# 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.

## 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** (Neelam 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**


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2. The Indian Express | On the Indus Water Treaty
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