

SUPPLEMENTAL AWARD ON KISHAN GANGA RATLE HYDROPOWER: INTERNATIONAL RELATION

NEWS: India ‘categorically rejects’ Court of Arbitration’s ‘supplemental award’ on Kishenganga, Ratle hydropower projects

WHAT’S IN THE NEWS?

India has categorically rejected the Court of Arbitration’s supplemental award on the Kishenganga and Ratle projects, deeming it illegal and a breach of the Indus Waters Treaty (IWT). Following the Pahalgam terror attack, India placed the IWT in abeyance, linking treaty compliance with Pakistan’s support for cross-border terrorism.

India’s Position and Legal Standpoint

- India categorically rejected the supplemental award by the Court of Arbitration, calling the entire process illegal and void from the outset.
- India asserts that it never recognized the Court’s legal standing and considers its very constitution a serious breach of the Indus Waters Treaty (IWT), 1960.
- Post the April 22 Pahalgam terror attack, India placed the IWT in abeyance, citing Pakistan’s continued support for cross-border terrorism.

Background of the Project Dispute

- The projects at the heart of the dispute are the Kishenganga (330 MW) and Ratle (850 MW) hydropower projects in Jammu & Kashmir.
- Pakistan raised objections regarding their design features, fearing potential restriction of flows, and initiated arbitration in 2016 after bilateral dispute resolution mechanisms failed.
- India considers Pakistan’s move to unilaterally approach the World Bank as a violation of the treaty’s prescribed multi-stage dispute resolution process (Neutral Expert first).

India’s Response to the Court of Arbitration

- India deems the so-called Court of Arbitration as non-existent in law, lacking jurisdiction, and describes the recent supplemental award as a charade orchestrated by Pakistan.

Strategic and Sovereign Implications

- India asserts its sovereign right to suspend treaty obligations when faced with a material breach by the other party, referencing Article 60 of the Vienna Convention on the Law of Treaties (VCLT).
- It states that while the treaty is suspended, it is under no obligation to fulfill its terms, and no arbitral forum can examine its sovereign actions.
- This marks a rare instance of linking transboundary water cooperation directly with security concerns like cross-border terrorism.

Broader Geopolitical and Legal Context

- The move signifies a shift from India's traditionally restrained approach to IWT to a conditionality-based engagement that elevates water-sharing issues to the national security domain.
- India argues Pakistan's approach violated Article IX of the IWT, which stipulates first referring disputes to a Neutral Expert before seeking arbitration.
- The World Bank's controversial dual decision in 2016 to allow both the Neutral Expert and Court of Arbitration processes simultaneously weakened its role as a neutral facilitator.
- Pakistan's strategy is viewed by India as lawfare—using international legal forums to constrain India's developmental and sovereign rights.

Energy Security and Regional Development Context

- Kishenganga and Ratle are crucial for Jammu & Kashmir's regional power supply, reducing dependence and strengthening local infrastructure in a sensitive border state.

Potential Risks and Precedents

- India fears acceptance of the Court's jurisdiction could undermine its rights over western rivers and create restrictive precedents affecting future hydroelectric projects.
- An emerging China–Pakistan axis on water issues (via CPEC and Chinese-built dams on Indus tributaries) adds further geostrategic complexity to the dispute.

Conclusion

- India's firm rejection signals a broader recalibration of its approach to transboundary water treaties, aligning them closely with national security concerns and sovereign development priorities.

Source: <https://www.thehindu.com/news/national/india-categorically-rejects-court-of-arbitrations-supplemental-award-on-kishenganga-ratle-hydropower-projects/article69745841.ece>