agreement
 7 between the Commissioners -- to the Bank, thereby
 8 trapping the request in limbo, while at the same time
 9 preventing the triggering of Article IX(3) on the basis
 10 that no dispute was able to arise post-request.
 11 (Slide 15) This, Mr Chairman, also feeds into the
 12 further question that you had on the Neutral Expert
 13 procedure, specifically the 11th May 2009 Request for
 14 Appointment of a Neutral Expert put forward by
 15 Pakistan's Commissioner with respect to questions 2
 16 through 5 of the original list of six on the KHEP
 17 (P-64). You asked Ms Rees-Evans (Day 1, page 77,
 18 lines 5-9):
 19 "... could [you] just address to some extent why it
 20 was left pending ..."
 21 That is to say the 2009 request:
 22 "... from 2009 to ultimately 2016. Was it because
 23 of the Kishenganga Court of Arbitration or was it for
 24 some other reason that it was left pending?"
 25 (Slide 16) Your instincts are commendable,

Page 23

10:01 1 So, to put it another way, members of the Court, the
 2 requirement of an actual request is needed to prevent
 3 Article IX(2) from becoming a cul-de-sac into which
 4 a disagreement could disappear, never to emerge.
 5 (Slide 14) The same logic applies to the further
 6 stage of analysis that I mentioned previously about
 7 paragraph 4, which you might want to look at now in your
 8 Treaties. Paragraph 4 says that there are two potential
 9 authorities for a Neutral Expert to be appointed by.
 10 We've got paragraph 4(b)(i): Neutral Expert appointed by
 11 the parties jointly. And then if no appointment is made
 12 in accordance with (i), we've got (ii): the Neutral
 13 Expert will be appointed by the Bank within one month
 14 after the date of the request.
 15 Now, this is the further step beyond step 3 of the
 16 analysis we've been through, whereby the request is
 17 deemed to crystallise once it has been rendered to the
 18 appointing authority that ultimately makes the
 19 appointment: so if the parties can agree under
 20 paragraph 4(b)(i), on the date that it goes to the
 21 parties; but if the parties cannot so agree -- and, to
 22 be fair, they have never agreed to date -- then on the
 23 date that it goes to the Bank under paragraph 4(b)(ii).
 24 The reason for this is to avoid the same cul-de-sac
 25 that the Kishenganga Court recoiled from in the passage

Page 22

10:04 1 Mr Chairman, because you're quite right. It is my
 2 understanding that, through an implicit appreciation
 3 within the Commission, the 2009 request was submitted to
 4 the parties but then deliberately not referred to the
 5 Bank, on the basis that it was thought, by Pakistan at
 6 least, that the Kishenganga Court's award might resolve
 7 one or more of questions 2 through 5, so that not all of
 8 these disputes -- or differences at that stage -- would
 9 need to be subjected to determination. And Pakistan was
 10 indeed vindicated in this when the Kishenganga Court
 11 held that the KHEP's reservoir could not be drawn down
 12 below dead storage level -- at least in Pakistan's view,
 13 how naive it was -- the issue of the low-level outlets.
 14 And secondly, referring to my previous point about
 15 the cul-de-sac, members of the Court, because the 2009
 16 request was not referred to the Bank, it hadn't
 17 crystallised, such that the Neutral Expert proceedings
 18 never formally commenced within the meaning of the
 19 Treaty; and preventing the absurd situation of
 20 a continuous long-term block on a dispute arising in
 21 respect of these issues merely because a request had
 22 been made.
 23 So in this sense it was left pending and not
 24 withdrawn by Pakistan because, at least while it
 25 remained with the parties, it could not limit the

Page 24

10:05 1 parties' dispute settlement options.
 2 (Slide 17) This brings me to the third question
 3 about Neutral Expert procedure, which was asked of
 4 Mr Fietta. Mr Chairman, this is you again (Day 1,
 5 page 196, lines 9-15):
 6 "... what I was trying to see [was] if you had, on
 7 your team, any responses to ... whether the practice of
 8 India and Pakistan, in prior situations where
 9 an intention to make a request had been articulated,
 10 whether that practice demonstrated an interpretation
 11 that that alone [could constitute or] did not constitute
 12 the commencement of a Neutral Expert procedure."
 13 Now, there is some practice in the authorities, or
 14 rather the archive, supporting this reasoning; minor,
 15 perhaps, but practice nonetheless.
 16 (Slide 18) In the Baglihar determination (PLA-2),
 17 the Neutral Expert begins his decision with the
 18 following. This is at section 1.1; I've got it on the
 19 slide.
 20 "On 15 January 2005, the Government of Pakistan sent
 21 a request to the World Bank to appoint a Neutral Expert
 22 stating that a 'difference' had arisen between India and
 23 Pakistan under Article IX(2) of the Treaty, relating to
 24 the Baglihar Project."
 25 So put another way, members of the Court, the

Page 25

10:07 1 Baglihar Neutral Expert, in the part of his decision
 2 setting out the originating process, mentioned only the
 3 request by Pakistan's Commissioner to the Bank. He did
 4 not mention the Commissioner's earlier request to the
 5 parties and he also did not mention Pakistan
 6 Commissioner's earlier declaration of an intention to
 7 the Indian Commissioner under paragraph 5(a) of
 8 Annexure F. He thereby indicated that he did not
 9 consider anything but the notification to the Bank to be
 10 procedurally significant or otherwise relevant to his
 11 competence.
 12 Then of course we have the Kishenganga Court
 13 decision that we looked at earlier, although it
 14 obviously doesn't go into the level of detail that we've
 15 just discussed this matter with. It only considers the
 16 making of a request to a Neutral Expert, and not
 17 examining the more subtle question of the point at which
 18 that request crystallised into actual commencement of
 19 Neutral Expert proceedings.
 20 The short point, Mr Chairman, is that nowhere on the
 21 prior occasions in which Annexure F has been invoked --
 22 2005 in relation to Baglihar, 2009 in relation to the
 23 KHEP, and 2016 in relation to the KHEP and the RHEP --
 24 has there been any indication by a Neutral Expert, by
 25 the Court, or indeed by the parties, that a mere

Page 26

10:08 1 declaration of intention under paragraph 5(a) of
 2 Annexure F has been sufficient for Neutral Expert
 3 proceedings to be deemed to have commenced.
 4 So, to the extent that anything can be inferred from
 5 that absence of practice, there you have it.
 6 (Slide 19) Finally, just to round the analysis off,
 7 a mere statement of intent is exactly what the Indian
 8 Commissioner's letter of 11 August (P-32) -- just
 9 a handful of days prior to Pakistan's Request for
 10 Arbitration -- a mere statement of intent was what that
 11 letter was. The critical paragraph is again on the
 12 slide:
 13 "I therefore invoke paragraph 2(a) ..."
 14 And:
 15 "I therefore notify you under paragraph 5(a) of
 16 Part 2 of Annexure F that I intend to seek appointment
 17 of a Neutral Expert ..."
 18 And he says:
 19 "Kindly acknowledge receipt of [the] letter
 20 immediately ... In accordance with paragraph 5(b) of
 21 Part 2 of Annexure F, we are required to prepare a joint
 22 statement ..."
 23 So here we have intention, we have invitation to
 24 collaboration, but we do not have -- and this is
 25 critical -- the actual request itself.

Page 27

10:09 1 So the purpose of this letter could not be clearer:
 2 declaration of intention. And as we know from the
 3 Kishenganga partial award and the consistent practice of
 4 the parties, only an actual request will do. Only the
 5 actual request can fire the gun to formally commence
 6 a Neutral Expert proceeding; a declaration of intention
 7 cannot.
 8 (Slide 20) Having ended my last part touching on
 9 Baglihar, it does seem fitting that I should continue,
 10 which brings me to Part III, on the Baglihar Neutral
 11 Expert determination.
 12 (Slide 21) Mr Minear, on Thursday (Day 1, page 89,
 13 line 22 to page 90, line 4), you had the following
 14 question:
 15 "I'm struck by the fact in your presentation that
 16 India resisted the appointment of a Neutral Expert both
 17 before and after the Kishenganga arbitration. But we
 18 don't know about India's position with regard to ...
 19 Baglihar ... Was there a similar resistance? And would
 20 it be possible for Pakistan to provide the Request for
 21 Appointment of a Neutral Expert in that case?"
 22 And in a similar vein, yesterday -- I've got this
 23 for you on the slide as well -- Pakistan received the
 24 Court's question 38:
 25 "Can you provide the Court with a copy of available

Page 28

10:11 1 documentation leading to the appointment of the Neutral
 2 Expert in the Baglihar proceeding (including, but not
 3 limited to, the notification of the intention to ask for
 4 the appointment of a Neutral Expert, and the request for
 5 the appointment of the Neutral Expert and [the
 6 accompanying documents)?"
 7 I'll answer the question on the Baglihar record
 8 first, before turning to Mr Minear's question about
 9 India's attitude.
 10 (Slide 22) Members of the Court, as Sir Daniel
 11 mentioned earlier, following our receipt of question 38,
 12 we have overnight worked to review a substantial amount
 13 of material -- not all of it directly relevant, it must
 14 be said -- concerning the lead-up to the appointment of
 15 Raymond Lafitte as Neutral Expert in the Baglihar
 16 Neutral Expert proceedings.
 17 Members of the Court, in the time since we received
 18 question 36, we've not been able to parse the entire
 19 archive of Baglihar documents to weed out what is
 20 relevant to the analysis and what is not. And if you
 21 would consider such a review exercise to be useful and
 22 valuable, we would of course be happy to do so in slower
 23 time and produce these documents, together with
 24 an explanatory note similar to the one that we used to
 25 provide a cover to the site visit documents that we

Page 29

10:12 1 submitted into the record earlier this week. We're in
 2 your hands on that, as Sir Daniel said.
 3 In the meantime, however, we have four documents to
 4 place on the record. I'm not going to take you to them.
 5 I believe they've been submitted. But we can do the
 6 headline points for now. Those three documents are:
 7 P-228, which is the letter from Pakistan's
 8 Commissioner to the Indian Commissioner notifying the
 9 latter of the former's intention to request appointment
 10 of a Neutral Expert under paragraph 5(a).
 11 We've got Exhibit P-229, which is the letter from
 12 Pakistan's Commissioner to the parties, dated
 13 20 June 2003, which is the request to the parties to
 14 appoint the Neutral Expert under paragraphs 5(c) and
 15 4(b)(i) of Annexure F.
 16 Then we have Exhibit P-230, the letter from
 17 Pakistan's Commissioner to the Bank, dated
 18 15 January 2005, asking the Bank, in the absence of
 19 party agreement, to appoint the Neutral Expert. And as
 20 we know from the Baglihar determination, it was this
 21 document that the Neutral Expert considered to be
 22 originating process and to start the ball rolling on the
 23 Neutral Expert proceedings.
 24 The fourth document I've got for you there on the
 25 slide, Exhibit P-231, goes to Mr Minear's question about

Page 30

10:13 1 whether or not India resisted the appointment of the
 2 Neutral Expert in Baglihar. Mr Minear, the short answer
 3 is that it did so resist, and it resisted vigorously.
 4 The document we have placed on the record to show
 5 that is, as I said, P-231. It's a letter from India to
 6 the Bank on 21 April 2005, so some three months after
 7 Pakistan's Commissioner had approached the Bank to
 8 formally request appointment of a Neutral Expert under
 9 paragraph 5(c), and a little under two years after
 10 Pakistan's Commissioner had approached the parties with
 11 the same request. And despite the frankly colossal
 12 amount of water that had passed through the turbine, so
 13 to speak, since then, that letter shows that India is
 14 still resisting appointment of a Neutral Expert on the
 15 basis that it was premature. So even after the
 16 proceedings have commenced, India is saying, "No, no,
 17 no, we don't want an Expert, this is all premature".
 18 So in my submission, members of the Court, what we
 19 have here in P-231, nearly 20 years ago, is evidence
 20 that India is still playing games on the Western Rivers:
 21 delay, dissemble, distract; and build, build, build.
 22 (Slide 23) The final question I have before I hand
 23 over to Sir Daniel is the Court's question 37, which
 24 concerns Baglihar and also Kishenganga. The Court asks:
 25 "What is the legal effect of the decisions reached

Page 31

10:15 1 by the Kishenganga Court of Arbitration and the Baglihar
 2 Neutral Expert for a decision by this Court of
 3 Arbitration on its competence?"
 4 I will address the second part of this question
 5 first, on Baglihar.
 6 As the Kishenganga Court held, a Neutral Expert
 7 determination such as Baglihar has binding effect per
 8 paragraph 11 of Annexure F only with respect to the
 9 particular plant it addresses. Beyond that plant,
 10 however, the Neutral Expert's determination is not
 11 binding, and of no direct relevance to this Court's
 12 work. This Court is not considering Baglihar; it's
 13 considering virtually every other dam but Baglihar.
 14 (Slide 24) I have paragraph 470 of the Kishenganga
 15 partial award (PLA-3) on the slide, just to recall its
 16 terms:
 17 "The Court does not see in Annexure F any indication
 18 that the Parties [to the Treaty] intended a neutral
 19 expert's determination to have a general precedential
 20 value beyond the scope of the particular matter before
 21 [it]. Baglihar is binding for the Parties in relation
 22 to the Baglihar project; the present decision, by
 23 contrast, is binding in respect of the general question
 24 presented in these proceedings."
 25 Thus, as I said, as this Court is not concerned with

Page 32

10:16 1 Baglihar, nothing said in the Baglihar determination can
 2 bind it. And this, I would submit, is all the more so
 3 because the Baglihar reasoning does not contain any
 4 discussion of the Neutral Expert's competence or the
 5 competence of a Court of Arbitration; which is not
 6 surprising, given that its author was an esteemed expert
 7 engineer who, by the terms of Part 1 of Annexure F,
 8 could not discuss such things, and was not called upon
 9 to do so in any event.
 10 (Slide 25) Now the first part of the question:
 11 Kishenganga. The Kishenganga partial award, however, is
 12 of far greater interest to this Court. As we have just
 13 seen on the previous slide, it binds India and Pakistan
 14 in respect of the general question presented, whatever
 15 that general question may be. And that's confirmed by
 16 paragraph 23 of Annexure G, which says, "The Court shall
 17 render its award", et cetera. But the important part:
 18 "Any such Award rendered in accordance with the
 19 provisions of this Annexure in regard to a particular
 20 dispute shall be final and binding upon the Parties with
 21 respect to that dispute."
 22 (Slide 26) In Kishenganga, moreover, the Court
 23 rejected many of the same objections to competence --
 24 framed there as objections to admissibility -- that
 25 India relies upon now. So the Court held, at

Page 33

10:18 1 paragraph 479, that there is no graded mechanism for the
 2 settlement of differences or disputes in Article IX of
 3 the Treaty; and that a Court of Arbitration may be
 4 seised unilaterally of a dispute, without the moving
 5 party having first to seek the views of a Neutral Expert
 6 on whether it has to be dealt with, in point of fact, as
 7 a dispute or as a difference.
 8 Secondly, the Court also found, at paragraph 478,
 9 that a Neutral Expert proceeding can only commence upon
 10 receipt of the request for appointment by
 11 a Commissioner, not at the point at which the
 12 Commissioner merely opines that the matter should go to
 13 a Neutral Expert under paragraph 5(a) of Annexure F.
 14 Thirdly, that Court of Arbitration also found that
 15 a Court of Arbitration such as this one -- comprised of
 16 expert lawyers on the one hand and expert engineers on
 17 the other -- is fully competent to deal with technical
 18 matters under Part 1 of Annexure F. And indeed, there
 19 is no corner of the Treaty that a Court of Arbitration
 20 so composed does not have competence over.
 21 Each of these determinations, we submit, is captured
 22 by paragraph 23 of Annexure G, and so binding on the
 23 general question presented. The Court may therefore
 24 well conclude that to the extent that India's
 25 submissions on competence in these proceedings overlap

Page 34

10:19 1 with the various admissibility objections rejected by
 2 the Kishenganga Court -- and you will have seen from our
 3 response that Pakistan submits there is considerable
 4 overlap between the two -- that India is precluded by
 5 paragraph 23 of Annexure G from taking those points.
 6 But even if, hypothetically, the Court were not to
 7 conclude that India was formally bound by the
 8 admissibility findings in the Kishenganga partial award,
 9 those findings must nevertheless, in my submission, be
 10 treated with the greatest respect.
 11 The role of the Court within the parties' bargain is
 12 to provide firm guidance to the parties -- and possibly
 13 also the Bank -- within the Treaty's unique architecture
 14 and self-contained regime. This objective can only be
 15 obtained, it can only be realised, if successive
 16 Annexure G bodies, successive Courts of Arbitration, pay
 17 attention and, unless there is a good reason to go in
 18 a different direction, adhere to what has been decided
 19 before. That which is settled ought not to be
 20 disturbed. The jurisprudence constante that will
 21 hopefully, in time, emerge from such a practice will
 22 improve the Treaty's certainty, strengthening it as
 23 a consequence.
 24 Mr Chairman, members of the Court, unless you have
 25 any further questions, those are my submission on the

Page 35

10:21 1 three areas allocated to me.
 2 MR MINEAR: Thank you, Dr Miles. Just a brief point here,
 3 again because I'm concerned that India is not present
 4 here and I want to make sure that their objections have
 5 all been ventilated and answered by Pakistan.
 6 On your slide 24, saying "Baglihar Has No Effect",
 7 the language in Kishenganga (PLA-3) makes the point
 8 that:
 9 "The Court does not see in Annexure F any indication
 10 that the parties intended a neutral expert's
 11 determination to have a general precedential value ..."
 12 Emphasis here:
 13 "... beyond the scope of the particular matter
 14 before him."
 15 In some of the correspondence, India has made the
 16 point that the particular matter before the Court was
 17 pondage, and not the project. I would just like to get
 18 your response to that, so that we do have your response
 19 to India's assertion on that point.
 20 DR MILES: Thank you, Mr Minear.
 21 That's plain and simple a misreading of what the
 22 Court is saying here. There were multiple issues at
 23 issue in Baglihar and in Kishenganga. One of the issues
 24 at play in Baglihar was, as the Indian Commissioner
 25 points out, pondage. Another question in play, of

Page 36

10:22 1 course, was whether or not the Treaty permitted drawdown
 2 flushing below the dead storage level. And as we know
 3 from Kishenganga, the Court of Arbitration there had no
 4 problem whatsoever with overturning Baglihar on that
 5 point, and providing, as it says here, a general
 6 determination for all time on that question.
 7 So the idea that just because a question is dealt
 8 with, a particular point of treaty interpretation is
 9 dealt with in a previous Neutral Expert proceeding, it
 10 can't be overturned by a Court of Arbitration is just
 11 wrong. When we talk about the scope of a particular
 12 matter, which is what's being talked about here in
 13 Baglihar, what is being talked about is the particular
 14 HEP at play. It's not talking about the particular
 15 question of legal or treaty interpretation. And as I've
 16 just shown you, the attitude of the Kishenganga Court to
 17 the Baglihar determination on drawdown flushing makes
 18 that point good.
 19 MR MINEAR: Thank you.
 20 THE CHAIRMAN: Very good, Dr Miles. I think that concludes
 21 our questions for you. Thank you very much for your
 22 presentation.
 23 DR MILES: Thank you, sir.
 24 THE CHAIRMAN: If I'm remembering correctly, we're back to
 25 Sir Daniel at this point.

Page 37

10:26 1 may wish to go and have a look at -- is that I turned
 2 the pages with the Neutral Expert, with Mr Lino, on the
 3 Baglihar determination (PLA-2), and it's very striking
 4 that as you open that Baglihar determination and you
 5 look through the early paragraphs and pages of that,
 6 that it's all about law. The Neutral Expert in Baglihar
 7 starts off and he quotes Article 31 of the Vienna
 8 Convention on the Law of Treaties and he goes into a big
 9 excursus about law, and he reaches a conclusion about
 10 what he should be doing in terms of progressive
 11 interpretation and development, and then he goes on to
 12 make his determinations.
 13 And that's exactly the problem that the Court in
 14 Kishenganga put its finger on. Not only was that not
 15 the role of the Neutral Expert, but he was not qualified
 16 to do so, he was not competent to do so, and the Court
 17 concluded that he was wrong.
 18 This is why we are here. Because the Court in
 19 Kishenganga gave an interpretation of the Treaty,
 20 a systemic interpretation for all time. We have
 21 struggled, to no result, with our friends opposite to
 22 try and come to a point of implementation of the
 23 Kishenganga award. We have not been able to do so.
 24 That is why -- I'm trying to put my arms around the
 25 whole issue here -- that is why, in the correspondence

Page 39

10:24 1 SIR DANIEL: Mr Chairman, members of the Court, it may be
 2 that there is a small factual issue which we will need
 3 to come back to, and I think my colleague Dr Miles will
 4 just reflect on that with our colleagues. But if so,
 5 we'll come back to that in the course of these
 6 submissions.
 7 Mr Chairman, members of the Court, I'm just prompted
 8 by Dr Miles's submissions and, Mr Minear, your last
 9 question to him, just to make an observation which in
 10 fact I made to the Neutral Expert at his first meeting.
 11 So it's on the record of the transcript, I think
 12 probably in the early stages of my submissions to him.
 13 It goes to this point about what the Neutral Expert did
 14 in Baglihar and what the Court addressed in respect of
 15 the Neutral Expert's determination.
 16 If memory serves me -- I haven't gone back to the
 17 transcript now -- but if memory serves me, in fact
 18 I took the Neutral Expert in some detail to the
 19 provisions of the Kishenganga award which undertook the
 20 analysis which underpins the conclusion that the Court
 21 came to, and Dr Miles referenced the conclusion.
 22 But the point that I'd like to make, which
 23 I think -- and I don't testify from the microphone but
 24 I think it emerges from the transcript, so I'm really
 25 just highlighting for your attention a point that you

Page 38

10:28 1 of February 2016, Pakistan's Commissioner said to
 2 India's Commissioner, "We have come to the conclusion
 3 that we cannot go any further in this siloed approach of
 4 talking about Baglihar, talking about this, talking
 5 about that. These issues have to be resolved by a Court
 6 of Arbitration, the award of which, whatever it says,
 7 will lay to rest for all time these issues of systemic
 8 interpretation".
 9 So behind the points that Dr Miles made to you is
 10 this whole edifice of the dispute between the parties
 11 about whether you can simply approach these things as
 12 a matter of siloed plant-by-plant technical design
 13 questions, to be interpreted by different Neutral
 14 Experts at different points in time, without regard to
 15 anything else; or whether this aspect of the Treaty,
 16 from Pakistan's perspective -- because we are talking
 17 about the Western Rivers and Article III -- whether this
 18 aspect of the Treaty needs to have a touchstone of
 19 consistent and predictable interpretation. And that is
 20 why we are here. It's the very, very edifice of the
 21 Treaty that is at stake in the issues with which we are
 22 concerned.
 23 I return, Mr Chairman and members of the Court, to
 24 my more scripted remarks. It is always good for the
 25 advocate to go off-piste. It's the point at which his

Page 40

10:30 1 Agent or her Agent begins to get very nervous because
 2 they don't know what you're going to say. But we know
 3 that Mr Aslam is very sanguine and very calm, and
 4 I speak very slowly so he can throw things at me!
 5 Mr Chairman, members of the Court, I will be
 6 addressing the remaining six of the Court's questions
 7 provided to us in writing yesterday afternoon, after the
 8 conclusion of our first-round submissions, so that's
 9 questions 39, 40, 41, 42, 43 and 44. I propose to take
 10 them out of sequence, starting in just a moment with
 11 question 42, and my submissions will conclude Pakistan's
 12 responsive case. Mr Aslam will then have some brief
 13 words to wrap up Pakistan's submissions.
 14 I should say, having a look at the clock -- 10.30 --
 15 that unless you have a barrage of questions for me --
 16 which I do not shirk and would invite, because this is
 17 going to be the last opportunity to clarify issues --
 18 I suspect that my scripted remarks will bring us to
 19 a conclusion perhaps not quite at 11.00, but not too
 20 much after 11.00. And with your indulgence,
 21 Mr Chairman, and begging the indulgence also of the
 22 court reporter, if you would allow me to conclude then,
 23 then we may be able to either end for the day or pause
 24 for the day while you might consider whether you have
 25 any follow-up questions or would like to have, as we did

Page 41

10:32 1 at the first session, a dialogue backwards and forwards
 2 on issues that are not yet clear.
 3 Before I come to my response to the questions,
 4 I would like just to recall the thread of India's
 5 conduct with which we are concerned in these
 6 proceedings, that I highlighted in my opening
 7 submissions and that you will have heard throughout, in
 8 the submissions of others: delay, dissemble; distract;
 9 and build, build, build on the Western Rivers. This is
 10 the prism through which we consider you need to approach
 11 the factual evidence before you. I set this out in my
 12 opening submissions, you've heard it from my colleagues,
 13 I make it now in the closing submissions. This is the
 14 thread that we see in the factual evidence.
 15 So let me then turn to the questions. And I turn
 16 first to question 42, which asks us to confirm whether
 17 the following statement captures Pakistan's position
 18 with respect to the current Neutral Expert. And I'm
 19 quoting here from the Court's encapsulation/summary of
 20 what it understood that I had said:
 21 "The Neutral Expert proceeding is now lawful, as
 22 a matter of forum prorogatum, based on Pakistan's
 23 decision to participate in that proceeding. However,
 24 under the Treaty, a Court of Arbitration has the
 25 authority to decide whether a Neutral Expert has issued

Page 42

10:33 1 a decision, in whole or in part, that is outside the
 2 scope of his competence, pursuant to paragraph 13 of
 3 Annexure F."
 4 There are two sentences to this statement. The
 5 first attempts to capture Pakistan's submissions on how
 6 the impropriety and invalidity of India's Neutral Expert
 7 Request can be cured by Pakistan's participation in the
 8 process. The second sentence attempts to capture
 9 Pakistan's residual reservation of position concerning
 10 a situation in which the Neutral Expert may go beyond
 11 his competence.
 12 Mr Chairman, members of the Court, as the statement
 13 stands, we think it's perhaps a little bit too
 14 elliptical a summary to fully capture what I said in
 15 both my opening and closing submissions, and I hope that
 16 you will not mind, therefore, if I attempt to rework it
 17 a little. And I understand that's the purpose of your
 18 putting it to us. As I understand that it will assist
 19 you to have a condensed encapsulation of what I said,
 20 I'll try to come up with one. And I will also endeavour
 21 to explain the points a little more clearly.
 22 For the record, I note that I addressed these issues
 23 in my opening and closing submissions at transcript
 24 Day 1, page 32, lines 4 to 14; and transcript Day 2 at
 25 page 42, line 24 to page 50, line 10. The very lengthy

Page 43

10:35 1 observations in the Day 2 transcript really deal with
 2 the paragraph 13 issues, rather than with the forum
 3 prorogatum issues.
 4 I propose to address the two sentences of the
 5 summary statement separately, and then bring them
 6 together in the revised formulation.
 7 The first sentence of the Court's encapsulation
 8 says:
 9 "The Neutral Expert proceeding is now lawful, as
 10 a matter of forum prorogatum, based on Pakistan's
 11 decision to participate in that proceedings."
 12 As I have just noted, this attempts to capture
 13 Pakistan's submissions on how the impropriety and
 14 invalidity of India's Neutral Expert Request can be
 15 cured by Pakistan's participation in the process.
 16 In addressing this in opening, I explained the
 17 issues succinctly as follows, in those opening
 18 submissions. I am quoting from the transcript of what
 19 I said then:
 20 "... Pakistan is no longer objecting to a full and
 21 engaged role for the Neutral Expert, even though it is
 22 of the view that India's Neutral Expert Request, as you
 23 have heard from our Agent, was both improper and
 24 invalid. But Pakistan is now committed, through its
 25 engagement in the Neutral Expert process, to cure that

Page 44

10:36 1 invalidity. This is akin ..."
 2 This is akin:
 3 "... to the principle of forum prorogatum, by which
 4 a party assents to the competence or jurisdiction of
 5 a court or tribunal through its participation in the
 6 settlement process."
 7 That's transcript Day 1, page 32, lines 4 to 14.
 8 And I largely repeated this statement in my closing
 9 submissions: that's transcript Day 2, page 42, line 25
 10 to page 43, line 7.
 11 Mr Chairman and members of the Court, in retrospect,
 12 I should not have used the term "forum prorogatum",
 13 which is a technical term of art in Roman law which has
 14 now been co-opted by international law, even though
 15 I qualified my use of the term by the words "akin to".
 16 And I should not have done so -- and my apologies,
 17 I should not have done so -- as I was using the term as
 18 a shorthand to describe a situation in which the
 19 jurisdiction of a court is founded on the consent of
 20 a state, through its participation in the adjudicatory
 21 process, in circumstances in which jurisdiction was
 22 otherwise lacking.
 23 That of course accurately captures what I intended
 24 to convey about the effect of Pakistan's participation
 25 in the Neutral Expert process. But my use of the term,

Page 45

10:38 1 it appears now, may have diverted attention from the
 2 improper and invalid conduct that I had in
 3 contemplation; namely, India's Neutral Expert Request.
 4 With this in mind, I think perhaps a more accurate
 5 summary of what I said would therefore be as follows,
 6 just taking the Court's first sentence formulation. So
 7 this would be my proposed reworking of it:
 8 "Pakistan considers that India's Neutral Expert
 9 Request was improper and invalid, thereby fundamentally
 10 tainting the competence of the Neutral Expert. Pakistan
 11 has, though, now resolved to participate in the Neutral
 12 Expert process, the consequence of which is to cure the
 13 invalidity of the Neutral Expert's appointment."
 14 So I think that would be the formal encapsulation,
 15 we would say, of the idea that I set out more fully and
 16 that you tried to capture in a sentence, but just to
 17 rephrase that.
 18 I come then to the second sentence of the Court's
 19 summary statement, which says:
 20 "However, under the Treaty, a Court of Arbitration
 21 has the authority to decide whether a Neutral Expert has
 22 issued a decision, in whole or in part, that is outside
 23 the scope of his competence, pursuant to paragraph 13 of
 24 Annexure F."
 25 As I noted a moment ago, this attempts to capture

Page 46

10:40 1 Pakistan's residual reservation of position concerning
 2 a situation in which the Neutral Expert may go beyond
 3 his competence.
 4 The Court's formulation accurately reflects
 5 Pakistan's position but, as I said just a moment ago, it
 6 is perhaps just a little too elliptical and does not
 7 indicate that this is the basis of Pakistan's residual
 8 reservation of position on the Neutral Expert's
 9 competence. And with this in mind, I think a more
 10 accurate summary of what I said would therefore be as
 11 follows:
 12 "Without prejudice to this ..."
 13 Because it's referring back to the earlier part of
 14 the summary:
 15 "Without prejudice to this, Pakistan maintains
 16 a residual reservation of position as regards the
 17 possibility of challenges to the competence of the
 18 Neutral Expert on the basis that paragraph 13 of
 19 Annexure F provides that if any question which is not
 20 within the competence of the Neutral Expert should arise
 21 out of his decision, that question would fall to be
 22 resolved through the procedures of Article IX(3), (4)
 23 and (5), of which the Court is the backstop."
 24 So I think that that would be sort of the fuller and
 25 more precise encapsulation.

Page 47

10:41 1 Then just to read the two parts of my reformulation
 2 into the record, bringing those two reformulations
 3 together, if you're looking for an accurate shortform
 4 summary of Pakistan's position on these issues, it would
 5 be as follows. I quote myself here:
 6 "Pakistan considers that India's Neutral Expert
 7 Request was improper and invalid, thereby fundamentally
 8 tainting the competence of the Neutral Expert. Pakistan
 9 has, though, now resolved to participate in the Neutral
 10 Expert process, the consequence of which is to cure the
 11 invalidity of the Neutral Expert's appointment. Without
 12 prejudice to this, Pakistan maintains a residual
 13 reservation of position as regards the possibility of
 14 challenges to the competence of the Neutral Expert on
 15 the basis that paragraph 13 of Annexure F provides that
 16 if any question which is not within the competence of
 17 the Neutral Expert should arise out of his decision,
 18 that question would fall to be resolved through the
 19 procedures of Article IX(3), (4) and (5), of which the
 20 Court is the backstop."
 21 So that would be the encapsulation.
 22 I detect, Mr Minear, that you're about to put your
 23 finger on the microphone, or ...? No.
 24 Mr Chairman, members of the Court, as I noted in my
 25 conclusion of the ten pages of submissions on this

Page 48

10:43 1 aspect yesterday, the issues of treaty interpretation at
 2 play here are quite intricate. I pause before I go on
 3 to question 44, in case there may be aspects which are
 4 perhaps still not entirely clear. So I would invite any
 5 questions that you may have on these issues now.
 6 I'm grateful for what I take to be the received
 7 clarity of the confused words that I've spoken.
 8 So we come now then to question 44. And I'm going
 9 out of sequence here because question 44, and my
 10 response to it, follows naturally from the points that
 11 I have just addressed. Question 44 states as follows:
 12 "Assuming that this Court of Arbitration is
 13 competent, Pakistan maintains that the current Neutral
 14 Expert can be seen as having competence linked to and
 15 ancillary to the Court of Arbitration. Please provide
 16 jurisprudence in support of this concept of ancillary
 17 competence."
 18 And there is a footnote reference to my submissions
 19 at transcript Day 2, page 25, line 11 to page 26,
 20 line 8.
 21 Mr Chairman, members of the Court, I'm not quite
 22 sure what happened here, but the question does not
 23 reflect what I said on the record. Now, it is always
 24 the responsibility of a speaker to be clear, and I was
 25 evidently insufficiently so. So let me be clear.

Page 49

10:46 1 the Neutral Expert's competence is ancillary or
 2 incidental to the question with which you are faced;
 3 it's that the issue of the Neutral Expert's competence
 4 is ancillary. And I'm coming on to unpack this, because
 5 I know that this is a not-straightforward proposition.
 6 And I went on in the transcript further:
 7 "In other words, it is a question ..."
 8 So an ancillary or incidental question to the task
 9 with which you are faced:
 10 "In other words, it is a question the resolution of
 11 which is necessary for purposes of the determination of
 12 the question of which you are seised pursuant to
 13 Pakistan's Request for Arbitration."
 14 That's the transcript reference that you gave.
 15 As this makes clear, what I was addressing was the
 16 issue of whether you are competent to address the
 17 Neutral Expert's competence or whether any dispute about
 18 the Neutral Expert's competence has got to be referred
 19 back to the Commission to work its way through the
 20 Article IX, paragraphs (3), (4) and (5) process again.
 21 The reason why this issue arises and why it is so
 22 important is that, as I observed in relation to
 23 question 42, paragraph 13 of Annexure F -- you'll recall
 24 I took you to it yesterday; if you've got it in your
 25 bundles, you may like to look at it again --

Page 51

10:44 1 I would like to say again that the question as
 2 formulated doesn't capture the transcript, as I'll
 3 come to.
 4 The issue that I was addressing at the transcript
 5 reference quoted was not focused on the competence of
 6 the Neutral Expert per se, but was rather focused on the
 7 competence of the Court -- this Court -- to itself
 8 address the competence of the Neutral Expert, rather
 9 than to leave the matter to be remitted back to the
 10 Commission. So I was not tying the competence of the
 11 Neutral Expert to your competence, but I was addressing
 12 the issue of whether, and on what basis, you could
 13 address the competence of the Neutral Expert.
 14 Now, this focus is accurately captured in the
 15 transcript at the reference provided in the question,
 16 and what I said was as follows:
 17 "The legal basis of this Court's competence to
 18 address the issue ..."
 19 And "the issue" being the competence of the
 20 Neutral Expert. So:
 21 "The legal basis of this Court's competence to
 22 address the issue is that the issue of the Neutral
 23 Expert's competence is an ancillary or incidental
 24 question to the task with which you are faced."
 25 And I pause here just to interpolate: it's not that

Page 50

10:47 1 paragraph 13 of Annexure F provide that, if any question
 2 which is not within the competence of a Neutral Expert
 3 should arise out of his decision, that question shall be
 4 settled:
 5 "... in accordance with the provisions of
 6 Article IX(3), (4) and (5)."
 7 Now, on a plain reading of paragraph 13, this
 8 suggests that any question that arises under
 9 paragraph 13 must go back to the Commission to work its
 10 way through the procedures under Article IX: first,
 11 paragraph (3); then paragraph (4); then paragraph (5).
 12 I note also in this regard that the competence of
 13 the Neutral Expert -- this Neutral Expert --
 14 unsurprisingly, is not part of Pakistan's Request for
 15 Arbitration. So the question that arises, candidly, is:
 16 on what basis can you, can this Court, address the
 17 competence of the Neutral Expert?
 18 Now, as a matter of your competence *ratione*
 19 *materiae*, your material competence to address any
 20 question that arises under the Treaty, that's there.
 21 But your competence is triggered by a request for
 22 arbitration. And the Request for Arbitration could not
 23 have referred to the competence of the Neutral Expert
 24 because that happened later in time, so of course it
 25 didn't address it. So the issue that arises is: how can

Page 52

10:49 1 you do so? What's the legal basis for your doing so?
 2 Paragraph 13 -- and it's not only paragraph 13 that
 3 we're concerned with here, because paragraph 13 is
 4 concerned with decisions of the Neutral Expert and we're
 5 not yet in the space of decisions of the Neutral Expert.
 6 So we're in the space of, if you like, an antecedent
 7 enquiry: can you now, at this point, as you consider
 8 your competence, also address the competence of the
 9 Neutral Expert?
 10 Now, we say -- and this was the point that I was
 11 trying to make yesterday, which obviously I sort of
 12 mangled -- yes.
 13 THE CHAIRMAN: Can I just intervene, Sir Daniel, to say that
 14 I think that the Court fully understood the proposition
 15 you were previously putting before us, which was: we
 16 have a Neutral Expert that's been established, we have
 17 a Court of Arbitration that, if it's deemed competent,
 18 has been established, and that you are raising with us
 19 the issue of, I think, the relationship between the two,
 20 in the context of this Court being the correct Court for
 21 reviewing whether or not the Neutral Expert stepped
 22 outside his competence. I think we fully understood
 23 that, and if our question somehow suggested a different
 24 understanding, it may have been a drafting issue on our
 25 part.

Page 53

10:50 1 So I just want to assure you that that is the sense
 2 in which we were contemplating the concept of
 3 an ancillary connection, if you will, to this Court of
 4 Arbitration, as opposed to a Court that would be
 5 established after the Neutral Expert has completed his
 6 work, through the procedures that one might normally
 7 expect. And all we, I think, were trying to do with
 8 this question was to see if you could provide us with
 9 some of that jurisprudence that you had in mind, and
 10 really nothing more.
 11 SIR DANIEL: Mr Chairman, I'm mightily relieved at that,
 12 because I do think that it may simply have been a sort
 13 of small, perhaps typographical, infelicity in the
 14 question, because the question says:
 15 "... Pakistan maintains that the current Neutral
 16 Expert can be seen as having competence linked to and
 17 ancillary to the Court of Arbitration."
 18 And we are not saying that the competence of the
 19 Neutral Expert is linked to and ancillary to the
 20 competence of the Court of Arbitration. I think that
 21 the few words that were missing there: that the "issue"
 22 of the competence of the Neutral Expert can be addressed
 23 as an ancillary issue by the Court of Arbitration.
 24 So I'm relieved that you understood my submissions
 25 as they were intended. And it may just be, as I say,

Page 54

10:52 1 a typographical point.
 2 I then come on to the jurisprudence, just to deal
 3 with this issue or ancillary or incidental competence,
 4 because I think it is rather important. And what I was
 5 about to come on to say is that we think that there is
 6 a very sound basis on which you, this Court, can address
 7 the competence of a Neutral Expert, whether this is by
 8 way of an original enquiry, which is the process that
 9 we're engaged in now, or whether it were to be by way of
 10 an enquiry that came to you pursuant to Annexure F,
 11 paragraph 13.
 12 This basis is that it has long been recognised that
 13 courts and tribunals have what is described as
 14 an ancillary or incidental competence. And I should say
 15 here that in the jurisprudence the language would
 16 usually be "ancillary or incidental jurisdiction", but
 17 I think jurisdiction and competence for these purposes
 18 are coterminous.
 19 As a practical matter in this case, this ancillary
 20 or incidental competence is hugely important as, if you
 21 do not engage with this question, it would have to be
 22 referred back to the Commission and then work its way
 23 through the Article IX(3), (4), (5) procedure, and that
 24 on make no sense whatsoever. It would cause huge delay,
 25 it would cause huge disruption and it would add further

Page 55

10:53 1 malfunction and dysfunction to the Treaty, we say.
 2 Now, the principle of ancillary or incidental
 3 competence is predicated on an appreciation that the
 4 resolution of an ancillary -- and for these purposes, if
 5 you will allow me, I'm going to simply say "ancillary",
 6 but the language in the case law sometimes refers to
 7 "ancillary" and sometimes to "incidental", but it means
 8 the same thing. So it's predicated on an appreciation
 9 that the resolution of an ancillary question is
 10 necessary for purposes of the determination of the
 11 principal question of which the court or tribunal is
 12 seised.
 13 In this case, there is of course a very direct
 14 linkage between the principal question of which you are
 15 here seised, namely your competence, and the ancillary
 16 question, namely the competence of the Neutral Expert,
 17 as there is a binary dimension to the question of your
 18 jurisdiction, as I referenced yesterday. And it's at
 19 transcript Day 2, page 25, lines 19 to 25, where
 20 I addressed this binary dimension explicitly.
 21 So this brings me to the jurisprudential support for
 22 the principle of ancillary jurisdiction. It dates back
 23 100 years, or more than 100 years, to the judgment of
 24 the Permanent Court of International Justice -- and that
 25 is the predecessor of the International Court of Justice

Page 56

10:55 1 across the hallway, but imbued with the same, as it
 2 were, sort of authority. The world court runs from the
 3 Permanent Court of International Justice through to the
 4 ICJ. So the judgment of the Permanent Court of
 5 International Justice in the Case Concerning Certain
 6 German Interests in Polish Upper Silesia between Germany
 7 and Poland.
 8 The Permanent Court confirmed a general competence
 9 to make ancillary and incidental determinations as
 10 follows, and I'm quoting here from page 18 of the
 11 judgment of the Permanent Court of 25 August 1925, of
 12 the PCIJ Series A, No. 6. So I misspoke: it wasn't
 13 a little bit more than 100 years, it was just a little
 14 bit less. 1925, so 98 years ago. And the Court said as
 15 follows:
 16 "It is true that the application of the Geneva
 17 Convention is hardly possible without giving
 18 an interpretation of Article 256 of the Treaty of
 19 Versailles and the other international stipulations
 20 cited by Poland. But these matters then constitute
 21 merely questions preliminary or incidental to the
 22 application of the Geneva Convention. Now the
 23 interpretation of other international agreements is
 24 indisputably within the competence of the Court if such
 25 interpretation must be regarded as incidental to

Page 57

10:55 1 a decision on a point in regard to which it has
 2 jurisdiction."
 3 This point has been picked up in writings and
 4 subsequently, and I'll come to some recent
 5 jurisprudence. But just to identify one seminal
 6 treatise in international law in 1953: the treatise of
 7 Professor Bin Cheng, General Principles of Law as
 8 Applied by International Courts and Tribunals. It was
 9 published in 1953; it was reprinted in 1987 by Grotius
 10 Publications. I think the citation that I'm giving to
 11 you is to the 1987 reprint, but it's just a reprint.
 12 Professor Bin Cheng said, in that really now
 13 absolutely seminal treatise on the issues, as follows:
 14 "Where a tribunal has jurisdiction in a particular
 15 matter, it is also competent with regard to all relevant
 16 incidental questions, subject to express provision to
 17 the contrary."
 18 And there are two relatively recent arbitral awards
 19 which illustrate well the application of the principles
 20 in practice. I think both of them took place in this
 21 room, so they are part of the PCA repository.
 22 The first is the 2015 award in the Chagos Marine
 23 Protected Area arbitration -- in fact, that one I think
 24 didn't take place in this room; the hearing took place
 25 elsewhere -- between Mauritius and the United Kingdom,

Page 58

10:58 1 in which the tribunal held as follows, at paragraph 220:
 2 "... as a general matter ... where a dispute
 3 concerns the interpretation or application of the
 4 Convention ..."
 5 And I interpolate here: the convention in question
 6 is the UN Convention on the Law of the Sea:
 7 "... where a dispute concerns the interpretation or
 8 application of the Convention ... the jurisdiction of
 9 a court or tribunal pursuant to Article 288(1) extends
 10 to making such findings of fact or ancillary
 11 determinations of law as are necessary to resolve the
 12 dispute presented to it."
 13 The reference is PCA Case No. 2011-03, award of
 14 18 March 2015 at paragraph 220.
 15 And then in the more recent case, the 2020 award in
 16 the Enrica Lexie case between Italy and India, which did
 17 definitely take place in this room -- we were facing in
 18 that direction (indicating) -- the tribunal held that
 19 the immunity of two Italian marines who had been
 20 arrested and detained by India was a question incidental
 21 or ancillary to the application of the Law of the Sea
 22 Convention.
 23 So India is very, very familiar with this because it
 24 was the respondent in the case. I of course was on the
 25 other side of that case, but we had exactly the same

Page 59

10:59 1 debate across the floor. And the reason given by the
 2 tribunal for reaching this conclusion was that it would
 3 be unable to:
 4 "... provide a complete answer [to the parties'
 5 dispute] without incidentally examining whether the
 6 Marines enjoyed immunity."
 7 The tribunal stated further that the question of
 8 immunity from jurisdiction "forms an integral part of
 9 the Arbitral Tribunal's task"; that's at paragraph 808.
 10 And it then went on to add as follows at paragraph 809:
 11 "... while the [Law of the Sea] Convention may not
 12 provide a basis for entertaining an independent immunity
 13 claim under general international law, the Arbitral
 14 Tribunal's competence extends to the determination of
 15 the issue of immunity of the Marines that necessarily
 16 arises as an incidental question in the application of
 17 the Convention."
 18 That's PCA Case No. 2015-28, 21 May 2020.
 19 Mr Chairman, members of the Court, in similar vein,
 20 the competence of this Court of Arbitration extends to
 21 the determination of the competence of the Neutral
 22 Expert, as a determination of this issue is necessary
 23 for the resolution of the issue of which you are seised.
 24 And this is all the more important where there is
 25 a clear and recognised risk of conflicting outcomes

Page 60

11:01 1 should the Neutral Expert take decisions that exceed his
2 competence.
3 So that's my ancillary/incidental competence point.
4 But again, before I move on to the remainder of the
5 questions, I pause here to see whether there are any
6 follow-up issues.
7 MR MINEAR: Thank you, Sir Daniel. I just ask this question
8 in the spirit of making sure that my own thinking
9 doesn't go astray.
10 On the language of paragraph 13, the final sentence
11 says, "[should] ... be settled in accordance with the
12 provisions of Article IX(3), (4) and (5)"; it doesn't
13 say "through". Is there any significance to that choice
14 of language, "in accordance with" rather than "through"
15 those provisions?
16 SIR DANIEL: Mr Minear, thank you for that. I suppose we
17 are so accustomed to parsing up and looking at the
18 entrails of words that I omitted to focus on that.
19 I have to say, I don't immediately see that that may
20 be the case, although I can see that "in accordance
21 with" may properly and reasonably be construed to mean
22 "in a manner which is consistent with the principles of
23 the provisions of Article IX, paragraphs (3), (4) and
24 (5)", rather than "through the specific processes". So
25 I expect that one could come to a reasonable

Page 61

11:04 1 I'm wondering though whether what we are talking
2 about here, with respect to the present Court of
3 Arbitration and the Neutral Expert, is something
4 different in nature. And it may be we don't need to
5 resolve this for purposes of the present proceeding, but
6 it may just be helpful to have your reactions to the
7 following.
8 It seems to me that what we're talking about here
9 is: in the event that the Neutral Expert reaches
10 a determination, and in the event that a party --
11 Pakistan, perhaps -- concludes that the Neutral Expert
12 stepped outside of his competence in reaching that
13 determination, then the question perhaps comes: where
14 does one go to address that matter? And I think you are
15 urging that this Court of Arbitration would be the
16 appropriate place to bring the matter. You certainly
17 mentioned functional reasons for that: it would be
18 inefficient to resume the whole process. But you are
19 making, I think, a different claim as well: that as
20 a legal matter, this is an appropriate step for this
21 Court to take.
22 What I'm wondering though is: it seems to me there's
23 two possibilities, perhaps, in the Court undertaking
24 that role.
25 One possibility would be that this Court of

Page 63

11:03 1 interpretation in those terms.
2 I have to say, I don't have in my mind -- it may be
3 something we can identify very quickly, but I don't have
4 in my mind whether the travaux préparatoires addressed
5 that issue.
6 MR MINEAR: Thank you, that's sufficient. I count on my
7 colleagues to restrain me as well!
8 SIR DANIEL: You have in front of you counsel who are
9 well-versed in the cut-and-thrust of the English courts,
10 which I think is very similar to the cut-and-thrust of
11 the US courts, where we invite and expect enquiry from
12 the bench. And I think that illuminates the clarity of
13 our thinking, or the lack of clarity, so I welcome that.
14 Thank you.
15 THE CHAIRMAN: Mr Bethlehem, maybe I'll follow up as well.
16 It will certainly be of interest to look at the
17 jurisprudence you have indicated: Enrica Lexie, Chagos
18 and Upper Silesia, and so on.
19 At present, my recollection is that those cases are
20 as you described: a court having jurisdiction over
21 a particular matter; and in order to address that matter
22 fully, it needs to look over to a different area of the
23 law, such as immunity, and to bring that into the case,
24 even though one might not initially think it was
25 a matter that was before the court.

Page 62

11:06 1 Arbitration is going to function in some sense in the
2 same way that a Court of Arbitration would have
3 functioned had the normal process unfolded of first
4 a Neutral Expert, and only after that the formation of
5 a Court of Arbitration. That could be one way in which
6 this Court of Arbitration is operating.
7 A different way would be that the same issues before
8 the Neutral Expert are before this Court of Arbitration
9 as a part of Pakistan's Request for Arbitration, and
10 there is something about our competence over those
11 issues that allows us to look at what the Neutral Expert
12 has done and take some decision about whether there is
13 legal effect, whether there is precedential effect with
14 respect to those issues.
15 Neither of those paths seems to me exactly like what
16 is in the jurisprudence that you pointed us to. There
17 may be some analogy that one could draw. But it's not
18 a question in those cases of two different fora, if you
19 will, operating, and one forum looking at the other.
20 But perhaps it does fit one of those paths, or maybe
21 there's some other path that you have in mind that
22 matches up with that jurisprudence.
23 So it's just my own initial reflections, to see if
24 there's a conversation that might be helpful.
25 SIR DANIEL: Thank you, Mr Chairman. I think you put your

Page 64

11:08 1 finger on the issues which one has to work through.
 2 I make no bones about the thought that there is not
 3 a sort of complete symmetry between the circumstances
 4 faced by the Chagos and the Enrica Lexie tribunal or
 5 PCIJ in Upper Silesia. But I think that the context of
 6 this issue goes back to perhaps my opening submissions.
 7 We are, for reasons that I addressed and for reasons
 8 that we all know, in a world in which we are looking at
 9 the interpretation and application of Article IX and of
 10 Annexure F and Annexure G with, we would say,
 11 a clear-sighted appreciation that there is both
 12 malfunction and dysfunction. And as we have urged upon
 13 you -- and we think that there is an absolutely
 14 cast-iron interpretative methodological way of doing
 15 this -- as we have urged upon you, you have to achieve,
 16 through a process of interpretation, a return to
 17 functionality.
 18 That cast-iron interpretative methodological way of
 19 doing so is to take the general rule of treaty
 20 interpretation -- the ordinary meaning of the words must
 21 be interpreted in good faith in their context and in the
 22 light of the object and purpose of the Treaty -- and
 23 say, hand on heart: the ordinary meaning of the words
 24 don't cover it here. But construing what is there on
 25 the page by reference to good faith, by reference to the

Page 65

11:10 1 wider context of the Treaty -- which is why I spent all
 2 of that time taking you through the cooperation
 3 imperatives -- by reference to the object and purpose of
 4 the Treaty, which again is good faith cooperative
 5 settlement of disputes, we have to achieve a return back
 6 to functionality.
 7 What I am saying to you, by reference to the
 8 ancillary jurisdiction jurisprudence and principle, is
 9 that there is, in the esteemed commentary of
 10 international law and in very solid jurisprudence,
 11 an appreciation that if a court or tribunal needs to get
 12 to an issue which is within the room, so to speak, and
 13 is necessary for it to get to it, it can get to it.
 14 I add to this that if one wanted kind of a further
 15 theory to sort of complete the notion, bearing in mind
 16 that the situation with which the tribunals in Enrica
 17 Lexie and Chagos and others were faced is not exactly
 18 ad idem with the situation with which you are faced, you
 19 may say to yourselves: we're going to reach a conclusion
 20 on our own competence and leave the Neutral Expert's
 21 competence for the moment in the shadows; but once we've
 22 reached a determination of our own competence as
 23 a provisional matter, we are then going to test that,
 24 we're going to stress-test that by reference to a review
 25 of the Neutral Expert's competence to confirm the

Page 66

11:12 1 meaning, for example, to confirm the conclusion that you
 2 have reached, or to complete the reasoning. So there
 3 may be lots of ways in which you could come to this.
 4 There are a couple of other points that I'd like to
 5 make in response, Mr Chairman, to your observations.
 6 You posited the situation in which, I think as you
 7 put it, in the event that the Neutral Expert reaches
 8 a determination or a decision, one or other party -- in
 9 this case we're contemplating Pakistan -- would say:
 10 well, that decision is outside your competence. That's
 11 the paragraph 13 scenario. We of course appreciate that
 12 there is the original question, before we even get to
 13 paragraph 13, because the Neutral Expert had not taken
 14 any decisions: was the Neutral Expert validly engaged?
 15 Now, you again -- and I think this was your
 16 question 35 yesterday, where you have the two book-ends
 17 on either side of the spectrum -- you could decide, and
 18 I think the way you put it was "for reasons of
 19 admissibility", that you sit on your hands, wait until
 20 the Neutral Expert has given his determinations or
 21 decision and then come in over the top of that; or on
 22 the other end of the spectrum, you say, "We are
 23 competent over everything". I'd just like to underline
 24 a couple of points.
 25 First of all, you are competent over everything:

Page 67

11:14 1 technical issues and systemic issues. The Neutral
 2 Expert is not competent over everything. He is only
 3 competent over technical issues, and over a narrow
 4 subset of technical issues: those in Part 1 of
 5 Annexure F.
 6 And the second point, which we say is unarguable,
 7 but it's obviously a point which is part of your
 8 competence decision, is that you are first in time. The
 9 Neutral Expert came after you. As Dr Miles has
 10 reinforced, the 11 August 2016 correspondence from India
 11 was paragraph 5(a) correspondence. It was
 12 a notification of intention to request; it was not
 13 a request.
 14 And both in terms of the hard rules of the Treaty --
 15 paragraph 5(a) comes before paragraphs 5(b) and (c) --
 16 and for the reasoning given by the Kishenganga Court and
 17 for the reasoning now that we come to, we say that it is
 18 unarguable that the request to appoint the Neutral
 19 Expert, ultimately Mr Lino, came after the institution
 20 of these proceedings. We cannot see any basis in which
 21 you could properly say, "We are simply going to cede the
 22 field until the Neutral Expert has reached his
 23 determination".
 24 Now, in our Statement on Coordination, we of course
 25 proposed a way forward which gives to both the Court and

Page 68

11:15 1 to the Neutral Expert a proper functional role. But it
 2 was a proper functional role which contemplated, for all
 3 the reasons that I have already indicated, that you
 4 would engage first on the systemic issues, and the
 5 Neutral Expert would then follow on the technical
 6 issues; and then if there were consequences that arose
 7 out of the Neutral Expert's determinations which do not
 8 come within his competence, you would come back on the
 9 issue of remedies.
 10 We think that is the only scheme that can bring
 11 about a return to functionality. Because otherwise, the
 12 situation with which you would be faced is the situation
 13 of Baglihar and Kishenganga, where the Court in
 14 Kishenganga is faced with an issue of whether it has to
 15 come in over the top of a Neutral Expert's determination
 16 in order to correct that.
 17 So, Mr Chairman, that's perhaps a long way of
 18 addressing your issues. And perhaps it's not something
 19 that is necessary to try and sort of resolve now because
 20 that is going to be something that is going to be part
 21 of your deliberative process. But I wanted you to have
 22 a very clear sense of the way in which we consider that
 23 process has to work.
 24 We've gone on now -- and I'm looking at our court
 25 reporter -- longer than I anticipated. I can probably

Page 69

11:17 1 complete what I've got in about ten minutes, save for
 2 further questions that you may have. I'm in your hands,
 3 Mr Chairman, as to whether you'd like me to do so or
 4 whether you'd like to take a break. (Pause)
 5 THE CHAIRMAN: I think we will go for the coffee break
 6 option, although it keeps us from the outdoors. It
 7 gives us an opportunity to refresh ourselves a bit and
 8 to contemplate whether there are any follow-on issues
 9 that might be helpful to raise.
 10 So why don't we do that. It's now quarter past.
 11 Why don't you plan to come back at 11.45 for the rest of
 12 the closing.
 13 SIR DANIEL: Thank you very much.
 14 (11.18 am)
 15 (A short break)
 16 (11.49 am)
 17 THE CHAIRMAN: Sir Daniel, before you begin, let me make two
 18 observations.
 19 The first is that we've had a discussion among the
 20 Court, and we don't see a need for any additional
 21 documents from you. If that changes, we will of course
 22 contact the parties to let them know. But for the time
 23 being, no need for further searching-out of documents.
 24 SIR DANIEL: Thank you. Mr Chairman, may I just alert you
 25 to a point. This doesn't detract from anything that

Page 70

11:49 1 you've said.
 2 Dr Miles, when he took you to those four documents,
 3 you will have seen that there were already exhibit
 4 numbers on them. So it's simply a question of whether
 5 you now would like us to make that formal application to
 6 admit them into the record, or whether you consider that
 7 they are admitted into the record already.
 8 Mr Chairman, you can reflect on it in slower time.
 9 THE CHAIRMAN: Why don't we reflect on that and let you
 10 know.
 11 The other thing I wanted to say is that we talked
 12 about whether we had any follow-up questions for you,
 13 based on your presentation up until the point when we
 14 broke, and we don't have any additional questions in
 15 that regard for you.
 16 SIR DANIEL: Obviously the blue sky has a very salutary
 17 effect there! Thank you, Mr Chairman and members of the
 18 Court.
 19 I should say that the break has also allowed us
 20 though an opportunity just to reflect on whether there
 21 are any issues that we want to draw to your attention
 22 coming out of this morning's submissions, and there are
 23 two, if I may. They are not consequential, but just to
 24 make sure that they are, as it were, addressed on the
 25 record.

Page 71

11:51 1 The first one, Mr Chairman, in fact relates to your
 2 observations to me on the last point just before we
 3 broke, and this is at transcript 11:06:15 to 11:06:43
 4 (page 63, line 24 to page 64, line 4). I will read that
 5 paragraph into the record again, where you say to me:
 6 "One possibility would be that this Court of
 7 Arbitration is going to function in some sense in the
 8 same way that a Court of Arbitration would have
 9 functioned had the normal process unfolded of first
 10 a Neutral Expert, and only after that the formation of
 11 a Court of Arbitration."
 12 I just wanted to underline the fact that of course
 13 we do not take the view that that is the normal
 14 process -- that you first go through a Neutral Expert
 15 and you then come to a Court -- because it may very well
 16 be that a Court could be seised first in time, or
 17 whatever.
 18 THE CHAIRMAN: Just to clarify, I was not attempting to pass
 19 any view on the normal process that might occur, in
 20 terms of all the different ways in which a Court of
 21 Arbitration might operate. I was trying to capture the
 22 idea that if you started with a Neutral Expert and then
 23 there was an issue that needed to go to a Court of
 24 Arbitration, that that might be the normal path for that
 25 particular approach, and nothing more than that.

Page 72

11:52 1 SIR DANIEL: Mr Chairman, I'm grateful for that. That's the
 2 way that I understood you, engaging in the conversation.
 3 But as we were getting some much-needed caffeine, some
 4 of my colleagues suggested that maybe there's an issue
 5 here that we just wanted to underline. So I do so.
 6 The second point is that when discussing the
 7 findings in Baglihar in response to your question,
 8 Mr Minear, Dr Miles said that the drawdown flushing
 9 issue was "in play" before the Neutral Expert in that
 10 case. And that was at the transcript, Day 3 -- and this
 11 is a timing rather than a line reference -- 10:22:23 to
 12 10:22:30 (page 36, line 23). Just a small point of
 13 elaboration on that issue.
 14 I note that the case in Baglihar was about
 15 Pakistan's objection to India's placement of spillway
 16 outlets in the Baglihar design far below the dead
 17 storage level, rather than specifically about drawdown
 18 flushing. But the issue of drawdown flushing came to be
 19 engaged at the request of the Neutral Expert, which
 20 India then happily adopted and changed its position.
 21 That's document [PLA]-2 at page 96. And eventually the
 22 issue of drawdown flushing became formal decision D3 in
 23 the Baglihar determination, and that's document [PLA]-2
 24 at pages 97 and 100.
 25 As I mentioned to you, as it were, sort of

Page 73

11:56 1 pass upon the legality of the Neutral Expert's
 2 appointment, and this may also be highly material for
 3 purposes of the guidance that we have urged that you
 4 give addressing the conduct of the World Bank, and the
 5 whole issue of the pause.
 6 I also note that passing on the propriety and
 7 validity of India's Neutral Expert Request would be
 8 readily distinguishable from passing on the competence
 9 of the Neutral Expert going forward. (Pause)
 10 It is also material that the parties' agreement on
 11 the competence of the Neutral Expert is fragile.
 12 Pakistan is maintaining a residual reservation of
 13 position in respect of the Neutral Expert's competence,
 14 as his competence determination process under
 15 paragraph 7 of Annexure F is yet to take place.
 16 I add lastly on this point that it is also necessary
 17 to be precise about what invalidity Pakistan is curing
 18 by participating in the Neutral Expert process; in other
 19 words, on what precisely there is agreement between the
 20 parties.
 21 The parties agree -- not necessarily in a discussion
 22 across the aisle, but in participation in the process --
 23 the parties agree that the Neutral Expert process should
 24 continue, notwithstanding that Pakistan continues to
 25 maintain that the process had invalid origins. The

Page 75

11:54 1 extemporaneously when I came to the microphone,
 2 I addressed the issue of the Kishenganga Court's
 3 approach to the Baglihar decision on drawdown flushing
 4 in some detail before the Neutral Expert. And you will
 5 find this at reference P-40(C) -- so it's the corrected
 6 version of the transcript -- Day 1, page 165, line 2 to
 7 page 167, line 12. So two pages of transcript where
 8 I address this issue.
 9 So I hope that that provides a little bit of further
 10 elaboration.
 11 MR MINEAR: Thank you.
 12 SIR DANIEL: So, Mr Chairman and members of the Court, that
 13 brings me to question 43, which states:
 14 "Assuming both parties agree to the competence of
 15 the Neutral Expert, is the Court of Arbitration bound by
 16 that agreement or can it pass upon the legality of the
 17 appointment of the Neutral Expert?"
 18 And I think I can address this briefly.
 19 In principle, if both parties agree, there is no
 20 dispute, and that should be an end of the matter. The
 21 issue is not quite so straightforward here, however, as
 22 the impropriety and invalidity of India's Neutral Expert
 23 Request may, depending on your reasoning, be a necessary
 24 component of the reasoning upholding your own
 25 competence. It may be, therefore, that you will need to

Page 74

11:57 1 parties do not agree, however, that India's Neutral
 2 Expert Request was valid or that the Neutral Expert is
 3 competent to reach determinations on issues of systemic
 4 treaty interpretation.
 5 Mr Chairman, members of the Court, that brings me to
 6 questions 39, 40 and 41, which I think are conveniently
 7 taken together as they raise questions concerning the
 8 Neutral Expert process.
 9 Question 39 asks whether there is a confidentiality
 10 regime with respect to the current Neutral Expert that
 11 affects sharing with the Court information regarding
 12 that process. It further asks whether we can share with
 13 the Court the retainer agreement concluded with respect
 14 to the current Neutral Expert.
 15 Question 40 asks if, when confidential Court
 16 documents are shared with the Neutral Expert, this is
 17 done on a confidential basis, as per Article 14(5) of
 18 the Supplemental Rules of Procedure; and if so, how that
 19 is effectuated.
 20 Question 41 asks if we can provide the Court with
 21 any information on the likely timetable for the work of
 22 the Neutral Expert, including for the selection of
 23 a secretariat, the adoption of rules of procedure, site
 24 visits, submission of pleadings and a final
 25 determination.

Page 76

11:59 1 Now, Mr Chairman, members of the Court, we
 2 understand entirely why you've asked these questions.
 3 And let me preface my response to these questions by
 4 recalling that I was very deliberate and circumspect in
 5 my concluding remarks yesterday about the Neutral Expert
 6 process going forward. That's at transcript Day 2,
 7 page 60, lines 1 to 19.
 8 Those proceedings have only just crystallised with
 9 the fixing of the Neutral Expert's terms of retainer on
 10 2 May. It has been, and is, less than an easy process.
 11 The bellicosity of India's approach is challenging. As
 12 I observed yesterday, the Neutral Expert evidently felt
 13 the need to respond, Mr Chairman, to your letter to him
 14 in the terms that he did, closing the door on, as he put
 15 it, a coordinated process between the Court and the
 16 Neutral Expert "at this time".
 17 The only document that has been finalised by the
 18 Neutral Expert so far has been his terms of retainer.
 19 This is a minimalist document that is confined to
 20 crystallising the process and getting it underway. It
 21 contains identifying information and personal
 22 information and modalities of communication, but
 23 virtually nothing else. It does not address procedural
 24 issues.
 25 Given its character and content, and noting that

Page 77

12:01 1 terms of appointment, even in fully transparent
 2 proceedings, are very seldom made public, we do not
 3 think that we can properly share the terms of retainer
 4 without the permission of the Neutral Expert, just as we
 5 would not feel that we can share with him your
 6 Administrative Order No. 1, which contains similarly
 7 personal information. And as we see it, if it gives you
 8 any comfort, in the content of the terms of retainer, it
 9 is not material to any issue that is before you.
 10 On question 40, concerning the sharing of
 11 confidential Court documents, we are of course acutely
 12 mindful of Article 14(5) of your Supplemental Rules of
 13 Procedure. We have not shared any Court documents, or
 14 documents generated out of the Court process, since the
 15 handing-down of your supplemental rules on 31 March of
 16 this year. So the issue that is envisaged in your
 17 question has not arisen. Mindful of Article 14(5) of
 18 the Supplemental Rules, we would take every available
 19 step to ensure confidentiality.
 20 Now, in this regard, Mr Chairman, members of the
 21 Court, I note Article 14, paragraph (2), paragraph (3)
 22 and paragraph (4) of your Supplemental Rules, which deal
 23 with public transparency of your proceedings. They deal
 24 with press releases, they deal with the publication of
 25 decisions and awards that you may reach in procedural

Page 78

12:03 1 orders and they deal with the issue of publication of
 2 pleadings. And I observe that the publication on the
 3 website of the PCA of the Court documents is very
 4 important.
 5 I note further the particular terms of
 6 Article 14(4), which deals with the publication of
 7 parties' pleadings, which will require active
 8 consideration. And we are actively considering it; we
 9 have not yet reached any conclusion for ourselves. But
 10 you may like to give us any guidance that you have.
 11 On question 41, concerning procedural developments
 12 in the Neutral Expert process, there is little that we
 13 can share, as nothing is yet fixed.
 14 You will see from the transcript of the first
 15 meeting of the Neutral Expert -- which I again commend
 16 to you for your careful review -- that India stated on
 17 the record that it needed until the end of July to
 18 submit its memorial; in other words, ten months from the
 19 date of appointment of the Neutral Expert.
 20 There will thereafter need to be an Annexure F,
 21 paragraph 7 competence determination process by the
 22 Neutral Expert, which will no doubt take six months or
 23 so to complete; after which, on those differences of
 24 which the Neutral Expert is properly seised, Pakistan
 25 will then need to file a Counter-Memorial. There will

Page 79

12:04 1 necessarily be a process thereafter, including site
 2 visits and meetings, the parameters of which are not yet
 3 fixed.
 4 Mr Chairman, members of the Court, mindful of the
 5 state of the Neutral Expert process, I am again being
 6 very deliberate and circumspect. I reiterate and
 7 underscore my closing remarks of yesterday.
 8 Mr Chairman, members of the Court, there is only one
 9 concluding point that we might usefully raise with you
 10 at this stage. We hope, of course, that you will affirm
 11 your competence and address fully and transparently, and
 12 with clear reasoning, the array of issues engaged by
 13 your enquiry. Once you have done so, and on the
 14 assumption that you do indeed confirm your competence,
 15 it will be necessary to chart a way forward.
 16 We are mindful of Article 7(1) of your Supplemental
 17 Rules. And having regard to its terms, we would welcome
 18 the Court convening an online meeting as soon as would
 19 be convenient for all concerned, once the seven-day
 20 period in Article 7(1) has passed, to address next
 21 steps. We will be giving careful thought to these
 22 issues in advance of such meeting.
 23 I note -- just so that you have this on your radar
 24 screen, so to speak -- I note that Pakistan's legal and
 25 governmental team will be exceptionally heavily

Page 80

12:06 1 stretched in the coming period, with potentially three
 2 heavy substantive pleadings to be produced in parallel,
 3 and possibly two additional significant procedural
 4 documents also to be produced in parallel, at exactly
 5 the same time. So it will be important for us to be as
 6 attentive as possible to the scheduling constraints
 7 going forward.
 8 Mr Chairman, members of the Court, that concludes my
 9 submissions, and I thank you for your kind attention.
 10 Mr Chairman, members of the Court, if there are issues
 11 which you would like to put to me, to clear away the
 12 underbrush, before our Agent comes to the microphone,
 13 I'd be very happy to address them.
 14 THE CHAIRMAN: No, I think we have no further questions for
 15 you, Sir Daniel. Thank you very much for your
 16 presentation. And I welcome Mr Aslam to take the floor.
 17 MR ASLAM: Thank you, Mr Chairman, members of the Court.
 18 Over the course of the last two days, you heard
 19 extensive arguments on why this delegation believes that
 20 this Court is competent to address the disputes put
 21 before it by Pakistan's Request for Arbitration of
 22 July 2016. We are grateful for the opportunity that you
 23 afforded us to raise before this Court issues of facts,
 24 issues of law and issues of political morality. You
 25 heard what happened, what we believe the burden and

Page 81

12:09 1 also the intention of the parties and the object and
 2 purpose of the Treaty itself, a path forward can be
 3 forged that restores balance to the Treaty and provides
 4 guidance to the parties and the Neutral Expert.
 5 This can only be done by this Court. The drafters
 6 of the Treaty, in their infinite wisdom, bestowed only
 7 upon the Court the power to interpret the Treaty. The
 8 Neutral Expert forum is neither designed for nor suited
 9 to such examination.
 10 As the members will appreciate, the partial award in
 11 the Kishenganga arbitration addressed more than just the
 12 merits of the first and second disputes in that case; it
 13 also addressed vital questions as to the competence of
 14 a Court of Arbitration. And its statements on those
 15 matters, as we have seen over the past three days, have
 16 echoed just as loudly in these proceedings, if not more
 17 loudly than its findings on merits. The time has now
 18 come for this Court to rise to this great moment in law,
 19 to add its own voice to the choir, a voice that itself
 20 will echo in the years and decades to come.
 21 It is clear from the situation in which we find
 22 ourselves that firm and urgent guidance is needed in
 23 a number of respects: to the parties, to the Bank and
 24 the present and future neutral experts, to enable them
 25 to navigate the choppy waters that India and the Bank

Page 83

12:08 1 legal provisions and principles are, and what a just
 2 outcome would be. It is now up to you to decide the
 3 question of the Court's competence.
 4 You deliberate these questions in the most
 5 extraordinary of circumstances. And the Court, we
 6 trust, is alive to the burden of history and the weight
 7 of its responsibilities. The mandate of the Court,
 8 significant in the ordinary course of business, is made
 9 more so by the unprecedented situation you find
 10 yourselves in.
 11 This Court's empanelment was delayed by nearly
 12 seven years, to the advantage of one party and to the
 13 detriment of the other. When the Court was finally
 14 empanelled, the disputing party against whom relief had
 15 been sought simply boycotted the Court's proceedings,
 16 and elected instead to submit to the Neutral Expert its
 17 issues, making real the possibility of conflicting
 18 outcomes from two fora, and irreparable damage to the
 19 Treaty.
 20 The drafters of the Treaty did not envisage such
 21 circumstances; and as a result, the Treaty is silent on
 22 how best to address the present situation. But this
 23 does not mean the solutions aren't possible. Through
 24 constructive interpretation of the provisions of the
 25 Treaty that gives due weightage to not just the text but

Page 82

12:11 1 have created.
 2 As Sir Daniel noted in Pakistan's opening
 3 submission, this is not the time for judicial economy,
 4 as judicious as such economy might be in less
 5 extraordinary times. The Bank must be told of its
 6 responsibilities under the Treaty. The Neutral Expert
 7 must be told of the obligations of coordination and
 8 cooperation under which he presently operates. And
 9 India must be told, despite its decades-old strategy of
 10 delay and dissembling, that this Court will adjudge the
 11 situation firmly and fairly, in the spirit of the wise
 12 and skilled heads that sat upon its predecessors.
 13 Mr Chairman, members of the Court, I was one of the
 14 architects of the decision to approach this Court,
 15 a decision made in the hope that the wisdom of a group
 16 of expert lawyers and expert engineers would be able
 17 to -- as they had in the Kishenganga arbitration --
 18 reach an equitable and fair decision, sound in law and
 19 fact, that would restore balance to the Treaty and allow
 20 it to remain, as it has for over 60 years, a reliable
 21 cornerstone for peaceful relations between India and
 22 Pakistan. In spite of all that has happened, we do not
 23 regret the decision to do so. And we remain firmly of
 24 the view that you are the only way forward to bring this
 25 situation to an end.

Page 84

12:13 1 I ask you to affirm your competence over these
 2 disputes; issue firm and necessary directions needed to
 3 guide this and future generations under the Treaty; and
 4 proceed to the merits forthwith.
 5 Failure to assert your competence will have
 6 consequences. No other forum will be able to
 7 satisfactorily and thoroughly provide an exit from the
 8 legal [un]certainty we all, India and the Bank included,
 9 find ourselves in. The dispute settlement mechanism of
 10 Treaty will become dysfunctional, and future attempts by
 11 Pakistan, a lower riparian, to raise its concerns before
 12 an impartial and independent third forum will be easily
 13 frustrated by India, an upper riparian. It is therefore
 14 more than just a legal obligation on this Court to allow
 15 itself to consider most seriously the question of its
 16 competence; it is a moral obligation.
 17 Finally, Mr Chairman, members of the Court, I'd like
 18 to thank those who have made this hearing and its smooth
 19 and professional operation possible, namely the
 20 Permanent Court of Arbitration, including its Deputy
 21 Secretary-General and the Court's Registrar,
 22 Mr Schofield. And we also thank the tireless court
 23 reporter, Mr McGowan.
 24 But most of all, Mr Chairman, members of the Court,
 25 I would like to thank you for your kind, unwavering

Page 85

12:14 1 attention these past three days, and for your engaging,
 2 helpful questions. I wish you all good health and safe
 3 travels back home. Thank you very much.
 4 THE CHAIRMAN: Thank you very much, Mr Agent, for your
 5 closing remarks. Let me say a few closing words of my
 6 own.
 7 The Court regards it as extremely important that we
 8 thoroughly and carefully consider our competence to
 9 address Pakistan's Request for Arbitration. The number
 10 and depth of the questions that we gave to you in
 11 advance of the hearing I think to some extent
 12 demonstrates the seriousness with which we do take these
 13 proceedings and the issues that these proceedings are
 14 all about, and demonstrates the desire we have to fully
 15 understand the issues that are before us. We will
 16 continue to exercise that care and attention as we reach
 17 and issue our decision on competence.
 18 At the same time, the Court is cognisant that
 19 issuing a timely decision may be important for the
 20 parties, as it will help clarify the current dispute
 21 resolution landscape under the Treaty. So please be
 22 assured that we have that in mind as well as we move
 23 forward.
 24 During the course of this hearing, the Court did not
 25 have the benefit of oral presentations from the

Page 86

12:16 1 Government of India whereby it could have explained its
 2 position and answered questions from the Court. Even
 3 so, the Court has closely studied India's letter of
 4 December 2022 and, in connection with this hearing, has
 5 sought, through its questions, to ensure a balanced
 6 examination of India's position. Indeed, the entire
 7 purpose of this hearing was to fully and fairly consider
 8 India's challenge to the competence of the Court.
 9 As I indicated in my opening remarks on Thursday, if
 10 the Court ultimately decides that it is not competent,
 11 then this proceeding will come to an end. On the other
 12 hand, if the Court ultimately decides that it is
 13 competent to proceed with respect to all or part of
 14 Pakistan's Request for Arbitration, then the Court's
 15 hope is that India will participate in future
 16 proceedings so as to help guide the Court's approach to
 17 the merits of this proceeding.
 18 Moreover, I would like to recall that pursuant to
 19 Article 7 of the Court's Rules of Procedure, India may
 20 still appoint two arbitrators to this Court, so long as
 21 it is done no later than seven days following
 22 an affirmative decision by the Court on its competence.
 23 I wish to thank the Government of Pakistan for its
 24 oral presentations over these past three days. The
 25 Court is keenly aware of how much effort goes into

Page 87

12:18 1 preparing these presentations so as to ensure that they
 2 are thorough, accurate and focused on the issues at
 3 hand.
 4 The Court is also aware that although only some
 5 members of the Pakistani delegation spoke from the
 6 podium, such presentations are the fruit of collective
 7 efforts, involving contributions from many individuals,
 8 and we are grateful to all of you for your efforts to
 9 assist the Court in its work.
 10 Finally, the Court wishes to thank the members of
 11 our Secretariat for all of their assistance, as well as
 12 our court reporter for his assistance.
 13 With that, I will now close the proceeding and wish
 14 all of you safe travels back home. Thank you very much.
 15 (12.19 pm)
 16 (The hearing concluded)
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 88

<p>A</p> <p>able 2:5,9 3:14 11:4 18:22 23:10 29:18 39:23 41:23 84:16 85:6</p> <p>about 1:13,17,25 2:14 6:17 7:7 8:23 10:17 15:15,20 16:3,17 18:6 22:6 24:14 25:3 28:18 29:8 30:25 37:11,12,13 37:14 38:13 39:6,9 39:9 40:4,4,5,11,17 45:24 48:22 51:17 55:5 63:2,8 64:10 64:12 65:2 69:11 70:1 71:12 73:14,17 75:17 77:5 86:14</p> <p>absence 4:13 8:2 14:23 17:5 27:5 30:18</p> <p>absent 7:12</p> <p>absolutely 58:13 65:13</p> <p>absurd 24:19</p> <p>access 6:8 11:1 21:21</p> <p>accessible 5:19</p> <p>accompanying 29:6</p> <p>accordance 1:2 22:12 27:20 33:18 52:5 61:11,14,20</p> <p>accurate 46:4 47:10 48:3 88:2</p> <p>accurately 45:23 47:4 50:14</p> <p>accustomed 61:17</p> <p>achieve 65:15 66:5</p> <p>acknowledge 27:19</p> <p>across 57:1 60:1 75:22</p> <p>act 20:3</p> <p>action 11:12</p> <p>active 79:7</p> <p>actively 79:8</p> <p>actual 10:1 19:8 21:11 21:15 22:2 26:18 27:25 28:4,5</p> <p>actually 2:6 5:6,13 19:16,21 21:5,8</p> <p>acutely 78:11</p> <p>ad 66:18</p> <p>add 55:25 60:10 66:14 75:16 83:19</p> <p>additional 2:7 2:17 4:8,10 17:4 70:20 71:14 81:3</p> <p>address 2:20 4:6 9:13 23:19 32:4 44:4 50:8,13,18,22 51:16 52:16,19,25 53:8 55:6 62:21 63:14 74:8,18 77:23 80:11 80:20 81:13,20 82:22 86:9</p> <p>addressed 38:14 43:22 49:11 54:22 56:20 62:4 65:7 71:24 74:2 83:11,13</p> <p>addresses 7:10 32:9</p>	<p>addressing 1:17 41:6 44:16 50:4,11 51:15 69:18 75:4</p> <p>adequate 12:5</p> <p>adhere 35:18</p> <p>adjudge 84:10</p> <p>adjudicatory 45:20</p> <p>Administrative 78:6</p> <p>admissibility 33:24 35:1,8 67:19</p> <p>admit 71:6</p> <p>admitted 71:7</p> <p>ado 8:23,23</p> <p>adopted 73:20</p> <p>adoption 76:23</p> <p>advance 80:22 86:11</p> <p>advantage 82:12</p> <p>adverse 5:24</p> <p>advocate 40:25</p> <p>affects 76:11</p> <p>affirm 80:10 85:1</p> <p>affirmative 87:22</p> <p>afforded 81:23</p> <p>after 3:1,2 11:18 12:13 13:9 22:14 28:17 31:6,9,15 41:7,20 54:5 64:4 68:9,19 72:10 79:23</p> <p>afternoon 41:7</p> <p>again 4:7 10:2 12:10 12:12,15 14:12,13 16:4 25:4 27:11 36:3 50:1 51:20,25 61:4 66:4 67:15 72:5 79:15 80:5</p> <p>against 82:14</p> <p>Agent 2:8 2:2 9:15 41:1,1 44:23 81:12 86:4</p> <p>ago 31:19 46:25 47:5 57:14</p> <p>agree 18:15 22:19,21 23:4 74:14,19 75:21 75:23 76:1</p> <p>agreed 22:22</p> <p>agreement 23:6 30:19 74:16 75:10,19 76:13</p> <p>agreements 57:23</p> <p>AHMAD 2:7</p> <p>aisle 75:22</p> <p>akin 45:1,2,15</p> <p>alert 2:7 70:24</p> <p>ALI 2:9</p> <p>alive 82:6</p> <p>allocated 36:1</p> <p>allow 13:22 17:11 41:22 56:5 84:19 85:14</p> <p>allowed 71:19</p> <p>allows 64:11</p> <p>almost 12:8</p> <p>alone 25:11</p> <p>along 12:13 15:9</p> <p>already 69:3 71:3,7</p> <p>although 4:19 26:13 61:20 70:6 88:4</p> <p>always 40:24 49:23</p> <p>AL-KHASAWNEH</p>	<p>1:11</p> <p>Ambassador 2:10</p> <p>among 70:19</p> <p>amount 29:12 31:12</p> <p>analogy 64:17</p> <p>analysis 16:21 22:6,16 27:6 29:20 38:20</p> <p>ancillary 49:15,16 50:23 51:1,4,8 54:3 54:17,19,23 55:3,14 55:16,19 56:2,4,5,7 56:9,15,22 57:9 59:10,21 66:8</p> <p>ancillary/incidental 61:3</p> <p>Andrews 8:24</p> <p>Annexure 15:25 18:20 18:21 20:3,4 21:20 23:3 26:8,21 27:2 27:16,21 30:15 32:8 32:17 33:7,16,19 34:13,18,22 35:5,16 36:9 43:3 46:24 47:19 48:15 51:23 52:1 55:10 65:10,10 68:5 75:15 79:20</p> <p>another 10:5 22:1 25:25 36:25</p> <p>answer 10:4 11:3,4 16:22 17:23 18:19 29:7 31:2 60:4</p> <p>answered 20:7 36:5 87:2</p> <p>answers 9:10</p> <p>antecedent 53:6</p> <p>anticipated 69:25</p> <p>anything 7:13 8:7 26:9 27:4 40:15 70:25</p> <p>apologies 45:16</p> <p>APPEARANCES 2:1</p> <p>appears 46:1</p> <p>application 3:3 7:12 57:16,22 58:19 59:3 59:8,21 60:16 65:9 71:5</p> <p>Applied 58:8</p> <p>applies 22:5</p> <p>apply 5:5</p> <p>appoint 25:21 30:14 30:19 68:18 87:20</p> <p>appointed 22:9,10,13</p> <p>appointing 19:17 22:18</p> <p>appointment 19:21,25 21:4 22:11,19 23:14 27:16 28:16,21 29:1 29:4,5,14 30:9 31:1 31:8,14 34:10 46:13 48:11 74:17 75:2 78:1 79:19</p> <p>appreciate 67:11 83:10</p> <p>appreciation 24:2 56:3,8 65:11 66:11</p> <p>approach 8:18 40:3 40:11 42:10 72:25 74:3 77:11 84:14 87:16</p>	<p>approached 31:7,10</p> <p>appropriate 4:3 5:1 5:23 21:9 63:16,20</p> <p>April 31:6</p> <p>arbitral 58:18 60:9,13</p> <p>arbitration 1:1,2,5 2:17 20:5 21:22 23:23 27:10 28:17 32:1,3 33:5 34:3,14 34:15,19 35:16 37:3 37:10 40:6 42:24 46:20 49:12,15 51:13 52:15,22,22 53:17 54:4,17,20,23 58:23 60:20 63:3,15 64:1,2,5,6,8,9 72:7 72:8,11,21,24 74:15 81:21 83:11,14 84:17 85:20 86:9 87:14</p> <p>arbitrators 87:20</p> <p>architects 84:14</p> <p>architecture 35:13</p> <p>archive 25:14 29:19</p> <p>area 58:23 62:22</p> <p>areas 36:1</p> <p>arguments 81:19</p> <p>arise 21:17 23:10 47:20 48:17 52:3</p> <p>arisen 25:22 78:17</p> <p>arises 51:21 52:8,15 52:20,25 60:16</p> <p>arising 24:20</p> <p>arms 39:24</p> <p>arose 1:19,20 69:6</p> <p>around 15:24 16:5 18:2 39:24</p> <p>array 80:12</p> <p>arrested 59:20</p> <p>art 45:13</p> <p>Article 2:19 7:15 8:13 8:13 20:11,16,18,21 21:25 22:3 23:9 25:23 34:2 39:7 40:17 47:22 48:19 51:20 52:6,10 55:23 57:18 59:9 61:12,23 65:9 76:17 78:12,17 78:21 79:6 80:16,20 87:19</p> <p>articulated 25:9</p> <p>asked 6:16 9:11,22 10:2 11:20,23 18:2 18:5 19:25 20:6 23:17 25:3 77:2</p> <p>asking 30:18</p> <p>asks 31:24 42:16 76:9 76:12,15,20</p> <p>Aslam 2:7 3:8 9:14 41:3,12 81:16,17</p> <p>aspect 1:21 19:22 40:15,18 49:1</p> <p>aspects 49:3</p> <p>assembled 1:3</p> <p>assents 45:4</p> <p>assert 85:5</p> <p>assertion 15:7 36:19</p> <p>assist 43:18 88:9</p> <p>assistance 88:11,12</p>	<p>Assistant 2:19</p> <p>Assuming 49:12 74:14</p> <p>assumption 4:20 80:14</p> <p>assure 54:1</p> <p>assured 86:22</p> <p>astray 61:9</p> <p>attempt 43:16</p> <p>attempting 72:18</p> <p>attempts 43:5,8 44:12 46:25 85:10</p> <p>attention 5:1 8:3 35:17 38:25 46:1 71:21 81:9 86:1,16</p> <p>attentive 81:6</p> <p>ATTILA 2:4</p> <p>attitude 17:17,19 29:9 37:16</p> <p>Attorney 2:7,8,13,13</p> <p>August 13:10 27:8 57:11 68:10</p> <p>author 33:6</p> <p>authorities 22:9 25:13</p> <p>authority 19:17 22:18 42:25 46:21 57:2</p> <p>automatically 14:2</p> <p>available 28:25 78:18</p> <p>avoid 2:9 21:16 22:24</p> <p>avoided 21:24</p> <p>award 11:19 16:6 20:13 24:6 28:3 32:15 33:11,17,18 35:8 38:19 39:23 40:6 58:22 59:13,15 83:10</p> <p>awards 58:18 78:25</p> <p>aware 87:25 88:4</p> <p>away 81:11</p> <p>AWN 1:11</p>	<p>26:9 30:17,18 31:6 31:7 35:13 75:4 83:23,25 84:5 85:8</p> <p>bargain 35:11</p> <p>barrage 41:15</p> <p>based 14:21 42:22 44:10 71:13</p> <p>baseless 15:1</p> <p>basis 4:19,22,25 12:5 12:19 13:16 14:18 16:12,20 23:9 24:5 31:15 47:7,18 48:15 50:12,17,21 52:16 53:1 55:6,12 60:12 68:20 76:17</p> <p>basis/grounds 10:22</p> <p>bearing 66:15</p> <p>became 73:22</p> <p>become 85:10</p> <p>becomes 21:3</p> <p>becoming 22:3</p> <p>before 1:2,9 3:9 9:12 16:25 28:17 29:8 31:22 32:20 35:19 36:14,16 42:3,11 49:2 53:15 61:4 62:25 64:7,8 67:12 68:15 70:17 72:2 73:9 74:4 78:9 81:12,21,23 85:11 86:15</p> <p>beforehand 11:15</p> <p>begging 41:21</p> <p>begin 1:5 70:17</p> <p>begins 25:17 41:1</p> <p>behalf 3:2 9:6 10:6</p> <p>behind 13:16 40:9</p> <p>being 5:12 10:25 11:1 37:12,13 50:19 53:20 70:23 80:5</p> <p>believe 30:5 81:25</p> <p>believes 20:23 81:19</p> <p>bellicosity 77:11</p> <p>below 16:9 24:12 37:2 73:16</p> <p>bench 62:12</p> <p>benefit 86:25</p> <p>best 10:4 82:22</p> <p>bestowed 83:6</p> <p>Bethlehem 2:4 3:6 9:2 62:15</p> <p>between 1:3,15 9:25 15:23,24 16:4 17:2 18:9 19:7 23:7 25:22 35:4 40:10 53:19 56:14 57:6 58:25 59:16 65:3 75:19 77:15 84:21</p> <p>beyond 22:15 32:9,20 36:13 43:10 47:2</p> <p>big 39:8</p> <p>Bin 58:7,12</p> <p>binary 56:17,20</p> <p>bind 33:2</p> <p>binding 32:7,11,21,23 33:20 34:22</p> <p>binds 33:13</p> <p>bit 3:20 6:15 8:16 14:1 19:19 20:10 21:1</p>
--	---	--	---	---	--

<p>43:13 57:13,14 70:7 74:9 BLACKMORE 1:11 block 24:20 blue 2:11 71:16 bodies 35:16 bones 65:2 book-ends 67:16 borne 14:6 both 1:19 6:1 20:16,18 28:16 43:15 44:23 58:20 65:11 68:14 68:25 74:14,19 bound 35:7 74:15 boycotted 82:15 brace 18:2 break 2:6,10 70:4,5,15 71:19 brief 11:3 36:2 41:12 briefly 1:9 20:8 74:18 bring 41:18 44:5 62:23 63:16 69:10 84:24 bringing 48:2 brings 3:24 25:2 28:10 56:21 74:13 76:5 broke 9:18 71:14 72:3 BRYCE 2:19 build 17:21,21,21 31:21,21,21 42:9,9 42:9 Buildings 2:4,5 bundle 18:24 bundles 51:25 burden 81:25 82:6 business 12:22 82:8 BUYAERT 1:12</p> <hr/> <p style="text-align: center;">C</p> <p>c 68:15 caffeine 73:3 calculations 12:22 13:21 15:9,14 16:24 called 33:8 calm 41:3 came 1:24 38:21 55:10 68:9,19 73:18 74:1 CAMERON 2:5 candidly 52:15 capture 43:5,8,14 44:12 46:16,25 50:2 72:21 captured 34:21 50:14 captures 42:17 45:23 care 20:10 86:16 careful 79:16 80:21 carefully 86:8 case 4:12,23 9:3,14 19:13 28:21 41:12 49:3 55:19 56:6,13 57:5 59:13,15,16,24 59:25 60:18 61:20 62:23 67:9 73:10,14 83:12 cases 6:1 62:19 64:18 cast-iron 65:14,18 catch-22 17:11 cause 55:24,25</p>	<p>cede 68:21 certain 20:21 57:5 certainly 5:23 62:16 63:16 certainty 35:22 cetera 33:17 Chagos 58:22 62:17 65:4 66:17 Chairman 1:3,6 2:25 3:12 4:18 5:15 6:14 8:8,22 9:1,8,22 10:3 10:16,19 11:3,9,12 11:21 12:23 16:22 17:16,24 18:5,12 20:1 23:11 24:1 25:4 26:20 35:24 37:20,24 38:1,7 40:23 41:5,21 43:12 45:11 48:24 49:21 53:13 54:11 60:19 62:15 64:25 67:5 69:17 70:3,5,17,24 71:8,9,17 72:1,18 73:1 74:12 76:5 77:1,13 78:20 80:4 80:8 81:8,10,14,17 84:13 85:17,24 86:4 challenge 87:8 challenges 47:17 48:14 challenging 77:11 changed 73:20 changes 70:21 character 77:25 chart 80:15 Cheng 58:7,12 choice 61:13 choir 83:19 choppy 83:25 circumspect 77:4 80:6 circumstances 16:8 17:16 20:21 45:21 65:3 82:5,21 citation 58:10 cited 57:20 claim 60:13 63:19 clarify 6:3 41:17 72:18 86:20 clarity 49:7 62:12,13 clause 21:23 clear 19:7,9 42:2 49:4 49:24,25 51:15 60:25 69:22 80:12 81:11 83:21 clearer 28:1 clearly 43:21 clear-sighted 65:11 clock 41:14 close 2:2 3:1,2 9:14 88:13 closely 87:3 closing 3:2,9 1:4 9:6 42:13 43:15,23 45:8 70:12 77:14 80:7 86:5,5 codicil 7:16 coffee 2:6,10 70:5 cognisant 86:18 collaboration 19:24</p>	<p>27:24 colleague 38:3 colleagues 4:21 8:10 10:6 38:4 42:12 62:7 73:4 collective 88:6 colossal 31:11 come 1:21 6:24 8:25 9:3 19:18,19,22 38:3,5 39:22 40:2 42:3 43:20 46:18 49:8 50:3 55:2,5 58:4 61:25 67:3,21 68:17 69:8,8,15 70:11 72:15 83:18 83:20 87:11 comes 10:2 63:13 68:15 81:12 comfort 78:8 coming 2:10 8:11,15 10:5 14:17 51:4 71:22 81:1 commence 18:8 28:5 34:9 commenced 9:24 24:18 27:3 31:16 commencement 18:1 25:12 26:18 commend 79:15 commendable 23:25 commendably 21:24 commentary 66:9 Commission 9:21 12:8 12:21 13:8 16:11 17:21 24:3 50:10 51:19 52:9 55:22 Commissioner 2:9 10:20 11:16,17,23 12:11 13:14,16 14:3 14:14,16,25 15:6 16:23 17:9,10,11 19:3,4,16 20:23 21:5,19 23:2,4,15 26:3,7 30:8,8,12,17 31:7,10 34:11,12 36:24 40:1,2 Commissioners 14:7 16:15,18 19:12 20:17 23:7 Commissioner's 13:4 15:3,7 17:17 26:4,6 27:8 committed 44:24 communicated 4:2 communication 77:22 competence 1:8 2:21 9:14 10:13 26:11 32:3 33:4,5,23 34:20,25 43:2,11 45:4 46:10,23 47:3 47:9,17,20 48:8,14 48:16 49:14,17 50:5 50:7,8,10,11,13,17 50:19,21,23 51:1,3 51:17,18 52:2,12,17 52:18,19,21,23 53:8 53:8,22 54:16,18,20 54:22 55:3,7,14,17 55:20 56:3,15,16</p>	<p>57:8,24 60:14,20,21 61:2,3 63:12 64:10 66:20,21,22,25 67:10 68:8 69:8 74:14,25 75:8,11,13 75:14 79:21 80:11 80:14 82:3 83:13 85:1,5,16 86:8,17 87:8,22 competent 34:17 39:16 49:13 51:16 53:17 58:15 67:23 67:25 68:2,3 76:3 81:20 87:10,13 complained 15:15 complaining 14:14 complete 60:4 65:3 66:15 67:2 70:1 79:23 completed 54:5 component 74:24 composed 34:20 comprised 34:15 concept 49:16 54:2 concern 12:18 concerned 32:25 36:3 40:22 42:5 53:3,4 80:19 concerning 29:14 43:9 47:1 57:5 76:7 78:10 79:11 concerns 31:24 59:3,7 85:11 conclude 34:24 35:7 41:11,22 concluded 39:17 76:13 88:16 concludes 37:20 63:11 81:8 concluding 77:5 80:9 conclusion 38:20,21 39:9 40:2 41:8,19 48:25 60:2 66:19 67:1 79:9 condensed 43:19 conduct 42:5 46:2 75:4 conducts 12:21 confidential 76:15,17 78:11 confidentiality 76:9 78:19 confined 77:19 confirm 42:16 66:25 67:1 80:14 confirmed 33:15 57:8 conflicting 60:25 82:17 confused 49:7 conjunction 20:15 connection 54:3 87:4 consent 45:19 consequence 35:23 46:12 48:10 consequences 69:6 85:6 consequential 71:23 consider 4:3 26:9 29:21 41:24 42:10</p>	<p>53:7 69:22 71:6 85:15 86:8 87:7 considerable 3:9 12:25 35:3 consideration 79:8 considered 30:21 considering 32:12,13 79:8 considers 26:15 46:8 48:6 consistent 28:3 40:19 61:22 consistently 17:10 constante 35:20 constitute 25:11,11 57:20 constituted 1:2 constraints 81:6 constructive 82:24 construed 61:21 construing 65:24 Consultant 2:13,13 contact 70:22 contain 33:3 contains 77:21 78:6 contemplate 70:8 contemplated 13:1 69:2 contemplating 54:2 67:9 contemplation 46:3 contended 5:2 content 77:25 78:8 contention 15:4 contentions 15:4 context 6:10 9:21 53:20 65:5,21 66:1 continue 28:9 75:24 86:16 continues 75:24 continuous 24:20 contradiction 14:1 contrary 58:17 contrast 32:23 contributions 88:7 convenient 80:19 conveniently 76:6 convening 80:18 convention 39:8 57:17 57:22 59:4,5,6,8,22 60:11,17 convergence 16:19 conversation 64:24 73:2 convey 45:24 cooperation 66:2 84:8 cooperative 66:4 coordinated 77:15 coordination 68:24 84:7 copies 11:7 copy 28:25 corner 34:19 corners 4:15 cornerstone 84:21 correct 6:13,14 15:25 53:20 69:16 corrected 74:5 correctly 37:24</p>	<p>correspondence 36:15 39:25 68:10,11 coterminous 55:18 counsel 2:19,19 62:8 count 62:6 Counter-Memorial 79:25 couple 1:7 2:14 5:16 67:4,24 course 3:22 13:5 18:3 26:12 29:22 37:1 38:5 45:23 52:24 56:13 59:24 67:11 68:24 70:21 72:12 78:11 80:10 81:18 82:8 86:24 court 1:2,5 2:17 3:5,7 1:7 2:5 3:12 6:5 7:4 7:16 8:11 9:8 10:12 12:3 14:2,11 16:15 16:21 17:7,17 20:5 20:7,8,11,14 21:13 21:21 22:1,25 23:23 24:10,15 25:25 26:12,25 28:25 29:10,17 31:18,24 32:1,2,6,12,17,25 33:5,12,16,22,25 34:3,8,14,15,19,23 35:2,6,11,24 36:9 36:16,22 37:3,10,16 38:1,7,14,20 39:13 39:16,18 40:5,23 41:5,22 42:24 43:12 45:5,11,19 46:20 47:23 48:20,24 49:12,15,21 50:7,7 52:16 53:14,17,20 53:20 54:3,4,17,20 54:23 55:6 56:11,24 56:25 57:2,3,4,8,11 57:14,24 59:9 60:19 60:20 62:20,25 63:2 63:15,21,23,25 64:2 64:5,6,8 66:11 68:16,25 69:13,24 70:20 71:18 72:6,8 72:11,15,16,20,23 74:12,15 76:5,11,13 76:15,20 77:1,15 78:11,13,14,21 79:3 80:4,8,18 81:8,10 81:17,20,23 82:5,7 82:13 83:5,7,14,18 84:10,13,14 85:14 85:17,20,22,24 86:7 86:18,24 87:2,3,8 87:10,12,20,22,25 88:4,9,10,12 courts 35:16 55:13 58:8 62:9,11 Court's 10:10,13 20:15 21:16 24:6 28:24 31:23 32:11 41:6 42:19 44:7 46:6,18 47:4 50:17 50:21 74:2 82:3,11 82:15 85:21 87:14 87:16,19</p>
--	---	---	--	--	---

<p>cover 29:25 65:24 covering 2:16 co-opted 45:14 created 23:2 84:1 critical 10:2 27:11,25 criticism 15:1 crystallise 22:17 crystallised 24:17 26:18 77:8 crystallises 19:22 crystallising 77:20 cul-de-sac 22:3,24 23:1 24:15 cure 44:25 46:12 48:10 cured 43:7 44:15 curing 75:17 curiosity 10:7 current 42:18 49:13 54:15 76:10,14 86:20 cutting 4:15 cut-and-thrust 62:9 62:10</p> <hr/> <p style="text-align: center;">D</p> <p>D 1:10 15:25 dam 32:13 damage 82:18 Daniel 2:4 3:6 1:5,6 5:15 6:14 8:22 9:9 9:12 13:2 29:10 30:2 31:23 37:25 38:1 53:13 54:11 61:7,16 62:8 64:25 70:13,17,24 71:16 73:1 74:12 81:15 84:2 data 11:24 12:22 13:5 15:12 date 22:14,20,22,23 79:19 dated 13:18 30:12,17 dates 56:22 day 1:7 10:16 18:11 23:17 25:4 28:12 41:23,24 43:24,24 44:1 45:7,9 49:19 56:19 73:10 74:6 77:6 days 9:12 27:9 81:18 83:15 86:1 87:21,24 dead 16:9 24:12 37:2 73:16 dead-end 23:1 deal 34:17 44:1 55:2 78:22,23,24 79:1 dealing 20:11 deals 79:6 dealt 34:6 37:7,9 debate 15:22 60:1 decades 6:20 83:20 decades-old 84:9 December 21:18 87:4 decide 42:25 46:21 67:17 82:2 decided 35:18 decides 87:10,12</p>	<p>decision 10:11,12 25:17 26:1,13 32:2 32:22 42:23 43:1 44:11 46:22 47:21 48:17 52:3 58:1 64:12 67:8,10,21 68:8 73:22 74:3 84:14,15,18,23 86:17,19 87:22 decisions 31:25 53:4,5 61:1 67:14 78:25 deck 11:8 declaration 26:6 27:1 28:2,6 decline 21:22 deemed 7:22,25 18:7 22:17 27:3 53:17 definitely 59:17 delay 11:10 12:14 17:20 31:21 42:8 55:24 84:10 delayed 82:11 delegation 81:19 88:5 deliberate 77:4 80:6 82:4 deliberately 24:4 deliberations 8:6 deliberative 69:21 demonstrated 25:10 demonstrates 86:12 86:14 demonstratives 7:11 denied 15:6 depending 74:23 depth 86:10 Deputy 2:18 85:20 describe 45:18 described 55:13 62:20 description 11:25 design 16:8 40:12 73:16 designed 83:8 designs 14:19 desire 86:14 despite 31:11 84:9 detail 11:5 14:3,4 26:14 38:18 74:4 detailed 12:18 13:15 13:21 16:24 detained 59:20 detect 48:22 determination 24:9 25:16 28:11 30:20 32:7,10,19 33:1 36:11 37:6,17 38:15 39:3,4 51:11 56:10 60:14,21,22 63:10 63:13 66:22 67:8 68:23 69:15 73:23 75:14 76:25 79:21 determinations 34:21 39:12 57:9 59:11 67:20 69:7 76:3 detract 70:25 detriment 82:13 development 39:11 developments 79:11 dialogue 16:19 42:1 difference 9:25 15:24</p>	<p>16:4 19:14 20:22 21:9,20,23 25:22 34:7 differences 24:8 34:2 79:23 different 8:16 18:3 35:18 40:13,14 53:23 62:22 63:4,19 64:7,18 72:20 difficulty 5:20 6:2 8:4 dilatory 23:6 dimension 56:17,20 direct 32:11 56:13 direction 5:9 35:18 59:18 directions 85:2 directly 29:13 disagreement 17:2 22:4 disappear 22:4 discuss 33:8 discussed 8:10 13:23 26:15 discussing 73:6 discussion 3:1 12:16 14:4,7 16:11,17 17:1.6 33:4 70:19 75:21 discussions 11:18 12:7 13:22 16:25 17:13 dispute 23:10 24:20 25:1 33:20,21 34:4 34:7 40:10 51:17 59:2,7,12 60:5 74:20 85:9 86:20 disputes 2:8 24:8 34:2 66:5 81:20 83:12 85:2 disputing 82:14 disruption 55:25 dissemble 17:20 31:21 42:8 dissembling 84:10 distinction 19:7 distinguishable 75:8 distract 17:20 31:21 42:8 disturbed 35:20 diverted 46:1 docket 5:7 document 5:7,23 7:5 30:21,24 31:4 73:21 73:23 77:17,19 documentation 29:1 documents 1:13 2:15 2:17,21,24 3:4,8,10 3:13,18,19 4:1,6,8 4:10,11 5:6,12 6:4,6 6:7 7:6,23 8:15,21 29:6,19,23,25 30:3 30:6 70:21,23 71:2 76:16 78:11,13,14 79:3 81:4 doing 39:10 53:1 65:14,19 domain 4:24 5:11,19 DON 1:11 done 15:16 45:16,17 64:12 76:17 80:13</p>	<p>83:5 87:21 door 77:14 doorstopped 7:2 doubt 79:22 down 1:14 11:19 14:17 16:8 24:11 Dr 1:11 2:5 3:4 1:8,16 3:6,11 4:11 7:6 8:25 9:3,8 10:19 11:12 11:14 36:2,20 37:20 37:23 38:3,8,21 40:9 68:9 71:2 73:8 draft 21:18 drafters 82:20 83:5 drafting 53:24 draw 5:1 16:8 64:17 71:21 drawdown 37:1,17 73:8,17,18,22 74:3 drawn 24:11 drive 18:12 dual 20:18 due 3:25 4:15 6:25 8:3 82:25 Dul 16:13 During 86:24 dysfunction 56:1 65:12 dysfunctional 85:10 D3 73:22</p> <hr/> <p style="text-align: center;">E</p> <p>each 12:17 34:21 earlier 26:4,6,13 29:11 30:1 47:13 early 13:24 38:12 39:5 easily 5:19 85:12 easy 77:10 echo 83:20 echoed 83:16 economy 84:3,4 edifice 40:10,20 editorialising 15:19 effect 10:11 16:5 31:25 32:7 36:6 45:24 64:13,13 71:17 effective 21:3 effectively 11:18 effectuated 76:19 effort 83:25 efforts 88:7,8 either 7:17 18:14 20:23 41:23 67:17 elaboration 73:13 74:10 elected 82:16 elliptical 43:14 47:6 elsewhere 4:25 58:25 Embassy 2:11,12 emerge 22:4 35:21 emerges 38:24 empanelled 82:14 empanelment 82:11 Emphasis 36:12 emphasise 19:5 enable 83:24 encapsulation 43:19</p>	<p>44:7 46:14 47:25 48:21 encapsulation/sum... 42:19 end 41:23 67:22 74:20 79:17 84:25 87:11 endeavour 43:20 ended 28:8 engage 14:15 16:16,18 55:21 69:4 engaged 44:21 55:9 67:14 73:19 80:12 engagement 44:25 engaging 73:2 86:1 engineer 33:7 engineering 14:22 engineers 34:16 84:16 English 62:9 enjoyed 60:6 enough 14:3,4,15 15:12 enquiry 53:7 55:8,10 62:11 80:13 Enrica 59:16 62:17 65:4 66:16 ensure 78:19 87:5 88:1 ensuring 17:13 entertaining 60:12 entire 29:18 87:6 entirely 12:9 49:4 77:2 entrails 61:18 envisage 82:20 envisaged 78:16 equitable 84:18 Essentially 17:7 Essex 2:4,5 established 53:16,18 54:5 esteemed 2:4 33:6 66:9 et 33:17 even 16:19 31:15 35:6 44:21 45:14 62:24 67:12 78:1 87:2 event 5:3 6:12 8:21 33:9 63:9,10 67:7 eventually 73:21 every 32:13 78:18 everything 67:23,25 68:2 evidence 31:19 42:11 42:14 evidential 1:18 evidently 49:25 77:12 exactly 6:14 27:7 39:13 59:25 64:15 66:17 81:4 examination 83:9 87:6 examining 9:23 26:17 60:5 example 10:20 15:12 21:17 67:1 exceed 61:1 exceptionally 80:25 exchange 10:17 exchanges 6:24 excursus 39:9</p>	<p>exercise 20:17 29:21 86:16 exhibit 3:4 5:13 30:11 30:16,25 71:3 exit 85:7 expect 1:24 2:4,5 4:3 54:7 61:25 62:11 expecting 10:24 expert 6:18 9:24 10:1 10:8 12:3 18:1,7,15 18:16,17 19:5,7 20:2,19,20,23,25 21:4,10,22 22:9,10 22:13 23:12,14 24:17 25:3,12,17,21 26:1,16,19,24 27:2 27:17 28:6,11,16,21 29:2,4,5,15,16 30:10,14,19,21,23 31:2,8,14,17 32:2,6 33:6 34:5,9,13,16 34:16 37:9 38:10,13 38:18 39:2,6,15 42:18,21,25 43:6,10 44:9,14,21,22,25 45:25 46:3,8,10,12 46:21 47:2,18,20 48:6,8,10,14,17 49:14 50:6,8,11,13 50:20 52:2,13,13,17 52:23 53:4,5,9,16 53:21 54:5,16,19,22 55:7 56:16 60:22 61:1 63:3,9,11 64:4 64:8,11 67:7,13,14 67:20 68:2,9,19,22 69:1,5 72:10,14,22 73:9,19 74:4,15,17 74:22 75:7,9,11,18 75:23 76:2,2,8,10 76:14,16,22 77:5,12 77:16,18 78:4 79:12 79:15,19,22,24 80:5 82:16 83:4,8 84:6 84:16,16 experts 40:14 83:24 expert's 32:10,19 33:4 36:10 38:15 46:13 47:8 48:11 50:23 51:1,3,17,18 66:20 66:25 69:7,15 75:1 75:13 77:9 explain 43:21 explained 44:16 87:1 explains 21:13 explanatory 29:24 explicitly 56:20 express 4:20 21:6,8,19 58:16 expressly 7:17,18,20 extemporaneous 5:10 extemporaneously 74:1 extends 59:9 60:14,20 extensive 81:19 extent 5:18 12:24 23:19 27:4 34:24 86:11 extract 13:7,12</p>
---	--	---	--	--	--

<p>extracts 5:14 extraordinary 82:5 84:5 extremely 86:7</p> <hr/> <p>F</p> <p>F 18:20,21 20:3 21:20 23:3 26:8,21 27:2 27:16,21 30:15 32:8 32:17 33:7 34:13,18 36:9 43:3 46:24 47:19 48:15 51:23 52:1 55:10 65:10 68:5 75:15 79:20 fact 50:24 51:2,9 65:4 66:17,18 69:12 69:14 facing 59:17 fact 20:11 28:15 34:6 38:10,17 58:23 59:10 72:1,12 84:19 facts 81:23 factual 1:18 38:2 42:11,14 failed 16:23 23:4 Failure 85:5 fair 22:22 84:18 fairly 84:11 87:7 faith 23:5 65:21,25 66:4 fall 8:12 47:21 48:18 familiar 59:23 far 33:12 73:16 77:18 FATIMA 2:12 fault 2:7 February 13:17 14:13 40:1 feeds 23:11 feel 78:5 feet 1:16,25 10:4 fell 21:20 felt 77:12 few 9:12 54:21 86:5 field 68:22 Fietta 2:6,6,6,7 10:3 18:6 25:4 file 79:25 final 11:19 21:24 31:22 33:20 61:10 76:24 finalised 77:17 finally 16:14 19:15 27:6 82:13 85:17 88:10 find 5:25 6:1 14:9 18:22 74:5 82:9 83:21 85:9 findings 35:8,9 59:10 73:7 83:17 finger 39:14 48:23 65:1 finish 2:6 fire 28:5 firm 35:12 83:22 85:2 firmly 84:11,23 first 2:11,12 1:15 5:17 9:19 10:14 17:23 18:10 19:3,16 29:8</p>	<p>32:5 33:10 34:5 38:10 42:1,16 43:5 44:7 46:6 52:10 58:22 64:3 67:25 68:8 69:4 70:19 72:1,9,14,16 79:14 83:12 first-round 41:8 fit 64:20 fitting 28:9 five 2:8 fixed 79:13 80:3 fixing 77:9 floor 60:1 81:16 flushing 37:2,17 73:8 73:18,18,22 74:3 focus 50:14 61:18 focused 50:5,6 88:2 follow 1:15,23 7:24 62:15 69:5 followed 12:18 following 11:24 21:13 25:18 28:13 29:11 42:17 63:7 87:21 follows 16:23 44:17 46:5 47:11 48:5 49:10,11 50:16 57:10,15 58:13 59:1 60:10 follow-on 70:8 follow-up 41:25 61:6 71:12 footnote 49:18 fora 64:18 82:18 foreclosing 21:21 forged 83:3 forget 7:16 formal 46:14 71:5 73:22 formally 5:21 24:18 28:5 31:8 35:7 formation 64:4 72:10 former's 30:9 forms 60:8 formulated 12:4 50:2 formulation 12:2 21:18 44:6 46:6 47:4 forthwith 85:4 forum 42:22 44:2,10 45:3,12 64:19 83:8 85:6,12 forward 23:14 68:25 75:9 77:6 80:15 81:7 83:2 84:24 86:23 forwards 42:1 found 34:8,14 founded 45:19 four 30:3 71:2 fourth 30:24 fragile 75:11 framed 33:24 frankly 31:11 freeboard 15:14,15 friends 4:14 39:21 from 3:5,7 1:4,19,20 2:16 3:11 4:14 7:4,8 8:9,11,15 10:24</p>	<p>13:7 17:6 22:3,25 23:22 27:4 28:2 30:7,11,16,20 31:5 35:2,5,21 37:3 38:23,24 40:16 42:12,19 44:18,23 46:1 49:10 57:2,10 60:8 62:11 68:10 70:6,21,25 75:8 79:14,18 82:18 83:21 85:7 86:25 87:2 88:5,7 front 62:8 fruit 88:6 frustrated 85:13 full 5:7 44:20 fuller 47:24 fully 8:19 34:17 43:14 46:15 53:14,22 62:22 78:1 80:11 86:14 87:7 function 64:1 72:7 functional 63:17 69:1 69:2 functionality 65:17 66:6 69:11 functioned 64:3 72:9 fundamentally 46:9 48:7 further 5:5 6:6 12:7 16:24 22:5,15 23:12 35:25 40:3 51:6 55:25 60:7 66:14 70:2,23 74:9 76:12 79:5 81:14 future 83:24 85:3,10 87:15</p> <hr/> <p>G</p> <p>G 20:4 33:16 34:22 35:5,16 65:10 games 31:20 GARTH 2:18 gave 11:3 39:19 51:14 86:10 general 2:7,8,13,13,18 5:17,25 14:19 15:5 32:19,23 33:14,15 34:23 36:11 37:5 57:8 58:7 59:2 60:13 65:19 generated 78:14 generations 85:3 Geneva 57:16,22 Georgina 1:22 German 57:6 Germany 57:6 getting 73:3 77:20 give 1:10 4:3,5 5:8 8:25 11:4 75:4 79:10 given 4:12 6:11 7:19 11:1 12:8 13:11 33:6 60:1 67:20 68:16 77:25 gives 68:25 70:7 78:7 82:25 giving 8:4 12:11 57:17</p>	<p>58:10 80:21 go 2:8 6:20 20:9 26:14 34:12 35:17 39:1 40:3,25 43:10 47:2 49:2 52:9 61:9 63:14 70:5 72:14,23 goes 6:19 22:20,23 30:25 38:13 39:8,11 65:6 87:25 going 1:7,17 6:20 10:23 18:4,19 30:4 41:2,17 49:8 56:5 64:1 66:19,23,24 68:21 69:20,20 72:7 75:9 77:6 81:7 gone 7:4 38:16 69:24 good 2:23 9:1 35:17 37:18,20 40:24 65:21,25 66:4 86:2 Government 1:3,3 1:4 5:21 6:7,11 8:20 25:20 87:1,2,3 governmental 80:25 graded 34:1 grateful 2:22 11:5 49:6 73:1 81:22 88:8 great 83:18 greater 33:12 greatest 35:10 Grotius 58:9 ground 14:21,24 grounds 15:6 group 84:15 guidance 3:11 4:18 5:8 35:12 75:3 79:10 83:4,22 guide 85:3 87:16 Gulland 1:22 gun 28:5</p> <hr/> <p>H</p> <p>Hague 1:6 half-an-hour 2:10 hallway 57:1 HAMDIA 2:12 hand 1:8 5:21 31:22 34:16 65:23 87:12 88:3 handed 11:8,19 handful 27:9 handing 9:12 handing-down 78:15 hands 30:2 67:19 70:2 happened 49:22 52:24 81:25 84:22 happily 73:20 happy 5:12 29:22 81:13 hard 68:14 hardly 57:17 HASSAN 2:9 having 2:9 28:8 34:5 41:14 49:14 54:16 62:20 80:17 Head 2:8 headline 30:6 heads 84:12</p>	<p>health 86:2 hear 3:10 heard 42:7,12 44:23 81:18,25 hearing 1:8 1:21 2:19 7:11 58:24 85:18 86:11,24 87:4,7 88:16 heart 65:23 heavily 80:25 heavy 81:2 height 15:15 held 14:12 24:11 32:6 33:25 59:1,18 help 86:20 87:16 helpful 3:11 63:6 64:24 70:9 86:2 HEP 37:14 HEPs 16:11 her 41:1 highlighted 15:7 42:6 highlighting 38:25 highly 75:2 him 1:23 36:14 38:9 38:12 77:13 78:5 history 82:6 home 86:3 88:14 hope 43:15 74:9 80:10 84:15 87:15 hopefully 35:21 huge 55:24,25 hugely 55:20 hypothetically 35:6</p> <hr/> <p>I</p> <p>ICJ 57:4 idea 37:7 46:15 72:22 idem 66:18 identified 7:5 20:24 identify 3:7,14 8:11 58:5 62:3 identifying 77:21 ii 17:25 22:12 III 28:10 40:17 illuminates 62:12 illustrate 58:19 imagine 3:17 imbued 57:1 immediate 5:16 6:3 immediately 3:2 13:9 14:25 27:20 61:19 immunity 59:19 60:6 60:8,12,15 62:23 impartial 85:12 impassé 21:17 imperatives 66:3 implementation 39:22 implications 8:7 implicit 23:6 24:2 important 11:20 15:11 21:1 33:17 51:22 55:4,20 60:24 79:4 81:5 86:7,19 imposing 17:12 improper 44:23 46:2,9 48:7 impropriety 43:6 44:13 74:22</p>	<p>improve 35:22 inappropriate 17:12 incidental 50:23 51:2 51:8 55:3,14,16,20 56:2,7 57:9,21,25 58:16 59:20 60:16 incidentally 60:5 included 85:8 including 29:2 76:22 80:1 85:20 inconsistency 14:6 indeed 12:25 24:10 26:25 34:18 80:14 87:6 independent 60:12 85:12 India 1:3,17 2:15 4:1 4:2,4,9,12 6:8,11,23 7:1,25 8:20 9:20 10:24 25:8,22 28:16 31:1,5,13,16,20 33:13,25 35:4,7 36:3,15 59:16,20,23 68:10 73:20 79:16 83:25 84:9,21 85:8 85:13 87:1,15,19 Indian 10:20 11:17 13:4,13 14:14 15:3 16:23 17:8,10,11,17 26:7 27:7 30:8 36:24 India's 14:2 15:6 17:19 28:18 29:9 34:24 36:19 40:2 42:4 43:6 44:14,22 46:3,8 48:6 73:15 74:22 75:7 76:1 77:11 87:3,6,8 indicate 47:7 indicated 6:5 26:8 62:17 69:3 87:9 indicating 59:18 indication 26:24 32:17 36:9 indirectly 9:13 indisputably 57:24 individuals 88:7 indoors 2:12 indulgence 41:20,21 Indus 1:1,2 2:10 inefficient 63:18 infelicity 54:13 inferred 27:4 infinite 83:6 information 8:12 9:20 10:25 12:12 13:10 14:15 15:20 16:2,12 17:4,5,8,18 76:11 76:21 77:21,22 78:7 initial 64:23 initially 62:24 initiating 18:17 initiative 8:15 initiators 20:18 injunction 2:24 inputs 15:16 instances 15:7 instead 82:16 instinct 12:23</p>
--	--	---	--	--	--

<p>instincts 23:25 institution 68:19 insufficient 21:5 insufficiently 49:25 integral 60:8 intend 27:16 intended 32:18 36:10 45:23 54:25 intent 23:6 27:7,10 intention 6:18 9:25 18:14 19:4,6,8,24 20:1,12,17 21:12 25:9 26:6 27:1,23 28:2,6 29:3 30:9 68:12 83:1 interest 33:12 62:16 Interests 57:6 internal 18:22,23 international 2:8 4:23 45:14 56:24,25 57:3 57:5,19,23 58:6,8 60:13 66:10 interpolate 50:25 59:5 interpret 83:7 interpretation 15:25 25:10 37:8,15 39:11 39:19,20 40:8,19 49:1 57:18,23,25 59:3,7 62:1 65:9,16 65:20 76:4 82:24 interpretative 65:14 65:18 interpreted 40:13 65:21 intervene 53:13 intricate 49:2 introduce 3:4 7:12 introducing 5:20 7:23 invalid 44:24 46:2,9 48:7 75:25 invalidity 43:6 44:14 45:1 46:13 48:11 74:22 75:17 invisible 5:4 invitation 27:23 invite 4:9 8:25 9:3 41:16 49:4 62:11 invoke 27:13 invoked 26:21 involved 14:7 16:16 involving 88:7 irreparable 82:18 Islamic 1:15 2:2 3:3 9:7 issue 7:1,10 10:15 11:10 24:13 36:23 38:2 39:25 50:4,12 50:18,19,22,22 51:3 51:16,21 52:25 53:19,24 54:21,23 55:3 60:15,22,23 62:5 65:6 66:12 69:9,14 72:23 73:4 73:9,13,18,22 74:2 74:8,21 75:5 78:9 78:16 79:1 85:2 86:17 issued 42:25 46:22 issues 2:14 4:16 13:25</p>	<p>24:21 36:22,23 40:5 40:7,21 41:17 42:2 43:22 44:2,3,17 48:4 49:1,5 58:13 61:6 64:7,11,14 65:1 68:1,1,3,4 69:4 69:6,18 70:8 71:21 76:3 77:24 80:12,22 81:10,23,24,24 82:17 86:13,15 88:2 issuing 86:19 Italian 59:19 Italy 59:16 item 12:17 IX 21:25 34:2 51:20 52:10 61:23 65:9 IX(2) 22:3 25:23 IX(2)(a) 20:11,16,21 IX(3) 23:9 47:22 48:19 52:6 55:23 61:12</p>	<p>57:5 justifiable 14:24</p> <hr/> <p>K</p> <p>Kalnai 16:13 KC 2:4,6 3:6 keenly 87:25 keeps 70:6 kept 14:20 KHEP 11:18 13:17 14:8 16:7,13,17 17:6 23:16 26:23,23 KHEP's 24:11 kicks 20:2 kind 12:20 66:14 81:9 85:25 Kindly 27:19 kinds 15:20 KING 2:19 Kingdom 58:25 Kishenganga 1:1 10:12 11:19 12:3,9 16:6 17:3 20:7 22:25 23:23 24:6,10 26:12 28:3,17 31:24 32:1,6,14 33:11,11 33:22 35:2,8 36:7 36:23 37:3,16 38:19 39:14,19,23 68:16 69:13,14 74:2 83:11 84:17 know 5:25 6:1 28:2,18 30:20 37:2 41:2,2 51:5 65:8 70:22 71:10</p>	<p>legal 2:19,19 1:24 31:25 37:15 50:17 50:21 53:1 63:20 64:13 80:24 82:1 85:8,14 legality 74:16 75:1 lengthy 16:16 43:25 less 57:14 77:10 84:4 let 42:15 49:25 70:17 70:22 71:9 77:3 86:5 letter 2:16 11:16,22 13:17,18 27:8,11,19 28:1 30:7,11,16 31:5,13 77:13 87:3 let's 10:14 level 16:9 24:12 26:14 37:2 73:17 Lexie 59:16 62:17 65:4 66:17 light 65:22 like 1:5 3:13 5:8,13,22 8:7 15:17 16:12 18:20 36:17 38:22 41:25 42:4 50:1 51:25 53:6 64:15 67:4,23 70:3,4 71:5 79:10 81:11 85:17 85:25 87:18 likely 76:21 limbo 23:8 limit 24:25 limited 29:3 line 12:17 28:13,13 43:25,25 45:9,10 49:19,20 72:4,4 73:11,12 74:6,7 lines 18:11 23:18 25:5 43:24 45:7 56:19 77:7 linkage 56:14 linked 49:14 54:16,19 Lino 39:2 68:19 Lisa 1:22 list 23:16 little 3:20 6:15 8:16 11:5 19:19 31:9 43:13,17,21 47:6 57:13,13 74:9 79:12 LLP 2:6,6,7 locate 3:14 logic 22:5 London 2:4,4,5,5,6,6 2:7 long 6:19 16:21 55:12 69:17 87:20 longer 44:20 69:25 long-term 24:20 look 6:21 18:19 22:7 39:1,5 41:14 51:25 62:16,22 64:11 looked 11:15 13:20 26:13 looking 2:4 9:19 18:25 48:3 61:17 64:19 65:8 69:24 lots 67:3 loudly 83:16,17 lower 16:13 85:11</p>	<p>low-level 16:4,6 24:13</p> <hr/> <p>M</p> <p>made 4:20 15:5 19:16 19:21 21:5 22:11 23:2 24:22 36:15 38:10 40:9 78:2 82:8 84:15 85:18 maintain 75:25 maintaining 75:12 maintains 47:15 48:12 49:13 54:15 make 1:9 3:3 6:15 7:6 25:9 36:4 38:9,22 39:12 42:13 53:11 55:24 57:9 65:2 67:5 70:17 71:5,24 makes 15:10 19:7 22:18 36:7 37:17 51:15 making 5:3 26:16 59:10 61:8 63:19 82:17 malfunction 56:1 65:12 mandate 82:7 mangled 53:12 manifestly 4:24 manifests 20:16 manner 61:22 many 10:25 33:23 88:7 March 13:19 59:14 78:15 Marine 58:22 marines 59:19 60:6,15 matches 64:22 materiae 52:19 material 6:23 7:2 12:21 16:20 29:13 52:19 75:2,10 78:9 materials 7:11 matter 1:1 4:5,7 14:5 21:10 26:15 32:20 34:12 36:13,16 37:12 40:12 42:22 44:10 50:9 52:18 55:19 58:15 59:2 62:21,21,25 63:14 63:16,20 66:23 74:20 matters 3:1 10:17 17:19 20:24 21:11 34:18 57:20 83:15 Mauritius 58:25 may 1:7 1:1 2:1,5,8 5:8 7:8 19:13 23:13 33:15 34:3,23 38:1 39:1 41:23 43:10 46:1 47:2 49:3,5 51:25 53:24 54:12 54:25 60:11,18 61:19,21 62:2 63:4 63:6 64:17 66:19 67:3 70:2,24 71:23 72:15 74:23,25 75:2 77:10 78:25 79:10 86:19 87:19</p>	<p>maybe 10:22 11:9 62:15 64:20 73:4 McGowan 1:22 85:23 mean 61:21 82:23 meaning 24:18 65:20 65:23 67:1 meaningful 13:22 means 56:7 measurements 15:18 mechanism 20:20 34:1 85:9 meet 14:20 meeting 12:7 13:8,9 13:23,24 14:8,12 38:10 79:15 80:18 80:22 meetings 6:25 12:2 80:2 MEHAR 2:9 members 1:6 3:12 7:4 9:8 14:2,11 16:15 16:21 17:7,16 22:1 24:15 25:25 29:10 29:17 31:18 35:24 38:1,7 40:23 41:5 43:12 45:11 48:24 49:21 60:19 71:17 74:12 76:5 77:1 78:20 80:4,8 81:8 81:10,17 83:10 84:13 85:17,24 88:5 88:10 memorial 79:18 memory 7:8 38:16,17 mention 1:12 26:4,5 mentioned 14:18 22:6 26:2 29:11 63:17 73:25 mere 26:25 27:7,10 merely 21:6,8 24:21 34:12 57:21 merits 83:12,17 85:4 87:17 met 17:15 methodological 65:14 65:18 meticulous 8:3 microphone 38:23 48:23 74:1 81:12 midway 14:17 might 7:1 22:7 24:6 41:24 54:6 62:24 64:24 70:9 72:19,21 72:24 80:9 84:4 mightily 54:11 Miles 2:5 3:4 1:8,16 3:6,11 4:11 7:6 8:25 9:3,8 10:19 11:12 11:14 36:2,20 37:20 37:23 38:3,21 40:9 68:9 71:2 73:8 Miles's 38:8 mind 1:12 7:8 19:10 43:16 46:4 47:9 54:9 62:2,4 64:21 66:15 86:22 mindful 2:23 3:25 78:12,17 80:4,16 Minear 1:12 6:16</p>
--	--	---	---	--	--

28:12 31:2 36:2,20 37:19 38:8 48:22 61:7,16 62:6 73:8 74:11 Minear's 10:7 29:8 30:25 minimalist 77:19 Ministry 2:9 minor 25:14 minutes 1:8,17,25 2:9 13:7,13 14:9 15:13 70:1 misreading 36:21 missing 54:21 misspoke 57:12 Miyar 16:13 modalities 77:22 moment 1:22 11:9 19:23 41:10 46:25 47:5 66:21 83:18 month 22:13 months 31:6 79:18,22 moral 85:16 morality 81:24 more 1:15 6:15 8:13 8:23 11:5 12:22 15:12,19 20:10 24:7 26:17 33:2 40:24 43:21 46:4,15 47:9 47:25 54:10 56:23 57:13 59:15 60:24 72:25 82:9 83:11,16 85:14 moreover 33:22 87:18 morning 2:16 6:5 9:10 9:17 morning's 71:22 most 82:4 85:15,24 mostly 14:18 15:4 move 12:13 61:4 86:22 moving 34:4 much 1:6 8:22,23 9:1 17:1 37:21 41:20 70:13 81:15 86:3,4 87:25 88:14 much-needed 73:3 MUHAMMAD 2:9,11 multiple 16:11 36:22 MURPHY 1:10 must 10:21 19:9 29:13 35:9 52:9 57:25 65:20 84:5,7,9 MUSTANSAR 2:10 myself 48:5	necessary 16:25 17:8 21:16 51:11 56:10 59:11 60:22 66:13 69:19 74:23 75:16 80:15 85:2 need 24:9 38:2 42:10 63:4 70:20,23 74:25 77:13 79:20,25 needed 22:2 72:23 79:17 83:22 85:2 needs 3:21 40:18 62:22 66:11 neither 64:15 83:8 nervous 41:1 Netherlands 1:6 2:11 neutral 6:18 9:24 10:1 10:8 12:3 18:1,7,14 18:16,17 19:4,6 20:2,19,20,22,25 21:4,10,22 22:9,10 22:12 23:12,14 24:17 25:3,12,17,21 26:1,16,19,24 27:2 27:17 28:6,10,16,21 29:1,4,5,15,16 30:10,14,19,21,23 31:2,8,14 32:2,6,10 32:18 33:4 34:5,9 34:13 36:10 37:9 38:10,13,15,18 39:2 39:6,15 40:13 42:18 42:21,25 43:6,10 44:9,14,21,22,25 45:25 46:3,8,10,11 46:13,21 47:2,8,18 47:20 48:6,8,9,11 48:14,17 49:13 50:6 50:8,11,13,20,22 51:1,3,17,18 52:2 52:13,13,17,23 53:4 53:5,9,16,21 54:5 54:15,19,22 55:7 56:16 60:21 61:1 63:3,9,11 64:4,8,11 66:20,25 67:7,13,14 67:20 68:1,9,18,22 69:1,5,7,15 72:10 72:14,22 73:9,19 74:4,15,17,22 75:1 75:7,9,11,13,18,23 76:1,2,8,10,14,16 76:22 77:5,9,12,16 77:18 78:4 79:12,15 79:19,22,24 80:5 82:16 83:4,8,24 84:6 never 22:4,22 24:18 nevertheless 13:23 35:9 new 6:9 7:2 next 3:22 80:20 NISHTAR 2:13 nonetheless 5:10 25:15 normal 64:3 72:9,13 72:19,24 normally 54:6 note 2:22 13:15,18 19:18 29:24 43:22	52:12 73:14 75:6 78:21 79:5 80:23,24 noted 44:12 46:25 48:24 84:2 notes 15:22 nothing 6:9 8:23 33:1 54:10 72:25 77:23 79:13 notice 5:2 notification 6:17 19:6 21:12 26:9 29:3 68:12 notify 27:15 notifying 19:3 30:8 noting 77:25 notion 66:15 notwithstanding 75:24 not-straightforward 51:5 nowhere 26:20 number 4:21 6:16 7:6 15:10 83:23 86:9 numbers 3:5,18,18 5:7 5:14,23 71:4	O object 65:22 66:3 83:1 objecting 44:20 objection 14:24 73:15 objections 10:22 13:16 14:19,21,23 33:23,24 35:1 36:4 objective 35:14 obligation 85:14,16 obligations 84:7 observation 38:9 observations 44:1 67:5 70:18 72:2 observe 79:2 observed 51:22 77:12 obtained 35:15 obviously 6:19 26:14 53:11 68:7 71:16 occasions 26:21 occur 72:19 off 20:2 27:6 39:7 Office 2:8,13,13 off-piste 40:25 omitted 61:18 once 3:10,13 22:17 66:21 80:13,19 one 1:10,21 10:4 12:24 13:1 20:1,24 22:13 24:7 29:24 34:15,16 36:23 43:20 54:6 58:5,23 61:25 62:24 63:14,25 64:5,17,19 64:20 65:1 66:14 67:8 72:1,6 80:8 82:12 84:13 online 80:18 only 4:2 7:23 21:3 26:2,15 28:4,4 32:8 34:9 35:14,15 39:14 53:2 64:4 68:2 69:10 72:10 77:8,17 80:8 83:5,6 84:24	88:4 open 39:4 opening 1:10 11:22 42:6,12 43:15,23 44:16,17 65:6 84:2 87:9 operate 19:20 72:21 operates 84:8 operating 64:6,19 operation 85:19 opines 34:12 opportunity 4:4,5,12 6:11 7:19,22,25 8:4 8:20 10:9 11:6 20:9 41:17 70:7 71:20 81:22 opposed 54:4 opposite 39:21 option 70:6 options 25:1 oral 86:25 87:24 order 2:18,23 3:1,3,17 4:13 7:10,18 62:21 69:16 78:6 orders 79:1 ordinary 65:20,23 82:8 original 23:16 55:8 67:12 originating 26:2 30:22 origins 75:25 other 3:10,13 4:14 5:21 6:3,8 7:19 8:2 10:10 18:15 19:4 23:24 32:13 34:17 51:7,10 57:19,23 59:25 64:19,21 67:4 67:8,22 71:11 75:18 79:18 82:13 85:6 87:11 others 10:5 42:8 66:17 otherwise 5:4 26:10 45:22 69:11 ought 35:19 ourselves 70:7 79:9 83:22 85:9 out 4:23 6:24 8:1 10:2 11:10 14:6,12 15:14 16:10 19:1,12 20:1 26:2 29:19 36:25 41:10 42:11 46:15 47:21 48:17 49:9 52:3 69:7 71:22 78:14 outcome 82:2 outcomes 60:25 82:18 outdoors 70:6 outlets 16:4,6 24:13 73:16 outside 2:11 43:1 46:22 53:22 63:12 67:10 outstanding 9:11 over 1:8 2:8 3:22 9:11 9:12 12:6,8,10,15 16:14 17:6 18:3 31:23 34:20 62:20 62:22 64:10 67:21 67:23,25 68:2,3,3	69:15 81:18 83:15 84:20 85:1 87:24 overall 17:20 overlap 34:25 35:4 overnight 29:12 overturned 37:10 overturning 37:4 own 8:15 61:8 64:23 66:20,22 74:24 83:19 86:6	P P 1:12 page 10:16 12:6,10,15 18:11,22,23,24 23:17 25:5 28:12,13 43:24,25,25 45:7,9 45:10 49:19,19 56:19 57:10 65:25 72:4,4 73:12,21 74:6,7 77:7 pages 39:2,5 48:25 73:24 74:7 Pakistan 1:3,15 2:2,8 2:10,11,12 3:3 1:5 2:16 5:22 9:7,11,20 10:24,25 13:18 14:15,18 15:9,15 17:7,18 24:5,9,24 25:8,20,23 26:5 28:20,23 33:13 35:3 36:5 44:20,24 46:8 46:10 47:15 48:6,8 48:12 49:13 54:15 63:11 67:9 75:12,17 75:24 79:24 84:22 85:11 87:23 Pakistani 88:5 Pakistan's 2:2 9:14 11:16,23 12:11,18 13:16 14:25 15:4,6 23:15 24:12 26:3 27:9 30:7,12,17 31:7,10 40:1,16 41:11,13 42:17,22 43:5,7,9 44:10,13 44:15 45:24 47:1,5 47:7 48:4 51:13 52:14 64:9 73:15 80:24 81:21 84:2 86:9 87:14 Pakul 16:13 Palace 1:5 paragraph 2:19 7:9 11:22,24 12:6,10 13:12 14:16 15:1,13 15:22,25 16:3,10 18:21 19:2,11,15,17 19:18,19 20:4,13 21:7,14 22:7,8,10 22:20,23 23:3 26:7 27:1,11,13,15,20 30:10 31:9 32:8,14 33:16 34:1,8,13,22 35:5 43:2 44:2 46:23 47:18 48:15 51:23 52:1,7,9,11 52:11,11 53:2,2,3	55:11 59:1,14 60:9 60:10 61:10 67:11 67:13 68:11,15 72:5 75:15 78:21,21,22 79:21 paragraphs 14:10 16:14,15 30:14 39:5 51:20 61:23 68:15 parallel 8:6 81:2,4 parameters 80:2 parse 29:18 parsing 61:17 part 16:7 17:25 20:19 26:1 27:16,21 28:8 28:10 32:4 33:7,10 33:17 34:18 43:1 46:22 47:13 52:14 53:25 58:21 60:8 64:9 68:4,7 69:20 87:13 partial 16:6 20:13 28:3 32:15 33:11 35:8 83:10 participate 42:23 44:11 46:11 48:9 87:15 participating 75:18 participation 43:7 44:15 45:5,20,24 75:22 particular 17:3 32:9 32:20 33:19 36:13 36:16 37:8,11,13,14 58:14 62:21 72:25 79:5 particularly 2:11 parties 6:1 8:15 15:23 15:24 16:5 17:2 18:9,13,17 20:17 22:11,19,21,21 23:3 23:4 24:4,25 25:1 26:5,25 28:4 30:12 30:13 31:10 32:18 32:21 33:20 35:11 35:12 36:10 40:10 60:4 70:22 74:14,19 75:10,20,21,23 76:1 79:7 83:1,4,23 86:20 parts 9:18 48:1 party 7:19 8:2 18:15 30:19 34:5 45:4 63:10 67:8 82:12,14 pass 72:18 74:16 75:1 passage 20:8 22:25 passed 31:12 80:20 passing 75:6,8 past 9:12 70:10 83:15 86:1 87:24 path 64:21 72:24 83:2 pathological 21:23 paths 64:15,20 pattern 14:11 pause 11:9,11 41:23 49:2 50:25 61:5 70:4 75:5,9 pay 35:16 PCA 4:24 58:21 59:13 60:18 79:3
---	--	--	--	---	--	---	---

<p>PCA's 18:24 PCIJ 57:12 65:5 Peace 1:5 peaceful 84:21 pending 23:20,24 24:23 per 32:7 50:6 76:17 performing 9:9 performs 20:3 perhaps 3:1,22 4:18 8:13,24 25:15 41:19 43:13 46:4 47:6 49:4 54:13 63:11,13 63:23 64:20 65:6 69:17,18 period 19:12 80:20 81:1 Permanent 1:5 2:17 56:24 57:3,4,8,11 85:20 permission 2:25 78:4 permitted 16:7 37:1 personal 77:21 78:7 perspective 8:9 40:16 PHILIPPA 2:5 picked 58:3 PLA 73:21,23 place 8:16 13:10 17:1 17:6 30:4 58:20,24 58:24 59:17 63:16 75:15 placed 31:4 placement 73:15 plain 36:21 52:7 Plainly 16:17 plan 70:11 plant 32:9,9 plant-by-plant 40:12 play 36:24,25 37:14 49:2 73:9 playing 31:20 plays 14:12 PLA-2 25:16 39:3 PLA-3 20:13 32:15 36:7 pleadings 76:24 79:2 79:7 81:2 please 18:21 49:15 86:21 pm 88:15 podium 9:4 88:6 point 1:13 2:13,21,25 3:24 4:17 8:19 18:6 21:9 24:14 26:17,20 34:6,11 36:2,7,16 36:19 37:5,8,18,25 38:13,22,25 39:22 40:25 53:7,10 55:1 58:1,3 61:3 68:6,7 70:25 71:13 72:2 73:6,12 75:16 80:9 pointed 64:16 points 1:9 5:16 15:10 15:13,14 16:10 19:14 30:6 35:5 36:25 40:9,14 43:21 49:10 67:4,24 Poland 57:7,20 Polish 57:6</p>	<p>political 81:24 pondage 15:23 36:17 36:25 posited 67:6 position 14:6 28:18 42:17 43:9 47:1,5,8 47:16 48:4,13 73:20 75:13 87:2,6 possibilities 63:23 possibility 47:17 48:13 63:25 72:6 82:17 possible 16:18 17:14 19:20 28:20 57:17 81:6 82:23 85:19 possibly 6:5 17:15 35:12 81:3 postures 18:13 post-request 23:10 potential 22:8 potentially 81:1 power 83:7 practical 55:19 practice 18:8,16 25:7 25:10,13,15 27:5 28:3 35:21 58:20 precedential 32:19 36:11 64:13 precise 15:20 47:25 75:17 precisely 75:19 precluded 35:4 precondition 17:12,14 predecessor 56:25 predecessors 84:12 predicated 56:3,8 predictable 40:19 preface 77:3 prefers 20:24 prejudice 47:12,15 48:12 preliminary 57:21 prelimature 31:15,17 prepare 27:21 preparing 88:1 present 13:24 32:22 36:3 62:19 63:2,5 82:22 83:24 presentation 28:15 37:22 71:13 81:16 presentations 86:25 87:24 88:1,6 presented 32:24 33:14 34:23 59:12 presenting 6:4 presently 84:8 press 78:24 presume 2:15 prevent 17:5 22:2 preventing 23:9 24:19 previous 24:14 33:13 37:9 previously 22:6 53:15 principal 56:11,14 principle 7:12 45:3 56:2,22 66:8 74:19 principles 58:7,19 61:22 82:1 prior 10:19 21:12 25:8</p>	<p>26:21 27:9 prism 42:10 probably 1:16,25 38:12 69:25 problem 11:11 37:4 39:13 procedural 3:1 2:18 7:10,18 21:17 77:23 78:25 79:11 81:3 procedurally 26:10 procedure 23:13 25:3 25:12 55:23 76:18 76:23 78:13 87:19 procedures 47:22 48:19 52:10 54:6 proceed 85:4 87:13 proceeded 4:25 proceeding 4:19,21 6:10 18:7,18 20:2 28:6 29:2 34:9 37:9 42:21,23 44:9 63:5 87:11,17 88:13 proceedings 2:3 3:1,2 10:8,11 18:1 24:17 26:19 27:3 29:16 30:23 31:16 32:24 34:25 42:6 44:11 68:20 77:8 78:2,23 82:15 83:16 86:13 86:13 87:16 process 4:1,15 6:25 8:3 9:23,24 20:19 26:2 30:22 43:8 44:15,25 45:6,21,25 46:12 48:10 51:20 55:8 63:18 64:3 65:16 69:21,23 72:9 72:14,19 75:14,18 75:22,23,25 76:8,12 77:6,10,15,20 78:14 79:12,21 80:1,5 processes 61:24 produce 19:14 29:23 produced 1:22 81:2,4 professional 85:19 Professor 1:10,12 2:4 2:5 58:7,12 progressive 39:10 project 25:24 32:22 36:17 projects 14:21 prompted 38:7 proper 8:5 69:1,2 properly 61:21 68:21 78:3 79:24 propose 41:9 44:4 proposed 46:7 68:25 proposition 5:18,25 51:5 53:14 propriety 75:6 prorogatum 42:22 44:3,10 45:3,12 Protected 58:23 provide 10:21,25 28:20,25 29:25 35:12 49:15 52:1 54:8 60:4,12 76:20 85:7 provided 11:25 13:18</p>	<p>13:22 15:8,12 16:20 41:7 50:15 provides 47:19 48:15 74:9 83:3 providing 8:19 9:10 37:5 provision 9:19 13:9 17:4 18:25 58:16 provisional 66:23 provisions 13:2 18:20 33:19 38:19 52:5 61:12,15,23 82:1,24 préparatoires 62:4 public 4:24 5:11,19 78:2,23 publication 78:24 79:1,2,6 Publications 58:10 published 58:9 purpose 28:1 43:17 65:22 66:3 83:2 87:7 purposes 13:1 51:11 55:17 56:4,10 63:5 75:3 pursuant 43:2 46:23 51:12 55:10 59:9 87:18 pursue 18:14,15 put 3:9,20 5:6 22:1 23:14 25:25 39:14 39:24 48:22 64:25 67:7,18 77:14 81:1 81:20 putting 43:18 53:15 P-0074 11:7,15 P-228 30:7 P-229 30:11 P-230 30:16 P-231 30:25 31:5,19 P-24 13:8 P-25 14:12 P-32 27:8 P-40(C) 74:5 P-64 23:17</p>	<p>61:7 63:13 64:18 67:12,16 71:4 73:7 74:13 76:9,15,20 78:10,17 79:11 82:3 85:15 questions 3:5,7 1:18 1:19,20,24 2:1,14 4:22 6:17 8:11 9:11 10:2,10 12:2,4 18:2 18:5 23:15 24:7 35:25 37:21 40:13 41:6,9,15,25 42:3 42:15 49:5 57:21 58:16 61:5 70:2 71:12,14 76:6,7 77:2,3 81:14 82:4 83:13 86:2,10 87:2 87:5 quick 5:15 quickly 62:3 quite 5:9 7:18,20 11:20 13:11 15:11 24:1 41:19 49:2,21 74:21 quote 48:5 quoted 50:5 quotes 39:7 quoting 42:19 44:18 57:10</p>	<p>67:18 69:3 recall 6:16 32:15 42:4 51:23 87:18 recalled 21:18 recalling 77:4 receipt 27:19 29:11 34:10 received 28:23 29:17 49:6 recent 58:4,18 59:15 recognised 55:12 60:25 recoiled 22:25 recollection 62:19 record 2:24 3:4,21 5:6 5:12,14,20 6:17,21 7:14 10:10 29:7 30:1,4 31:4 38:11 43:22 48:2 49:23 71:6,7,25 72:5 79:17 recourse 20:20 Rees-Evans 2:7 10:3 18:6,10 23:17 refer 23:5 reference 2:13 12:6 15:16 19:5 49:18 50:5,15 51:14 59:13 65:25,25 66:3,7,24 73:11 74:5 referenced 2:18 38:21 56:18 references 5:10 12:1 20:16 referred 12:16 20:22 24:4,16 51:18 52:23 55:22 referring 17:2 24:14 47:13 refers 20:12 56:6 reflect 5:5 38:4 49:23 71:8,9,20 reflections 64:23 reflective 17:19 reflects 47:4 reformulation 48:1 reformulations 48:2 refresh 70:7 refused 23:5 refusing 17:10 regard 8:17 28:18 33:19 40:14 52:12 58:1,15 71:15 78:20 80:17 regarded 57:25 regarding 10:8 76:11 regards 47:16 48:13 86:7 regime 35:14 76:10 Registrar 85:21 regret 84:23 reinforced 68:10 reiterate 80:6 rejected 14:25 33:23 35:1 relate 14:19 Related 4:17 relates 20:23 72:1 relating 25:23</p>
---	--	---	--	---	---

<p>relation 26:22,22,23 32:21 51:22 relations 84:21 relationship 53:19 relatively 4:13 58:18 releases 78:24 relevance 32:11 relevant 3:16,22 11:1 18:8 26:10 29:13,20 58:15 reliable 84:20 relief 82:14 relies 33:25 relieved 54:11,24 remain 84:20,23 remainder 61:4 remained 14:23 24:25 remaining 41:6 remarks 3:9 40:24 41:18 77:5 80:7 86:5 87:9 remedies 69:9 remembering 37:24 remitted 50:9 render 33:17 rendered 22:17 33:18 repeated 45:8 rephrase 46:17 reporter 2:5 41:22 69:25 85:23 88:12 repository 3:10 7:5 58:21 REPRESENTED 2:15 reprint 58:11,11 reprinted 58:9 Republic 1:15,17 2:2 2:15 3:3 9:7 request 5:22 6:6,18,18 9:25 10:1 18:15 19:8,8,16,24 20:2 20:12 21:4,11,12,16 21:22 22:2,14,16 23:2,5,8,13,21 24:3 24:16,21 25:9,21 26:3,4,16,18 27:9 27:25 28:4,5,20 29:4 30:9,13 31:8 31:11 34:10 43:7 44:14,22 46:3,9 48:7 51:13 52:14,21 52:22 64:9 68:12,13 68:18 73:19 74:23 75:7 76:2 81:21 86:9 87:14 requested 7:17 13:15 require 12:24 15:21 16:2 17:4 79:7 required 17:9 27:21 requirement 21:3,15 22:2 requirements 3:25 14:20 requires 20:20,22 reservation 43:9 47:1 47:8,16 48:13 75:12 reservoir 16:9 24:11 residual 43:9 47:1,7 47:16 48:12 75:12</p>	<p>resist 31:3 resistance 28:19 resisted 28:16 31:1,3 resisting 31:14 resolution 13:24 51:10 56:4,9 60:23 86:21 resolve 11:11 14:5 21:23 24:6 59:11 63:5 69:19 resolved 20:25 40:5 46:11 47:22 48:9,18 Resources 2:9 respect 2:18 12:17 16:3 18:9 20:4 23:15 24:21 32:8,23 33:14,21 35:10 38:14 42:18 63:2 64:14 75:13 76:10 76:13 87:13 respects 83:23 respond 4:9,12 7:20 7:22,25 8:4 77:13 responding 59:24 responding 9:21 15:3 response 4:22 12:23 13:5 35:3 36:18,18 42:3 49:10 67:5 73:7 77:3 responses 25:7 responsibilities 82:7 84:6 responsibility 49:24 responsive 5:10 41:12 rest 1:23 40:7 70:11 restart 11:18 restore 84:19 restores 83:3 restrain 62:7 result 16:19 39:21 82:21 resume 63:18 retainer 76:13 77:9,18 78:3,8 retrospect 45:11 return 40:23 65:16 66:5 69:11 review 3:8,15,19 29:12,21 66:24 79:16 reviewing 53:21 revised 44:6 revolves 15:23 16:5 rework 43:16 reworking 46:7 RHEP 16:13 26:23 right 8:5 16:1 24:1 riparian 85:11,13 rise 83:18 risk 60:25 Rivers 17:22 31:20 40:17 42:9 roadmap 9:16 robust 16:18 role 9:10 20:3,18 35:11 39:15 44:21 63:24 69:1,2 rolling 30:22 Roman 45:13 room 58:21,24 59:17</p>	<p>66:12 rooted 19:8 round 27:6 rule 65:19 rules 2:20 68:14 76:18 76:23 78:12,15,18 78:22 80:17 87:19 run 8:5 runs 57:2 run-up 15:17</p> <hr/> <p style="text-align: center;">S</p> <p>SAADEH 2:6 safe 86:2 88:14 salutary 71:16 same 13:23 14:11 17:13 21:15 22:5,24 23:8 31:11 33:23 56:8 57:1 59:25 64:2,7 72:8 81:5 86:18 sanguine 41:3 sat 84:12 satisfactorily 85:7 satisfy 17:8 satisfying 10:7 Saturday 1:7 1:1 save 70:1 saw 2:16 saying 10:21 11:23 12:11 14:3 31:16 36:6,22 54:18 66:7 says 7:18,20 20:14 22:8 27:18 33:16 37:5 40:6 44:8 46:19 54:14 61:11 scenario 67:11 scheduling 81:6 scheme 1:11,14 69:10 Schofield 2:18 85:22 scoop 18:4 scope 32:20 36:13 37:11 43:2 46:23 scores 3:19 screen 80:24 script 1:10 scripted 40:24 41:18 scrutiny 12:25 se 50:6 Sea 59:6,21 60:11 SEAN 1:10 searching-out 70:23 SEBASTIAN 2:19 second 1:12 2:13 7:24 32:4 43:8 46:18 68:6 73:6 83:12 secondly 9:23 24:14 34:8 second-round 7:21 secretariat 76:23 88:11 Secretary 2:9,11,18 Secretary-General 85:21 Secretary-II 2:12 section 18:4 25:18 see 3:13 4:2 5:19 6:2 9:17 11:23,25 12:6</p>	<p>12:11,15,17 13:13 14:13 18:25 20:10 25:6 32:17 36:9 42:14 54:8 61:5,19 61:20 64:23 68:20 70:20 78:7 79:14 seek 27:16 34:5 seeking 8:11 seem 11:12 28:9 seems 63:8,22 64:15 seen 2:15 33:13 35:2 49:14 54:16 71:3 83:15 seised 34:4 51:12 56:12,15 60:23 72:16 79:24 seldom 78:2 selection 76:22 self-contained 35:14 seminal 58:5,13 sense 1:10 4:15 5:3 8:1 24:23 54:1 55:24 64:1 69:22 72:7 sent 11:16 25:20 sentence 43:8 44:7 46:6,16,18 61:10 sentences 43:4 44:4 separately 44:5 September 1:4 sequence 41:10 49:9 sequentially 19:20 Series 57:12 seriously 14:15 85:15 seriousness 86:12 serves 38:16,17 session 7:21,21,24 42:1 set 42:11 46:15 sets 19:1,11,15 setting 26:2 settled 35:19 52:4 61:11 settlement 25:1 34:2 45:6 66:5 85:9 setup 15:17 seven 82:12 87:21 seven-day 80:19 seven-page 12:16 shadows 66:21 SHAH 2:9 Shakespeare 8:24 share 76:12 78:3,5 79:13 shared 76:16 78:13 sharing 76:11 78:10 shirk 41:16 short 3:1,2 4:13 16:22 26:20 31:2 70:15 shortform 48:3 shorthand 45:18 show 31:4 showed 23:1 shown 37:16 shows 31:13 side 4:14 18:23 59:25 67:17 signed 1:4 significance 61:13 significant 26:10 81:3</p>	<p>82:8 silent 82:21 Silesia 57:6 62:18 65:5 siload 40:3,12 similar 6:6 16:12 20:4 28:19,22 29:24 60:19 62:10 similarly 78:6 simple 36:21 simply 14:23 40:11 54:12 56:5 68:21 71:4 82:15 since 29:17 31:13 78:14 sir 2:4 3:6 1:5,6 5:15 6:14 8:22 9:9,12 11:14 13:2 29:10 30:2 31:23 37:23,25 38:1 53:13 54:11 61:7,16 62:8 64:25 70:13,17,24 71:16 73:1 74:12 81:15 84:2 sit 1:14 67:19 site 3:17 11:1 12:25 13:1 15:21 17:9 29:25 76:23 80:1 site-specific 15:20 situation 18:13 24:19 43:10 45:18 47:2 66:16,18 67:6 69:12 69:12 82:9,22 83:21 84:11,25 situations 25:8 six 12:2 23:16 41:6 79:22 skilled 84:12 sky 2:11 71:16 slide 9:8,16,16 10:14 10:16,18,19 11:7,8 13:4,7,12 14:11,17 15:2,10 17:25 18:10 18:11,25 20:6,10 21:13 22:5 23:11,25 25:2,16,19 27:6,12 28:8,12,23 29:10 30:25 31:22 32:14 32:15 33:10,13,22 36:6 slower 14:9 29:22 71:8 slowly 41:4 small 38:2 54:13 73:12 smooth 85:18 solid 66:10 solutions 82:23 some 1:20 2:1,25 3:8 3:11 7:6 9:11 10:9 21:9 23:6,6,19,24 25:13 31:6 36:15 38:18 41:12 54:9 58:4 64:1,12,17,21 72:7 73:3,3 74:4 86:11 88:4 somehow 53:23 something 5:11 9:9 62:3 63:3 64:10 69:18,20 sometimes 56:6,7</p>	<p>soon 80:18 Sorry 11:10 sort 7:2 11:10 47:24 53:11 54:12 57:2 65:3 66:15 69:19 73:25 sought 10:25 82:15 87:5 sound 55:6 84:18 space 53:5,6 speak 6:12 8:20 31:13 41:4 66:12 80:24 speaker 49:24 specific 6:15 15:8 61:24 specifically 23:13 73:17 specified 19:17 specify 16:23 spectrum 67:17,22 speed 15:17 spend 2:12 spent 66:1 spillway 73:15 spirit 61:8 84:11 spite 84:22 spoke 88:5 spoken 49:7 squarely 8:13 stage 22:6 24:8 80:10 stages 38:12 stake 40:21 standardised 15:18 stands 43:13 start 1:4 19:2 30:22 started 72:22 starting 41:10 starts 39:7 state 45:20 80:5 stated 60:7 79:16 statement 19:14 27:7 27:10,22 42:17 43:4 43:12 44:5 45:8 46:19 68:24 statements 83:14 states 49:11 74:13 stating 13:14 25:22 step 19:2,11 21:7 22:15,15 63:20 78:19 STEPHEN 2:6 stepped 53:21 63:12 stepping 3:6 steps 19:1 80:21 still 16:7,17 31:14,20 49:4 87:20 stipulations 57:19 storage 16:9 24:12 37:2 73:17 straightforward 74:21 strategy 84:9 strengthening 35:22 stress-test 66:24 stretched 81:1 striking 39:3 struck 28:15 struggled 39:21 studied 87:3</p>
---	--	---	--	--	---

<p>subject 58:16 subjected 24:9 submission 8:14 15:11 20:7 31:18 35:9,25 76:24 84:3 submissions 3:2 1:4 1:11,14,15 3:7 7:7 8:25 9:6 34:25 38:6 38:8,12 41:8,11,13 42:7,8,12,13 43:5 43:15,23 44:13,18 45:9 48:25 49:18 54:24 65:6 71:22 81:9 submit 5:22 33:2 34:21 79:18 82:16 submits 35:3 submitted 24:3 30:1,5 submitting 2:17 subsequently 58:4 subset 68:4 substantial 29:12 substantiations 15:8 substantive 14:7 16:25 17:1,6,13 81:2 subtle 26:17 successive 35:15,16 succinctly 44:17 sufficient 13:6 27:2 62:6 suggested 53:23 73:4 suggests 52:8 suites 83:8 SULJUK 2:10 summary 43:14 44:5 46:5,19 47:10,14 48:4 supplemental 2:20 76:18 78:12,15,18 78:22 80:16 support 49:16 56:21 supported 14:22 supporting 15:9 25:14 suppose 61:16 supposed 17:18 sure 36:4 49:22 61:8 71:24 surprising 6:9 33:6 suspect 3:16 41:18 sweep 1:23 sweep-up 9:10 SYED 2:9 symmetry 65:3 systemic 39:20 40:7 68:1 69:4 76:3</p> <hr/> <p style="text-align: center;">T</p> <p>tainting 46:10 48:8 take 3:20 4:4,10,11 5:2,12 7:15 16:25 20:9 30:4 41:9 49:6 58:24 59:17 61:1 63:21 64:12 65:19 70:4 72:13 75:15 78:18 79:22 81:16 86:12 taken 67:13 76:7</p>	<p>taking 8:18 10:9 17:6 35:5 46:6 66:2 talk 37:11 talked 37:12,13 71:11 talking 16:3 37:14 40:4,4,4,16 63:1,8 TANWEER 2:12 TANZI 2:4 TARAR 2:10 task 9:18 50:24 51:8 60:9 team 25:7 80:25 technical 9:20 10:17 10:21 11:10,11 12:5 12:18 13:15 14:18 14:20 15:5,8,16 16:2,12,16,24 17:18 20:24 34:17 40:12 45:13 68:1,3,4 69:5 technology 14:22 ten 2:9 48:25 70:1 79:18 tens 3:18 tension 14:5 term 45:12,13,15,17 45:25 terms 6:2 32:16 33:7 39:10 62:1 68:14 72:20 77:9,14,18 78:1,3,8 79:5 80:17 test 66:23 testify 38:23 text 19:9 82:25 thank 1:6 5:15 8:22 9:1 11:14 36:2,20 37:19,21,23 61:7,16 62:6,14 64:25 70:13 70:24 71:17 74:11 81:9,15,17 85:18,22 85:25 86:3,4 87:23 88:10,14 their 36:4 65:21 83:6 88:11 theory 66:15 thing 56:8 71:11 things 11:2 12:13 33:8 40:11 41:4 think 1:3,16 3:3,10 4:7 5:17,24 7:8,9 8:5,9,18,22 10:20 11:8 12:4 37:20 38:3,11,23,24 43:13 46:4,14 47:9,24 53:14,19,22 54:7,12 54:20 55:4,5,17 58:10,20,23 62:10 62:12,24 63:14,19 64:25 65:5,13 67:6 67:15,18 69:10 70:5 74:18 76:6 78:3 81:14 86:11 thinking 61:8 62:13 third 25:2 85:12 Thirdly 10:7 34:14 thorough 88:2 thoroughly 85:7 86:8 though 2:23 44:21 45:14 46:11 48:9 62:24 63:1,22 71:20</p>	<p>thought 3:21 24:5 65:2 80:21 thread 42:4,14 three 1:15 9:18 19:1 30:6 31:6 36:1 81:1 83:15 86:1 87:24 through 13:18 20:9 22:16 23:16 24:2,7 31:12 39:5 42:10 44:24 45:5,20 47:22 48:18 51:19 52:10 54:6 55:23 57:3 61:13,14,24 65:1,16 66:2 72:14 82:23 87:5 throughout 42:7 throw 41:4 Thursday 10:16 11:4 12:16 13:3 18:3,5 20:8 21:2 28:12 87:9 time 2:6,12,21 3:20 9:17 14:9 17:13 21:15 23:8 29:17,23 35:21 37:6 39:20 40:7,14 52:24 66:2 68:8 70:22 71:8 72:16 77:16 81:5 83:17 84:3 86:18 timely 86:19 times 18:3 19:10 84:5 timetable 76:21 timing 1:11 8:7 73:11 tireless 85:22 today 4:2 together 9:17 19:13 29:23 44:6 48:3 76:7 told 84:5,7,9 top 18:23 67:21 69:15 touching 28:8 touchstone 40:18 towards 17:17,19 transcript 1:22 38:11 38:17,24 43:23,24 44:1,18 45:7,9 49:19 50:2,4,15 51:6,14 56:19 72:3 73:10 74:6,7 77:6 79:14 transparency 6:2 78:23 transparent 5:4 78:1 transparently 80:11 trapping 23:8 travaux 62:4 travels 86:3 88:14 treated 35:10 Treaties 18:21 22:8 39:8 treatise 58:6,6,13 treaty 1:2 9:24 13:2 16:1 18:7 19:9 20:3 20:12 21:19 24:19 25:23 32:18 34:3,19 37:1,8,15 39:19 40:15,18,21 42:24 46:20 49:1 52:20 56:1 57:18 65:19,22</p>	<p>66:1,4 68:14 76:4 82:19,20,21,25 83:2 83:3,6,7 84:6,19 85:3,10 86:21 Treaty's 35:13,22 Trevor 1:22 tribunal 45:5 56:11 58:14 59:1,9,18 60:2,7 65:4 66:11 tribunals 55:13 58:8 66:16 Tribunal's 60:9,14 tried 46:16 triggered 52:21 triggering 23:9 true 57:16 trust 82:6 try 10:5 18:4 39:22 43:20 69:19 trying 11:17 18:12 25:6 39:24 53:11 54:7 72:21 turbine 31:12 turn 10:14 12:15 14:8 18:20 42:15,15 turned 39:1 turning 29:8 Twenty 2:4,5 two 1:9,19 6:20 18:5 19:12,19 22:8 31:9 35:4 43:4 44:4 48:1 48:2 53:19 58:18 59:19 63:23 64:18 67:16 70:17 71:23 74:7 81:3,18 82:18 87:20 two-week 19:12 tying 50:10 type 8:14 typographical 54:13 55:1</p> <hr/> <p style="text-align: center;">U</p> <p>ultimately 22:18 23:22 68:19 87:10 87:12 UN 59:6 unable 60:3 unarguable 68:6,18 under 9:24 16:11 18:7 19:3 20:2,18 21:17 22:19,23 23:3 25:23 26:7 27:1,15 30:10 30:14 31:8,9 34:13 34:18 42:24 46:20 52:8,10,20 60:13 75:14 84:6,8 85:3 86:21 underbrush 81:12 underline 67:23 72:12 73:5 underpins 38:20 underscore 80:7 understand 8:19 12:8 43:17,18 77:2 86:15 understanding 12:20 18:13 24:2 53:24 understood 42:20</p>	<p>53:14,22 54:24 73:2 undertake 3:15 undertaken 3:8 undertaking 63:23 undertook 38:19 underway 77:20 unequivocally 21:21 unfairness 7:1 unfolded 64:3 72:9 unilaterally 34:4 unique 35:13 Unit 2:8 United 58:25 unless 35:17,24 41:15 unpack 51:4 unprecedented 82:9 unsurprisingly 52:14 until 67:19 68:22 71:13 79:17 UNTS 18:23 unwavering 85:25 un certainty 85:8 upholding 74:24 upper 57:6 62:18 65:5 85:13 urged 65:12,15 75:3 urgent 83:22 urging 63:15 use 45:15,25 used 29:24 45:12 useful 29:21 usefully 80:9 using 7:13 45:17 usually 12:21 55:16</p> <hr/> <p style="text-align: center;">V</p> <p>valid 76:2 validity 75:7 validly 67:14 valuable 29:22 value 8:12 32:20 36:11 variables 15:21 19:20 various 1:18 15:16 35:1 Vaughn 1:22 vein 28:22 60:19 ventilated 36:5 Versailles 57:19 version 21:24 74:6 Verulam 2:4,5 very 1:6 3:9,25 6:19 8:22 9:1,1 13:1 37:20,21 39:3 40:20 40:20 41:1,3,3,4 43:25 55:6 56:13 59:23,23 62:3,10 66:10 69:22 70:13 71:16 72:15 77:4 78:2 79:3 80:6 81:13,15 86:3,4 88:14 via 13:17 Vienna 39:7 view 20:15 21:6,8,16 21:19 24:12 44:22 72:13,19 84:24 viewed 18:16</p>	<p>views 34:5 vigorously 31:3 vindicated 24:10 virtually 32:13 77:23 visit 3:17 12:25 13:1 15:21 17:9 29:25 visits 76:24 80:2 vital 83:13 voice 83:19,19 voluminous 13:11</p> <hr/> <p style="text-align: center;">W</p> <p>WAHED 2:13 wait 67:19 want 2:11 4:8,10,14 5:5 8:1 22:7 31:17 36:4 54:1 71:21 wanted 1:9 12:22 15:19 66:14 69:21 71:11 72:12 73:5 wants 12:13 WASIF 2:11 wasn't 57:12 water 2:9 31:12 waters 1:1,2 2:10 83:25 wave 15:17 way 6:19 17:14 22:1 25:25 51:19 52:10 55:8,9,22 64:2,5,7 65:14,18 67:18 68:25 69:17,22 72:8 73:2 80:15 84:24 ways 67:3 72:20 WEBB 2:5 website 4:25 79:3 weed 29:19 week 3:22 30:1 weight 82:6 weightage 82:25 welcome 62:13 80:17 81:16 well 8:14 10:9 28:23 34:24 58:19 62:7,15 63:19 67:10 72:15 86:22 88:11 well-versed 62:9 went 51:6 60:10 were 1:8 2:7,20 3:22 6:21,25 8:10 13:21 15:8 16:6,24 35:6 36:22 53:15 54:2,7 54:21,25 55:9 57:2 59:17 66:17 69:6 71:3,24 73:3,25 Western 17:21 31:20 40:17 42:9 we'll 2:9 19:18 38:5 we're 5:23 6:19 8:16 8:18 18:19 30:1 37:24 53:3,4,6 55:9 63:8 66:19,24 67:9 we've 3:8,13 6:20 7:4 7:5 8:23 11:15 14:1 14:16 19:11 22:10 22:12,16 26:14 29:18 30:11 66:21 69:24 70:19</p>
--	--	---	---	---	--

ARBITRATION PURSUANT TO ARTICLE IX AND ANNEXURE G OF THE INDUS WATERS TREATY 1960

Day 3 -- Hearing on Competence

THE ISLAMIC REPUBLIC OF PAKISTAN -v- THE REPUBLIC OF INDIA

Saturday, 13 May 2023

<p>whatsoever 37:4 55:24 while 15:3 23:8 24:24 41:24 60:11 whole 39:25 40:10 43:1 46:22 63:18 75:5 wider 66:1 WILLIAMS 2:19 wind 15:17,17 wisdom 83:6 84:15 wise 84:11 wish 39:1 86:2 87:23 88:13 wished 6:12 wishes 8:21 88:10 withdrawn 24:24 wondering 63:1,22 words 6:8 41:13 45:15 49:7 51:7,10 54:21 61:18 65:20,23 75:19 79:18 86:5 work 19:13 32:12 51:19 52:9 54:6 55:22 65:1 69:23 76:21 88:9 worked 29:12 world 25:21 57:2 65:8 75:4 WOUTER 1:12 wrap 10:9 41:13 writing 41:7 writings 58:3 written 1:19 wrong 7:9 16:2 37:11 39:17</p> <hr/> <p style="text-align: center;">Y</p> <p>year 78:16 years 12:13,13 31:9 31:19 56:23,23 57:13,14 82:12 83:20 84:20 yesterday 1:20,24 4:20 28:22 41:7 49:1 51:24 53:11 56:18 67:16 77:5,12 80:7</p> <hr/> <p style="text-align: center;">Z</p> <p>ZOHAIR 2:13</p> <hr/> <p style="text-align: center;">I</p> <p>1 3:1 9:8 10:16 18:11 19:2 21:7 23:17 25:4 28:12 33:7 34:18 43:24 45:7 68:4 74:6 77:7 78:6 1.1 25:18 10 18:10 43:25 10.30 41:14 10:22:23 73:11 10:22:30 73:12 100 56:23,23 57:13 73:24 100th 12:1 101st 12:2 103rd 12:7</p>	<p>11 12:10 18:25 27:8 32:8 49:19 68:10 11th 23:13 11.00 41:19,20 11.18 70:14 11.45 70:11 11.49 70:16 11:06:15 72:3 11:06:43 72:3 110th 13:8 111th 14:12 112 10:16 12 20:6 74:7 12.19 88:15 13 1:1 21:13 43:2 44:2 46:23 47:18 48:15 51:23 52:1,7,9 53:2 53:2,3 55:11 61:10 67:11,13 13th 1:7 14 22:5 43:24 45:7 78:21 14(4) 79:6 14(5) 76:17 78:12,17 15 10:19 23:11 25:20 30:18 16 23:25 16-22 18:11 165 74:6 167 74:7 17 25:2 18 25:16 57:10 59:14 19 27:6 56:19 77:7 19th 1:4 1925 57:11,14 1953 58:6,9 1959 21:18 196 25:5 1960 1:2,4 1987 58:9,11</p> <hr/> <p style="text-align: center;">2</p> <p>2 9:16 19:11 23:15 24:7 27:16,21 43:24 44:1 45:9 49:19 56:19 73:21,23 74:6 77:6,10 78:21 2(a) 27:13 20 16:15 28:8 30:13 31:19 2003 30:13 2005 25:20 26:22 30:18 31:6 2009 23:13,21,22 24:3 24:15 26:22 2011-03 59:13 2014 13:10,17,19 2015 14:13 58:22 59:14 2015-28 60:18 2016 23:22 26:23 40:1 68:10 81:22 2020 59:15 60:18 2022 87:4 2023 1:7 1:1 206 18:22 21 28:12 31:6 60:18 22 2:19 28:13 29:10</p>	<p>22.2 8:13 22.3 7:15 8:13 22.6 7:15,15 220 59:1,14 23 13:10 31:22 33:16 34:22 35:5 73:12 24 14:16 32:14 36:6 43:25 72:4 25 33:10 45:9 49:19 56:19,19 57:11 256 57:18 26 15:1 33:22 49:19 27 13:10 15:22 28 16:3,10 288(1) 59:9</p> <hr/> <p style="text-align: center;">3</p> <p>3 1:7 2:4,5 7:10,18 10:14 20:4 22:15 51:20 52:11 61:23 73:10 78:21 3.6 7:17 3.7 7:9,17 31 13:19 14:13 39:7 78:15 32 43:24 45:7 35 1:25 67:16 36 3:5 29:18 73:12 37 31:23 38 3:6 28:24 29:11 39 41:9 76:6,9</p> <hr/> <p style="text-align: center;">4</p> <p>4 10:16 14:13 19:17,18 19:19 22:7,8 28:13 43:24 45:7 47:22 48:19 51:20 52:6,11 55:23 61:12,23 72:4 78:22 4(b)(ii) 22:23 4(b)(i) 22:10,20 23:3 30:15 40 41:9 76:6,15 78:10 41 14:10 41:9 76:6,20 79:11 42 41:9,11 42:16 43:25 45:9 51:23 43 41:9 45:10 74:13 44 41:9 49:3,8,9,11 45 1:17 18:24 470 32:14 473 20:13 474 21:14 478 34:8 479 34:1 49 16:14</p> <hr/> <p style="text-align: center;">5</p> <p>5 11:7 18:21 23:16 24:7 47:23 48:19 51:20 52:6,11 55:23 61:12,24 5(a) 19:2 21:7 26:7 27:1,15 30:10 34:13 68:11,15 5(b) 19:11 27:20 68:15 5(c) 19:15 30:14 31:9 5-9 23:18</p>	<p>50 14:10 43:25</p> <hr/> <p style="text-align: center;">6</p> <p>6 2:19 12:6 13:4,17 57:12 60 77:7 84:20 61 3:7 63 72:4 64 72:4</p> <hr/> <p style="text-align: center;">7</p> <p>7 13:12 14:11 15:13 45:10 75:15 79:21 87:19 7(1) 80:16,20 71 16:14 77 23:17 78 18:11</p> <hr/> <p style="text-align: center;">8</p> <p>8 15:10 49:20 8(c) 15:25 808 60:9 809 60:10 81 3:8 86 3:9 89 28:12</p> <hr/> <p style="text-align: center;">9</p> <p>9 3:2,4 17:25 9-15 25:5 9.30 1:2 9.43 9:5 90 28:13 96 73:21 97 73:24 98 57:14 99th 12:1</p>
---	---	--	---