

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

PROCEDURAL ORDER NO. 8

**(APPLICATION TO AMEND
THE REQUEST FOR ARBITRATION)**

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

10 August 2023

WHEREAS on 31 March 2023, the Court of Arbitration (the “**Court**”) issued its Supplemental Rules of Procedure, in which it determined, amongst other things, that if given leave by the Court to do so, Pakistan may amend or supplement its Request for Arbitration dated 19 August 2016 (“**Request for Arbitration**”), and that following a decision on the Court’s competence in accordance with Procedural Order No. 1, the Court shall prescribe a deadline for any application to amend or supplement the Request for Arbitration;

WHEREAS on 6 July 2023, the Court issued its Award on the Competence of the Court, finding that the Court is competent to consider and determine the disputes set forth in the Request for Arbitration;

WHEREAS in its letter dated 10 July 2023, Pakistan requested leave of the Court to submit an application to amend or supplement its Request for Arbitration, and requested directions from the Court for doing so;

WHEREAS on 13 July 2023, the Chairman of the Court enclosed an agenda for the Court’s Case Management Conference, including proposed discussion of any application by Pakistan to amend or supplement its Request for Arbitration;

WHEREAS on 14 July 2023, the Court held the Case Management Conference by videoconference, in which Pakistan appeared and participated, but India did not appear or participate;

WHEREAS on 22 July 2023, the Court issued its Procedural Order No. 7 (“**PO7**”), in which it granted leave to Pakistan to submit an application to the Court to amend or supplement its Request for Arbitration on or before 28 July 2023, and directed India to indicate on or before 4 August 2023 whether it intended to object to any such application filed by Pakistan;

WHEREAS on 28 July 2023, Pakistan submitted an application to amend its Request for Arbitration (the “**Amendment Application**”), together with a redlined version of the proposed Amended Request for Arbitration identifying the amendments;

WHEREAS in its Amendment Application, Pakistan stated that:

Apart from a number of non-substantive, typographical amendments, the amendments proposed by Pakistan fall into four categories:

- (a) amendments to reflect *factual* developments since 19 August 2016 that are material to the proceedings going forward;
- (b) amendments to reflect *procedural* developments since the filing of the Request that are material to the proceedings going forward (including the Award on the Competence of the Court; “**Award on Competence**”);
- (c) amendments to situate the issues addressed in Paragraph 8 of Annexure D in their Treaty context, this being material to the fact of parallel proceedings between the Court and the Neutral Expert and the questions over which each has, or may have, competence; and
- (d) amendments to address the issue of Pakistan’s request for interim measures and its associated request for relief.¹

WHEREAS in its Amendment Application, Pakistan further stated that:

None of the proposed amendments would or could conceivably cause any prejudice to India. The object and purpose of the proposed amendments is simply to ensure that, as the Court moves forward to the next phase of the proceedings, it does so on the basis of a request for arbitration that reflects material developments since Pakistan instituted proceedings on 19 August 2016.²

¹ Letter from Pakistan to the PCA dated 28 July 2023 (“**Amendment Application**”), para. 4.

² Amendment Application, para. 5.

WHEREAS pursuant to paragraph 1.2.2 of PO7, Pakistan has confirmed that “the proposed amendments do not fall outside the competence of the Court or the scope of the dispute in respect of which Pakistan had recourse to arbitration”;³

WHEREAS the Court having invited an indication from India as to whether it intended to object to the Amendment Application, no indication of any intention to object to the Amendment Application was received from India by 4 August 2023, or to date;

WHEREAS the Court has carefully reviewed the Amendment Application;

WHEREAS the Court considers that the amendments proposed by Pakistan do not alter the scope of the dispute reflected in the Request for Arbitration, and in respect of which the Court found it had competence in its Award on the Competence of the Court dated 6 July 2023;

WHEREAS the Court considers the limited amendments proposed by Pakistan are not inappropriate having regard to the relevant circumstances, in particular the significant passage of time since the Request for Arbitration was originally submitted and the procedural developments that have taken place in the interim, and the absence of any identifiable prejudice to India as a result of the amendments;

THE COURT OF ARBITRATION HEREBY DECIDES:

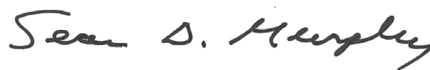
1. The Amendment Application

- 1.1 Pakistan’s Amendment Application is **granted**.
- 1.2 Pakistan is directed to file a clean version of its Amended Request for Arbitration by **Thursday, 17 August 2023**.

2. Leave to Apply

- 2.1 Any Party has leave to apply to the Court for a variation of this Order, giving particulars of the variation sought and the reason for it.
- 2.2 Any Party may, at any point in these proceedings, request that the Court convene a conference with the Parties to address any procedural aspect of these proceedings. The Court will arrange to confer with the Parties in person or by videoconference, according to the circumstances.

Dated: 10 August 2023



Prof. Sean D. Murphy
Chairman

On behalf of the Court of Arbitration

³ Amendment Application, para. 3.