

Negotiations to amend the Indus Waters Treaty

Why in news?

New Delhi has issued a notice to Islamabad seeking modification of the more than six-decade-old Indus Waters Treaty (IWT) that governs the sharing of waters of six rivers in the Indus system between the two countries.

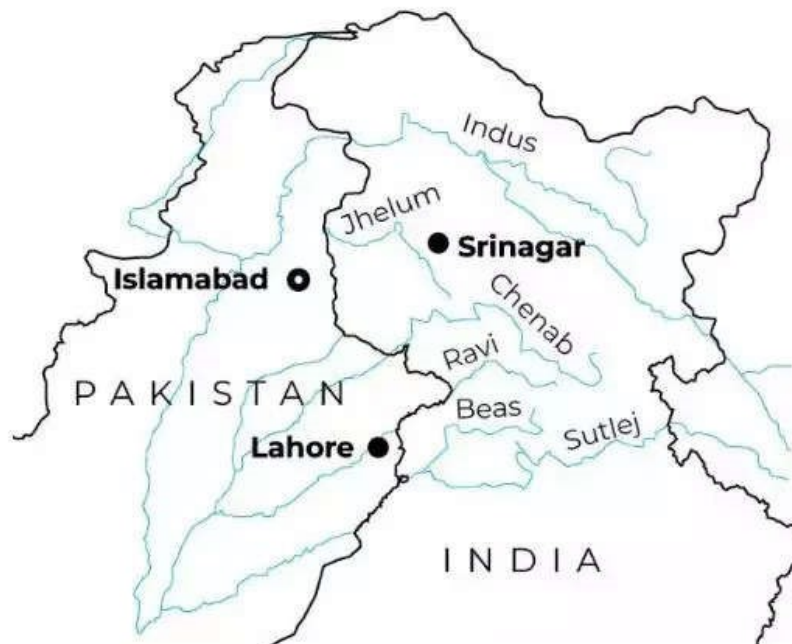
What is the Indus Waters Treaty?

- **Indus Waters Treaty** - The Indus Waters Treaty was signed in **1960** between India and Pakistan.
- It was brokered by the **World Bank**.
- The treaty administers how river Indus and its tributaries that flow in both the countries will be utilised.
- **Rights of water usage** - The treaty divides the Indus system into two segments:
 - **Eastern Rivers** - Sutlej, Beas and Ravi
 - **Western rivers** - Indus, Chenab and Jhelum
- India gets right of unrestricted use over the Eastern rivers while Pakistan is entitled to unrestricted use of the Western rivers.
- India is under obligation to let flow the western rivers unrestricted.
- However, since Indus flows from India, the country is allowed to use 20% of its water for irrigation, power generation and transport purposes.
- Both India and Pakistan have the **right to non-consumptive use** and rights of drainage issues and river conservation aspects.
- **Dispute resolution** - A **Permanent Indus Commission** was set up as a bilateral commission to
 - Implement and manage the Treaty
 - Solve disputes arising over water sharing
- **Article 8 of the treaty**, both sides are expected to meet at least once a year to discuss bilateral problems.
- After the **Uri terror attack in 2016**, India had suspended routine bi-annual talks between the Indus Commissioners of the two countries stating that ***blood and water could not flow together***.
- **Withdrawal from the treaty** - Experts suggest that India can exercise the sovereign right of a state under **Article 64 of the Vienna Convention** to withdraw from any international treaty.

Division of rivers as per Indus Waters Treaty

Eastern rivers to India: Sutlej, Beas, Ravi

Western rivers to Pakistan: Chenab, Jhelum and Indus



Why has India sought to modify the treaty now?

- **India's notice** - India has given a 90-day notice to Islamabad for discussing, debating, interpreting and analysing the faultlines of water diplomacy of both countries.
- **Construction of hydel projects** - New Delhi accuses Pakistan's refusal in implementing the treaty as it repeatedly raises objections to the construction of hydel projects on the Indian side.
 - **Kishanganga** (Neelum in Pakistan) hydroelectric project (Jhelum)
 - **Ratle** hydroelectric project (Chenab)
- **Parallel adjudication** - Pakistan had approached the World Bank to constitute a Court of Arbitration whereas India sought for the appointment of a Neutral Expert for dispute redressal.
- On the requests of both India and Pakistan, the World Bank decided to appoint a Neutral Expert and a Chairman for the Court of Arbitration.
- Such parallel consideration of same issues is not provided in any provisions of the Treaty and it might lead to the possibility of delivering contradictory rulings.

Article XII (3) of the treaty says that the provisions of this treaty may from time to time be modified by a duly ratified treaty concluded for that purpose between the two Governments.

What is the dispute redressal mechanism laid down under the Treaty?

- The dispute redressal mechanism provided under **Article 9 of the IWT** is a graded, three level mechanism under Commissioner, Neutral Expert and the Court of Arbitration.
- **Commissioner** - Whenever India plans to start a project, under the Indus Water Treaty, it has to inform Pakistan that it is planning to build a project.
- If Pakistan oppose it and ask for more details, it has to be clarified between the two sides at the level of the Indus Commissioners.
- **Neutral Expert** - If it is not resolved, then the question becomes a difference, which has to be resolved by the Neutral Expert.
- It is at this stage that the World Bank comes into picture.
- **Court of Arbitration** - If it is not resolved by the Neutral Expert or that the issue needs an interpretation of the Treaty, then that difference becomes a dispute.
- It then goes to the Court of Arbitration.



What lies ahead?

- Article XII (3) of the Treaty that India has invoked is not a dispute redressal mechanism but a provision to amend the Treaty.
- An amendment or modification can happen **only through a duly ratified Treaty** concluded for that purpose between the two governments.
- As of now, it is not clear what happens if Pakistan does not respond to India's notice within the 90-day period.
- India has not spelled out exactly what it wants modified in the Treaty.
- But over the last few years, India uses the Indus Waters Treaty as a strategic tool as it has a natural advantage of being the upper riparian state.

References

1. [The Indian Express | Why India issued notice to Pakistan seeking changes](#)

2. [The Indian Express | On the Indus Water Treaty](#)
3. [The Hindu | On negotiations to amend the Indus Waters Treaty](#)

