



Presentation by Syed M Mehar Ali Shah

Pakistan Commissioner for Indus Waters

8 July 2024



Outline

- Overview of the Indus Basin and the Treaty
- Co-operation and transparency
- The importance of information-sharing
- The division of the waters of the Eastern and Western rivers, and the framework for hydro-electric power on the Western Rivers
- Information-sharing in relation to planned works
- India's frustration of the Treaty provisions



Overview of the Indus Basin and the Treaty



The Indus Waters Treaty: Key Provisions

Preamble			
Art I	Definitions	Art VII	Future Co-operation
Art II	Provisions regarding Eastern Rivers	Art VIII	Permanent Commission
Art III	Provisions regarding Western Rivers	Art IX	Settlement of Differences and Disputes
Art IV	Provisions regarding Eastern and Western Rivers	Art X	Emergency Provision
Art V	Financial Provisions	Art XI	General Provisions
Art VI	Exchange of Data	Art XII	Final Provisions
Annexures A–H			



Annexures A–H: Further Elaborations

Annexure A	Exchange of notes between the India and Pakistan	Annexure E	Storage of waters by India on the Western Rivers
Annexure B	Agricultural use by Pakistan from certain Tributaries of the Ravi	Annexure F	Neutral Expert
Annexure C	Agricultural use by India from the Western Rivers	Annexure G	Court of Arbitration
Annexure D	Generation of hydroelectric power by India on the Western Rivers	Annexure H	Transitional arrangements



Co-operation and Transparency

Key responsibilities of the Commission: Articles VIII and IX



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- Facilitate General and Special Tours of Inspection
 - Meet “regularly”
 - “Report on its work” and submit that report to the Governments of India and Pakistan
 - Overall, to “promote cooperation”
 - The Commission also has an important role in relation to the resolution of disputes, or “questions which arise between the Parties”, under **Article IX**



Future co-operation under Article VII

Article VII

(1) *The two Parties recognize that they have a common interest in the optimum development of the Rivers, and, to that end, they declare their intention to co-operate, by mutual agreement, to the fullest possible extent. [...]*



The Importance of Information-sharing



Examples of information-sharing provisions under the Treaty

- Article VII (1)(a)
- Article VI (1)
- Article VI (2)
- Paragraphs 5 and 6 of Annexure B
- Article IV (8)



**The division of the
waters of the Eastern
and Western Rivers,
and the framework for
hydro-electric power
on the Western Rivers**



Annexure D: Categories of Run-of-River Plants

- Hydro-electric plants in operation, or under construction, as on the Effective Date (Annexure D, Part 2);
- New Run-of-River Plants, as defined in Paragraph 2(g) of Annexure D;
- Small Plants, as defined at Annexure D, Paragraph 18; and
- New Plants located on an irrigation channel, which may be constructed and operated without restriction, provided that they meet certain requirements (Annexure D, Part 4).



Information-sharing in relation to planned works



Information-sharing in relation to planned works

- Information-sharing in the event of planned “interference with the waters” under Article VII (2);
- Information-sharing under Paragraphs 5 and 6 of Annexure D (hydro-electric plants in operation, or under construction, as on the Effective Date);
- Information-sharing under Paragraphs 9, 12 and 13 of Annexure D (new Run-of-River Plants); and
- Information-sharing under Paragraph 19 of Annexure D (Small Plants).



Information-sharing in the event of planned “interference with the waters” – Article VII (2)

Article VII (2)

(2) If either Party plans to construct any engineering work which would cause interference with the waters of any of the Rivers and which, in its opinion, would affect the other Party materially, it shall notify the other Party of its plans and shall supply such data relating to the work as may be available and as would enable the other Party to inform itself of the nature, magnitude and effect of the work. If a work would cause interference with the waters of any of the Rivers but would not, in the opinion of the Party planning it, affect the other Party materially, nevertheless the Party planning the work shall, on request, supply the other Party with such data regarding the nature, magnitude and effect, if any, of the work as may be available.



Information-sharing under Paragraphs 9, 12 and 13 of Annexure D (new Run-of- River Plants)

Annexure D, Paragraph 9

9. To enable Pakistan to satisfy itself that the design of a Plant conforms to the criteria mentioned in Paragraph 8, India shall, at least six months in advance of the beginning of construction of river works connected with the Plant, communicate to Pakistan, in writing, the information specified in Appendix II to this Annexure. If any such information is not available or is not pertinent to the design of the Plant or to the conditions at the site, it will be so stated.



Information-sharing under Paragraphs 9, 12 and 13 of Annexure D (new Run-of-River Plants)

- **Paragraphs 12 and 13** of Annexure D also impose a continuing obligation on India to furnish information to Pakistan in the event of any changes in the information previously provided to Pakistan.
- **Paragraph 12** relates to design alterations.
- **Paragraph 13** relates to repairs or alterations carried out in the event of an emergency.



Annexure D, Paragraphs 10 and 11

10. Within three months of the receipt by Pakistan of the information specified in Paragraph 9, Pakistan shall communicate to India, in writing, any objection that it may have with regard to the proposed design on the ground that it does not conform to the criteria mentioned in Paragraph 8. If no objection is received by India from Pakistan within the specified period of three months, then Pakistan shall be deemed to have no objection.

11. If a question arises as to whether or not the design of a Plant conforms to the criteria set out in Paragraph 8, then either Party may proceed to have the question resolved in accordance with the provisions of Article IX(1) and (2).



India's frustration of the Treaty provisions




The functions of the Commission

- Impacts:
 - i. reduction in the nature and frequency of Commission meetings;
 - ii. dramatic reduction in the frequency of General Tours of Inspection;
 - iii. failing to facilitate Special Tours of Inspection; and
 - iv. delays to the settlement of “questions”.

The nature and frequency of Commission meetings



P-0218


GOVERNMENT OF PAKISTAN
MINISTRY OF WATER RESOURCES

No.WT(51)/(8094-A)/PCIW
Islamabad, the 27th July 2022

SYED MUHAMMAD MEHAR ALI SHAH
 PAKISTAN COMMISSIONER FOR INDUS WATERS

My dear Pal Sahib,

I would like to draw your attention to our discussion on the side-lines of 118th Permanent Indus Commission Meeting (PICM) wherein we agreed that the 119th PICM would be convened in Pakistan in the month of August 2022. I would thus request that you may suggest two sets of dates suitable to you during the month of August with the agenda being proposed as follows:

I would like to draw your attention to our discussion on the side-lines of 118th Permanent Indus Commission Meeting (PICM) wherein we agreed that the 119th PICM would be convened in Pakistan in the month of August 2022. I would thus request that you may suggest two sets of dates suitable to you during the month of August with the agenda being proposed as follows:

during the ongoing flood season, 2022

- v. Programme of future Meetings and Tours of Inspection of the PIC
- vi. Any other agenda item with the mutual consent of both the Commissioners

Moreover, I would also like to urge you to arrange the long outstanding special and general Tours of Inspection of PIC on the Indian side as have been requested by me through many of earlier instances and also during the 118th PICM. I would also like to take this opportunity to invite you once again to the Tour of Inspection on Pakistan side for which you may also suggest your preferred dates and sites.

In view of above I look forward to receiving your response in terms of conveying possible dates of your visit to Pakistan to hold the 119th PICM as well as the Tour of Inspection, and the dates for my visit to conduct the pending special and general Tours of Inspection on your side.


Assuring you of my best co-operation at all times and with best regards,

In view of above I look forward to receiving your response in terms of conveying possible dates of your visit to Pakistan to hold the 119th PICM as well as the Tour of Inspection, and the dates for my visit to conduct the pending special and general Tours of Inspection on your side.

Commissioner for Indus Waters,
 Government of India,
 Ministry of Jal Shakti,
 Department of Water Resources,
 River Development and Ganga Rejuvenation,
 Block-11, 8th Floor, CGO Complex, Lodhi Road,
 New Delhi – 110003,
INDIA.

Letter No. WT(51)/(8094-A)/PCIW, from the PCIW to the ICIW dated 27 July 2022, P-0218

P-0219


GOVERNMENT OF PAKISTAN
MINISTRY OF WATER RESOURCES

No.WT(51)/(8099-A)/PCIW
Islamabad, the 8th September 2022

SYED MUHAMMAD MEHAR ALI SHAH
 PAKISTAN COMMISSIONER FOR INDUS WATERS

My dear Pal Sahib,

Reference is invited to my letter No.WT(51)/(8094-A)/PCIW, dated July 27, 2022 wherein I requested to convey your consent for convening 119th meeting of the Permanent Indus Commission (PIC) as well as to make arrangements for long outstanding Special and General Tours of Inspection of the PIC.

You may please note that even after lapse of more than one month no response from your side has been received. Given the understanding we had developed in 118th meeting of the PIC, it is essential to meet frequently to resolve the outstanding issues at the PIC level. Similarly, regarding the Special Tour of Inspection, the delay from your side is unprecedented as being pending for almost a decade.

You may please note that even after lapse of more than one month no response from your side has been received. Given the understanding we had developed in 118th meeting of the PIC, it is essential to meet frequently to resolve the outstanding issues at the PIC level. Similarly, regarding the Special Tour of Inspection, the delay from your side is unprecedented as being pending for almost a decade.

Since India is under an obligation to ensure release of minimum environmental flows equivalent to 9 cumecs, it is warranted that my requested Special Tour of Inspection of Kishenganga Dam must be arranged promptly and without further delay. Besides, it is also needless to emphasise to agree and develop a mechanism which can ensure that Pakistan continues receiving flows in Kishenganga/Neelum River corresponding to the release of 9 cumecs being the minimum environmental flows from Kishenganga Dam.

In view of above, I once again urge you to please indicate two sets of dates for holding the 119th meeting in October 2022 and the timeframe to arrange Pakistan's requested long outstanding General and Special Tours of Inspections.

I would be looking forward for your prompt response in respect of above enabling me to take further necessary action in the stated context.

In view of above, I once again urge you to please indicate two sets of dates for holding the 119th meeting in October 2022 and the timeframe to arrange Pakistan's requested long outstanding General and Special Tours of Inspections.

Shri A. K. Pal,
 Commissioner for Indus Waters,
 Government of India,
 Ministry of Jal Shakti,
 Department of Water Resources,
 River Development and Ganga Rejuvenation,
 Block-11, 8th Floor, CGO Complex, Lodhi Road,
 New Delhi – 110003, **INDIA.**

Letter No. WT(51)(8099-A)/PCIW, from the PCIW to the ICIW dated 8 September 2022, P-0219



The nature and frequency of Commission meetings

First update to Witness Statement


- Letter No. WT(48)/(8166-A)/PCIW from the PCIW to the ICIW, attaching the draft Annual Report, dated 29 May 2024, **P-0568**
- Letter No. Y-Y-17011/1/2018-IT/2445 from the ICIW to the PCIW dated 31 May 2024, **P-0569**
- “India, Pakistan may hold Indus talks this month”, *Times of India*, dated 10 June 2024, **P-0570**

General Tours of Inspection



P-0185

SYED MUHAMMAD MEHAR ALI SHAH
PAKISTAN COMMISSIONER FOR INDUS WATERS


GOVERNMENT OF PAKISTAN
MINISTRY OF WATER RESOURCES

No. WT(51)/(7669-A)/PCIW

Islamabad: the 9th July, 2018

My dear Saxena Sahib,

Kindly refer to your letter No. Y-20017/2/2018-IT/2267 dated 11th May 2018 regarding the next (115th) meeting of Permanent Indus Commission (PIC) and the General and Special Tours of Inspection requested by Pakistan on the works and sites of Chenab and Jhelum rivers, respectively which are pending since long.

I wish to further refer to my invitation for holding the next (115th) Meeting of the PIC in Pakistan which was however not accepted by you on the grounds of your prior commitments and engagements relating to the mission.

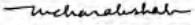
I invite your attention that since last four years the Commission could not undertake any Tours of Inspection either General or Special on both the sides of the Indus Basin. In this regard, it is a matter of record, that in spite of Pakistan's number of requests for General and Special Tours of Inspection on your side and our several invitations to you for holding the Tour of Inspection at our side of your choice, neither you allowed us nor did you visit the works or sites associated with the Indus system of rivers on our side. This is an unprecedented state of affairs ever since the Treaty was signed. You may recall that we decided during 114th Meeting of the PIC to hold the next meeting soon after the 114th meeting in order to conclude the deliberations on the long outstanding issues regarding Pakistan's objections on the projects in the Chenab basin but you still have not conveyed your convenience for the 115th Meeting.

Being the lower riparian, I hereby wish to convey that Pakistan side is determined to implement the Treaty in its letter and spirit and expect the same from your side as well. Holding of Meetings and Tours of Inspection are considered to be one of the main indicators of implementation of the Treaty; any disruption in it, however, would lead to believe that the implementation of the Treaty has become stand still on which I wish to convey that Pakistan takes it as a very serious matter of concern.

Tours of Inspection on your side and convenient dates for the 115th Meeting of PIC and Tour of Inspection on Pakistan side in order to restore the previous practice of two Meetings and two Tours of Inspection during every year.

Assuring you of my best co-operation at all times and with kind regards.

Yours sincerely,


(Syed Muhammad Mehar Ali Shah)

Shri P. K. Saxena,
Commissioner for Indus Waters, Government of India,
Ministry of Water Resources, River Development and Ganga Rejuvenation,
Block 11, 8th Floor, C.G.O. Complex, Lodhi Road,
New Delhi - 110003, INDIA.

Letter No. WT(51)/(7669-A)/PCIW from the
PCIW to the ICIW dated 9 July 2018, P-0185

P-0192

SYED MUHAMMAD MEHAR ALI SHAH
PAKISTAN COMMISSIONER FOR INDUS WATERS


GOVERNMENT OF PAKISTAN
MINISTRY OF WATER RESOURCES

No. WT(45)/(7682-A)/PCIW
Lahore: the 28th September, 2018

My dear Saxena Sahib,

Kindly refer to your letter No. Y-20017/3/2018-IT/2285 dated 20th September 2018 regarding postponement of the long awaited (119th) General Tour of Inspection which was scheduled to be arranged from 7-12 October 2018 after several heavy insurances by Pakistan and you promised during the 115th meeting of Permanent Indus Commission to arrange this tour in

I am very much disappointed by your letter as the reasons mentioned for postponement of the tour are neither very impressive nor unavoidable as every Government always involves in such matters and every affair of the state be taken on its merit side by side. I may state by taking the benefit of previous arrangements that the tours of the Commission are generally undertaken with the assistance of Power Development Corporations and National Hydropower Development Corporations with very little involvement of the general administration, therefore the tour should not have been postponed for unspecified time for the said reason.

You would appreciate that this tour had been requested by my predecessor on 2nd May 2017 and after number of reminders and continuous requests from our side, you very kindly confirmed to arrange this tour during the current month. In view of the above, I request you to kindly look into the matter and convey me the schedule to arrange the tour at the earliest but before the onset of the winter months so that the winter should not be referred to as any reason for not arranging the tour.

Yours sincerely,


(SYED MUHAMMAD MEHAR ALI SHAH)

Shri P.K. Saxena,
Commissioner for Indus Waters,
Government of India,
Ministry of Water Resources,
River Development and Ganga Rejuvenation,
Block 11, 8th Floor,
C.G.O. Complex, Lodhi Road,
New Delhi - 110003,
INDIA.

Letter No. WT(45)/(7682-A)/PCIW from the PCIW
to the ICIW dated 28 September 2018, P-0192



	Name of Project	Information supplied by India	Objections raised by Pakistan	Period of Resolution	Level of Settlement
1.	Salal Hydroelectric Plant	30 April 1970	17 July 1970	1970 to 1978 (9 years)	Government Level.
2.	Dul Hasti Hydroelectric Plant	03 July 1978	21 September 1978	1978 to 1994 (16 years)	Commission Level.
3.	Wullar Barrage/Tulbul Navigation Project	10 March 1986	30 April 1986	1986 to present day (Resolution not achieved yet)	Work suspended since 1987. Part of Composite Dialogue.
4.	Nimoo Bazgo Hydroelectric Plant	27 December 2006	30 March 2007	2006 to 2010 (5 years)	Commission Level.
5.	Baglihar Hydroelectric Plant	20 May 1992	12 August 1992	1992 to 2007 (15 years)	Neutral Expert.
6.	Kishenganga Hydroelectric Plant	02 June 1994	08 September 1994	1994 to present day (Resolution not achieved yet)	Court of Arbitration.
7.	Chutak Hydroelectric Plant	02 November 2007	04 February 2008	2008 to 2010 (3 years)	Commission Level.
8.	Uri-II Hydroelectric Plant	27 December 2005	01 April 2006	2006 to 2010 (5 years)	Commission Level.

The settlement of questions

*Statement of Syed Muhammad Mehar Ali Shah, **PER-01**, paragraph 72*



India's frustration of the Treaty provisions

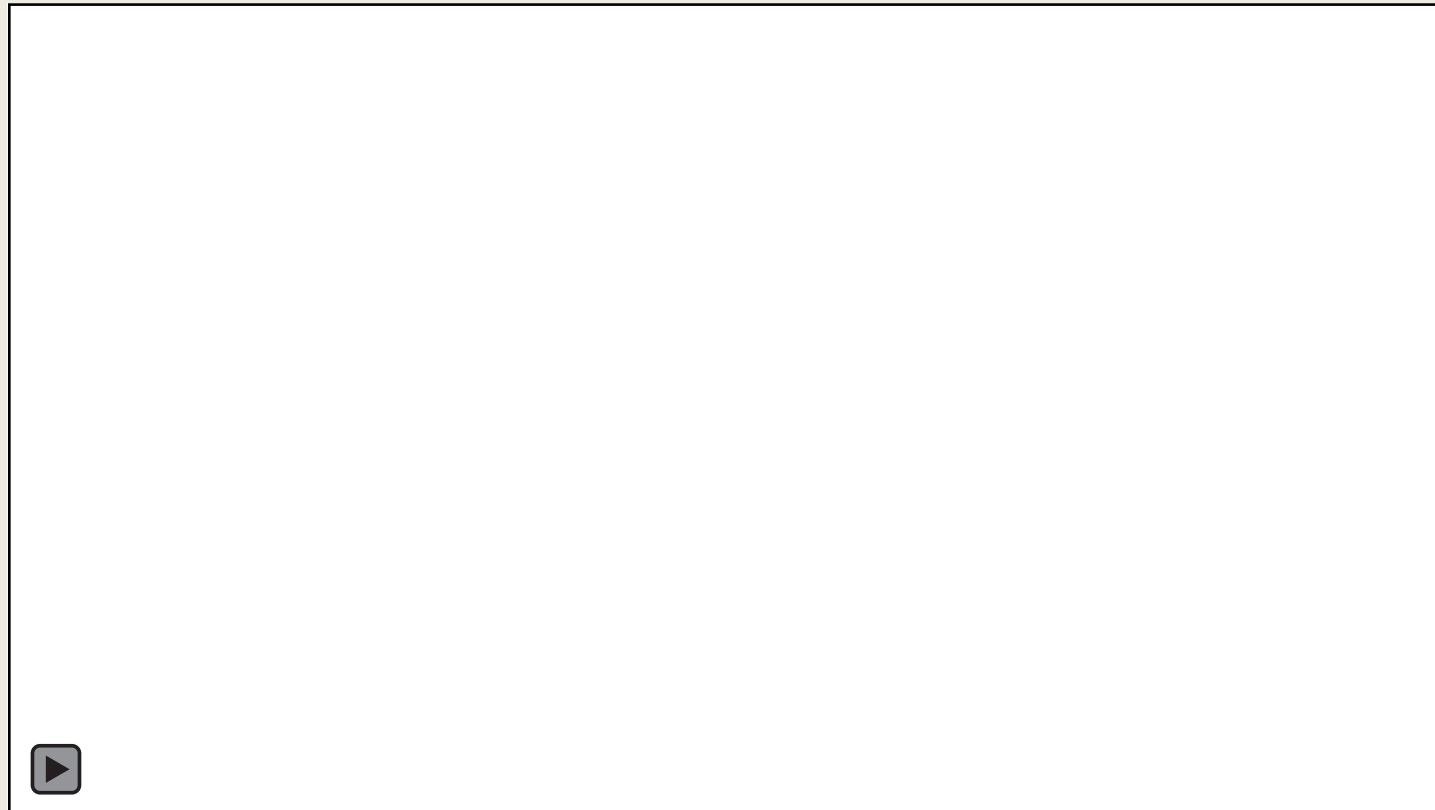
The provision of information

- Provision of data regarding the construction of HEPs
- Provision of Hydrological Data
- Provision of Flood Information



Flushing of Salal HEP

Second update to Witness Statement



Video report from JKUpdate dated 28 May 2024, P-0575



Breach of the 1978 Treaty by India

Second Update to Witness Statement

PLA-0053

65 (ix) Outlet Works

AGREEMENT BETWEEN THE GOVERNMENT OF INDIA AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN REGARDING THE SALAL HYDRO-ELECTRIC PLANT
New Delhi, 14 April 1978

The Government of the Republic of INDIA

AND

The Government of the Islamic Republic of PAKISTAN,

BEING desirous of promoting and strengthening friendly relations between them on the basis of sovereignty, equality and mutual benefit,

TAKING into consideration the provisions of the Indus Waters Treaty¹, 1960, to which both the Governments are parties,

HAVING discussed the differences that had arisen between the Governments regarding the design of the Salal Hydro-Electric Plant on Chenab Main, and

WITHOUT prejudice to the provisions of the Indus Waters Treaty, 1960 (hereinafter referred to as the Treaty) or to the rights and obligations of the Parties thereunder,

HAVE AGREED as follows :

Article I

The salient features of the Salal Hydro-Electric Plant conform to the following :

(i) Location At Salal,
Longitude : 74° 50' East
Latitude : 33° 08' North

1. Came into force on 14 April 1978.
2. IBFA Vol. 3 Doc No. 209.

Six numbers with cill level not below EL 1365 feet. These shall be permanently closed with concrete plugs within one year of the date of the first filling of the reservoir upto the Full Pondage Level or within three years of the date of the first filling of the reservoir upto the crest of the spillway, whichever is earlier.

The Dead Storage shall not be depleted except in an unforeseen emergency endangering the safety of the earth or the concrete dams. In that event, India shall give immediate information to the Government of Pakistan of the nature of the emergency and may simultaneously undertake such action as may be necessary.

Agreement Between the Government of the Islamic Republic of Pakistan and the Government of the Republic of India Regarding the Design of the Salal Hydro-Electric Plant on the Chenab River Main, PLA-0053



Concluding remarks

