

Written Question No. 6

Has India acted in compliance with the *Kishenganga* Court’s Partial and Final Awards as they related to the KHEP? (Tr., (Day 1) 184:19–185:1)

Response on the issue of the *Kishenganga* Final Award requirement of minimum flow

The KHEP was reportedly commissioned on 19 August 2018 when Indian Prime Minister Narendra Modi inaugurated the project.

Pursuant to the Final Award of the *Kishenganga* Court [PLA-0004], India is required to release a minimum of 9 m³/s flow downstream of the dam, given the need to balance power generation with environmental and other downstream uses, when the inflow at the dam site meets or exceeds this magnitude. If the inflow at the dam site is less than 9 m³/s, India is required to release 100% of the inflow downstream of the dam.¹

Pakistan is not in a position to gauge the flow of Kishenganga/Neelum River at any point on Indian side of the Line of Control, either upstream or downstream of the KHEP. The only information available to Pakistan remains that provided by India either under Article VI(1) or otherwise. To monitor the inflows entering Pakistan, the Surface Water Hydrology Project (“SWHP”) of the Pakistan Water and Power Development Authority (“WAPDA”) has two observations locations, one along the Neelum River at Karimabad, and a second on the Gagai Nallah (a tributary of the Neelum River) at Taubat. The Gagai Nallah joins the Neelum River at its right bank just downstream of the Line of Control. By subtracting the flows of the Gagai Nallah, Pakistan is able to calculate the flow of the Neelum River into Pakistan at the Line of Control. These automatic gauging stations have been operational since 1 November 2018. The gauging is specifically for the purpose of monitoring whether or not the quantum of flows in the river immediately after it crosses the Line of Control from the Indian side is in accordance with the *Kishenganga* Final Award, Decision A(1). The frequency of the data observations is hourly. Since 1 November 2018, until 9 July 2024, WAPDA has collected 49,872 readings from the gauging stations.

On the basis of these data, Pakistan has identified that the downstream flow from the KHEP across the Line of Control was less than 9 m³/s during the period from October–March 2021–2022, August 2022, September–October 2023, and January 2024. This is shown in **Figure 1** below (as taken from **Exhibit P-0644**). The number of hourly instances and corresponding number of days have been summarised in **Table 1** below (as also taken from **Exhibit P-0644**).

¹ *Kishenganga* Final Award, Decision, paragraph A:

“A. In the operation of the KHEP:

(1) Subject to paragraph (2) below, India shall release a minimum flow of 9 cumecs into the Kishenganga/Neelum River below the KHEP at all times at which the daily average flow in the Kishenganga/Neelum River immediately upstream of the KHEP meets or exceeds 9 cumecs.

(2) At any time at which the daily average flow in the Kishenganga/Neelum River immediately upstream of the KHEP is less than 9 cumecs, India shall release 100 percent of the daily average flow immediately upstream of the KHEP into the Kishenganga/Neelum River below the KHEP.”

Pakistan’s Commissioner for Indus Waters raised these issues with his Indian counterpart in correspondence dated 17 June 2022 [Exhibit P-0217] and 8 September 2022 [Exhibit P-0219], to which Indian Commissioner responded on 7 October 2022 [Exhibit P-0642], while asking for the data of Karimabad and Taobut for the period 2018-22 for further analysis. Though the PCIW provided the data in correspondence dated 18 November 2022 [Exhibit P-0643], and urged his Indian counterpart to arrange the site visit, no further response was received from India.

Pakistan has compared its own data, set out above, with river flow data supplied by India (pursuant to Article VI of the Treaty) from its gauging station on the Kishenganga/Neelum River at Wampora (upstream of the Kishenganga dam), which provides readings at 6:00 am on a daily basis. India’s data indicates that the river flow into the Kishenganga dam was less than 9 m³/s on only five occasions since its commissioning and specifically between 1 January 2020 and 31 August 2023 (the last date for which India has provided such data).

In recent years, the PCIW emphasised, on numerous occasions, the importance of an inspection by Pakistan of the arrangements made by India in the Kishenganga dam to enable Pakistan to verify the release of minimum environmental flows in accordance with the *Kishenganga* Final Award: see the Record of the 115th PIC Meeting held in Lahore from 29–30 August 2018, ¶ 20 [Exhibit P-0188], as well as correspondence dated 30 May 2019 [Exhibit P-0202], 23 July 2019 [Exhibit P-0203], 12 June 2020 [Exhibit P-0208], 18 March 2021 [Exhibit P-0209], 10 June 2021 [Exhibit P-0210], 6 July 2021 [Exhibit P-0211], 12 August 2021 [Exhibit P-0212], 29 September 2021 [Exhibit P-0213], and 22 February 2022 [Exhibit P-0214].

Figure 1: Analysis of estimated inflows of Neelum River at LoC (Nov 2018 – July 2024)

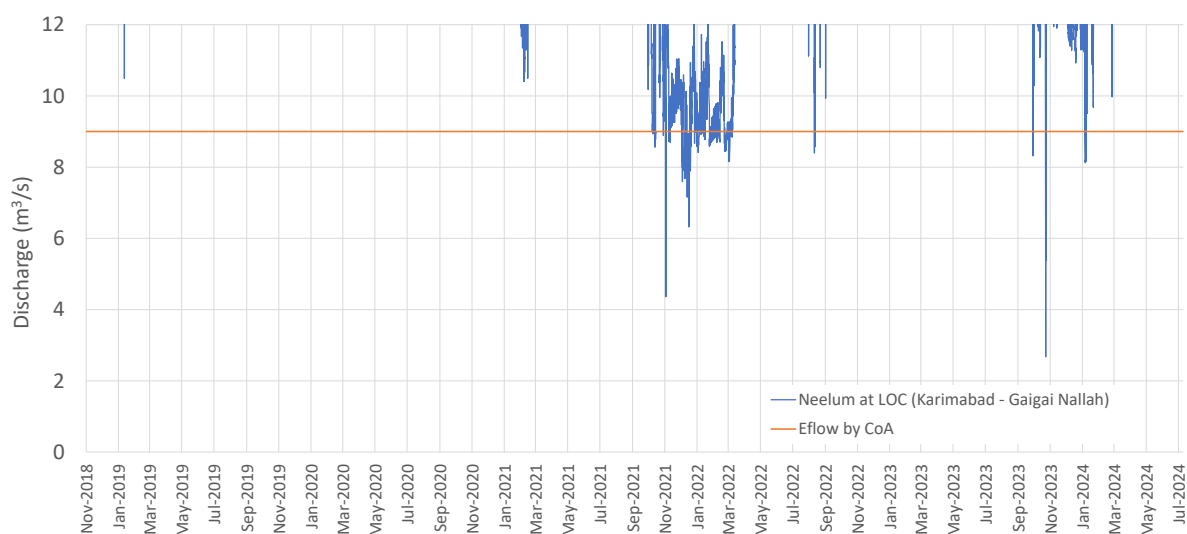


Table 1: Summary of instances with flows less than 9 m³/s at the Line of Control

Description	From 01-11-2018	2019	2020	2021	2022	2023	Till 09-07-2024
No. of Hourly Observations	1,464	8,760	8,784	8,760	8,760	8,760	4,585
No. of hours with flow less than 9 cumecs	-	-	-	409	660	31	42
No. of days having spread of hourly intervals with flow less than 9 cumecs	-	-	-	33	49	3	3

Source: Inflow data responding to the Court's written question no. 6, 15 July 2024, **Exhibit P-0644**