

PCA Case No. 2023-01

**IN THE MATTER OF
THE INDUS WATERS WESTERN RIVERS ARBITRATION**

- before -

**THE COURT OF ARBITRATION CONSTITUTED
IN ACCORDANCE WITH THE INDUS WATERS TREATY 1960**

- between -

THE ISLAMIC REPUBLIC OF PAKISTAN

- and -

THE REPUBLIC OF INDIA

**ORDER ON THE INTERIM MEASURES APPLICATION
OF PAKISTAN DATED 4 MARCH 2026**

COURT OF ARBITRATION:

Professor Sean D. Murphy (Chairman)
Professor Wouter Buytaert
Professor Jeffrey P. Minear
Judge Awn Shawkat Al-Khasawneh
Dr. Donald Blackmore

SECRETARIAT:

The Permanent Court of Arbitration

31 August 2026

**Redacted to reflect information subject to a confidentiality caveat
arising in PCA Case No. 2023-14, *Indus Waters Treaty Neutral
Expert proceedings (India v. Pakistan)***

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Amended Request for Arbitration	Pakistan’s Amended Request for Arbitration dated 28 July 2023
Annexure D, Part 3 HEP	A new Run-of-River Plant under Part 3 of Annexure D to the Treaty, excluding Small Plants as defined in Paragraph 18 of Annexure D
Award on the Status of the Treaty	Award on the Status of the Indus Waters Treaty in Respect of India’s Decision on Abeyance dated 31 August 2026
Award on Competence	Award on the Competence of the Court dated 6 July 2023
Award on Issues of General Interpretation	Award on Issues of General Interpretation of the Indus Waters Treaty dated 8 August 2025
Commission	The Permanent Indus Commission established by Article VIII of the Treaty, comprised of India’s Commissioner and Pakistan’s Commissioner
Court	The Court of Arbitration in these proceedings, constituted pursuant to Article IX(5) and Annexure G to the Treaty
Decision on the Request for Clarification	Decision on Pakistan’s Request for Clarification of the Award on Issues of General Interpretation dated 8 November 2025
Eastern Rivers	The Sutlej, the Beas, and the Ravi Rivers and their tributaries
Effectiveness Application	Pakistan’s application to the Neutral Expert for “urgent, active and engaged consideration of appropriate directions to secure and safeguard a meaningful and effective Neutral Expert procedure” dated 11 December 2024
Effectiveness Decision	The Neutral Expert’s decision on Pakistan’s Effectiveness Application dated 11 April 2025
EL	Elevation
Hearing	The oral hearing for the Phase on Interim Measures and on the Present Status of the Treaty, held from 26 to 28 April 2026 in the Peace Palace, The Hague, the Netherlands
HEP	Hydro-Electric Plant
India	The Republic of India
India’s Commissioner or ICIW	Commissioner for Indus Waters appointed by India pursuant to Article VIII(1) of the Treaty
KHEP or Kishenganga Plant	Kishenganga Hydro-Electric Plant
Kishenganga or Kishenganga Arbitration	<i>Indus Waters Kishenganga Arbitration (Pakistan v. India)</i> , PCA Case No. 2011-01
Kishenganga Court	The Court of Arbitration in the <i>Kishenganga</i> Arbitration

<i>Kishenganga</i> Interim Measures Order	Order on the Interim Measures Application of Pakistan dated 6 June 2011 in the <i>Kishenganga</i> Arbitration dated 23 September 2011 (PLA-0042)
<i>Kishenganga</i> Partial Award	Partial Award in the <i>Kishenganga</i> Arbitration dated 18 February 2013 (PLA-0003)
Kishenganga/Neelum River	The river called the “Kishenganga” by India and the “Neelum” by Pakistan
masl	Meters above sea level
MCM	Million cubic meters
NE Documents	Pondage Logbooks and the NE PIMTS Documents
NE PIMTS Documents	The RHEP Construction Schedule Documents, the Updated RHEP Design Documents, and the Suspension of NE Work Programme Documents, as defined in Procedural Order No. 22 (Request by Pakistan for Directions Regarding the Disclosure of Certain Documents from the Neutral Expert Proceedings) dated 20 March 2026
Neutral Expert	Mr. Michel Lino, the Neutral Expert appointed on 13 October 2022 by the World Bank further to India’s Request to the World Bank for the Appointment of a Neutral Expert dated 4 October 2016 (P-0156)
Neutral Expert Competence Decision	Decision on Certain Issues Pertaining to the Competence of the Neutral Expert dated 7 January 2025 (corrected on 31 March 2025), PCA Case No. 2023-14 (P-0695)
Neutral Expert Proceedings	The proceedings conducted by the Neutral Expert
Pakistan	The Islamic Republic of Pakistan
Pakistan’s Commissioner or PCIW	Commissioner for Indus Waters appointed by Pakistan pursuant to Article VIII(1) of the Treaty
Pakistan’s Final Submissions	Pakistan’s Final Submissions (Phase on Interim Measures and Treaty Status) dated 28 April 2026
Pakistan’s Memorial	Pakistan’s Memorial for the Phase on Interim Measures and Treaty Status dated 16 April 2026
Parties	The Parties to these proceedings, namely the Islamic Republic of Pakistan and the Republic of India
PCA	Permanent Court of Arbitration
Phase on Interim Measures and Treaty Status	The present phase of these proceedings, specific to resolving Pakistan’s Request for Interim Measures and the Treaty Status Application
Pondage Logbooks	Pondage Logbooks first introduced by India into the Neutral Expert Proceedings

Procedural Order No. 6	Procedural Order No. 6 (Decision on Further Proceedings) dated 6 July 2023
Procedural Order No. 19	Procedural Order No. 19 (Request by Pakistan for Guidance Regarding Disclosure of Information) dated 29 January 2026
Procedural Order No. 21	Procedural Order No. 21 (Phase on Interim Measures and on the Present Status of the Treaty) dated 12 March 2026
Procedural Order No. 22	Procedural Order No. 22 (Request by Pakistan for Directions Regarding the Disclosure of Certain Documents from the Neutral Expert Proceedings) dated 20 March 2026
Procedural Order No. 23	Procedural Order No. 23 (Organization of the Hearing for the Phase on Interim Measures and on the Present Status of the Treaty) dated 21 April 2026
Request for Arbitration	Pakistan's Request for Arbitration dated 19 August 2016
RHEP or Ratle Plant	Ratle Hydro-Electric Plant
Run-of-River Plant or Run-of-River HEP	As defined at Paragraph 2(g) of Annexure D to the Treaty, "a hydro-electric plant that develops without Live Storage as an integral part of the plant, except for Pondage and Surcharge Storage"
Request for Interim Measures	Pakistan's Request for Interim Measures dated 4 March 2026
Second Phase on the Merits	The second phase on the merits of these proceedings, specific to resolving the basis upon which India must determine the installed capacity and anticipated load of a proposed Annexure D, Part 3 HEP, and, once determined, how these elements are to be taken into account for purposes of the calculation of maximum Pondage
Supplemental Award on Maximum Pondage	Award Concerning Maximum Pondage Supplemental to the Award on Issues of General Interpretation of the Indus Waters Treaty dated 15 May 2026
Supplemental Award on Competence	Supplemental Award on the Competence of the Court dated 27 June 2025
Supplemental Rules of Procedure	Supplemental Rules of Procedure dated 31 March 2023
Treaty	<i>Indus Waters Treaty 1960 Between the Government of India, the Government of Pakistan and the International Bank for Reconstruction and Development</i> , signed at Karachi on 19 September 1960 (PLA-0001)
Treaty Status Application	Pakistan's Application for the Determination of the Present Status of the Indus Waters Treaty dated 4 March 2026
Western Rivers	The Indus, the Jhelum, and the Chenab Rivers and their tributaries
World Bank	International Bank for Reconstruction and Development

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I. INTRODUCTION

1. The present proceedings concern certain disputes that have arisen between the Islamic Republic of Pakistan (“**Pakistan**”) and the Republic of India (“**India**”) (together, the “**Parties**”) concerning the interpretation or application of the Indus Waters Treaty of 1960 (“**Treaty**”).¹ The Treaty sets forth the respective rights and obligations of the two States concerning the use of the waters of the Indus, the Jhelum, and the Chenab Rivers and their tributaries (“**Western Rivers**”)² and the waters of the Sutlej, Beas, and Ravi Rivers and their tributaries (“**Eastern Rivers**”).³ This Order concerns a request filed by Pakistan on 4 March 2026 that the Court of Arbitration (“**Court**”) lay down certain interim measures prior to the final resolution of the proceedings (“**Request for Interim Measures**”).⁴
2. Pakistan initiated these proceedings by way of a Request for Arbitration dated 19 August 2016 pursuant to Article IX and Paragraph 2(b) of Annexure G to the Treaty (“**Request for Arbitration**”), which was amended on 28 July 2023. As a general matter, these proceedings concern certain disputes that have arisen between Pakistan and India concerning the interpretation or application of those portions of the Treaty that permit India to develop hydro-electric power through run-of-river hydroelectric plants (“**Run-of-River Plants**” or “**Run-of-River HEPs**”) on the Western Rivers.⁵ Specifically, Pakistan contends that the design and operation of Indian Run-of-River hydro-electric plants (“**HEPs**”) are not in keeping with the provisions of the Treaty and have the effect of enabling India to exercise greater control over the waters of the Western Rivers than was envisaged or permitted by the Treaty. These disputes crystalized in the context of two specific Indian HEPs—the Kishenganga Hydro-Electric Plant (“**KHEP**” or “**Kishenganga**”).

¹ **PLA-0001**, *Indus Waters Treaty 1960 Between the Government of India, the Government of Pakistan and the International Bank for Reconstruction and Development*, signed at Karachi on 19 September 1960, 419 UNTS 126 (“**Treaty**”). The Treaty entered into force on 12 January 1961, with retroactive effect from 1 April 1960.

² **PLA-0001**, Treaty, Art. I(6) (“The term ‘Western Rivers’ means The Indus, The Jhelum and The Chenab taken together”).

³ **PLA-0001**, Treaty, Art. I(5) (“The term ‘Eastern Rivers’ means The Sutlej, The Beas and The Ravi taken together”).

⁴ Pakistan’s Request for Interim Measures was filed in conjunction with a request for a determination by the Court of the present status of the Treaty and certain other matters. See Request for Interim Measures, Application for Determination of the Present Status of the Indus Waters Treaty, Request for Further Directions Regarding the Disclosure of Certain Documents from the Neutral Expert Proceedings, Request for Further Directions dated 4 March 2026.

⁵ The Treaty defines a “Run-of-River Plant” as “a hydro-electric plant that develops power without Live Storage as an integral part of the plant, except for Pondage and Surcharge Storage”: **PLA-0001**, Treaty, Annexure D, para. 2(g).

Plant”) on the Kishenganga/Neelum River (a tributary of the Jhelum River);⁶ and the Ratle Hydro-Electric Plant (“**RHEP**” or “**Ratle Plant**”) on the Chenab River.

3. Resolution of these disputes requires addressing both broader legal disputes over the interpretation and application of the Treaty and issues specific to the KHEP and RHEP. At this stage in the proceedings, the Court has both addressed its competence and reached conclusions as to the broader legal disputes over the interpretation and application of the Treaty. With respect to its competence, the Court has issued an Award on the Competence of the Court dated 6 July 2023 (“**Award on Competence**”)⁷ and a Supplemental Award on the Competence of the Court dated 27 June 2025 (“**Supplemental Award on Competence**”).⁸ With respect to the broader legal disputes over the interpretation and application of the Treaty, the Court has issued an Award on Issues of General Interpretation of the Indus Waters Treaty dated 8 August 2025 (“**Award on Issues of General Interpretation**”),⁹ a clarification of that Award dated 8 November 2025 (“**Decision on the Request for Clarification**”),¹⁰ and an Award Concerning Maximum Pondage Supplemental to the Award on Issues of General Interpretation of the Indus Waters Treaty dated 15 May 2026 (“**Supplemental Award on Maximum Pondage**”).¹¹
4. In parallel with the Court’s proceedings, proceedings are underway before a neutral expert, Mr. Michel Lino (“**Neutral Expert**”), who is addressing issues specific to the KHEP and RHEP. While the Court has reached no determination as to whether the Neutral Expert was properly appointed or is competent pursuant to Article IX of the Treaty, the Court concluded in Procedural Order No. 6 (Decision on Further Proceedings) of 6 July 2023 (“**Procedural Order No. 6**”) that the Neutral Expert may be competent in respect of the issues presented to him on the basis, and

⁶ The Kishenganga Plant was the subject of previous arbitration proceedings between Pakistan and India, leading to an interim measures order in September 2011, a partial award in February 2013, and a final award in December 2013. See **PLA-0042**, *Indus Waters Kishenganga Arbitration (Pakistan v. India)*, Order on the Interim Measures Application of Pakistan dated 6 June 2011, 2013 XXXI UNRIAA 6 (“**Kishenganga Interim Measures Order**”); **PLA-0003**, *Indus Waters Kishenganga Arbitration (Pakistan v. India)*, PCA Case No. 2011-01, Partial Award, 18 February 2013, XXXI UNRIAA 55 (“**Kishenganga Partial Award**”); **PLA-0004**, *Indus Waters Kishenganga Arbitration (Pakistan v. India)*, PCA Case No. 2011-01, Final Award, 20 December 2013, XXXI UNRIAA 309.

⁷ Award on the Competence of the Court dated 6 July 2023 (“**Award on Competence**”).

⁸ Supplemental Award on the Competence of the Court dated 27 June 2025 (“**Supplemental Award on Competence**”).

⁹ Award on Issues of General Interpretation of the Indus Waters Treaty dated 8 August 2025 (“**Award on Issues of General Interpretation**”).

¹⁰ Decision on Pakistan’s Request for Clarification of the Award on Issues of General Interpretation dated 8 November 2025 (“**Decision on the Request for Clarification**”).

¹¹ Award Concerning Maximum Pondage Supplemental to the Award on Issues of General Interpretation of the Indus Waters Treaty dated 15 May 2026 (“**Supplemental Award on Maximum Pondage**”).

to the extent, of the Parties' joint consent (expressed by India through its request for the appointment of a Neutral Expert and by Pakistan through its participation in the Neutral Expert process). In other words, it may be the case that both the Court of Arbitration and the Neutral Expert are presently competent to address the issues specific to the KHEP and the RHEP that have been presented in both processes, with the Court of Arbitration competent pursuant to Article IX of the Treaty and the Neutral Expert competent either by operation of that article or through the Parties' joint consent. In such circumstances, the Court determined that there is a general duty of any international dispute resolution body to exercise its competence in such a manner as to facilitate the actual resolution of the Parties' dispute and to avoid the risks of duplicative proceedings or conflicting decisions. Accordingly, and as a matter of mutual respect and comity towards another dispute resolution body potentially competent in respect of the same matter, the Court has not, for the time being, addressed those issues.¹²

5. In general, Pakistan's Request for Interim Measures dated 4 March 2026 concerns India's construction of the RHEP, which Pakistan maintains is being pursued on a schedule that will result in the concreting of the dam wall and power intake structure prior to the resolution of the specific issues being addressed before the Neutral Expert and before this Court. Such concreting, according to Pakistan, will make it impractical and expensive to modify the dam wall and power intake structure to conform with whatever decisions are ultimately reached by the Neutral Expert or the Court with respect to the design and operation of the RHEP. Pakistan argues that interim measures are warranted that, *inter alia*, prevent the pouring of certain concrete elements of the dam wall and power intake structure in order to protect Pakistan's interests under the Treaty, to avoid prejudice to final resolution of the dispute, and to avoid its aggravation or extension.
6. Pakistan has participated in these proceedings, but to date India has elected not to do so. India has not appeared before the Court or appointed two arbitrators to the Court as it is permitted to do under the Treaty. Moreover, India has decided to hold the Treaty in "abeyance", by which it apparently regards the Treaty as either suspended or terminated, resulting in India also halting its participation in the proceedings of the Neutral Expert. Pakistan maintains that India's refusal to engage in any cooperation under the Treaty and to participate in the dispute resolution proceedings envisaged under the Treaty heightens the need for interim measures.

¹² See Procedural Order No. 6, paras. 23–33.

7. This Order addresses Pakistan's Request for Interim Measures. Simultaneous with the issuance of this Order, the Court issues an Award on the Status of the Indus Waters Treaty in Respect of India's Decision on Abeyance ("**Award on the Status of the Treaty**").

* * *

II. PROCEDURAL HISTORY

8. The detailed history of the origin of the present dispute and the procedural history of these proceedings is set out in the prior awards issued by the Court—including the Supplemental Award on Competence, the Award on Issues of General Interpretation, and the Supplemental Award on Maximum Pondage—as well as the Court’s procedural orders and decisions. A brief account is set forth below, along with procedural aspects specific to this phase of the proceedings.

A. INITIATION OF THE ARBITRATION AND PRELIMINARY PHASE ON THE COMPETENCE OF THE COURT

9. On 19 August 2016, Pakistan initiated this arbitration by way of its Request for Arbitration, served upon India pursuant to Article IX and Paragraph 2(b) of Annexure G to the Treaty.
10. The Court was empaneled in October 2022 following a pause in the proceedings instituted by the International Bank for Reconstruction and Development (“**World Bank**”).
11. On 31 March 2023, the Court issued Supplemental Rules of Procedure (“**Supplemental Rules of Procedure**”),¹³ further to Paragraph 16 of Annexure G to the Treaty.
12. On 6 July 2023, following written submissions and an oral hearing, the Court issued the Award on Competence, finding that the Court is competent to consider and determine the disputes set forth in Pakistan’s Request for Arbitration.
13. Having confirmed its competence, the Court issued Procedural Order No. 6, by which the Court determined that it would conduct these proceedings in a phased manner, bearing in mind the status of, and developments concerning, the proceedings taking place before the Neutral Expert.
14. On 10 August 2023, the Court issued Procedural Order No. 8 (Application to Amend the Request for Arbitration), granting an application from Pakistan to amend its Request for Arbitration. On 17 August 2023, Pakistan filed its Amended Request for Arbitration dated 28 July 2023 (“**Amended Request for Arbitration**”).

B. THE NEUTRAL EXPERT’S DECISION ON CERTAIN ISSUES OF HIS COMPETENCE

15. In parallel with these proceedings, the Neutral Expert appointed by the World Bank under Annexure F of the Treaty has conducted his proceedings (“**Neutral Expert Proceedings**”).

¹³ Supplemental Rules of Procedure dated 31 March 2023 (“**Supplemental Rules of Procedure**”).

Among other things, on 1 December 2023, Pakistan submitted a statement on the competence of the Neutral Expert,¹⁴ to which India responded on 14 June 2024.¹⁵ After a meeting on the matter on 10 and 11 September 2024, the Neutral Expert issued on 7 January 2025 a Decision on Certain Issues Pertaining to the Competence of the Neutral Expert (“**Neutral Expert Competence Decision**”).¹⁶ In that decision, the Neutral Expert found that the Points of Difference referred to him by India concerning “whether or not the design of a Plant conforms to the criteria set out in Paragraph 8” of Annexure D to the Treaty fell within the scope of Part 1 of Annexure F to the Treaty and that no separate differences had been referred to him with respect to India’s compliance with Paragraphs 2(c) and 15 of Annexure D to the Treaty. Accordingly, the Neutral Expert stated that he would proceed to render a decision on the merits of the Points of Difference, after hearing the Parties further on those merits in accordance with the work program for the proceedings.¹⁷ The Neutral Expert further noted that the general issues of the interpretation of the Treaty then under deliberation by the Court were “put at a higher level than the Points of Difference” before the Neutral Expert and “would not go all the way in answering the Points of Difference in respect of the KHEP and the RHEP”.¹⁸

C. SUPPLEMENTAL AWARD ON COMPETENCE

16. On 23 April 2025, following an attack by armed individuals in India-administered Jammu and Kashmir, the Foreign Secretary of India issued a statement about a decision of the Cabinet Committee on Security, indicating, among other things, that “[t]he Indus Waters Treaty of 1960 will be held in abeyance with immediate effect, until Pakistan credibly and irrevocably abjures its support for cross-border terrorism”.¹⁹ On 24 April 2025, India’s Secretary of the Ministry of Jal Shakti²⁰ sent a letter to Pakistan’s Secretary of the Ministry of Water Resources communicating

¹⁴ **P-0695**, Decision on Certain Issues Pertaining to the Competence of the Neutral Expert dated 7 January 2025, PCA Case No. 2023-14 (“**Neutral Expert Competence Decision**”), para. 142.

¹⁵ **P-0695**, Neutral Expert Competence Decision, para. 183.

¹⁶ **P-0695**, Neutral Expert Competence Decision.

¹⁷ **P-0695**, Neutral Expert Competence Decision, paras. 569–570.

¹⁸ **P-0695**, Neutral Expert Competence Decision, para. 563(e).

¹⁹ **P-0697**, Compendium of Recent Statements, Ministry of External Affairs, Government of India, “Statement by Foreign Secretary on the decision of the Cabinet Committee on Security (CCS)” dated 23 April 2025.

²⁰ To the Court’s knowledge, India’s Ministry of Jal Shakti was formed in 2019 by the merger of the Ministry of Water Resources, River Development and Ganga Rejuvenation with the Ministry of Drinking Water and Sanitation.

a decision that the Treaty “will be held in abeyance with immediate effect”.²¹ Thereafter, officials of India and Pakistan made further public statements, some reported in the media, referring to the Treaty.

17. On 16 May 2025, the Court issued Procedural Order No. 15 (Recent Developments that May Bear on Matters before the Court), inviting the Parties to address any effect of these recent developments on matters before the Court or the Neutral Expert, including their respective competence.
18. On 11 June 2025, Pakistan filed its Submissions on Recent Developments Pursuant to Procedural Order No. 15, which it subsequently corrected with leave of the Court on 14 June 2025.
19. On 27 June 2025, the Court issued a Supplemental Award on Competence, finding that India’s position on “abeyance” of the Treaty does not limit the competence of the Court over this dispute, which the Court previously affirmed in the Award on Competence, and finding that the Court has a continuing responsibility to advance these proceedings in a timely, efficient, and fair manner, notwithstanding India’s position on “abeyance”. The Court further determined that these findings apply, *mutatis mutandis*, with respect to any competence that the Neutral Expert otherwise possesses.²²

D. FIRST PHASE ON THE MERITS

20. On 8 August 2025, the Court issued its Award on Issues of General Interpretation, in which the Court delivered its decision with respect to certain questions concerning the overall interpretation and application of the Treaty, including questions with respect to Article III and Paragraph 8 of Annexure D, as well as a related general question concerning the legal effect of past decisions issued by dispute resolution bodies established pursuant to Article IX of the Treaty. In its Award on Issues of General Interpretation, the Court reaffirmed its findings in the Supplemental Award on Competence.²³

²¹ **P-0700**, Note Verbale No. 80/01/2025, enclosing Letter No. Y-18012/1/2024-Indus from Secretary, Indian Ministry of Jal Shakti to Secretary, Pakistan Ministry of Water Resources dated 24 April 2025. The Court notes that the meaning of India’s decision to hold the Treaty “in abeyance with immediate effect” is unclear and is addressed in the Court’s Award on the Status of the Treaty at Pt. VII.B.

²² Supplemental Award on Competence, para. 76.

²³ Award on Issues of General Interpretation, para. 809.

21. On 19 September 2025, Pakistan requested several clarifications to the Award pursuant to Paragraph 27 of Annexure G to the Treaty, and on 8 November 2025, the Court issued its unanimous Decision on the Request for Clarification.

E. SECOND PHASE ON THE MERITS

22. On 8 November 2025, the same date as the Decision on the Request for Clarification, the Court issued Procedural Order No. 16 (Directions on Further Proceedings), in which the Court, *inter alia*, confirmed its intention to continue these proceedings in a phased manner, bearing in mind the status of, and developments concerning, the Neutral Expert Proceedings. The Court therefore invited each Party to provide, by no later than 6 February 2026:

a submission indicating its views as to a further phase or phases in these proceedings in respect of matters raised in Pakistan's Request for Arbitration that were not resolved in the [Award on Issues of General Interpretation], with such submission to address:

3.1.1 the scope of the issues to be determined in the further phase or phases of the proceedings; and

3.1.2 the timetable for the filing of written submissions and any oral submissions of the Parties.

23. On 21 November 2025, the Court issued Procedural Order No. 17 (Second Phase of the Merits), in which the Court determined that it would conduct a further phase of the proceedings specific to "resolving the basis upon which India must determine the installed capacity and anticipated load of a proposed Annexure D, Part 3 HEP, and, once determined, how these elements are to be taken into account for purposes of the calculation of maximum Pondage" ("**Second Phase on the Merits**"), further to a request from Pakistan.
24. On 9 January 2026, Pakistan applied to the Court for directions regarding, among other things, the disclosure of documents in Pakistan's possession from the Neutral Expert Proceedings, which Pakistan contended were relevant to the Court's decision in its Second Phase on the Merits, or a potential future phase of these proceedings.
25. On 17 January 2026, the Court invited Pakistan to provide a request to introduce specific information arising in the Neutral Expert Proceedings (in as much detail as possible, subject to any duty of confidentiality), indicating, *inter alia*, "the relevance of such information to the issues before the Court in the Second Phase on the Merits". The Court indicated, in relation to the documents concerning a potential future phase of these proceedings, that the Court was "not inclined to decide the matter until a decision is reached as to the nature of the issues before the Court in such future phases of these proceedings".

26. On 23 January 2026, Pakistan clarified that the documents from the Neutral Expert Proceedings that it sought to enter into the record of these proceedings in the Second Phase on the Merits included “a handful of exhibits and appendices, or portions thereof, filed by India in the Neutral Expert proceedings, and the analyses thereof undertaken by Pakistan”. Pakistan reiterated its request to the Court for urgent directions or guidance on the disclosure of these documents and other information from the Neutral Expert Proceedings, as raised in its letter dated 9 January 2026.
27. On 29 January 2026, the Court issued Procedural Order No. 19 (Request by Pakistan for Guidance Regarding Disclosure of Information) (“**Procedural Order No. 19**”), in which the Court, *inter alia*, directed India to produce the logbook data for the operating pools of the Baglihar HEP and the KHEP (“**Pondage Logbooks**”), or otherwise contest the scope of Pakistan’s request. The Court deferred its decision relating to the production of documents concerning a potential future phase of these proceedings, including a possible request for interim measures of protection, until such a future phase commenced.
28. From 2 to 3 February 2026, the Hearing for the Second Phase on the Merits took place at the Peace Palace in The Hague in accordance with paragraph 2.1 of Procedural Order No. 18 (Organization of the Hearing for the Second Phase on the Merits).
29. On 4 March 2026, Pakistan informed the Court that the Neutral Expert had granted Pakistan’s application for the disclosure to the Court of the Pondage Logbooks.
30. On 15 May 2026, the Court issued its Supplemental Award on Maximum Pondage. The Court further invited the Parties to propose any redactions they considered appropriate prior to the publication of the Supplemental Award on Maximum Pondage, bearing in mind that the Award addressed certain materials concerning the utilization of the operating pools at the Baglihar HEP and the KHEP that were introduced into these proceedings from the parallel Neutral Expert Proceedings on a basis of confidentiality.
31. On 20 May 2026, Pakistan submitted its comments on the question of redactions to the Supplemental Award on Maximum Pondage.
32. On 6 June 2026, the Court notified the Parties of its decision to publish the Supplemental Award on Maximum Pondage subject to certain redactions, which the Court indicated it would review prior to the close of these proceedings, and after consultation with the Parties, to evaluate whether such redactions should be maintained, revised, or limited to a fixed period of time.

F. PHASE ON INTERIM MEASURES AND TREATY STATUS

33. On 1 February 2026, Pakistan filed its submission on further phases of the proceedings, in which it identified that there were:

(at least) two other issues that come properly within the scope of the Court's competence which, given present circumstances, now warrant attention by the Court in a further expedited merits phase of proceedings. These are a request by Pakistan for interim measures and, closely associated with but distinct from this, a determination by the Court that the Treaty remains in force notwithstanding India's policy of abeyance.

34. On 3 February 2026, following the conclusion of the Hearing for the Second Phase on the Merits, the Court convened an in-person case management conference in which Pakistan appeared and participated, but India did not appear or participate, to address, *inter alia*, the issues raised in Pakistan's submission on further phases of the proceedings.

35. On 9 February 2026, the Court wrote to the Parties with respect to further phases of the proceedings, noting that "the Court will issue directions for any such phase upon receipt of an application from Pakistan", including "mak[ing] orders with respect to any ancillary issues, such as the production of documents".

36. On 4 March 2026, Pakistan submitted: its Request for Interim Measures; an application for a determination by the Court that the Treaty remains in force notwithstanding India's "policy on abeyance" ("**Treaty Status Application**"); a request for further directions concerning the conduct of the phase of the proceedings in contemplation; and a request for directions regarding the disclosure of certain further documents from the Neutral Expert Proceedings.

37. In its Request for Interim Measures, Pakistan sought the following:

an Order from the Court directed at ensuring that India refrains from certain defined construction steps at the Ratle Hydroelectric Plant ("**RHEP**"), the effect of which, were they to be completed, would be to render otiose and materially ineffective and irrelevant an Award of the Court and/or a Decision of the Neutral Expert finding that India had not complied with the design criteria in Paragraph 8 of Annexure D of the Treaty as regards the RHEP.²⁴

38. In its Treaty Status Application, Pakistan sought the following:

a determination by the Court that the Treaty remains in force notwithstanding India's policy of Abeyance, under cover of which India appears intent on accelerating construction, *inter alia*, of the RHEP in almost explicitly acknowledged disregard of the Treaty and of the pending proceedings before the Court and the Neutral Expert.²⁵

²⁴ Pakistan's Request for Interim Measures, para. 1.7.

²⁵ Pakistan's Request for Interim Measures, para. 1.8.

39. In its request for directions regarding document disclosure, Pakistan contended that certain documents from the Neutral Expert Proceedings appeared to be relevant and material to the Court's consideration of the Request for Interim Measures and the Treaty Status Application, and it requested such further directions as appropriate regarding their production.
40. On 11 March 2026, the Court invited India to provide any comments on Pakistan's request for directions regarding document disclosure by no later than 17 March 2026. No response from India was thereafter received.
41. On 12 March 2026, the Court issued Procedural Order No. 21 (Phase on Interim Measures and on the Present Status of the Treaty) ("**Procedural Order No. 21**"), in which it decided to conduct a further phase of the proceedings specific to deciding upon the Request for Interim Measures and the Treaty Status Application ("**Phase on Interim Measures and Treaty Status**"). The Court also issued directions regarding the conduct of such phase, further to Pakistan's request for procedural directions. Finally, the Court invited India to indicate whether it intended to participate in the Phase on Interim Measures and Treaty Status by no later than 30 March 2026. No response from India was thereafter received.
42. On 20 March 2026, the Court issued Procedural Order No. 22 (Request by Pakistan for Directions Regarding the Disclosure of Certain Documents from the Neutral Expert Proceedings), in which the Court determined, *inter alia*, that several categories of documents requested by Pakistan from the Neutral Expert Proceedings—namely, the RHEP Construction Schedule Documents, the Updated RHEP Design Documents, and the Suspension of NE Work Programme Documents (together, the "**NE PIMTS Documents**")—appeared to be relevant and material to the Phase on Interim Measures and Treaty Status. Accordingly, the Court directed Pakistan to keep the Court apprised of the status of any application it might make to the Neutral Expert with respect to the disclosure of the NE PIMTS Documents into these proceedings. Further, the Court directed that any such documents introduced into the proceedings be maintained as confidential, except to the extent disclosure is required of a Party by legal duty, to protect or pursue a legal right, or in relation to legal proceedings before a court or other competent authority.
43. On 11 April 2026, Pakistan informed the Court that, by a decision dated 10 April 2026, the Neutral Expert had authorized Pakistan to submit the NE PIMTS Documents into the Court's proceedings. Pakistan accordingly requested an extension of time to submit its Memorial for the Phase on Interim Measures and Treaty Status, to enable it to take into account the NE PIMTS Documents. The Court subsequently granted this request.

44. On 16 April 2026, pursuant to paragraph 2.2 of Procedural Order No. 21, as modified by the Court, Pakistan submitted its Memorial for the Phase on Interim Measures and Treaty Status (“**Pakistan’s Memorial**”), and its accompanying documents.
45. On 21 April 2026, the Court issued Procedural Order No. 23 (Organization of the Hearing for the Phase on Interim Measures and on the Present Status of the Treaty) (“**Procedural Order No. 23**”), in which the Court ordered, *inter alia*, that the Hearing for the Phase on Interim Measures and on the Present Status of the Treaty would take place in person at the Peace Palace in The Hague from 26 to 28 April 2026 (“**Hearing**”).

G. HEARING FOR THE PHASE ON INTERIM MEASURES AND ON THE PRESENT STATUS OF THE TREATY

46. The Hearing for the Phase on Interim Measures and on the Present Status of the Treaty took place at the Peace Palace in The Hague from 26 to 28 April 2026, in accordance with paragraph 2.1 of Procedural Order No. 23. The following persons were present:

Court of Arbitration

Professor Sean D. Murphy (Chairman)
Professor Wouter Buytaert
Professor Jeffrey P. Minear
Judge Awn Shawkat Al-Khasawneh
Dr. Donald Blackmore

Representatives of Pakistan

H.E. Mr. Syed Haider Shah, Acting Co-Agent for Pakistan, Ambassador of Pakistan to The Netherlands
Mr. Jamal Nasir, First Secretary, Embassy of Pakistan to The Netherlands
Sir Daniel Bethlehem KC, Counsel for Pakistan
Professor Philippa Webb KC, Counsel for Pakistan
Dr. Cameron Miles, Counsel for Pakistan
Ms. Charlotte Westbrook, Counsel for Pakistan
Mr. Abdullah Tariq, Counsel for Pakistan
Mr. Peter J. Rae, Technical Adviser and Advocate
Dr. Gregory L. Morris, Technical Adviser and Advocate

India

No Agent or representatives present

The Secretariat

Mr. Garth Schofield, Registrar and Deputy Secretary-General of the PCA
Mr. Bryce Williams, Treasurer and Legal Counsel
Mr. Sebastian King, Legal Counsel

Court Reporter

Mr. Trevor McGowan

47. The following persons presented oral arguments before the Court on behalf of Pakistan:

H.E. Mr. Syed Haider Shah, Acting Co-Agent

Sir Daniel Bethlehem KC, Counsel for Pakistan
Professor Philippa Webb KC, Counsel for Pakistan
Dr. Cameron Miles, Counsel for Pakistan
Ms. Charlotte Westbrook, Counsel for Pakistan
Mr. Abdullah Tariq, Counsel for Pakistan

48. India did not appear at, or participate in, the Hearing.
49. On 27 April 2026, the Court posed questions for Pakistan to address in its oral submissions scheduled for the third day of the Hearing.
50. On 28 April 2026, Pakistan's Acting Co-Agent, H.E. Mr. Syed Haider Shah, formally presented Pakistan's Final Submissions (Phase on Interim Measures and Treaty Status) ("**Pakistan's Final Submissions**").
51. Following the Hearing, the Court distributed the verbatim transcript for the Hearing, signed by the Chairman of the Court, which constituted minutes for the purpose of Paragraph 19 of Annexure G to the Treaty.

H. POST-HEARING PROCEDURES

52. On 28 April 2026, following the conclusion of the Hearing, the Court held a case management conference to discuss, *inter alia*, the record of the correspondence between the Parties further to India's January 2023 request to commence negotiations to review and modify the Treaty, and the publication of Pakistan's submissions in the Phase on Interim Measures and Treaty Status in light of the need to maintain the confidentiality of the NE PIMTS Documents introduced into the proceedings. India did not appear at, or participate in, the case management conference.
53. On 1 May 2026, Pakistan applied for leave to submit into the record additional correspondence between the Parties relating to potential negotiations for the review and modification of the Treaty, which the Court subsequently granted on 5 May 2026.
54. On 4 May 2026, Pakistan requested leave to submit into the record correspondence from its Commissioner for Indus Waters concerning variations in the flow of the Jhelum River at Chakothi and variations in the flow of the Chenab River at Marala. On 6 May 2026, Pakistan sought leave to introduce into the record "an article published on 5 May 2026 by the Delhi-based Centre for Research on Strategic and Security Issues by a former long-serving Indian Commissioner for Indus Waters, Shri Pradeep Kumar Saxena". On 11 May 2026, the Court granted Pakistan's requests of 4 and 6 May 2026.

55. On 1 June 2026, Pakistan provided an update to the Court on the information published in the Neutral Expert Proceedings, including that the Neutral Expert had decided to retain specialists to assist him in modeling potential configurations of the RHEP. On 6 June 2026, the Court invited Pakistan to submit into the record of these proceedings the Neutral Expert's Terms of Reference for Modelling Specialists dated 25 May 2026, and its accompanying Annex E (Scope of Work), which Pakistan thereafter submitted.
56. On 21 July 2026, Pakistan sought leave to introduce into the record a revised Work Programme by the Neutral Expert, as well as a number of recent press articles and official statements of India's position on the issue of abeyance, which the Court subsequently granted.

* * *

III. RELEVANT FACTUAL BACKGROUND

57. This Part sets forth the factual background relevant to the Court’s determinations in this Order. This factual background is based on the documentary record before the Court in these proceedings and, unless otherwise stated, is understood by the Court to be uncontroversial and largely not in dispute as between the Parties.

A. INDIA’S DESIGN OF THE RHEP

58. The Court has previously explained certain engineering concepts and terminology concerning the design and operation of run-of-river HEPs, both generally and as defined in the Treaty.²⁶ In particular, the Court has explained certain components of the HEP, such as “outlets”,²⁷ “surface spillways” and “orifice spillways”,²⁸ “intakes for the turbines”,²⁹ and “freeboard”,³⁰ as well as the levels specified by the Treaty in respect of an Annexure D, Part 3 HEP reservoir, such as “Dead Storage Level”³¹ and “Full Pondage Level”.³²

59. On 16 August 2012, India’s Commissioner for Indus Waters (“**India’s Commissioner**” or “**ICIW**”) provided Pakistan’s Commissioner for Indus Waters (“**Pakistan’s Commissioner**” or “**PCIW**”) with technical information about the design and related hydrological data for a new Annexure D, Part 3 HEP—the RHEP—pursuant to Paragraph 9 of Annexure D to the Treaty.³³

60. The RHEP is to be located on the Chenab River, near the town of Drabshala in India-administered Jammu and Kashmir.³⁴ The location of the RHEP is depicted in Map 1 on page 16 below.

²⁶ See Award on Issues of General Interpretation, paras. 460–505.

²⁷ See Award on Issues of General Interpretation, paras. 477–478.

²⁸ See Award on Issues of General Interpretation, paras. 479–483.

²⁹ See Award on Issues of General Interpretation, paras. 484–486.

³⁰ See Award on Issues of General Interpretation, para. 487.

³¹ See Award on Issues of General Interpretation, paras. 502, 504.

³² See Award on Issues of General Interpretation, paras. 503–505.

³³ **P-0077**, Letter from the ICIW to the PCIW dated 16 August 2012.

³⁴ The terminology and maps used in this Order to denote geographic locations are intended to be neutral and should not be construed as the adoption by the Court of any position with regard to any matters of territorial sovereignty. See Award on Competence, Pt. III; see also **PLA-0003**, *Kishenganga* Partial Award, paras. 126–139.



61. The design initially proposed for the RHEP included, among other features: an orifice spillway with five gates (10.75 m x 14.20 m) with their crests located at elevation (“EL”) 985 meters above sea level (“masl”);³⁵ a surface gated spillway with one gate (10.75 m x 16.50 m) with its crest located at EL 1012.5 masl;³⁶ a Dead Storage Level of EL 1015.86 masl;³⁷ a Full Pondage Level of EL 1029.00 masl; and a freeboard of 2 m (between the Full Pondage Level and the top of the dam).³⁸

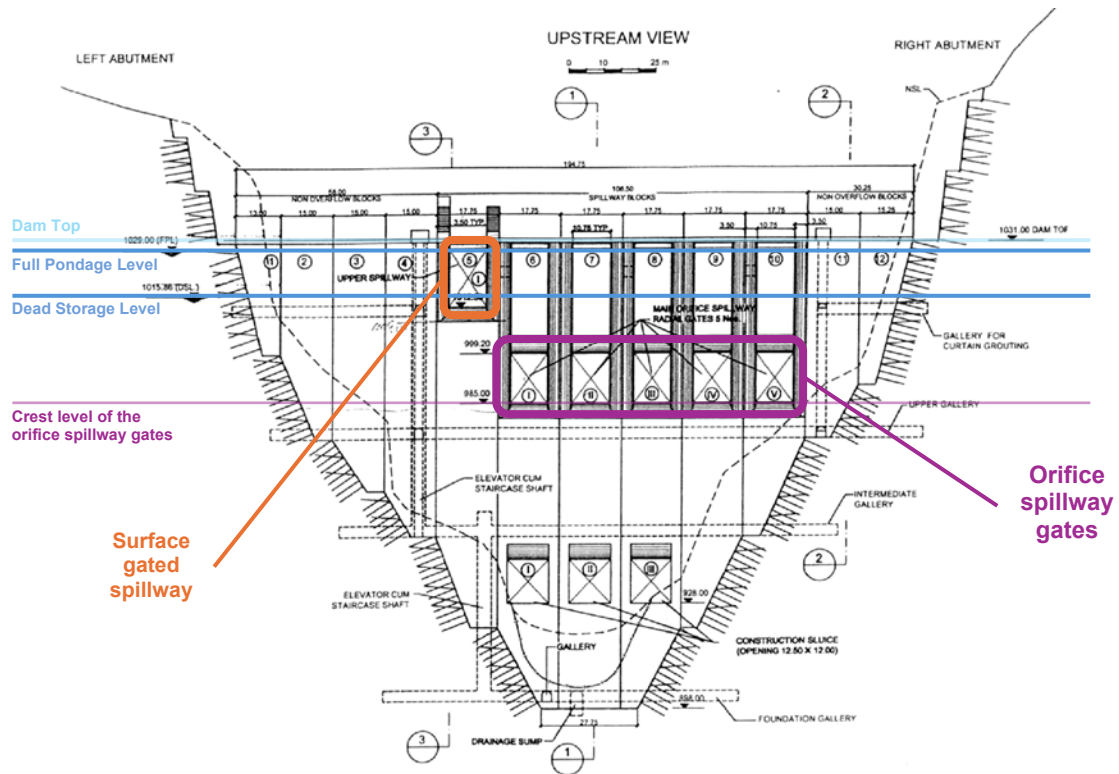


Figure 1: Upstream View of the RHEP Dam Wall (with Court annotations) as of August 2012

62. The RHEP design also incorporated four intakes for the main power unit (5.8 m x 8.4 m), located in the valley wall adjacent to the dam reservoir, with their inverts located at EL 1000 masl.³⁹

³⁵ P-0077, Letter from the ICIW to the PCIW dated 16 August 2012, p. 4. This was later modified so that the invert level of the intakes was set at EL 997.45 masl. See P-0221, Letter from the ICIW to the PCIW dated 25 January 2023.

³⁶ P-0077, Letter from the ICIW to the PCIW dated 16 August 2012, p. 27, Annex IX(2).

³⁷ P-0077, Letter from the ICIW to the PCIW dated 16 August 2012, p. 3, item 4(d).

³⁸ P-0077, Letter from the ICIW to the PCIW dated 16 August 2012, p. 27, Annex IX(2), being the difference between the Full Pondage Level (1029 masl) and the Dam Top (1031 masl).

³⁹ P-0077, Letter from the ICIW to the PCIW dated 16 August 2012, p. 3, item 4(d). See para. 69, *supra*.

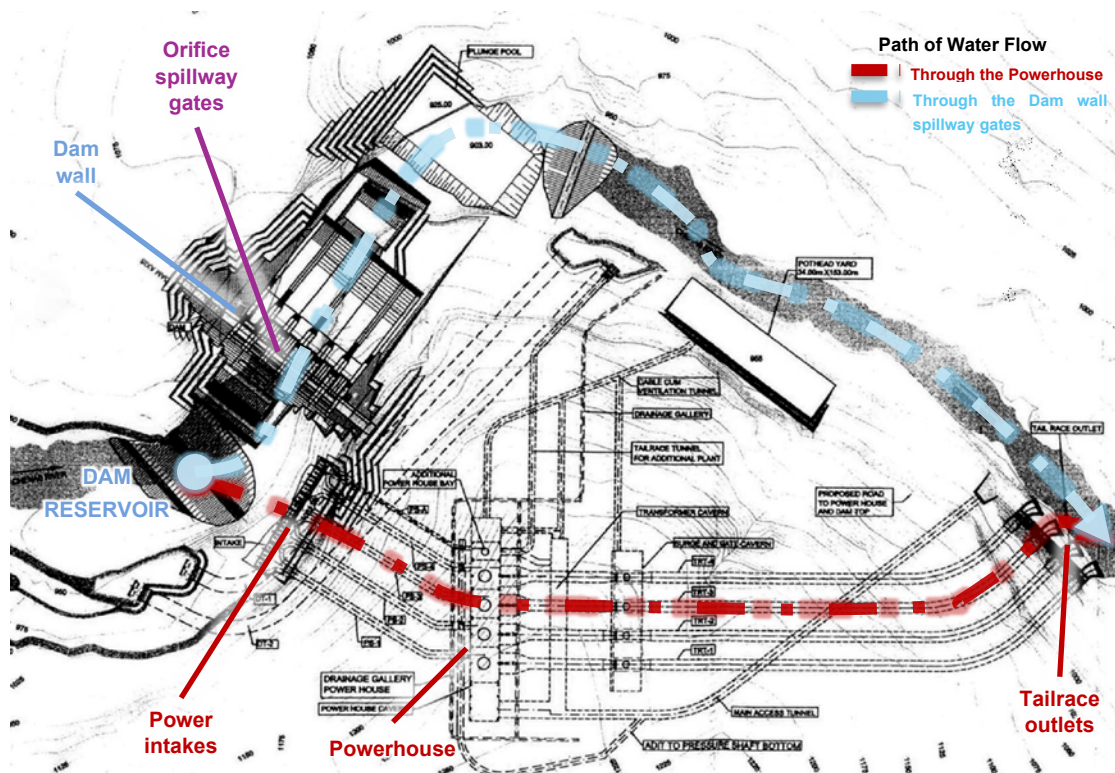


Figure 2: Dimension Plan (Aerial View) of the RHEP Dam and Powerhouse (with Court annotations) as of August 2012

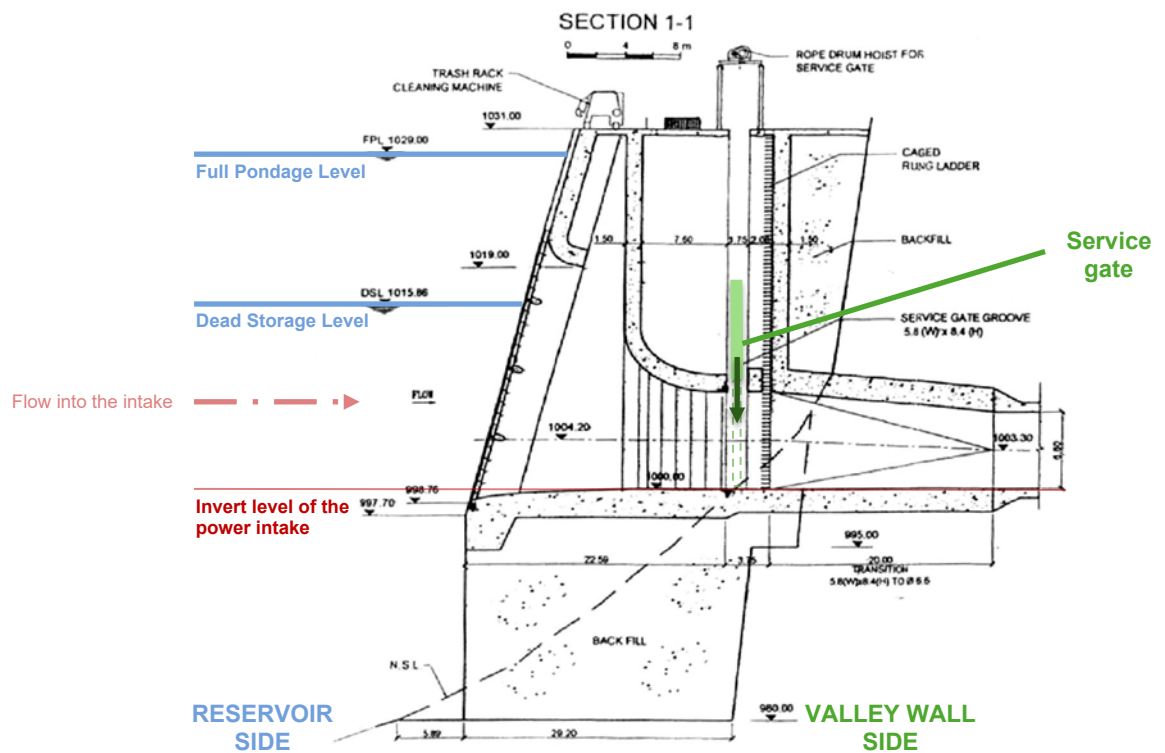


Figure 3: Vertical cross-section of main Power Intakes (with Court annotations) as of August 2012

63. On 26 November 2012, Pakistan's Commissioner responded to India's proposed design of the RHEP, stating that "on the basis of information received, the design of the Plant does not conform to criteria 8 (a), (c), (d), (e) and (f) laid down in Paragraph 8 of Annexure D to the Treaty and accordingly Pakistan objects to the design of the Plant".⁴⁰ On 11 January 2013, India's Commissioner replied that, in his view, the design of the RHEP was consistent with the Treaty and invited further technical discussion.⁴¹ Between 2013 and January 2015, further correspondence was exchanged between the Parties, and three meetings of the Permanent Indus Commission ("Commission") were held at which the design of the RHEP was discussed by the Commissioners.⁴² During this time, India maintained that its proposed design was compliant with the requirements of the Treaty and as a result, according to Pakistan's Commissioner, Pakistan's objections to the RHEP were not answered "to any significant extent".⁴³

B. PAKISTAN'S INITIAL REQUEST FOR INTERIM MEASURES

64. By its Request for Arbitration dated 19 August 2016, Pakistan initiated the present arbitration proceedings against India pursuant to Article IX and Paragraph 2(b) of Annexure G to the Treaty. In its Request for Arbitration, Pakistan identified the following seven "Disputes":

First, whether India's design for maximum Pondage of 7.55 million cubic meters of water (**MCM or Mm³**) for the Kishenganga Hydroelectric Plant is based on a method of calculations that contravenes the Treaty, particularly Paragraph 8(c) of Annexure D; and, relatedly, whether India's design for submerged power intakes at the Kishenganga Hydroelectric Plant contravenes the Treaty, particularly Paragraph 8(f) of Annexure D, because the intakes are not located at the highest level consistent with satisfactory and economical construction and operation of the Plant as a Run-of-River Plant and with customary and accepted practice of design?

Second, whether India's proposed design for maximum Pondage of 23.86 Mm³ for the Ratle Hydroelectric Plant is based on a method of calculations that contravenes the Treaty, particularly Paragraph 8(c) of Annexure D; and, relatedly, whether India's proposed design for submerged power intakes at the Ratle Hydroelectric Plant contravenes the Treaty, particularly Paragraph 8(f) of Annexure D, because the intakes are not located at the highest level consistent with satisfactory and economical construction and operation of the Plant as a Run-of-River Plant and with customary and accepted practice of design?

Third, whether India's design for low-level sediment outlets at the Kishenganga Hydroelectric Plant, in the form of a deep orifice spillway with three large, gated openings below Dead Storage Level and close to the reservoir bottom, contravenes the Treaty, particularly Paragraph 8(d) of Annexure D?

Fourth, whether India's proposed design for low-level sediment outlets at the Ratle Hydroelectric Plant, in the form of a deep orifice spillway with five large, gated openings far

⁴⁰ **P-0078**, Letter from the PCIW to the ICIW dated 26 November 2012, para. 2.

⁴¹ **P-0079**, Letter from the ICIW to the PCIW dated 11 January 2013, para. 10.

⁴² See Award on Competence, paras. 84–87.

⁴³ See Award on Competence, paras. 86–87.

below the Dead Storage Level and deep in the reservoir, contravenes the Treaty, particularly Paragraph 8(d) of Annexure D?

Fifth, whether India's design for gated spillways for flood control at the Kishenganga Hydroelectric Plant, with the bottom level of the gates in normal closed position located 14.5 meters below Dead Storage Level and close to the reservoir bottom, contravenes the Treaty, particularly Paragraph 8(e) of Annexure D?

Sixth, whether India's proposed design for gated spillways for flood control at the Ratle [H]ydroelectric Plant, with the bottom level of the gates in normal closed position located approximately 31 meters below Dead Storage Level and deep in the reservoir, contravenes the Treaty, particularly Paragraph 8(e) [of] Annexure D?

Seventh, whether India's proposed design for 2 meters of freeboard at the Ratle Hydroelectric Plant contravenes the Treaty, particularly Paragraph 8(a) of Annexure D?⁴⁴

65. By its Request for Arbitration, Pakistan sought, among other things, “interim measures enjoining India from initiating or continuing the construction and operation of works that are the subject of one of the seven Disputes raised in this Request”.⁴⁵ Specifically, Pakistan stated in its Request for Arbitration:

One aspect of the relief sought in Part VI is interim measures restraining India from proceeding further with planned diversions resulting from construction of the works that are the subject of the Disputes as well restraining India from filling the KHEP's reservoir below the Dead Storage Level. On 12 August 2016, India sent Pakistan a letter indicating its intent to begin filling the KHEP's reservoir below the Dead Storage Level on 14 August 2016. It is for this reason that time is of the essence in the adjudication of these Disputes, and an order on interim measures is imperative for a complete and fair adjudication. This particular remedy is sought in light of the fact that India has begun filling the KHEP's Dead Storage and planned diversions shall cause irreparable harm to Pakistan. Accordingly, pursuant to Paragraph 28 of Annexure G to the Treaty, Pakistan shall request the Court of Arbitration at its first meeting to lay down, pending its Award, interim measures to safeguard Pakistan's interests under the Treaty with respect to the matters in dispute, to avoid prejudice to the final solution, and to avoid aggravation or extension of the Disputes.⁴⁶

66. On 12 December 2016, the President of the World Bank notified the Parties that the World Bank had decided “to pause the process of appointing the Chairman of the Court of Arbitration and the Neutral Expert” in order to “provide a window to further explore whether Pakistan and India can agree on a way forward for resolving the matter relating to the two hydroelectric power plants, in a manner that is satisfactory to both countries”.⁴⁷ This pause remained in place until 31 March 2022, when the World Bank notified India and Pakistan that it was lifting the pause and would proceed with “the concurrent appointment of the Neutral Expert and the Chair of the Court

⁴⁴ Request for Arbitration, para. 9 (emphasis in original).

⁴⁵ Request for Arbitration, para. 90.

⁴⁶ Request for Arbitration, para. 12.

⁴⁷ **P-0008**, Letter from the World Bank to Pakistan dated 12 December 2016. See Award on Competence, paras. 111–119; Award on Issues of General Interpretation, paras. 217–219.

of Arbitration”.⁴⁸ The Court understands that, during this time, India completed construction of the KHEP and brought it into operation, and has begun construction of the RHEP.

67. On 28 July 2023, Pakistan submitted its Amended Request for Arbitration, which, relevantly, included several amendments to reflect factual developments since 19 August 2016 and amendments to Pakistan’s previous request for interim measures and its associated request for relief.⁴⁹ Specifically, Pakistan’s Amended Request for Arbitration provided the following with respect to interim measures:

In its Request for Arbitration dated 19 August 2016, Pakistan requested interim measures (i) restraining India from proceeding further with planned diversions resulting from construction of the works that are the subject of the Disputes as well as (ii) restraining India from filling the KHEP’s reservoir below the Dead Storage Level. These interim measures were sought in circumstances in which the Indian Commissioner for Indus Waters, on 12 August 2016, had sent to his Pakistani counterpart a letter indicating India’s intent to begin filling the KHEP’s reservoir below the Dead Storage Level beginning on 14 August 2016. The World Bank’s delay in empaneling the Court, however, and its imposition of the Pause on 12 December 2016 (as detailed below in Part III.B), in breach of its ministerial obligations as a Party to the Treaty, allowed India (i) to complete construction of the KHEP and bring it into operation; and (ii) to commence construction at RHEP. These developments are described more fully below. While Pakistan reserves its right to make a further request for interim measures under paragraph 28 of Annexure G of the Treaty, if necessary, at a later stage, the highly prejudicial actions of the World Bank in imposing the Pause compel Pakistan to withdraw the interim measures request that was advanced in the Original Request for Arbitration.⁵⁰

C. THE NEUTRAL EXPERT PROCEEDINGS AND THE RHEP CONSTRUCTION SCHEDULE

68. The Court recalls the procedural history regarding the initiation of these proceedings in parallel with those of the Neutral Expert, recounted above and addressed in detail in the previous Awards issued by the Court.⁵¹ The following section outlines the significant procedural steps following the initiation of these parallel proceedings relevant to Pakistan’s Request for Interim Measures regarding India’s design and construction of the RHEP.

⁴⁸ **P-0120**, Letter from the World Bank to the Parties dated 31 March 2022, p. 1.

⁴⁹ See Award on Issues of General Interpretation, para. 35; Procedural Order No. 7 (Leave to Apply to Amend the Request for Arbitration; Schedule for Written Submissions in the First Phase on the Merits) dated 22 July 2023; Procedural Order No. 8 (Application to Amend the Request for Arbitration) dated 10 August 2023.

⁵⁰ Pakistan’s Amended Request for Arbitration, para. 12.

⁵¹ See, e.g., Award on Competence, paras. 106–111; Award on Issues of General Interpretation, paras. 220–228. See also **P-0695**, Neutral Expert Competence Decision, paras. 11–231.

69. On 25 January 2023, India's Commissioner wrote to Pakistan's Commissioner, indicating that there had been "some alterations in the design of the [RHEP] in respect of the particulars of the Paragraph 4 (e) of Appendix II to Annexure D".⁵² Specifically, India's Commissioner stated:

Therefore, in accordance with Paragraph 12 (a) of Annexure D of the Treaty, I would like to inform you that the sill levels for the intakes of Main Units have been revised as 997.45 masl in place of 1000 masl and for the Auxiliary Unit revised as 1007.94 masl in place of 1009 masl. The sizes of the gates for Main and Auxiliary intakes remain unchanged.⁵³

70. On 8 February 2023, Pakistan's Commissioner wrote to India's Commissioner expressing concerns regarding the speed at which construction of the RHEP appeared to be progressing and requested from India, "the current status of the construction works ... [and] a copy of the detailed construction schedule".⁵⁴ Pakistan's Commissioner sent further letters to India's Commissioner on 24 February and 24 March 2023, repeating his request for an updated construction schedule.⁵⁵ Pakistan has indicated that India did not respond to these letters.

71. [REDACTED]
[REDACTED]⁵⁶

72. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁵⁷ In his first Work Programme dated 1 June 2023, the Neutral Expert requested India to produce, by 5 June 2023:

documentation previously provided by India to Pakistan pursuant to paragraphs 9 and 12 of Annexure D to the Treaty, including the documents that the PCIW has requested regarding the modifications to the RHEP in its letters to India of 8 and 24 February and 24 March 2023.⁵⁸

⁵² **P-0221**, Letter from the ICIW to the PCIW dated 25 January 2023.

⁵³ **P-0221**, Letter from the ICIW to the PCIW dated 25 January 2023.

⁵⁴ **P-0222**, Letter from the PCIW to the ICIW dated 8 February 2023, para. 4.

⁵⁵ **P-0223**, Letter from the PCIW to the ICIW dated 24 February 2023; **P-0224**, Letter from the PCIW to the ICIW dated 24 March 2023.

⁵⁶ [REDACTED]

⁵⁷ [REDACTED]

⁵⁸ **P-0549**, Neutral Expert's Supplemental Rules of Procedure, dated 1 June 2023, PCA Case No. 2023-14, Annex 2 (Work Programme).

73. [REDACTED]

[REDACTED]

74. On 11 October 2023, the Neutral Expert directed India to produce certain data and information that the Neutral Expert considered relevant to the proceedings.⁶⁰

75. In June 2024, the Neutral Expert, together with the Parties, conducted a site visit to the RHEP and the KHEP.⁶¹

76. [REDACTED]

77. On 31 July 2024, India provided a tentative schedule of construction, following the request by the Neutral Expert on 10 July 2024.⁶³ [REDACTED]

[REDACTED]⁶⁴ [REDACTED]

⁵⁹ [REDACTED]

⁶⁰ **P-0789**, Neutral Expert (*Indus Waters*), Revised Work Programme dated 3 March 2026.

⁶¹ **P-0744**, Neutral Expert (*Indus Waters*), Protocol concerning the First Site Visit, dated 14 May 2024.

⁶² **P-0730**, Letter to the Parties (RHEP Construction Schedule and Effectiveness of Proceedings) (redacted) dated 11 April 2025, PCA Case No. 2023-14 (“**Effectiveness Decision**”), p. 4; [REDACTED]

⁶³ **P-0730**, Effectiveness Decision, p. 4. See also [REDACTED]

⁶⁴ [REDACTED]

67

67 [REDACTED]

79. On 18 December 2024, India wrote to the Neutral Expert, objecting to Pakistan’s Effectiveness Application, [REDACTED]
- [REDACTED]⁶⁸ [REDACTED]
- [REDACTED]⁶⁹
80. On 3 February 2025, India requested that the Neutral Expert “reject [Pakistan’s Effectiveness Application] summarily”, which India characterized as an “attempt to seek ‘undertakings’ from India, which would have the same effect as interim or provisional measures”.⁷⁰ By that letter, India also submitted an updated RHEP construction schedule (“**RHEP Construction Schedule**”),⁷¹ which [REDACTED] and identified the following seven phases of activities (further broken down into different steps): (A) Award of Works; (B) Mobilisation; (C) Diversion Works; (D) Cofferdam; (E) [Roller-Compacted Concrete (RCC)] Dam and Spillway; (F) Power Intake; and (G) Power House.⁷² Relevantly, the RHEP Construction Schedule provided the following regarding the phases for the “RCC Dam and Spillway” and the “Power Intake”:⁷³

68 [REDACTED]

69 [REDACTED]

70 **P-0730**, Effectiveness Decision, p. 3. See also [REDACTED]

71 **P-0730**, Effectiveness Decision, p. 4.

72 **P-0730**, Effectiveness Decision, p. 4. See also [REDACTED]

73 **P-0730**, Effectiveness Decision, p. 4; [REDACTED] See also **P-0726**, Neutral Expert (*Indus Waters*), Letter to the Parties (Bifurcation, Work Programme, and Publication of Decisions) (redacted), dated 18 December 2025, p. 2, fn. 4 (citing to Fourth Meeting Tr. (unrevised), Day 1, 124:20–126:7 (Mr. Mehar Ali Shah)). Mr. Shah stated to the Neutral Expert:

“[The schedule] shows India rapidly reaching a point of no return with respect to the RHEP. If this schedule has been maintained, then on 7th November 2025, India completed excavation of the bed of the Chenab Main and its surrounding banks. It is now in a position to pour the RHEP dam foundation, which is to begin on 8th December 2025, and ends on 13th December 2025. At that point in time, India can begin the process of concreting the main features of the dam body itself. On 14th December 2025 India will begin concreting up to the crest level of its current deep orifice spillway. That process is due to be completed by 31st January 2027. On 24th December 2026,

81. On 13 February 2025, Pakistan elaborated on its Effectiveness Application, requesting, among other things, that the Neutral Expert direct India to provide “a detailed and elaborated construction schedule, showing all of the critical path stages (rather than simply India’s ‘Description of Major Activities’)”, in addition to formal undertakings that India will not commence “[c]oncreting up to Crest level of orifice spillway EL 985m” of the RHEP and “will notify promptly, and at least 45 days in advance of implementation, any changes to the Revised Construction Schedule”.⁷⁴
82. On 11 April 2025, the Neutral Expert issued his decision on Pakistan’s Effectiveness Application (“**Effectiveness Decision**”).⁷⁵ In his decision, the Neutral Expert partly granted Pakistan’s request for further details of the RHEP Construction Schedule. He directed India to “submit, by Friday, 25 April 2025, an updated RHEP Construction Schedule reflecting the timelines for the

India will begin concreting up to the crest level of its current surface gated spillway. That process is due to be completed by 15th February 2027. When the crest levels are reached, India will have reached the point where the orifice and spillway structures of the RHEP will be set in concrete. Undoing its work will be difficult, expensive and potentially impossible.”

The Court notes that the Parties use the terms “sill” and “crest” interchangeably to denote the overflow level of a spillway. ICOLD, “Bulletin 31a”, A Glossary of Words and Phrases related to Dams (1982), p. 35 (denoting “sill” as “The crest of a spillway”). For the purposes of this Order, the Court adopts the term “crest”.

⁷⁴ P-0730, Effectiveness Decision, pp. 2, 6. See also [REDACTED]

⁷⁵ P-0730, Effectiveness Decision, pp. 4, 6.

procurement of spillway and intake gates” and “to continue to provide updated versions of the RHEP construction schedule on an ongoing basis and without delay as these updates are made”.⁷⁶

83. The Neutral Expert, however, denied Pakistan’s request for a direction that India is to provide a detailed RHEP construction schedule “addressing the [roller-compacted concrete (RCC)] or poured concrete construction elements” of the RHEP Construction Schedule. The Neutral Expert indicated that he “does not consider details regarding the RCC elements of Sections E and F of the RHEP Construction Schedule to be relevant to a consideration of the effectiveness of the proceedings”.⁷⁷ The Neutral Expert further rejected Pakistan’s request for a formal undertaking that India would not commence concreting works for the orifice spillway. He reasoned that the provisions of Annexure F to the Treaty do not “empower the Neutral Expert to require the undertaking as requested”.⁷⁸ The Neutral Expert relevantly observed as follows:

that RHEP construction work relating to spillway and intakes is scheduled to commence at the end of 2025 and end in the second half of 2027. At the same time, the Work Programme, as it currently stands, foresees Party submissions and a possible Fifth Meeting in 2026. Subsequent steps preceding the Neutral Expert’s final decision will then follow and the Neutral Expert’s final decision could reasonably be expected in 2027. Based on the foregoing comparison, it appears that the concreting of spillway and intakes will start and possibly be completed before the Neutral Expert’s final decision. The Neutral Expert finds it important to emphasize at this point that his determination could have implications for the design of the RHEP and that, in order to ensure the effectiveness of the decision, modifications may be required to work that has already commenced or been completed, including excavations, concrete structures, mechanical equipment and other components.⁷⁹

D. INDIA’S DECISION ON ABEYANCE AND RECENT DEVELOPMENTS

84. The Court recalls the factual and procedural background regarding India’s decision on abeyance outlined above and addressed in detail in the Supplemental Award on Competence and the Award on the Status of the Treaty.⁸⁰ The following section briefly outlines the significant developments regarding India’s decision on abeyance and its effect on the proceedings before the Neutral Expert and the proceedings of the Court, insofar as relevant to this Order.

⁷⁶ P-0730, Effectiveness Decision, pp. 4, 6.

⁷⁷ P-0730, Effectiveness Decision, pp. 4–5.

⁷⁸ P-0730, Effectiveness Decision, p. 6.

⁷⁹ P-0730, Effectiveness Decision, p. 6.

⁸⁰ See Supplemental Award on Competence, paras. 18–27; Award on the Status of the Treaty, Pt. II.A.

85. On 22 April 2025, an attack occurred in Pahalgam, located in India-administered Jammu and Kashmir, resulting in the death of 26 people and injuries to others.⁸¹
86. On 23 April 2025, the Foreign Secretary of India issued a statement on the decisions of India's Cabinet Committee on Security in response to the attack.⁸² The statement provides that "[i]n the briefing to the [Cabinet Committee on Security], the cross-border linkages of the terrorist attack were brought out" and, "recognizing the seriousness of this terrorist attack", outlines a series of measures decided upon by the Committee.⁸³ Relevantly, these measures include that "[t]he Indus Waters Treaty of 1960 will be held in abeyance with immediate effect, until Pakistan credibly and irrevocably abjures its support for cross-border terrorism".⁸⁴
87. On 26 May 2025, India wrote to the Neutral Expert, informing him that "India has taken a considered decision to keep the Treaty in abeyance" and requesting that the Neutral Expert "vacate the dates fixed for further hearing, and the time table under the existing Work Programme may be put on hold".⁸⁵
88. On 17 June 2025, following several rounds of comments between the Parties, the Neutral Expert rejected India's request to put the Neutral Expert's existing Work Programme "on hold".⁸⁶ On 28 July 2025, India wrote to the Neutral Expert, informing him that India "will not be in a position to move forward with or participate in the Neutral Expert proceedings".⁸⁷ On the same date,

⁸¹ **P-0697**, Compendium of Recent Statements, Ministry of External Affairs, Government of India, "Statement by Foreign Secretary on the decision of the Cabinet Committee on Security (CCS)" dated 23 April 2025, p. 5; see also **P-0698**, J. Curtis, Kashmir: Renewed India-Pakistan Tensions (House of Commons Library, Research Briefing No. 10264) dated 16 May 2025, pp. 7–9.

⁸² **P-0697**, Compendium of Recent Statements, Ministry of External Affairs, Government of India, "Statement by Foreign Secretary on the decision of the Cabinet Committee on Security (CCS)" dated 23 April 2025, p. 5.

⁸³ **P-0697**, Compendium of Recent Statements, Ministry of External Affairs, Government of India, "Statement by Foreign Secretary on the decision of the Cabinet Committee on Security (CCS)" dated 23 April 2025, p. 5.

⁸⁴ **P-0697**, Compendium of Recent Statements, Ministry of External Affairs, Government of India, "Statement by Foreign Secretary on the decision of the Cabinet Committee on Security (CCS)" dated 23 April 2025, p. 6.

⁸⁵ **P-0731**, Neutral Expert (*Indus Waters*), Letter to the Parties (India's Request for Suspension of Work Programme) (redacted), dated 17 June 2025.

⁸⁶ **P-0731**, Neutral Expert (*Indus Waters*), Letter to the Parties (India's Request for Suspension of Work Programme) (redacted), dated 17 June 2025.

⁸⁷ **P-0732**, Neutral Expert (*Indus Waters*), Letter to the Parties (India's Restated Request for Suspension of Work Programme) (redacted), dated 13 August 2025, p. 1. See also [REDACTED]

Pakistan responded to India's letter, requesting that the scheduled Fourth Meeting with the Neutral Expert go ahead, despite India's withdrawal.⁸⁸

89. From 17 to 21 November 2025, the Fourth Meeting of the Neutral Expert was held without India's participation. During this meeting, Pakistan made an application to the Neutral Expert that he bifurcate the proceedings, requesting him to render a partial decision on certain aspects of the differences pertaining to outlets, spillways, intakes, and freeboard at the RHEP, relative to a hypothetical Dead Storage Level, in light of the Court's Award on Issues of General Interpretation and Decision on the Request for Clarification.
90. On 15 December 2025, Pakistan wrote to the Neutral Expert, highlighting reports in the Indian press that "[c]onstruction activity [at the RHEP] had gathered momentum after the [Indian] government suspended the Indus Waters Treaty following the [Pahalgam] terror attack ... allowing India to proceed with projects on the Indus river system without objections or clearances from Pakistan".⁸⁹
91. On 18 December 2025, the Neutral Expert rejected Pakistan's application for bifurcation, ruling that "the effectiveness of the process would not be served by bifurcating the determination of the issues in the manner proposed by Pakistan, or in any other manner presently within the Neutral Expert's contemplation", and that with regard to the RHEP Construction Schedule, "the potential gain of a few months in the timetable of these proceedings would not justify the risk" of "fatally compromis[ing] the quality of the Neutral Expert's decision".⁹⁰ The Neutral Expert also considered the press reports identified by Pakistan to be "vague and somewhat contradictory".⁹¹
92. On 19 January 2026, the Neutral Expert published a Revised Work Programme, which stated that the Neutral Expert's final decision was to be circulated to the Parties by 29 January 2027.⁹²
93. On 25 May 2026, the Neutral Expert issued Terms of Reference for Modelling Specialists, and its accompanying Annex E (Scope of Work), which provides that the Modelling Specialists "confirm

⁸⁸ **P-0732**, Neutral Expert (*Indus Waters*), Letter to the Parties (India's Restated Request for Suspension of Work Programme) (redacted), 13 August 2025, p. 1. See also [REDACTED]

⁸⁹ Letter from Pakistan to the Neutral Expert, dated 15 December 2025.

⁹⁰ **P-0726**, Neutral Expert (*Indus Waters*), Letter to the Parties (Bifurcation, Work Programme, and Publication of Decisions) (redacted) dated 18 December 2025, p. 3.

⁹¹ **P-0726**, Neutral Expert (*Indus Waters*), Letter to the Parties (Bifurcation, Work Programme, and Publication of Decisions) (redacted) dated 18 December 2025, p. 4.

⁹² **P-0735**, Neutral Expert (*Indus Waters*), Revised Work Programme, dated 19 January 2026.

their availability to provide the required assistance during the following period: 15 May 2026 – 31 March 2027”.⁹³

94. On 6 July 2026, the Neutral Expert issued a further Revised Work Programme, which established that the Neutral Expert’s final decision is to be circulated to the Parties “[a]round 16 July 2027”.⁹⁴

* * *

⁹³ **P-0801**, Neutral Expert (*Indus Waters*), Terms of Reference for Modelling Specialists, including Annex E (Scope of Work), dated 25 May 2026.

⁹⁴ **P-0802**, Neutral Expert (*Indus Waters*), Revised Work Programme, dated 6 July 2026.

IV. THE ISSUES FOR DETERMINATION

95. In its Request for Interim Measures dated 4 March 2026, Pakistan sought the following interim relief from the Court:

[A]n Order from the Court directed at ensuring that India refrains from certain defined construction steps at the Ratle Hydroelectric Plant (“**RHEP**”), the effect of which, were they to be completed, would be to render otiose and materially ineffective and irrelevant an Award of the Court and/or a Decision of the Neutral Expert finding that India had not complied with the design criteria in Paragraph 8 of Annexure D of the Treaty as regards the RHEP.⁹⁵

96. In Pakistan’s Memorial, Pakistan identified the following interim measures from the Court:

With respect to its Request for Interim Measures, Pakistan requests the Court, in the form of an Order, to lay down the following Interim Measures:

- A. India shall not commence or, if already commenced, shall forthwith cease any concreting works in the RHEP dam above the foundation level of the orifice spillway in the dam.
- B. India shall not commence or, if already commenced, shall forthwith cease construction and concreting works for the intake structure above the invert level ([REDACTED]) of the bell-mouth inlet.
- C. India shall notify the Court, the Neutral Expert and Pakistan of any planned developments in relation to the RHEP construction that may have a significant adverse effect upon restoring the *status quo ante* or that may in any other way prejudice the final resolution of the dispute, *inter alia*, by undermining the ability of the Court to render an effective award and/or of the Neutral Expert to render an effective decision, or would jeopardise Pakistan’s interests under the Treaty, or would risk aggravating or extending the dispute.
- D. A clear and formal affirmation by the Court that any construction steps that India has taken or may take in respect of the RHEP have been, are, and would be taken at India’s own risk, without prejudice to the possibility that future developments may require that the works not be continued, or be modified or dismantled.
- E. A clear and formal affirmation by the Court that India’s policy of Abeyance, and its conduct pursuant thereto in disregard of the Treaty, risks prejudice to Pakistan’s interests under the Treaty that are engaged by the Parties’ dispute, and the final resolution of that dispute, and has the effect of aggravating and extending the dispute of which the Court is seised, and that India must accordingly return to full compliance with its obligations under the Treaty to ensure that the Final Award of the Court and Final Decision of the Neutral Expert is capable of being effective.⁹⁶

97. On 28 April 2026, Pakistan’s Acting Co-Agent, H.E. Mr. Syed Haider Shah, formally presented Pakistan’s Final Submissions, which outlined Pakistan’s requests to the Court with respect to the interim measures sought, as follows:

With respect to its Request for Interim Measures, Pakistan requests the Court, in the form of an Order, to lay down the following Interim Measures:

⁹⁵ Pakistan’s Request on Interim Measures, para. 1.7.

⁹⁶ Pakistan’s Memorial, para. 6.8.

- A. Until such time as the Neutral Expert renders his final decision on the question of whether the RHEP complies with the terms of Paragraph 8 of Annexure D, India shall not commence or, if already commenced, shall forthwith cease any concreting works in the RHEP dam above the foundation level of the orifice spillway in the dam, being the elevation at which reinforced concrete control structures for the spillway are introduced into the dam wall.
- B. Until such time as the Neutral Expert renders his final decision on the question of whether the RHEP complies with the terms of Paragraph 8 of Annexure D, India shall not commence or, if already commenced, shall forthwith cease construction and concreting works for the intake structure above the invert level (approximately EL 997.45 masl) of the bell-mouth inlet.
- C. Until such time as the Neutral Expert renders his final decision on the question of whether the RHEP complies with the terms of Paragraph 8 and Annexure D, India shall notify the Neutral Expert and Pakistan promptly, at the point of adoption and in advance of implementation, of any changes to the RHEP Revised Construction Schedule, or any subsequent iteration thereof to be transmitted in due course.
- D. A clear and formal affirmation by the Court that any construction steps that India has taken or may take in respect of the RHEP have been, are and would be taken at India's risk, without prejudice to the possibility that the Court may in a future award order that the works must not be continued, or must be modified or dismantled.
- E. Pending the Court's Award on Pakistan's Application for Determination of the Present Status of the Treaty, India shall return to full compliance with its obligations under the Treaty.⁹⁷

* * *

⁹⁷ Pakistan's Final Submissions, p. 1.

V. PRELIMINARY MATTERS

A. APPLICABLE LAW

98. A preliminary matter for consideration is the law to be applied by the Court of Arbitration in this Order.

99. The Treaty establishes the law to be applied by the Court when addressing the issues for determination in this Request for Interim Measures. Specifically, Paragraph 29 of Annexure G to the Treaty provides:

Except as the Parties may otherwise agree, the law to be applied by the Court shall be this Treaty and, whenever necessary for its interpretation or application, but only to the extent necessary for that purpose, the following in the order in which they are listed:

- (a) International conventions establishing rules which are expressly recognized by the Parties.
- (b) Customary international law.⁹⁸

100. As noted in the Award on Issues of General Interpretation⁹⁹ and the Supplemental Award on Maximum Pondage,¹⁰⁰ Paragraph 29 of Annexure G to the Treaty establishes a hierarchy of legal sources to be applied by a court of arbitration, which prioritizes the application of the Treaty while permitting, in order of hierarchy, recourse to international conventions and customary international law.

101. Thus, the primary source of law to be applied by the Court in this Order is the Treaty. Of particular significance for this Order is Paragraph 28 of Annexure G to the Treaty, which addresses whether and how a court of arbitration may lay down interim measures. The text of Paragraph 28 and its interpretation for these purposes, as well as the text of the related Article 17 of the Supplemental Rules of Procedure, are set forth in Part VII below.

102. While the Court may look beyond the terms of the Treaty to other sources, it may do so only when this is “necessary” for the interpretation or application of the Treaty, and then “only to the extent necessary for that purpose”. An especially pertinent source of customary international law to be

⁹⁸ PLA-0001, Treaty, Annexure G, para. 29.

⁹⁹ Award on Issues of General Interpretation, Pt. VI.

¹⁰⁰ Supplemental Award on Maximum Pondage, para. 70.

applied in this Order is the rules on the method for treaty interpretation as codified in the Vienna Convention on the Law of Treaties.¹⁰¹

B. RELEVANCE OF THE *KISHENGANGA* COURT’S ORDER ON INTERIM MEASURES

103. Another preliminary issue for consideration is the relevance for this Order of the reasoning set forth in the Order on the Interim Measures Application of Pakistan dated 6 June 2011 (“*Kishenganga Interim Measures Order*”) by the Court of Arbitration (“*Kishenganga Court*”) in the *Indus Waters Kishenganga Arbitration* proceedings (“*Kishenganga* or *Kishenganga Arbitration*”).

104. The *Kishenganga Court*’s Order imposed certain interim measures on the Parties during the pendency of those proceedings.¹⁰² Further, the Court provided reasoning within the Order regarding the interpretation of Paragraph 28 of Annexure G to the Treaty, as well as other matters.¹⁰³ When the *Kishenganga Court* issued its Partial Award in 2013, which resolved most of the matters at issue in that proceeding, the Court decided to lift those interim measures.¹⁰⁴

105. This Court’s Award on Issues of General Interpretation addressed in some depth the *res judicata* and otherwise binding effect of prior decisions of a court of arbitration upon the Parties, upon a neutral expert, and upon the same or a subsequent court of arbitration.¹⁰⁵ With respect to such effect of the award of a court of arbitration upon subsequent court of arbitration, the Court stated:

The finality of a court of arbitration’s award is also not open to question by a subsequent court of arbitration appointed in accordance with Article IX of the Treaty, including the present Court. Indeed, respect for the finality of the decisions reached by prior courts in their awards is especially important for the long-term stability and predictability of the rights and obligations of the Parties concerning their use of the waters of the Indus system of rivers.¹⁰⁶

106. While that is the effect of a prior court of arbitration’s *award*, the same is not true for a prior court of arbitration’s *order* on interim measures. Indeed, by its nature, an order on interim measures is

¹⁰¹ **PLA-0005**, Vienna Convention on the Law of Treaties, 23 May 1969, 1155 UNTS 331, Arts. 31–33. On the various elements of Articles 31–32 and their status as customary international law, including good faith interpretation of the terms in their context and in light of the treaty’s object and purpose, together with the subsequent practice of the parties in the application of the treaty, other relevant rules of international law applicable in the relations between the parties, and supplementary means of interpretation (including the *travaux préparatoires*), see Award on Issues of General Interpretation, paras. 270–272.

¹⁰² **PLA-0042**, *Kishenganga Interim Measures Order*, Pt. V.

¹⁰³ **PLA-0042**, *Kishenganga Interim Measures Order*, paras. 121–151.

¹⁰⁴ **PLA-0003**, *Kishenganga Partial Award*, Pt. V(E).

¹⁰⁵ Award on Issues of General Interpretation, paras. 304–362.

¹⁰⁶ Award on Issues of General Interpretation, para. 360.

temporary; it is designed to bind the Parties to certain measures for only a particular period of time and no later than the issuance of a final award. Consequently, in the Award on Issues of General Interpretation, the Court also concluded that an interim measures order does not have the same *res judicata* effect as an award:

While such an order is binding upon the Parties, it does not attract the same *res judicata* effect as an award; such an order is expected to be overtaken, in due course, by an award of the court. Paragraph 28 of Annexure G says that a court of arbitration, when requested by a Party, may “lay down, pending its Award, such interim measures”. The court, after hearing the Parties, may issue a binding order to that effect, but “only for such period as, in its opinion, will be necessary to render the Award”, and in doing so, “the specification of such interim measures shall not be construed as an indication of any view of the Court on the merits of the dispute”. Thus, by its nature, any such order remains binding upon the Parties only on an interim basis; there is no long-term effect of the kind that exists with respect to an award. Moreover, the underlying basis for issuance of the order has no consequential binding or otherwise controlling effect with respect to the award on the merits.¹⁰⁷

107. Therefore, for purposes of this order of the Court, the *Kishenganga* Court’s interim measures order has no *res judicata* or otherwise binding effect. At the same time, there is no bar to the Court taking note of the *Kishenganga* Court’s reasoning in its interim measures order, which can provide persuasive insight for this Court when interpreting the Treaty, including Paragraph 28 of Annexure G. Indeed, given that a court of arbitration may refer to international jurisprudence not arising from the Treaty to explain its reasoning when interpreting or applying the Treaty,¹⁰⁸ even more so may such reference be made to reasoning found in an earlier court’s interim order that is expressly focused on the Treaty, even if not binding upon this Court.

C. STEPS TAKEN TO ENSURE CONFIDENTIALITY OF 28 NEUTRAL EXPERT DOCUMENTS

108. Following the submission of the Pondage Logbooks and the NE PIMTS Documents (together, the “**NE Documents**”) into these proceedings,¹⁰⁹ the Court has taken steps to ensure that those documents are subject to strict confidentiality and treated consistently with the confidentiality arrangements applicable in the Neutral Expert Proceedings. Specifically, the Neutral Expert has established a rule governing the transparency and confidentiality of the Neutral Expert Proceedings, which provides that certain information is to be public, other information is to be confidential, and the treatment of confidential information is subject to the direction of the Neutral Expert. Rule 14 of his Supplementary Rules of Procedure provides:

¹⁰⁷ Award on Issues of General Interpretation, para. 354.

¹⁰⁸ Award on Issues of General Interpretation, para. 275.

¹⁰⁹ See paras. 42–44, *supra*.

TRANSPARENCY AND CONFIDENTIALITY

- 14.1 The appointment of the Neutral Expert and the existence of these Neutral Expert proceedings are matters already in the public domain. Accordingly, the Registry shall identify on its website the names of the Parties, the Neutral Expert, and the designated (authorized) representatives, representatives and counsel for the Parties. The Parties will have an opportunity to review the content of any website relating to these proceedings prior to publication by the Registry.
- 14.2 These Rules and procedural and substantive decisions of the Neutral Expert shall be made publicly available, including on the website of the Registry.
- 14.3 Unless the Neutral Expert directs otherwise after ascertaining the views of the Parties, the Parties, the Neutral Expert, the Registry and any assistants engaged by the Neutral Expert shall maintain strict confidentiality in respect of all other aspects of the proceedings.¹¹⁰

109. In light of this decision, the Court has taken specific measures to ensure that the NE Documents are treated consistently with the confidentiality arrangements applicable in the Neutral Expert Proceedings. *First*, the Court notes that it has not permitted the unrestricted introduction of documents from the Neutral Expert Proceedings into these proceedings, and has instead only permitted those documents that appear to be relevant and material to the matters before the Court.¹¹¹ The Court also declined to consider requests for the production of documents relating to a potential future phase of these proceedings, so as to limit the scope of documents to be disclosed to those relevant and material to the Court's determinations for phases that the Court has decided to commence.¹¹²
110. *Second*, the Court sought to preserve the role of the Neutral Expert in relation to any materials subject to the confidentiality regime of the Neutral Expert Proceedings. Specifically, the Court contemplated that Pakistan would first apply to the Neutral Expert for disclosure of the documents into these proceedings, and that the Neutral Expert could determine whether the documents fell within the relevant categories, whether any further contextual documents should also be disclosed, and whether any reduction in the scope of disclosure was appropriate.¹¹³
111. *Third*, with regard to the NE Documents introduced into these proceedings, the Court determined in Procedural Order No. 20 (Submission of Pondage Logbooks from the Neutral Expert Proceedings) and Procedural Order No. 22 (Request by Pakistan for Directions Regarding the

¹¹⁰ Supplemental Rules of Procedure in the Neutral Expert Proceedings under the Indus Waters Treaty 1960 in Respect of the Ratle and Kishenganga Hydroelectric Plants, *Indus Waters Treaty Neutral Expert Proceedings (India v. Pakistan)*, 1 June 2023, Rule 14.

¹¹¹ Procedural Order No. 22, paras. 64–66.

¹¹² Procedural Order No. 19, para. 53.

¹¹³ Procedural Order No. 22, paras. 56–63.

Disclosure of Certain Documents from the Neutral Expert Proceedings) that the documents from the proceedings of the Neutral Expert shall be kept confidential in the present proceedings, and the Court and the Parties shall refrain from making them public, except to the extent that disclosure is required of a Party by legal duty, to protect or pursue a legal right, or in relation to legal proceedings before a court or other competent authority.

112. In light of the need to maintain the confidentiality of the NE Documents introduced into the proceedings, the Court addressed the issue of the publication of Pakistan's submissions in the Phase on Interim Measures and Treaty Status at the case management conference on 28 April 2026, and further invited the Parties to provide their written comments on this issue. Furthermore, on issuing the Supplemental Award on Maximum Pondage, the Court similarly invited the Parties to indicate any redactions they considered appropriate prior to the publication of the Award, bearing in mind that the Supplemental Award addressed certain materials that were introduced into these proceedings from the Neutral Expert Proceedings. The Court thereafter published the Supplemental Award on Maximum Pondage subject to certain redactions, which the Court indicated it will review prior to the close of these proceedings, and after consultation with the Parties.¹¹⁴
113. The Court will follow the same approach with respect to redactions to this Order.

D. STEPS TAKEN TO ENSURE PROCEDURAL FAIRNESS TO BOTH PARTIES

114. Despite its non-participation, India is a Party to these proceedings and has given standing consent in the Treaty to be bound by its terms, including its dispute resolution provisions, and consequently any awards and orders rendered by the Court. The Court at all times has proceeded on an assumption that the possibility of India's participation in these proceedings in due course should be preserved, while also bearing in mind the need to ensure due process in these proceedings.
115. The Court has therefore sought to conduct the arbitration in such a manner that ensures that the Parties are treated with equality and that at each stage of the proceedings each Party is given a full opportunity to be heard and to present its case.¹¹⁵ To this end, the Court has ensured that all communications, procedural orders, submissions, evidence, transcripts, and other materials have been made available to both Parties, including through electronic means and an online repository,

¹¹⁴ See paras. 30–32, *supra*.

¹¹⁵ Supplemental Rules of Procedure, Art. 10(1).

and have been promptly delivered, both electronically and physically, to representatives of India.¹¹⁶ India has been afforded the same opportunities as Pakistan to submit written submissions and comment on draft procedural orders, applications, proposed procedural steps, hearing and site-visit arrangements, and other matters arising in the proceedings. The Court has also provided timely notice of all meetings, hearings, and procedural steps, extended the time for India to exercise its right to appoint arbitrators, and repeatedly confirmed that India may participate in the proceedings.¹¹⁷

116. While India is not participating in this arbitration, in assessing the merits of the positions of the Parties, the Court has also sought to take into account India's positions to the extent they are discernible from the statements and conduct of India available to the Court. India previously has stated its positions in relation to the issues before the Court in various fora, including Indian government communications to Pakistan, to the Commission, to the Neutral Expert, and to the World Bank, and in Indian government official statements. Throughout the proceedings, the Court has drawn upon India's statements and conduct to comprehend its positions on the issues for determination, in accordance with the Court's standing duty to satisfy itself that Pakistan's claims are well founded in fact and law.¹¹⁸
117. While seeking to ensure that the possibility of India's participation in these proceedings is preserved, the Court has further sought to conduct the arbitration in a way that avoids unnecessary delay and expense, and that provides a fair and efficient process for resolving the Parties' disputes.¹¹⁹ On that basis, the Court determined that it would conduct these proceedings in a phased manner, bearing in mind the status of, and developments concerning, the proceedings taking place before the Neutral Expert.¹²⁰ In particular, the Court conducted the Second Phase on the Merits in an expedited manner, at the request of Pakistan, to avoid possible conflict between the Court and the Neutral Expert with respect to the same or related matters. The Court further conducted the Phase on Interim Measures and Treaty Status in an expedited manner, cognizant of the need to ensure the effectiveness of any decision bearing on the Parties' rights and obligations under the Treaty.

¹¹⁶ **PLA-0001**, Treaty, Annexure G, para. 18; Supplemental Rules of Procedure, Art. 5.4.

¹¹⁷ Award on Issues of General Interpretation, para. 241.

¹¹⁸ Supplemental Rules of Procedure, Art. 25(2).

¹¹⁹ Supplemental Rules of Procedure, Art. 10(2).

¹²⁰ Procedural Order No. 6, para. 34.

VI. THE PARTIES' POSITIONS

A. PAKISTAN'S POSITION

118. Pakistan requests that the Court grant five specific interim measures, pursuant to Paragraph 28 of Annexure G of the Treaty and Article 17 of the Supplemental Rules of Procedure, in order to safeguard its interests under the Treaty, avoid prejudice to the final resolution of the dispute, and prevent the aggravation or extension of the dispute.¹²¹

1. The Court's Power to Grant Interim Measures and the Requirements for Issuing Interim Measures

119. Pakistan submits that the Court is competent to grant interim measures pursuant to Paragraph 28 of Annexure G of the Treaty, as reflected in Article 17 of the Supplemental Rules of Procedure.¹²² In support of its position, Pakistan relies on the *Kishenganga* Court's reasoning and interpretation of Paragraph 28 of Annexure G in its Order on Interim Measures.¹²³ In this regard, Pakistan maintains that Paragraph 28 of Annexure G operates as a "*lex specialis*" for ordering interim relief under the Treaty, such that "a Party seeking interim relief under Paragraph 28 need not meet any requirements beyond those referred to or implicit in Paragraph 28 itself".¹²⁴

120. Pakistan submits that, notwithstanding the text of Paragraph 28 of Annexure G, "a Party's capacity to request interim relief from a Court of Arbitration [is] not temporally limited to the first meeting of that Court, but can be requested 'at any point' during the proceedings".¹²⁵ Rather, Pakistan argues that the "touchstone for interim relief under Paragraph 28 is whether such relief is necessary",¹²⁶ defined by reference to "an action [that] is required, needed or essential for a particular purpose".¹²⁷ In considering whether such measures meet the threshold of "necessary",

¹²¹ Pakistan's Memorial, para. 3.3.

¹²² Pakistan's Memorial, para. 3.3.

¹²³ Pakistan's Memorial, para. 3.6, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 130, 138; Supplemental Rules of Procedure, Art. 17.

¹²⁴ Pakistan's Memorial, para. 3.7, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, para. 50. Specifically, Pakistan considers that it does need to satisfy the test for interim relief adopted by other international courts and tribunals, because the "entirety of the applicable law on this question is contained within Paragraph 28 itself": see Pakistan's Memorial, para. 3.7, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, para. 130; **PLA-0152**, Statute of the International Court of Justice, Art. 41(1). See also Tr., Day 1, 26 April 2026, p. 153:7–18.

¹²⁵ Pakistan's Memorial, para. 3.8, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, para. 132. See also Tr., Day 1, 26 April 2026, p. 153:19–25.

¹²⁶ Tr., Day 1, 26 April 2026, p. 154:1–7.

¹²⁷ Pakistan's Memorial, para. 3.10, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, para. 50.

a court of arbitration must evaluate both the general and the specific requirements of “necessity”.¹²⁸

121. *First*, Pakistan submits that the general requirements of necessity include: (i) the provisional assessment of the competence of the court of arbitration; and (ii) an assessment of the plausibility of the claims made by the party seeking provisional measures.¹²⁹ In this regard, Pakistan considers that interim relief cannot be “necessary” if “it is apparent to the court at an early stage that it is unlikely to have jurisdiction [over the dispute of which it has been seized] or that the applicant has failed to present a plausible case on the merits”.¹³⁰
122. With respect to jurisdiction, Pakistan submits that the court of arbitration “must be satisfied, on a strictly preliminary basis, that it has competence over the dispute of which it is seised in the sense that there is no obvious impediment to the exercise of its jurisdiction”.¹³¹ In Pakistan’s view, such determination will be self-evident in circumstances where the court of arbitration has already issued a judgment or award affirming its competence.¹³²
123. With respect to plausibility, Pakistan contends that this requirement will be satisfied where the party seeking provisional measures “present[s] a plausible, provisionally tenable argument under the Treaty in support of its case” as a matter of fact and law.¹³³ In Pakistan’s view, therefore, the plausibility test laid out by the *Kishenganga* Court sets “an extremely low bar for the party seeking interim relief”, which falls “beneath even that required for a *prima facie* determination”.¹³⁴
124. *Second*, Pakistan contends that, beyond the general necessity requirements of competence and plausibility, Paragraph 28 of Annexure G requires consideration of the specific requirements of

¹²⁸ Pakistan’s Memorial, para. 3.27.

¹²⁹ Pakistan’s Memorial, para. 3.28.

¹³⁰ Pakistan’s Memorial, para. 3.15, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 133–135.

¹³¹ Pakistan’s Memorial, para. 3.16, referring to **PLA-0153**, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Provisional Measures, Order of 23 January 2020, 2020 ICJ Rep. 3, paras. 39–42. See also Tr., Day 1, 26 April 2026, p. 155:15–22.

¹³² Pakistan’s Memorial, para. 3.16, referring to **PLA-0157**, *Arbitral Award of 3 October 1899 (Guyana v. Venezuela)*, Provisional Measures, Order, 2023 ICJ Rep. 655, paras. 17–18.

¹³³ Pakistan’s Memorial, para. 3.18, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, para. 140. See also Tr., Day 1, 26 April 2026, p. 155:22–24.

¹³⁴ Pakistan’s Memorial, para. 3.18, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, para. 135, fn. 210 (“Indeed, some jurisdictions would require the determination of something more than a plausible case, such as a *prima facie* determination that the case is meritorious”).

necessity.¹³⁵ In Pakistan’s view, “the Court is empowered—and indeed appears to be obliged”—to order measures if it concludes that interim relief is “necessary” to realize any one of the following three purposes: (a) to safeguard the interests of the requesting Party with respect to the matter in dispute; (b) to avoid prejudice to the final resolution of the dispute; or (c) to avoid aggravation or extension of the dispute.¹³⁶

125. Pakistan submits that, according to the *Kishenganga* Court, the focus of each purpose is different, with Purpose A situating the Parties’ interests as the central consideration; Purpose B being “conceived in even broader terms” in order to “avoid potential prejudice to the final outcome of the arbitration”; and Purpose C requiring a demonstration of the likelihood of aggravation or extension of the dispute.¹³⁷ Specifically, Pakistan emphasizes that Purpose B is intended to prevent a “*fait accompli* that compromises the liberty of the Court of Arbitration to render its Award in the manner it considers to be legally warranted, or the Parties’ ability to implement such award without prohibitive delays or costs”.¹³⁸
126. Finally, Pakistan argues that the *Kishenganga* Court recognized and gave independent force to the “proceed at own risk principle”, which posits that a “State engaged in works that may violate the rights of another State can proceed only at its own risk”.¹³⁹ Pakistan’s position is that this “principle” forms part of the fabric of Paragraph 28 of Annexure G to the Treaty, having been affirmed by Pakistan, India, and the *Kishenganga* Court and, as a result, it is within the Court’s power to issue interim measures related to this “principle”.¹⁴⁰

¹³⁵ Pakistan’s Memorial, para. 3.37.

¹³⁶ Pakistan’s Memorial, para. 3.11, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 131–132.

¹³⁷ Pakistan’s Memorial, para. 3.13, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 133–134. See also Tr., Day 1, 26 April 2026, pp. 154:14–155:5.

¹³⁸ Pakistan’s Memorial, para. 3.14, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 133–139.

¹³⁹ Pakistan’s Memorial, paras. 3.21, 3.25–3.26, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 32, 143. See also Pakistan’s Memorial, paras. 3.21–3.24, referring to **PLA-0161**, *Passage through the Great Belt (Finland v. Denmark)*, Provisional Measures, Order, 1991 ICJ Rep. 12, paras. 31–33; **PLA-0163**, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Provisional Measures, Order, 2006 ICJ Rep. 113, para. 78. See also Tr., Day 1, 26 April 2026, pp. 156:7–160:2.

¹⁴⁰ Pakistan’s Memorial, para. 3.72, referring to **P-0730**, Effectiveness Decision, p. 6. See also Pakistan’s Memorial, para. 3.26, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 32, 122, 143.

2. Application of the Requirements for Issuing Interim Measures

127. Applying the principles outlined above, Pakistan *first* addresses the general requirements of necessity under Paragraph 28 of Annexure G, and *second*, considers the specific requirements of necessity, addressing why each of Pakistan’s requested measures is necessary to secure one or more of the qualifying purposes laid out in Paragraph 28 of Annexure G of the Treaty and Article 17 of the Supplemental Rules of Procedure.¹⁴¹

(a) General Requirements of Necessity

128. Pakistan’s position, in assessing the general requirements of necessity, is that: (i) the Court is competent to issue interim measures; and (ii) “the Treaty-systemic and Plant-specific elements of Pakistan’s claim are plausible”.¹⁴²

129. *First*, Pakistan submits that “there can be no contention of any impediment to its competence, or jurisdiction, to lay down interim measures”.¹⁴³ This is because the Court has already confirmed its own competence over both the Treaty-systemic and the Plant-specific elements of the dispute, including in its Award on Competence and its Supplemental Award on Competence.¹⁴⁴ This, Pakistan maintains, is “self-evidently sufficient to meet the preliminary threshold of competence”.¹⁴⁵

130. *Second*, Pakistan contends that there can be no doubt that both the Treaty-systemic and Plant-specific elements of Pakistan’s claim are plausible, in the sense identified by the *Kishenganga* Court.¹⁴⁶ Pakistan emphasizes that the threshold is low and will be readily established if the Court “cannot exclude the possibility that India’s planned installations, or elements of those installations [i.e., the RHEP] would not be in conformity with the Treaty”.¹⁴⁷ In this regard, Pakistan states

¹⁴¹ Pakistan’s Memorial, para. 3.27.

¹⁴² Pakistan’s Memorial, paras. 3.28–3.26.

¹⁴³ Pakistan’s Memorial, para. 3.29.

¹⁴⁴ Pakistan’s Memorial, paras. 3.17, 3.29, *referring to* Award on Competence, para. 318. See also **PLA-0157**, *Arbitral Award of 3 October 1899 (Guyana v. Venezuela)*, Provisional Measures, Order, 2023 ICJ Rep. 655, paras. 17–18.

¹⁴⁵ Pakistan’s Memorial, paras. 3.17, 3.29, *referring to* Award on Competence, para. 318. See also **PLA-0157**, *Arbitral Award of 3 October 1899 (Guyana v. Venezuela)*, Provisional Measures, Order, 2023 ICJ Rep. 655, paras. 17–18. See also Tr., Day 1, 26 April 2026, p. 167:11–22.

¹⁴⁶ Pakistan’s Memorial, para. 3.30; Tr., Day 1, 26 April 2026, pp. 170:13–177:25.

¹⁴⁷ Pakistan’s Memorial, para. 3.30, *referring to* **PLA-0042**, *Kishenganga* Interim Measures Order, para. 140.

that it is “more than just plausible” that the RHEP, as designed by India, is contrary to the relevant provisions of Annexure D to the Treaty.¹⁴⁸ Specifically, Pakistan submits:

- (1) Pursuant to Paragraph 8(a) of Annexure D, the initial design of the RHEP includes a two-meter freeboard between the crest of the RHEP dam and the Full Pondage Level, which Pakistan considers “excessive” and contrary to Paragraph 8(a).¹⁴⁹ Pakistan emphasizes that, while India has sought to justify this freeboard height by referencing the need to protect spillway bridge girders from wave splashes and ensure bearings are not submerged below the Full Pondage Level,¹⁵⁰ the Court indicated in its Award on Issues of General Interpretation that freeboard can be fixed only by reference to the need to prevent overtopping and provide for Surcharge Storage.¹⁵¹ Pakistan concludes that it is therefore plausible that the RHEP as designed is contrary to Paragraph 8(a) of Annexure D.¹⁵²
- (2) Pursuant to Paragraph 8(c) of Annexure D, the initial design of the RHEP includes an Operating Pool of the RHEP with a volume of 23.86 million cubic meters (“MCM”), which Pakistan submits was calculated by India in accordance with the RHEP’s maximum operational limits under the applicable provision of Paragraph 15.¹⁵³ Pakistan argues that this methodology for calculating Pondage is contrary to the Award on Issues of General Interpretation, in which the Court found that Paragraph 15 acts as a limit on the calculation of Pondage and does not accordingly give India any such entitlement.¹⁵⁴ Therefore, Pakistan submits that it is plausible that the RHEP as designed is contrary to Paragraph 8(c) of Annexure D and that, as a result, the Dead Storage Level is situated too

¹⁴⁸ Pakistan’s Memorial, paras. 3.32–3.36.

¹⁴⁹ Pakistan’s Memorial, para. 3.33, *referring to* Award on Issues of General Interpretation of the Indus Waters Treaty, para. 774. See also Tr., Day 1, 26 April 2026, pp. 171:15–174:7.

¹⁵⁰ Pakistan’s Memorial, para. 3.33, *referring to* **P-0083**, Record of the 109th Meeting of the Permanent Indus Commission, 22 to 25 September 2013, paras. 39–40; **P-0024**, Record of the 110th Meeting of the Permanent Indus Commission, 23 to 27 August 2014, para. 26.

¹⁵¹ Pakistan’s Memorial, para. 3.33, *referring to* Award on Issues of General Interpretation of the Indus Waters Treaty, para. 774.

¹⁵² Pakistan’s Memorial, para. 3.33.

¹⁵³ Pakistan’s Memorial, para. 3.34, *referring to* **P-0077**, Letter No. 3/5/2007-IT/1947 (with enclosures) dated 16 August 2012, Annex VII; **P-0082**, Letter No. 3/5/1007-IT/2043 (with enclosures) dated 11 September 2013, para. 9. See also Tr., Day 1, 26 April 2026, pp. 174:8–175:21.

¹⁵⁴ Pakistan’s Memorial, para. 3.34, *referring to* Award on Issues of General Interpretation of the Indus Waters Treaty, *dispositif*, para. O(2)(iii).

low in the RHEP reservoir, affecting the placement of the RHEP spillway and intake structure.¹⁵⁵

- (3) Pursuant to Paragraph 8(d) of Annexure D, the initial design of the RHEP includes a deep orifice spillway with the gate crests located at EL 985 masl, which Pakistan submits is based on India's view that "[n]either the Treaty nor the [*Kishenganga*] Court has imposed any restriction on the placement of orifice[s]", and India's intention to use the RHEP's spillway to engage in drawdown flushing.¹⁵⁶ Pakistan maintains that India's position is contrary to the *Kishenganga* Court's Partial Award, as well as the Court's Award on Issues of General Interpretation, which imposed a "significant threshold prohibition" on outlets below the Dead Storage Level and strongly implies that "given that a low-level outlet cannot be used for drawdown flushing, the dam cannot be designed to have an outlet for such a purpose".¹⁵⁷ Pakistan contends it is therefore plausible that the RHEP spillway is inconsistent with India's obligations under Paragraph 8(d) of Annexure D.¹⁵⁸
- (4) Pursuant to Paragraph 8(f) of Annexure D, the initial design for the RHEP incorporated an intake structure deep in its reservoir, comprising four intakes with their invert located at EL 1000 masl, which Pakistan submits does not include any design innovations that may justify its placement higher in the reservoir.¹⁵⁹ Pakistan maintains that the Court found in its Award on Issues of General Interpretation that "India should give preference to a shallow intake, unless it would be unsuitable or wasteful of resources for the HEP's construction" and that "[t]o the extent that the height of the intake ... can be raised by incorporating features such as a skimming wall ... Paragraph 8(f) favors the inclusion of such features".¹⁶⁰ Pakistan therefore submits that it is plausible that the RHEP intake structure—which unduly incorporates a deep reservoir intake structure without a

¹⁵⁵ Pakistan's Memorial, para. 3.34.

¹⁵⁶ Pakistan's Memorial, para. 3.35, *referring to* **P-0025**, Record of the 111th Meeting of the Permanent Indus Commission, 31 January to 4 February 2015, para. 33; **P-0695**, Neutral Expert Competence Decision, 7 January 2025, para. 386. See also Tr., Day 1, 26 April 2026, pp. 175:22–176:19.

¹⁵⁷ Pakistan's Memorial, para. 3.35, *referring to* Award on Issues of General Interpretation of the Indus Waters Treaty, paras. 562–566.

¹⁵⁸ Pakistan's Memorial, para. 3.35.

¹⁵⁹ Pakistan's Memorial, para. 3.36, *referring to* **P-0077**, Letter No. 3/5/2007-IT/1947 (with enclosures) dated 16 August 2012, p. 4, item 4(e); **P-0221**, Letter from the ICIW to the PCIW dated 25 January 2023; [REDACTED] See also Tr., Day 1, 26 April 2026, pp. 176:20–177:16.

¹⁶⁰ Pakistan's Memorial, para. 3.36, *referring to* Award on Issues of General Interpretation of the Indus Waters Treaty, paras. 599, 603–604.

skimming wall or other technical feature allowing it to be raised—is inconsistent with Paragraph 8(f) of Annexure D.¹⁶¹

131. On the basis of the foregoing, Pakistan posits that all five of its below requested interim measures are necessary to secure one or more of the qualifying purposes laid out in Paragraph 28 of Annexure G of the Treaty and Article 17 of the Supplemental Rules of Procedure.¹⁶²

(b) *Specific Requirements of Necessity*

132. Pakistan submits that five requested interim measures are required to safeguard its interests, avoid prejudice to the final resolution of the dispute, and/or prevent the aggravation or extension of the dispute.¹⁶³ As a preliminary matter, Pakistan submits that, when conducting its analysis, the Court should simultaneously consider any potential prejudice to the Neutral Expert from India’s present conduct.¹⁶⁴ This is because the Neutral Expert’s determinations of specific differences regarding the KHEP and the RHEP are likely to be a fundamental component of the resolution of the wider dispute of which the Court is seized, bearing in mind the phased manner in which the Court has determined to conduct its proceedings.¹⁶⁵ Pakistan therefore argues that “where there is prejudice to the Neutral Expert proceedings, that same prejudice will *ipso facto* affect proceedings before the Court, especially where the Neutral Expert is hindered in the effective Plant-specific application of the Court’s interpretative directions”.¹⁶⁶

(i) *Measure A*

133. Under Measure A, Pakistan requests the Court to make, and keep in place for the duration of these proceedings, an order that:

Until such time as the Neutral Expert renders his final decision on the question of whether the RHEP complies with the terms of Paragraph 8 of Annexure D, India shall not commence or, if already commenced, shall forthwith cease any concreting works in the RHEP dam above

¹⁶¹ Pakistan’s Memorial, para. 3.36, *referring to* Award on Issues of General Interpretation of the Indus Waters Treaty, para. 599.

¹⁶² Pakistan’s Memorial, para. 3.37; Tr., Day 1, 26 April 2026, p. 177:17–25.

¹⁶³ Pakistan’s Memorial, para. 3.37.

¹⁶⁴ Pakistan’s Memorial, paras. 3.38–3.44.

¹⁶⁵ Pakistan’s Memorial, paras. 3.43–3.44, *referring to* Procedural Order No. 6, paras. 26, 32; Award on Issues of General Interpretation of the Indus Waters Treaty, para. 396.

¹⁶⁶ Pakistan’s Memorial, para. 3.44.

the foundation level of the orifice spillway in the dam, being the elevation at which reinforced concrete control structures for the spillway are introduced into the dam wall.¹⁶⁷

134. Pakistan submits that Measure A is necessary to realize Purposes A, B, and C of Paragraph 28 of Annexure G of the Treaty.¹⁶⁸
135. *First*, Pakistan argues that, at this stage of the proceedings, the Court cannot rule out the possibility that modifications to the RHEP dam design may be required to ensure compliance with Paragraph 8 of the Treaty.¹⁶⁹ In this regard, Pakistan reiterates that “it is more than just plausible that if India were to construct the RHEP dam as designed, it would contain several features that likely violate Paragraphs 8(a), (c), and (d) of Annexure D”, in light of the Court’s determinations in the Award on Issues of General Interpretation.¹⁷⁰
136. *Second*, Pakistan submits that significant elements of its Plant-specific claim with respect to the RHEP go directly to construction elements of the RHEP dam.¹⁷¹ Pakistan contends that construction of the RHEP “beyond what are effectively key points of no return would therefore fundamentally impact each of the Purposes indicated in Paragraph 28 of Annexure G for which interim measures would be warranted”.¹⁷² Specifically, in Pakistan’s view, if any concreting works are commenced in the RHEP dam above the foundation level of the orifice spillway in the dam, it will be very challenging—if not impossible—to remove, and thus would create a *fait accompli* that will prejudice the ability of the Parties to make modifications to the RHEP dam following any later decision or award that may be rendered by the Court or the Neutral Expert.¹⁷³
137. *Third*, Pakistan states that, according to the RHEP Construction Schedule, construction of the identified elements of the RHEP dam will be “significantly advanced (if not complete) before the Neutral Expert can render his Final Decision—and certainly before the Court has the chance to consider that Decision”.¹⁷⁴ In light of this, Pakistan asserts that Measure A is necessary to

¹⁶⁷ Pakistan’s Final Submissions, p. 1; Pakistan’s Memorial, para. 3.46.

¹⁶⁸ Pakistan’s Memorial, para. 3.47.

¹⁶⁹ Pakistan’s Memorial, para. 3.51(c). See also Pakistan’s Memorial, paras. 3.49(b)–(c), *referring to PLA-0042, Kishenganga Interim Measures Order*, paras. 147–148; Tr., Day 1, 26 April 2026, pp. 195:16–197:12.

¹⁷⁰ Pakistan’s Memorial, para. 3.51(c); Tr., Day 1, 26 April 2026, pp. 188:3–189:8.

¹⁷¹ Pakistan’s Memorial, para. 3.51(b).

¹⁷² Pakistan’s Memorial, para. 3.51(b); Tr., Day 1, 26 April 2026, pp. 189:9–191:9.

¹⁷³ Pakistan’s Memorial, paras. 3.47, 3.52.

¹⁷⁴ Pakistan’s Memorial, paras. 3.51(d)–(e). See also Pakistan’s Memorial, para. 3.49(d), *referring to PLA-0042, Kishenganga Interim Measures Order*, paras. 147–148.

safeguard Pakistan's interests under the Treaty, avoid prejudice to the final resolution of the dispute, and avoid further aggravation and extension of the dispute.¹⁷⁵

138. In particularizing its request, Pakistan has identified the “foundation level of the orifice spillway” as “the elevation at which reinforced concrete control structures for the spillway are introduced into the dam wall”, beyond which India should be enjoined from undertaking concreting works under Measure A.¹⁷⁶ While Pakistan does not specify a specific elevation figure in its request (which Pakistan considers could be subject to change by India), Pakistan submits that the foundation level for a spillway is usually five to six meters below the crest level for a spillway, being the location for the lowest permanent outlet in the dam wall.¹⁷⁷
139. In framing its request, Pakistan further clarifies that it is not seeking “a total halt to RHEP construction”.¹⁷⁸ Rather, according to Pakistan, it only seeks to restrict construction with respect to the aspects of the RHEP dam that “(i) are contested by Pakistan as part of its claim, and (ii) the completion of which would effectively prejudice a resolution of the dispute in the event that the Neutral Expert ... were to determine that India's RHEP design does not comport with the design criteria of Annexure D, Part 3 of the Treaty”.¹⁷⁹ Under Measure A, India would retain the liberty to continue with, at its own risk, any construction work that is not disputed, such as the excavation and concreting of the powerhouse and tailrace, and the installation of the primary and auxiliary turbine units.¹⁸⁰

(ii) *Measure B*

140. By its requested Measure B, Pakistan requests the Court to order:

Until such time as the Neutral Expert renders his final decision on the question of whether the RHEP complies with the terms of Paragraph 8 of Annexure D, India shall not commence or, if already commenced, shall forthwith cease construction and concreting works for the intake structure above the invert level (approximately EL 997.45 masl) of the bell-mouth inlet.¹⁸¹

¹⁷⁵ Pakistan's Memorial, para. 3.52; Tr., Day 1, 26 April 2026, pp. 195:16–197:12.

¹⁷⁶ Pakistan's Memorial, para. 3.54.

¹⁷⁷ Pakistan's Memorial, para. 3.54 (“According to India's design for the RHEP, the crest level for the orifice spillway is at EL 985 masl. The foundation level for the orifice spillway will therefore be at or around EL 980 masl”), *referring to P-0077*, Letter No. 3/5/2007-IT/1947 (with enclosures) dated 16 August 2012, p. 3.

¹⁷⁸ Pakistan's Memorial, para. 3.53.

¹⁷⁹ Pakistan's Memorial, para. 3.53.

¹⁸⁰ Pakistan's Memorial, para. 3.53.

¹⁸¹ Pakistan's Final Submissions, p. 1; Pakistan's Memorial, para. 3.46.

141. In framing its request, Pakistan asserts that this measure is similar in character and function to Measure A, but has been requested separately because the RHEP's intake structure is located adjacent to the RHEP dam and as a result, is outside the scope of Measure A.¹⁸²
142. Pakistan asserts that Measure B is similarly necessary to realize Purposes A, B, and C of Paragraph 28 of Annexure G of the Treaty.¹⁸³
143. *First*, Pakistan submits that the Court cannot at this point rule out the possibility that modification to the RHEP intake structure may be required pursuant to Paragraph 8(f) of Annexure D if the RHEP is to be Treaty-compliant.¹⁸⁴ In this regard, Pakistan notes that "it is more than just plausible that if India were to construct the RHEP intake structure as designed, this would violate Paragraph 8(f) of Annexure D", given the Court's determinations in the Award on Issues of General Interpretation.¹⁸⁵
144. *Second*, Pakistan contends that Measure B "has the object of directly addressing the challenges contemplated by Paragraph 28" of Annexure G, as "[c]onstruction of the intake structure beyond what would effectively be a point of no return would fundamentally impact each of the Purposes indicated in Paragraph 28 of Annexure G for which interim measures would be warranted".¹⁸⁶ In this regard, Pakistan asserts that if India were to construct the RHEP intake structure as designed, "it will be extremely challenging (if not virtually impossible) to modify *ex post facto*" and as a result, would severely restrict the Court's ability to provide a remedy capable of restoring Pakistan to the *status quo ante*.¹⁸⁷
145. *Third*, Pakistan emphasizes that, according to the RHEP Construction Schedule, the construction of the RHEP intake above the level of its invert, "the applicable point of no return", will commence on 1 September 2026, before the Neutral Expert will have made a ruling on its compliance with the Treaty and before the Court will have the chance to consider that decision.¹⁸⁸ In light of this, Pakistan asserts that granting this interim measure is necessary to safeguard

¹⁸² Pakistan's Memorial, para. 3.57.

¹⁸³ Pakistan's Memorial, para. 3.58.

¹⁸⁴ Pakistan's Memorial, para. 3.60(c); Tr., Day 1, 26 April 2026, pp. 195:16–197:12.

¹⁸⁵ Pakistan's Memorial, para. 3.60(a); Tr., Day 1, 26 April 2026, pp. 188:3–189:8.

¹⁸⁶ Pakistan's Memorial, para. 3.60(b).

¹⁸⁷ Pakistan's Memorial, para. 3.60(d); Tr., Day 1, 26 April 2026, pp. 189:9–191:9.

¹⁸⁸ Pakistan's Memorial, paras. 3.60(d)–(e); Tr., Day 1, 26 April 2026, pp. 195:16–197:12.

Pakistan's interests under the Treaty, to avoid prejudice to the final resolution of the dispute, and to avoid further aggravation and extension of the dispute.¹⁸⁹

(iii) *Measure C*

146. Under Measure C, Pakistan requests the Court to order as follows:

Until such time as the Neutral Expert renders his final decision on the question of whether the RHEP complies with the terms of Paragraph 8 and Annexure D, India shall notify the Neutral Expert and Pakistan promptly, at the point of adoption and in advance of implementation, of any changes to the RHEP Revised Construction Schedule, or any subsequent iteration thereof to be transmitted in due course.¹⁹⁰

147. In establishing the authority of the Court to issue the requested interim measure, Pakistan states that similarly framed reporting requirements are common ancillary orders in the interim relief practice of international courts and tribunals.¹⁹¹ In support of its position, Pakistan notes that the Court can mandate the production of such a report by India pursuant to Paragraph 20 of Annexure G of the Treaty, which provides that “[t]he Court shall have the right to require from the Agents of the Parties the production of all papers and other evidence it considers necessary and to demand all necessary explanations”.¹⁹²

148. Pakistan maintains that Measure C is warranted because, contrary to the circumstances of the *Kishenganga* Arbitration, India has adopted an “obdurate and antagonistic stance” towards the Court, the Neutral Expert, and the Treaty, leaving “no prospect” of India providing such an undertaking voluntarily.¹⁹³ Specifically, Pakistan asserts that Measure C is necessary to realize Purposes A, B, and C of Paragraph 28 of Annexure G of the Treaty.¹⁹⁴ This is because, according to reports in the Indian media, India is considering accelerating construction of the RHEP.¹⁹⁵

¹⁸⁹ Pakistan's Memorial, para. 3.61.

¹⁹⁰ Pakistan's Final Submissions, p. 1; Pakistan's Memorial, para. 3.62.

¹⁹¹ Pakistan's Memorial, para. 3.63, referring to **PLA-0153**, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Provisional Measures, Order, 2020 ICJ Rep. 3, paras. 79–81; **PLA-0164**, *Enrica Lexi (Italy v. India)*, Provisional Measures, Order, 2015 ITLOS Rep. 176, paras. 138–139; **PLA-0165**, *Application of the International Convention on All Forms of Racial Discrimination (Armenia v. Azerbaijan)*, Provisional Measures, Order, 2023 ICJ Rep. 619, para. 71. See also Tr., Day 1, 26 April 2026, pp. 197:16–202:17.

¹⁹² Pakistan's Memorial, para. 3.65, referring to **PLA-0001**, Treaty, Annexure G, para. 20 (emphasis added).

¹⁹³ Pakistan's Memorial, paras. 3.67–3.68, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 147–148.

¹⁹⁴ Pakistan's Memorial, para. 3.69.

¹⁹⁵ Pakistan's Memorial, paras. 3.69, 2.35–2.36, referring to **P-0736**, Press Information Bureau, “Power Minister on a Two-Day Visit to Jammu and Kashmir to Review Hydroelectric Projects: Reviews Salal, Sawalkot and Ratle Projects on Day 1”, 4 January 2026; **P-0737**, *The New Indian Express*, “Centre approves

Pakistan argues that despite being the only Party with day-to-day knowledge of the status of activities at the RHEP site, India “has consistently delayed or avoided sharing information on the construction schedule to the RHEP and failed to notify the Court, the Neutral Expert, and Pakistan of material changes to the RHEP’s design in a timely manner”.¹⁹⁶

149. In circumstances in which acceleration in construction may result in certain features being constructed earlier than envisaged in the RHEP Construction Schedule, Pakistan submits that requiring India to keep the Court, the Neutral Expert, and Pakistan informed in a timely manner of developments at the RHEP site would avoid the prejudice that might otherwise result to both the Court and the Neutral Expert Proceedings and the ability to later obtain a remedy that is capable of restoring the *status quo ante*.¹⁹⁷

(iv) *Measure D*

150. Under Measure D, Pakistan requests the following interim measure:

A clear and formal affirmation by the Court that any construction steps that India has taken or may take in respect of the RHEP have been, are and would be taken at India’s risk, without prejudice to the possibility that the Court may in a future award order that the works must not be continued, or must be modified or dismantled.¹⁹⁸

151. Pakistan asserts that Measure D is necessary to realize Purposes A, B, and C of Paragraph 28 of Annexure G of the Treaty.¹⁹⁹ Specifically, Pakistan considers “a dispositive statement by the Court of the own risk principle, and an affirmation of its applicability in the present proceedings, is a necessary and essential safeguard to the integrity and effectiveness of both the Court and the Neutral Expert proceedings”.²⁰⁰ Pakistan notes that, in the *Kishenganga* Arbitration, India acknowledged and affirmed the independent force of the “own risk principle” and, in doing so, assumed that risk associated with proceeding with aspects of the KHEP’s construction while the question of its lawfulness was still being considered.²⁰¹ Given that India is not participating in the

environmental clearance for Ratle Hydroelectric Project on Chenab River”, 23 January 2026; **P-0759**, Compendium of Indian Government statements and news reports about India’s post-Abeyance conduct, June 2025 – April 2026, p. 321 (*Bitget*, “NHPC’s Acquisition of Ratle: An Overlooked Strategic Shift Driving Future Growth”, 28 March 2026).

¹⁹⁶ Pakistan’s Memorial, para. 3.69; Tr., Day 1, 26 April 2026, pp. 200:10–201:11.

¹⁹⁷ Pakistan’s Memorial, para. 3.70; Tr., Day 1, 26 April 2026, p. 202:9–17.

¹⁹⁸ Pakistan’s Final Submissions, p. 1; Pakistan’s Memorial, para. 3.71.

¹⁹⁹ Pakistan’s Memorial, para. 3.69; Tr., Day 1, 26 April 2026, pp. 212:15–213:17.

²⁰⁰ Pakistan’s Memorial, para. 3.75.

²⁰¹ Pakistan’s Memorial, para. 3.76, referring to **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 52(iii), 122.

present proceedings before the Court or the Neutral Expert, Pakistan submits that “[s]uch a measure is necessary not only to prevent prejudice to the final resolution of the dispute but also to prevent prejudice to certain rights of Pakistan under the Treaty that are presently in dispute”.²⁰²

152. In particularizing its claim, Pakistan notes that international tribunals have recognized that interim measures directing parties not to aggravate or extend the dispute are not imposing new obligations on the parties, but are recalling obligations that already exist by virtue of the parties’ involvement in the proceedings. Pakistan suggests the same applies with respect to the “own risk principle”.²⁰³ In this regard, if the Court considers Measure D to be inappropriate, Pakistan requests that “the own risk principle and its potential application in these proceedings at the very least form[] part of the Court’s reasoning on interim measures”.²⁰⁴ Finally, and for the avoidance of doubt, Pakistan clarifies that Measure D should not be viewed as a substitute for any other interim measure.²⁰⁵ Rather, Pakistan maintains that Measures A, B, and C concern specific putative harm that would likely result in the absence of interim measures, whereas Measure D is a catch-all request that is “warranted in the present circumstances of the case”.²⁰⁶

(v) *Measure E*

153. Under Measure E, Pakistan requests the Court to declare that:

Pending the Court’s Award on Pakistan’s Application for Determination of the Present Status of the Treaty, India shall return to full compliance with its obligations under the Treaty.²⁰⁷

²⁰² Pakistan’s Memorial, para. 3.75.

²⁰³ Pakistan’s Memorial, paras. 3.76–3.78, referring to **PLA-0166**, *Electricity Company of Sofia and Bulgaria (Belgium v. Bulgaria)*, Interim Measures of Protection (1939) PCIJ Ser A/B No 79, p. 199; **PLA-0078**, *The South China Sea Arbitration (The Republic of Philippines v. The People’s Republic of China)*, PCA Case No. 2013-19, Award, 12 July 2016, para. 1169; **PLA-0161**, *Passage through the Great Belt (Finland v. Denmark)*, Provisional Measures, Order, 1991 ICJ Rep. 12, paras. 31–33; **PLA-0163**, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Provisional Measures, Order, 2006 ICJ Rep. 113, para. 78; **PLA-0042**, *Kishenganga Interim Measures Order*, para. 143.

²⁰⁴ Pakistan’s Memorial, para. 3.78, referring to **PLA-0161**, *Passage through the Great Belt (Finland v. Denmark)*, Provisional Measures, Order, 1991 ICJ Rep. 12, paras. 31–33; **PLA-0163**, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Provisional Measures, Order, 2006 ICJ Rep. 113, para. 78; **PLA-0042**, *Kishenganga Interim Measures Order*, para. 143.

²⁰⁵ Pakistan’s Memorial, para. 3.79.

²⁰⁶ Pakistan’s Memorial, para. 3.79; Tr., Day 1, 26 April 2026, p. 213:3–17.

²⁰⁷ Pakistan’s Final Submissions, p. 2; Pakistan’s Memorial, para. 3.80.

154. Pakistan asserts that Measure E is necessary to realize Purposes A, B, and C of Paragraph 28 of Annexure G to the Treaty, including to safeguard its interests under the Treaty, to avoid prejudice to a final resolution of the dispute, and to prevent the aggravation or extension of the dispute.²⁰⁸
155. Pakistan emphasizes that interim measures made pursuant to Purpose C are “intended to protect, in a general sense, the administration of justice and the integrity of the proceedings—and not permit the Parties, through bad behaviour *pendente lite*, to render a dispute more difficult to resolve than it already is”.²⁰⁹ In this regard, Purpose C is not ancillary or subordinate to Purposes A and B within the scheme of Paragraph 28 of Annexure G to the Treaty.²¹⁰ Rather, Pakistan contends that the language in the *chapeau* of Paragraph 28 of Annexure G to the Treaty—which allows a Party to request interim measures “necessary ... to avoid ... aggravation or extension of the dispute”—reflects the intention of the drafters of the Treaty to empower a court of arbitration to direct the Parties to refrain from specific and enumerated conduct that could aggravate and extend the dispute before the court of arbitration within the meaning of Purpose C.²¹¹ Relying on the Award in the *South China Sea Arbitration*, Pakistan argues that a measure addressing the non-aggravation or extension of a dispute must have a direct nexus to the circumstances of the dispute in issue.²¹²
156. In the present case, Pakistan argues that “there is little doubt” that India’s unilateral declaration that it is holding the Treaty in abeyance “is aggravating and extending the dispute presently before the Court—and is accordingly appropriately addressed by way of interim measures pursuant to Paragraph 28 of Annexure G”.²¹³ In support of its position that India is aggravating the dispute, Pakistan alleges the following: *first*, India has asserted a “considered and firm position that while the Treaty is in abeyance, all its provisions are inoperative, including those relating to the design

²⁰⁸ Pakistan’s Memorial, para. 3.82; Tr., Day 1, 26 April 2026, pp. 222:7–225:12.

²⁰⁹ Pakistan’s Memorial, para. 3.82, *referring to* **PLA-0167**, P. Palchetti, ‘The Power of the International Court of Justice to Indicate Provisional Measures to Prevent the Aggravation of a Dispute’ (2008) 21 *Leiden Journal of International Law* 623.

²¹⁰ Pakistan’s Memorial, para. 3.86, *referring to* **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 130, 132.

²¹¹ Pakistan’s Memorial, para. 3.85, *referring to* **PLA-0001**, Treaty, Annexure G, para. 28; **PLA-0168**, *Frontier Dispute (Burkina Faso/Mali)*, Provisional Measures, Order of 10 January 1986, 1986 ICJ Rep. 3, *dispositif*, paras. 1A, 1C, 1D; **PLA-0169**, *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*, Provisional Measures, Order of 15 March 1996, 1996 ICJ Rep. 13, para. 49(1).

²¹² Pakistan’s Memorial, paras. 3.87–3.88, *referring to* **PLA-0078**, *The South China Sea Arbitration (The Republic of Philippines v. The People’s Republic of China)*, PCA Case No. 2013-19, Award, 12 July 2016, paras. 1174, 1176.

²¹³ Pakistan’s Memorial, para. 3.90; Tr., Day 1, 26 April 2026, p. 222:7–23.

and operation of Hydroelectric Plants”;²¹⁴ *second*, India’s Home Minister has stated that the Treaty “will never be restored” and that India intends to “starve [Pakistan] of water”;²¹⁵ *third*, India has, since declaring abeyance, engaged in conduct prohibited under the Treaty, including flushing the reservoirs of some of its HEPs on the Western Rivers, withholding flow data that it is obliged to provide to Pakistan under the Treaty, and using its Western Rivers HEPs to disrupt the flow of water into Pakistan;²¹⁶ and *fourth*, “India has or is intent on accelerating the construction of a number of Western Rivers HEPs which are subject to Annexure D of the Treaty” and are directly implicated by the Treaty-systemic issues addressed by the Court in the Award on Issues of General Interpretation.²¹⁷

157. In light of the foregoing, Pakistan argues that India’s “policy of abeyance” has unequivocally “decrease[d] the likelihood of the proceedings leading to the resolution of the parties’ dispute”.²¹⁸ Pakistan asserts that, given the “severely exacerbating” effect that India’s abeyance policy has on the dispute and the wider integrity of the Treaty, “Measure E is properly warranted and required to direct India to return to full compliance with the Treaty pending conclusion of these proceedings”.²¹⁹

B. INDIA’S POSITION

158. India has not made any submissions to the Court regarding Pakistan’s Request for Interim Measures. Consequently, the Court must rely on positions taken by India outlined in correspondence between the Commissioners, public statements made by Indian officials, positions taken in prior dispute resolution proceedings under the Treaty, and other available materials to assess India’s position.

²¹⁴ Pakistan’s Memorial, para. 3.89(a), *referring to P-0782*, Letter from the World Bank to Pakistan dated 12 November 2025, enclosing Letter from India to the World Bank dated 29 September 2025, p. 1.

²¹⁵ Pakistan’s Memorial, paras. 3.89(b), 3.89(d), *referring to P-0759*, Compendium of Indian Government statements and news reports about India’s post-Abeyance conduct, June 2025 – April 2026, p. 53.

²¹⁶ Pakistan’s Memorial, paras. 3.89(c)–(e), *referring to PLA-0003*, *Kishenganga* Partial Award, *dispositif*, paras. B(1)–(3).

²¹⁷ Pakistan’s Memorial, para. 3.89(f).

²¹⁸ Pakistan’s Memorial, para. 3.91, *referring to PLA-0078*, *The South China Sea Arbitration (The Republic of Philippines v. The People’s Republic of China)*, PCA Case No. 2013-19, Award, 12 July 2016, para. 1176. See also Tr., Day 1, 26 April 2026, pp. 223:23–224:5.

²¹⁹ Pakistan’s Memorial, para. 3.92.

159. *First*, India’s position is that it has exercised its sovereign right to hold the Treaty “in abeyance with immediate effect”.²²⁰ [REDACTED]
[REDACTED]²²¹ and reiterates its “firm position that while the Treaty is in abeyance, all its provisions are inoperative, including those relating to the design and operation of Hydroelectric Plants”.²²² In support of this position, Indian officials have made statements indicating that the Treaty is no longer binding, *inter alia*, due to fundamental changes in circumstances and breaches by Pakistan of the Treaty, including in relation to cross-border terrorism.²²³
160. *Second*, in India’s view, there is no urgency or necessity to order the interim measures sought by Pakistan. India has taken the general position, as stated in the Commission, that the design and construction of the RHEP is fully compliant with the Treaty and that, to the extent that Pakistan objects to a design on the basis of Paragraphs 8 of Annexure D to the Treaty, India is under no obligation under the Treaty to substantiate its design to Pakistan.²²⁴ Rather, India considers that Pakistan bears the onus of substantiating any such objections to India’s designs “through calculations/numerical modelling”.²²⁵ Specifically, India has stated its position in relation to Pakistan’s objections as follows: (1) with respect to power intakes pursuant to Paragraph 8(f) of Annexure D, India submits that the type and location of a project’s power intake are determined by factors including hydraulics, topography, geology, techno-economics, and other factors, and that the intake for the RHEP proposed by Pakistan is not feasible in light of the site conditions of

²²⁰ **P-0697**, Compendium of Recent Statements, Ministry of External Affairs, Government of India, “Statement by Foreign Secretary on the decision of the Cabinet Committee on Security (CCS)” dated 23 April 2025, p. 6; **P-0700**, Note Verbale No. 80/01/2025, enclosing Letter No. Y-18012/1/2024-Indus from Secretary, Indian Ministry of Jal Shakti to Secretary, Pakistan Ministry of Water Resources dated 24 April 2025; **P-0782**, Letter from the World Bank to Pakistan dated 12 November 2025, enclosing Letter from India to the World Bank dated 29 September 2025, p. 1.

²²¹ [REDACTED]

²²² **P-0782**, Letter from the World Bank to Pakistan dated 12 November 2025, enclosing Letter from India to the World Bank dated 29 September 2025, p. 1.

²²³ See Award on the Status of the Treaty, Pt. VI.B.

²²⁴ **P-0103**, Record of the 113th Meeting of the Permanent Indus Commission, 20 to 21 March 2017, para. 37, citing **PLA-0001**, Treaty, Annexure D, para. 10. See also **P-0548 (KR-0079)**, Dr. Michael JB Green, Review of DHI’s Report, “Environmental Studies for Assessment of Impacts of Minimum Flow Releases” dated 1 June 2013, para. 7; **P-0012**, Letter No. Y-20014/1/2015-16/2152 dated 16 July 2015, p. 2.

²²⁵ **P-0103**, Record of the 113th Meeting of the Permanent Indus Commission, 20 to 21 March 2017, para. 37, citing **PLA-0001**, Treaty, Annexure D, para. 10. See also **P-0548 (KR-0079)**, Dr. Michael JB Green, Review of DHI’s Report, “Environmental Studies for Assessment of Impacts of Minimum Flow Releases” dated 1 June 2013, para. 7; **P-0012**, Letter No. Y-20014/1/2015-16/2152 dated 16 July 2015, p. 2.

the Plant;²²⁶ (2) in relation to the RHEP's orifice spillways, India maintains that Paragraph 8(d) of Annexure D does not limit the location and use of an orifice spillway when necessary for managing sediments;²²⁷ (3) in relation to outlets pursuant to Paragraph 8(d) of Annexure D, India considers that outlets below Dead Storage Level are necessary at the RHEP for "technical reasons" of pressure flushing, which is in turn necessary for emergency draining of plants, and for "preventing sediments flowing into the inlets by creating a coning effect";²²⁸ and (4) the Pondage for the RHEP has been calculated pursuant to Paragraph 8(c) of Annexure D, which permits India to vary turbine discharges, subject only to the mandated limits on the volume of releases into the river below the plant as set out in Paragraph 15 of Annexure D.²²⁹

161. Before the *Kishenganga* Court, India accepted that "after the Court's first meeting, circumstances could arise of a compelling nature whereby a Request for Interim Measures would be justified" pursuant to Paragraph 28 of Annexure G, but that Pakistan "bears a heavy burden to show that the situation has later changed justifying a subsequent request for such measures".²³⁰ In this regard, India considers that the state of construction of the RHEP has not materially changed since the commencement of proceedings before the Neutral Expert or the Court. India emphasizes that

[REDACTED]

[REDACTED]²³¹ India submits that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]²³² [REDACTED]

²²⁶ **P-0083**, Record of the 109th Meeting of the Permanent Indus Commission, 22 to 25 September 2013, para. 43; **P-0070**, Record of the 108th Meeting of the Permanent Indus Commission, 24 to 25 March 2013, para. 29.

²²⁷ **P-0025**, Record of the 111th Meeting of the Permanent Indus Commission, 31 January to 4 February 2015 dated 31 May 2015, para. 33; **P-0695**, Neutral Expert Competence Decision, paras. 404, 477 ("According to India, outlets below [Dead Storage Level] are necessary at the KHEP and the RHEP for 'technical reasons' of pressure flushing, which is in turn necessary for emergency draining of plants, and for 'preventing sediments flowing into the inlets by creating a coning effect.'").

²²⁸ **P-0695**, Neutral Expert Competence Decision, para. 477.

²²⁹ **P-0547 (BR-0012)**, Neutral Expert (*Baglihar*), India's Rejoinder, 20 March 2006, para. 5.3.7; **P-0082**, Letter No. 3/5/1007-IT/2043 (with enclosures), 11 September 2013, para. 13.

²³⁰ **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 60–63.

²³¹ [REDACTED]

²³² [REDACTED]

[REDACTED]²³³ On previous occasions, India has stated that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]²³⁴ Yet, on these occasions, India has provided its assurances that it would provide the
Neutral Expert with “immediate” updates on “any material change”.²³⁵ Furthermore, to the extent
that Pakistan contends otherwise, India asserts that [REDACTED] [roller-compacted concrete
(RCC)] [REDACTED]
[REDACTED]²³⁶

162. To the contrary, India alleges that [REDACTED]
[REDACTED]²³⁷ Specifically, India alleges that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]²³⁸ India maintains that a [REDACTED]
[REDACTED]
[REDACTED]²³⁹ India considers that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]²⁴⁰

²³³ [REDACTED]
[REDACTED]

²³⁴ [REDACTED]
[REDACTED]

²³⁵ **P-0729**, Neutral Expert (*Indus Waters*), Press Release dated 2 January 2026, p. 2; **P-0730**, Effectiveness Decision, p. 5. See also [REDACTED]
[REDACTED]

²³⁶ **P-0730**, Effectiveness Decision, p. 5. See also [REDACTED]
[REDACTED]
[REDACTED]

²³⁷ [REDACTED]
[REDACTED]

²³⁸ [REDACTED]
[REDACTED]

²³⁹ [REDACTED]
[REDACTED]

²⁴⁰ [REDACTED]
[REDACTED]

163. *Third*, India argues that, in these circumstances, [REDACTED]
[REDACTED] Specifically, India considers that [REDACTED]
[REDACTED]
[REDACTED]²⁴¹ India has previously argued that a construction project such as the Run-of-River HEP can never, in and of itself, justify interim measures because construction is reversible and “mechanisms always exist in every dam which can regulate the flow of water”.²⁴² Nevertheless, India stated [REDACTED]
[REDACTED]
[REDACTED]²⁴³ Rather, India has expressed [REDACTED]
[REDACTED]²⁴⁴ India argues that the [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]²⁴⁵

164. *Fourth*, [REDACTED]
[REDACTED]
[REDACTED]²⁴⁶ India stated that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]²⁴⁷ Furthermore, before the *Kishenganga* Court, India confirmed its commitment to the “own-risk principle” of international law and stated that it would

241 [REDACTED]
[REDACTED]
242 **PLA-0042**, *Kishenganga* Interim Measures Order, para. 90.
243 [REDACTED]
[REDACTED]
244 [REDACTED]
245 [REDACTED]
246 [REDACTED]
[REDACTED]
247 [REDACTED]
[REDACTED]

promptly inform the Court and Pakistan of any actual or imminent development that would have a significant adverse effect on Pakistan's stated rights or interests.²⁴⁸

* * *

²⁴⁸ **PLA-0042**, *Kishenganga* Interim Measures Order, para. 70.

VII. THE COURT'S ANALYSIS

165. The Court's analysis of Pakistan's Request for Interim Measures proceeds in three steps. *First*, the Court examines its power, generally, to grant interim measures, including in a context where a neutral expert is addressing matters relevant to the request. *Second*, the Court assesses the substantive requirements that must be met when issuing interim measures. *Third*, the Court applies those substantive requirements to Pakistan's request.

A. THE COURT'S POWER TO GRANT INTERIM MEASURES

166. The Court commences with an examination of its power, generally, to grant interim measures. In conducting that examination, the Court considers: (1) its power to order interim measures as set forth in Paragraph 28 of Annexure G to the Treaty and Article 17 of the Court's Supplemental Rules of Procedure; and (2) the scope of the Court's power in a context where a neutral expert is addressing matters relevant to the request.

1. Interim Measures Under Annexure G to the Treaty and the Court's Supplemental Rules of Procedure

167. Paragraph 28 of Annexure G expressly empowers the Court to order ("lay down") interim measures. That paragraph provides:

Either Party may request the Court at its first meeting to lay down, pending its Award, such interim measures as, in the opinion of that Party, are necessary to safeguard its interests under the Treaty with respect to the matter in dispute, or to avoid prejudice to the final solution or aggravation or extension of the dispute. The Court shall, thereupon, after having afforded an adequate hearing to each Party, decide, by a majority consisting of at least four members of the Court, whether any interim measures are necessary for the reasons hereinbefore stated and, if so, shall specify such measures : Provided that

- (a) the Court shall lay down such interim measures only for such specified period as, in its opinion, will be necessary to render the Award : this period may, if necessary, be extended unless the delay in rendering the Award is due to any delay on the part of the Party which requested the interim measures in supplying such information as may be required by the other Party or by the Court in connection with the dispute ; and
- (b) the specification of such interim measures shall not be construed as an indication of any view of the Court on the merits of the dispute.²⁴⁹

168. In addition to expressly empowering the Court to order interim measures, the detailed provisions of Paragraph 28 serve as *lex specialis*. Paragraph 28 establishes the requirements that must be met when interim measures are ordered and "is the law to be applied by the Court" with respect to

²⁴⁹ PLA-0001, Treaty, Annexure G, para. 28.

interim measures.²⁵⁰ Accordingly, the Court is not called upon to apply requirements as may exist for other international courts or tribunals when ordering interim measures, but the Court can take account of the law and practice of those bodies when explaining its interpretation.²⁵¹

169. The Court’s Supplemental Rules of Procedure also address interim measures. Article 17 of those Rules provides:

1. Consistent with paragraph 28 of Annexure G of the Treaty, a Party may at any time submit a request for the prescription of interim measures by the Court to:
 - (a) safeguard the interests of the requesting Party with respect to the matter in dispute;
 - (b) avoid prejudice to the final resolution of the dispute; and/or
 - (c) avoid aggravation or extension of the dispute.
2. Having regard to paragraph 28 of Annexure G of the Treaty, the Court shall decide upon the request after affording an adequate hearing to both Parties. The Court may prescribe measures different in whole or in part from those requested.
3. The Parties shall promptly disclose any material change in the circumstances upon which the Court prescribed interim measures.
4. A Party may submit a request for the modification or revocation of any interim measures prescribed by the Court. The Court shall decide upon such a request after affording an adequate hearing to both Parties.
5. The request for interim measures incorporated in the Request for Arbitration shall be held in abeyance until a decision on the Court’s competence is issued, or until the Court otherwise determines.²⁵²

170. In light of Paragraph 28 of Annexure G and Article 17 of the Supplemental Rules of Procedure, the Court notes that it may specify interim measures different from those requested by Pakistan.²⁵³ Further, the Court is called upon to impose measures “only for such specified period as, in its opinion, will be necessary to render the Award”.²⁵⁴

²⁵⁰ See **PLA-0001**, Treaty, Annexure G, para. 29.

²⁵¹ See Award on Issues of General Interpretation, para. 275. The *Kishenganga* Court reached a similar conclusion, saying that it “cannot rule out the possibility” that its interpretation of what is meant in Paragraph 28 by “to safeguard its interests under the Treaty” might be “usefully informed by the ICJ’s case law”. See **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 130, 138.

²⁵² Supplemental Rules of Procedure, Art. 17.

²⁵³ **PLA-0001**, Treaty, Annexure G, para. 28 (the Court shall decide “whether any interim measures are necessary for the reasons hereinbefore stated, and, if so, shall specify such measures”); Supplemental Rules of Procedure, Art. 17(2) (“The Court may prescribe measures different in whole or in part from those requested.”).

²⁵⁴ **PLA-0001**, Treaty, Annexure G, para. 28(a).

171. In sum, Paragraph 28 of Annexure G and Article 17 of the Supplemental Rules of Procedure accord and confirm the Court's power to order interim measures.

2. The Court's Power in Relation to a Neutral Expert's Proceedings

172. An issue that arises in these proceedings is whether interim measures may be ordered in a context where there are parallel proceedings before a court of arbitration and a neutral expert, and the interim measures sought are intended to be protective of both proceedings.
173. This issue arises because the Court is seized in these proceedings with certain questions, some of which are also at issue before the Neutral Expert.²⁵⁵ To date, the Court has issued awards that resolve issues of general interpretation of the Treaty that are pertinent for addressing aspects of the design and operation of the KHEP and the RHEP, but it has not yet itself addressed either of those specific plants.²⁵⁶ The Neutral Expert is engaged in a work program over the course of the coming year that is expected to address aspects of the design and operation of the KHEP and the RHEP.²⁵⁷ Depending on the outcome of the Neutral Expert's final decision, it is possible that the Court will be called upon to address aspects and remedies relating to the design and operation of the KHEP and the RHEP. Pakistan justifies its Request for Interim Measures as being protective of both sets of proceedings.
174. As a general matter, the Treaty designates different roles for a court of arbitration and a neutral expert. A court of arbitration has authority to resolve all manner of factual and legal issues that might arise under the Treaty.²⁵⁸ A neutral expert, by contrast, is charged with expeditiously deciding specific and enumerated technical issues that fall within the expertise of a highly qualified engineer.²⁵⁹ The decisions of a court of arbitration, including interpretations of the Treaty that have systemic application, have binding effect on a neutral expert,²⁶⁰ while a court of arbitration must give binding effect to the plant-specific determinations of a neutral expert taken within his or her competence.²⁶¹ When parallel proceedings arise, the two entities are obligated

²⁵⁵ The Court's Award on Competence describes events that led to the establishment of parallel proceedings. See Award on Competence, paras. 111–119. See also Procedural Order No. 6, paras. 23–33.

²⁵⁶ Award on Issues of General Interpretation; Decision on the Request for Clarification; Supplemental Award on Maximum Pondage.

²⁵⁷ **P-0802**, Neutral Expert (*Indus Waters*), Revised Work Programme, 6 July 2026.

²⁵⁸ See **PLA-0001**, Treaty, Annexure G.

²⁵⁹ See **PLA-0001**, Treaty, Annexure F.

²⁶⁰ Award on Issues of General Interpretation, paras. 347–351.

²⁶¹ Award on Issues of General Interpretation, paras. 394–396.

to coordinate their proceedings in a spirit of mutual respect and comity.²⁶² An important difference between the two bodies, however, is that the Treaty only empowers a court of arbitration to order interim measures. A neutral expert has no such power.²⁶³

175. Paragraph 28 empowers the Court to order interim measures in relation to the dispute before it. Further, the Court's power to issue such measures is not defeasible simply by the placement before the Neutral Expert of some of the same questions that are before the Court. There is nothing in Paragraph 28 to indicate as much, and the objective in the Treaty of effective dispute settlement would be undermined by any such interpretation.
176. Moreover, the text of Paragraph 28, read in context with Article IX and Annexure F of the Treaty, is best interpreted as allowing the Court to issue interim measures that are protective of the dispute before the Court *and* any aspects of that dispute that are also before the Neutral Expert. Paragraph 28 does not expressly address the scope of a court of arbitration's authority to order interim measures in the case of parallel proceedings, but a good faith interpretation of Paragraph 28 must conclude that a court of arbitration may exercise its power to order interim measures in aid of a neutral expert, when both dispute settlement bodies are charged with resolving some of the same differences. The text of Paragraph 28 is written broadly to safeguard a Party's interests "with respect to the matter in dispute", to avoid prejudice to the final resolution of that dispute, or to avoid its aggravation or extension. To the extent that a difference has been placed before a neutral expert, which might, in due course, be addressed by an existing court of arbitration, there is no basis for denying to that court of arbitration a power to issue measures relating to that difference that are protective in the context of both dispute settlement bodies. A contrary interpretation of Paragraph 28 would have serious potential to undermine the Court's protective power as envisaged by and provided for in the Treaty.
177. In sum, the Court is empowered to order interim measures, to the extent necessary, both in relation to its proceedings and the proceedings of the Neutral Expert.

²⁶² Procedural Order No. 6, para. 31.

²⁶³ **PLA-0001**, Treaty, Annexure G, para. 28. Paragraph 6 of Annexure F to the Treaty, which sets out a neutral expert's powers, contains no similar provision for ordering interim measures. The Neutral Expert has recognized that he lacks such authority. See **P-0730**, Effectiveness Decision, p. 6 ("[T]he Neutral Expert is of the view that Paragraph 6 of Annexure F does not empower him to direct India to provide [a formal undertaking that India will not commence concreting up to crest level of spillway].").

B. THE THRESHOLD REQUIREMENTS FOR ORDERING INTERIM MEASURES

178. To exercise its authority to order interim measures, the Court must address several threshold requirements that are either expressly set forth in Paragraph 28 of Annexure G to the Treaty or are implicit in that paragraph when it is considered in light of its context, the object and purpose of the Treaty, and the other elements of treaty interpretation.

1. The Timing of a Request for Interim Measures

179. The first sentence of Paragraph 28 refers to interim measures being requested at the “first meeting” of the Court. Specifically, it reads:

Either Party may request the Court at its *first meeting* to lay down, pending its Award, such interim measures as, in the opinion of that Party, are necessary to safeguard its interests under the Treaty with respect to the matter in dispute, or to avoid prejudice to the final solution or aggravation or extension of the dispute.²⁶⁴

180. An issue that arises is whether this reference to “first meeting” poses a bar to Pakistan’s request for interim measures at this stage of the proceedings. For the reasons set out below, the Court concludes that it does not.
181. Paragraph 28’s text, by its own terms, does not pose a bar. The initial sentence states that “[e]ither Party *may* request” interim measure “at its first meeting”.²⁶⁵ The permissive form “may” indicates that either Party may seek interim measures at the first Court meeting, but it does not obligate either Party to do so at that point in the proceedings. A request for interim measures is simply an option that is available at that early stage of the proceedings.
182. Likewise, the text of Paragraph 28 does not bar a Party requesting interim measures at a later stage of the proceedings. If the drafters had intended to foreclose such later-stage requests, Paragraph 28 could have been written to do so, but it was not. The context of Paragraph 28 supports this conclusion, in that other paragraphs of Annexure G indicate time constraints on the ability of a Party to take particular actions.²⁶⁶
183. Further, the subsequent practice of the Parties in the application of the Treaty evinces agreement that Paragraph 28 is to be interpreted in this way. In the *Kishenganga* Arbitration, Pakistan did

²⁶⁴ PLA-0001, Treaty, Annexure G, para. 28 (emphasis added).

²⁶⁵ PLA-0001, Treaty, Annexure G, para. 28 (emphasis added).

²⁶⁶ See PLA-0001, Treaty, Annexure G, para. 6 (time limit for appointing arbitrators); para. 7 (time limit for Party agreement upon umpires from a panel or for resort to drawing of lots); para. 13 (time limit for deposit of funds after institution of a proceeding). See also PLA-0001, Treaty, Annexure G, para. 27 (time limit for the Court to reassemble to clarify or interpret an Award).

not pursue a request for interim measures at the *Kishenganga* Court’s first meeting in January of 2011. Rather, Pakistan only submitted a request for interim measures in June 2011.²⁶⁷ Thereafter, India accepted that, “after the Court’s first meeting, circumstances could arise of a compelling nature whereby a Request for Interim Measures would be justified” pursuant to Paragraph 28 of Annexure G, but that Pakistan “bears a heavy burden to show that the situation has later changed justifying a subsequent request for such measures”.²⁶⁸ In considering whether the “first meeting” text in Paragraph 28 imposed “a temporal limitation on the ability of a State to apply for interim measures”, the *Kishenganga* Court noted that: “Pakistan argued that it did not, and in response to a query from the Court, India confirmed that it ‘does not take the position – that Pakistan or any Party is precluded from requesting provisional measures at a later time.’”²⁶⁹ Thus, in 2011, the Parties in their application of Paragraph 28 both agreed that it did not impose a strict temporal limitation on the ability of a Party to apply for interim measures.

184. Moreover, as the Court has previously noted, the object and purpose of the Treaty “includes providing for effective dispute settlement to clarify and resolve any uncertainties that might arise as between the Parties”.²⁷⁰ Given that a power to order interim measures has been accorded to the Court, that object and purpose favors interpreting Paragraph 28 as allowing the power to be exercised throughout the proceedings: doing so allows a court of arbitration to ensure effective dispute settlement through safeguarding the interests of the Parties, avoiding prejudice to the final resolution of the dispute, and/or avoiding aggravation or extension of the dispute. Indeed, at the outset of the proceedings, a Party may lack the information necessary to assess whether interim measures are warranted. Forcing that Party prematurely to file a request for interim measures would not promote the efficient judicial administration of the case. Such information may only become available at a later point in the proceedings and, further, events may occur during the course of the proceedings giving rise to a need for interim measures.
185. The situation that has unfolded in these proceedings illustrates the point. Although Pakistan filed its Request for Arbitration in 2016, along with a request for interim measures,²⁷¹ the World Bank imposed a pause, such that the Court was not empaneled until 2022. At the time of the Court’s first meeting in January 2023, events had unfolded such that Pakistan indicated a need to file an

²⁶⁷ PLA-0042, *Kishenganga* Interim Measures Order, para. 56.

²⁶⁸ PLA-0042, *Kishenganga* Interim Measures Order, paras. 60–63.

²⁶⁹ PLA-0042, *Kishenganga* Interim Measures Order, para. 125.

²⁷⁰ Award on Issues of General Interpretation, para. 429.

²⁷¹ Pakistan’s Request for Arbitration, para. 90.

amended Request for Arbitration, which it did in August 2023. In the Amended Request for Arbitration, Pakistan described the events since 2016, noting that “India was able to complete the KHEP and bring it into operation, and to commence construction of the RHEP”.²⁷² Concluding that it no longer had a basis for seeking the interim measures originally requested in August 2016, Pakistan withdrew its request for interim measures, though “reserv[ing] its right to make a further request for interim measures under paragraph 28 of Annexure G of the Treaty, if necessary, at a later stage”.²⁷³ Having received new information over the past year, including through the proceedings before the Neutral Expert, Pakistan asserts that only now is it in a position to seek an order from the Court on interim measures.²⁷⁴

186. In short, if Pakistan were restricted to requesting interim measures at the time of this Court’s first meeting, before Pakistan had information providing a basis for such measures, Pakistan would have had to proceed on incomplete and outdated information. Interpreting Paragraph 28 as imposing such a restriction would hamper the effective resolution of the dispute before the Court.
187. The Court’s Supplemental Rules of Procedure confirm that in these proceedings a Party may seek interim measures at any time. Article 17(1) provides that “[c]onsistent with paragraph 28 of Annexure G of the Treaty, a Party may *at any time* submit a request for the prescription of interim measures by the Court”.²⁷⁵
188. In light of the above, Paragraph 28’s “first meeting” provision poses no bar to the Court’s power to consider Pakistan’s current request for interim measures, even though it was not made at the first meeting of the Court.

2. Each Party Must Be Afforded an Adequate Hearing on a Request for Interim Measures

189. Paragraph 28 of Annexure G and Article 17 of the Supplemental Rules of Procedure both set forth a requirement that the Court afford an “adequate hearing” to the Parties.²⁷⁶

²⁷² Pakistan’s Amended Request for Arbitration, para. 24.

²⁷³ Pakistan’s Amended Request for Arbitration, para. 12.

²⁷⁴ Pakistan’s Memorial, paras. 2.16–2.25.

²⁷⁵ Supplemental Rules of Procedure, Art. 17(1) (emphasis added).

²⁷⁶ See **PLA-0001**, Treaty, Annexure G, para. 28 (“The Court shall, there upon, *after having afforded an adequate hearing to each Party*, decide, by a majority consisting of at least four members of the Court, whether any interim measures are necessary for the reasons hereinbefore stated and, if so, shall specify such measures”) (emphasis added); Supplemental Rules of Procedure, Art. 17(2) (“Having regard to paragraph

190. Following Pakistan’s Request for Interim Measures dated 4 March 2026, which Pakistan duly communicated to India, the Court issued Procedural Order No. 21, which stated in relevant part:

- 2.1 On or before 30 March 2026, India is invited to indicate to the Court whether it intends to participate in the Phase on Interim Measures and Treaty Status, including by filing a Counter-Memorial and attending a hearing. In the event that India indicates an intention to do so, the Court shall schedule a Case Management Conference with the Parties to address the procedure to be adopted for the Phase on Interim Measures and Treaty Status.
- 2.2 In the event that India does not inform the Court of its intention to participate in the Phase on Interim Measures and Treaty Status, then on or before 13 April 2026, Pakistan shall file its Memorial for the Phase on Interim Measures and Treaty Status.
- ...
- 3.1 In the event that India does not inform the Court of its intention to participate in the Phase on Interim Measures and Treaty Status, then an oral hearing shall be held from 26 to 28 April 2026 in the Peace Palace, The Hague, the Netherlands.²⁷⁷

191. The Court received no response from India.²⁷⁸ Accordingly, Pakistan filed its Memorial and an oral hearing was held on the dates specified, with Pakistan present and India absent. Under these circumstances, in which Pakistan has provided written and oral submissions to the Court, while India received notice and opportunity to participate in the scheduled hearing on interim measures but declined to do so, the Court has afforded an adequate hearing to each Party.

3. The Court Must Have at Least *Prima Facie* Jurisdiction to Issue Interim Measures

192. Paragraph 28 does not expressly refer to a court of arbitration needing to satisfy itself that it has jurisdiction prior to ordering interim measures. Even so, implicit in the text is that a “Court” of arbitration has been formed and that a “dispute” has been placed before it in accordance with the Treaty. If interim measures are requested at a very early stage in the proceedings, the court of arbitration may not yet have received a full briefing from the Parties as to its jurisdiction, which would allow it to reach a final decision on its competence as envisaged in Paragraph 16 of Annexure G to the Treaty. Consequently, a court of arbitration must satisfy itself that, based on the information available to it, it appears to have jurisdiction, *i.e.*, *prima facie* jurisdiction. If that is not the case, the court of arbitration should not proceed to issue interim measures as, in that instance, it appears that the court has no power to decide the dispute.

28 of Annexure G of the Treaty, the Court shall decide upon the request *after affording an adequate hearing to both Parties.*”) (emphasis added).

²⁷⁷ Procedural Order No. 21, paras. 2.1–2.2, 3.1.

²⁷⁸ See Tr., Day 1, 26 April 2026, p. 5:24–25.

193. It is noted that the *Kishenganga* Court reached the same conclusion. It stated that, “if it is apparent to that court at an early stage that it is unlikely to have jurisdiction”, then interim relief cannot be regarded as “necessary” as required by Paragraph 28.²⁷⁹ Requiring a finding of at least *prima facie* jurisdiction before issuing interim measures is consistent with the law and practice of international courts and tribunals generally.²⁸⁰
194. Thus, the Court must satisfy itself that it has *prima facie* jurisdiction over the dispute identified in Pakistan’s Amended Request for Arbitration. At this stage in its proceedings, the Court has already determined not just that it has *prima facie* jurisdiction over this dispute, but that it conclusively has jurisdiction, a decision reached after considering the positions of the Parties.²⁸¹ Moreover, on two occasions the Court has revisited whether that competence remains intact, concluding in both instances that it does.²⁸²
195. Accordingly, the Court is satisfied that it has jurisdiction to decide upon Pakistan’s Request for Interim Measures.

4. The Rights Asserted in the Request for Arbitration Must Be at Least Plausible

196. In addition to the Court satisfying itself that it has at least *prima facie* jurisdiction over Pakistan’s claims, it is necessary for the Court to determine that the rights asserted by Pakistan in its Amended Request for Arbitration are at least plausible under the Treaty.
197. A requirement of “plausibility” of the rights asserted by a Party seeking interim measures is not expressly identified in Paragraph 28, but such a requirement is implicit. Paragraph 28 permits the Court to lay down interim measures only when they are “necessary” to protect a Party’s interests under the Treaty with respect to the matter in dispute, to avoid prejudice to the final resolution of that dispute, or to avoid its aggravation or extension. To the extent that the rights asserted by the Party seeking interim measures are not plausible under the Treaty, then interim measures cannot be necessary to protect the relevant Treaty-based interests or a Treaty-based dispute. Determining whether such rights are plausible requires determining that the Party has reasonably identified

²⁷⁹ **PLA-0042**, *Kishenganga* Interim Measures Order, para. 135.

²⁸⁰ See, e.g., *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Provisional Measures, Order of 26 January 2024, 2024 (I) ICJ Rep. 11, para. 15; *The “Zheng He” Case (Luxembourg v. Mexico)*, 27 July 2024, ITLOS Case No. 33, Order on Provisional Measures, paras. 52–57.

²⁸¹ See Award on Competence.

²⁸² See Supplemental Award on Competence; Award on the Status of the Treaty, Pt. VII.A.

rights that it may possess under the Treaty and, in light of the facts alleged, that such rights might later be found to have been violated. Determining that such rights are plausible, however, does not entail determining whether such rights definitively exist or whether they have been violated.

198. It is noted that the *Kishenganga* Court also found that a requirement of plausibility should be applied when determining whether to order interim measures, since otherwise the relief requested could not possibly be “necessary” as required under Paragraph 28.²⁸³ In applying that standard, that Court confirmed that it “has not and cannot form any views as to the merits of Pakistan’s claims”.²⁸⁴ Rather, the Court found the standard satisfied if it could not “exclude the possibility that India’s planned installations, or elements of those installations, on the Kishenganga/Neelum would not be in conformity with the Treaty”.²⁸⁵ A requirement that the rights asserted by the party requesting interim measures are at least plausible has also been applied in the practice of other international courts and tribunals, such as the International Court of Justice and the International Tribunal for the Law of the Sea.²⁸⁶
199. As previously explained, Pakistan initiated this arbitration based on specific claims of Treaty non-compliance with respect to the KHEP and RHEP. Since Pakistan’s original Request for Arbitration in 2016, the construction of the KHEP has been completed, and Pakistan seeks interim measures at this time only with respect to the RHEP. In that regard, India notified Pakistan of its original design of the RHEP on 12 August 2012. Pakistan asserts that it has rights under the Treaty in relation to four components in India’s design, which Pakistan maintains are being violated. Those four components are:
- (1) The RHEP orifice spillway, consisting of five gates with crests located at EL 985 masl;
 - (2) The RHEP power intake structure, consisting of four power intakes for the main power unit, with their inverts located at EL 1000 masl;

²⁸³ PLA-0042, *Kishenganga* Interim Measures Order, para. 135.

²⁸⁴ PLA-0042, *Kishenganga* Interim Measures Order, para. 140.

²⁸⁵ PLA-0042, *Kishenganga* Interim Measures Order, para. 140.

²⁸⁶ See, e.g., *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Provisional Measures, Order of 16 March 2022, 2022 (I) ICJ Rep. 223, para. 50 (“the Court may exercise this power only if it is satisfied that the rights asserted by the party requesting such measures are at least plausible”); *The “Zheng He” Case (Luxembourg v. Mexico)*, ITLOS Case No. 33, Order on Provisional Measures, para. 107 (27 July 2024) (“In the present case, the Tribunal need only satisfy itself that the rights which Luxembourg seeks to protect are at least plausible”).

- (3) The RHEP freeboard, consisting of two meters between the Full Pondage Level and the top of the dam;
- (4) The RHEP Operating Pool, with a storage capacity between Dead Storage Level and Full Pondage Level of 23.86 MCM.²⁸⁷

200. The following sections assess whether the rights asserted by Pakistan in relation to these four components are at least plausible under the Treaty.

(a) *The RHEP Orifice Spillway*

201. India's design of the RHEP, as reflected in documents provided to Pakistan, envisages an orifice spillway, consisting of five gates, each with a crest level located at an elevation of 985 masl.²⁸⁸

202. Pakistan asserts that it has rights under the Treaty with respect to the location of such a spillway. Specifically, Pakistan refers to Paragraph 8(d) of Annexure D to the Treaty, which provides that:

There shall be no outlets below the Dead Storage Level, unless necessary for sediment control or any other technical purpose ; any such outlet shall be of the minimum size, and located at the highest level, consistent with sound economical design and with satisfactory operation of the works.²⁸⁹

203. Pakistan points out that the Dead Storage Level in India's design is at EL 1015.86 masl, which is above the crest level of the gates of the orifice spillway.²⁹⁰ Further, Pakistan maintains that the orifice spillway in India's design appears to be for drawdown flushing, which is prohibited under the Treaty, and which is not necessary for sediment management.²⁹¹ Accordingly, Pakistan asserts that the design is contrary to Paragraph 8(d).

204. India has not argued that the Treaty provides no rights for Pakistan in relation to orifice spillways at Annexure D, Part 3 HEPs. Rather, India appears to disagree that the *Kishenganga* Court's decision regarding drawdown flushing leads to a prohibition *per se* on outlets below Dead Storage

²⁸⁷ See Pakistan's Amended Request for Arbitration. See also Pakistan's Memorial, para. 2.2. Such features are shown in Figure 1, Figure 2, and Figure 3, *supra*.

²⁸⁸ **P-0077**, Letter No. 3/5/2007-IT/1947 from the ICIW to the PCIW, 16 August 2012, Annex IX(2). See also [REDACTED]

²⁸⁹ **PLA-0001**, Treaty, Annexure D, para. 8(d).

²⁹⁰ **P-0077**, Letter from the ICIW to the PCIW dated 16 August 2012, p. 4, item 4(e).

²⁹¹ Pakistan's Memorial, para. 3.35; **P-0801**, Neutral Expert (*Indus Waters*), Terms of Reference for Modelling Specialists, Annex E (Scope of Work) (25 May 2026), paras. 11–14.

Level and that outlets at the RHEP are necessary for pressure flushing.²⁹² Further, India maintains that Paragraph 8(d) does not limit the location and use of an orifice spillway when necessary for managing sediments. The Commission's records indicate India's position as follows:

Neither the Treaty nor the [*Kishenganga*] Court has imposed any restrictions on placement of orifice. There has not been any literature which substantiates Pakistan sides [*sic*] view that orifice spillway can only be provided for drawdown flushing and not for sluicing: The restriction imposed by [the *Kishenganga* Court] is operational and India has given unequivocal assurance to abide by the same. India has right to manage the sediments within the means available and there is no provision in the Treaty which states orifice spillway cannot be provided by India.²⁹³

205. The Court recalls that it concluded in its Award on Issues of General Interpretation that orifice spillways are low-level outlets regulated by Paragraph 8(d) of Annexure D to the Treaty.²⁹⁴ In that regard, the Court found that the Treaty imposes substantial restrictions on the placement of orifice spillways, starting from the position that “[t]here shall be no outlets below the Dead Storage Level” and, should an outlet be necessary for sediment control or any other technical purpose, requiring, *inter alia*, that they be “designed to be of the minimum size and at the highest level possible” consistent with other specified Treaty criteria.²⁹⁵ Additionally, the Court reaffirmed the *Kishenganga* Court's restrictions on drawdown flushing, stating that “Paragraph 8(d) only allows low-level outlets that are necessary for permissible sediment control; given that a low-level outlet cannot be used for drawdown flushing, the dam cannot be designed to have an outlet for such a purpose”.²⁹⁶
206. These conclusions were reflected in the *dispositif* of the Award on Issues of General Interpretation, which relevantly stated that India shall:

²⁹² See **P-0695**, Neutral Expert Competence Decision, 7 January 2025, para. 477 (“Regarding the *Kishenganga* Partial Award, India submits that it proscribes dropping the reservoir level below the Dead Storage Level (‘DSL’) ‘except in unforeseen emergencies’, but does not prohibit outlets below DSL per se. According to India, outlets below DSL are necessary at the KHEP and the RHEP for ‘technical reasons’ of pressure flushing, which is in turn necessary for emergency draining of plants, and for ‘preventing sediments flowing into the inlets by creating a coning effect’”).

²⁹³ **P-0025**, Record of the 111th Meeting of the Permanent Indus Commission, 31 January to 4 February 2015 dated 31 May 2015, para. 33; **P-0695**, Neutral Expert Competence Decision, paras. 404, 477 (“According to India, outlets below [Dead Storage Level] are necessary at the KHEP and the RHEP for ‘technical reasons’ of pressure flushing, which is in turn necessary for emergency draining of plants, and for ‘preventing sediments flowing into the inlets by creating a coning effect.’”).

²⁹⁴ Award on Issues of General Interpretation, para. 811(F)(1).

²⁹⁵ Award on Issues of General Interpretation, paras. 582(c), 811(H).

²⁹⁶ Award on Issues of General Interpretation, para. 566. See Award on Issues of General Interpretation, para. 570 (“Drawdown flushing is prohibited by the Treaty, so a low-level outlet for that purpose is impermissible”).

- (1) as a starting point, endeavor to design the HEP so that it does not have any outlets partially or entirely below Dead Storage Level.
- (2) only include an outlet partially or entirely below Dead Storage Level if it:
 - (i) is compliant with provisions of the Indus Waters Treaty 1960 other than Paragraph 8(d); and
 - (ii) is necessary for sediment control or some other technical purpose, meaning that there is no other method (or methods) available to address sediment (or the other technical purpose) that is equally effective or only marginally less effective; and
- (3) if an outlet partially or entirely below Dead Storage Level is necessary, identify the reasonable options based on the standards set forth in Paragraph 8(d), whereby the outlet is designed to be of the minimum size and at the highest level possible, consistent with:
 - (i) the outlet being able to perform effectively and efficiently the function that it serves;
 - (ii) customary and accepted HEP engineering principles and practices followed within States generally; and
 - (iii) the suitable and workable operation of the HEP as a whole once it has been constructed; however
 - (iv) the cost of constructing and operating the low-level outlet is not to be taken into account in determining the minimum size and the highest level possible for the low-level outlet; and
- (4) among those options, select the outlet that is of the minimum size and at the highest level in the dam.²⁹⁷

207. In light of the above, the Court finds that the rights asserted by Pakistan in relation to the RHEP orifice spillway are at least plausible under the Treaty. For the avoidance of doubt, the Court confirms that this finding does not entail determining whether, in the context of India's design of the RHEP, such rights have been violated.

(b) *The RHEP Power Intake Structure*

208. India's design of the RHEP, as reflected in documents provided to Pakistan, envisages a power intake structure, with four intakes with invert located within the reservoir at an elevation of 997.45 masl.²⁹⁸

²⁹⁷ Award on Issues of General Interpretation, para. 811(H).

²⁹⁸ India originally envisaged placing the intakes at an invert level of 1000 masl, but revised its design to 997.45 masl. Compare **P-0077**, Letter No. 3/5/2007-IT/1947 from the ICIW to the PCIW, 16 August 2012, p. 4, item 4(e) (original design), with **P-0221**, Letter from the ICIW to the PCIW dated 25 January 2023. For a figure indicating the revised placement, see Figure 1: Upstream View of the RHEP Dam Wall (with Court annotations) as of August 2012, *supra*.

209. Pakistan asserts that it has rights under the Treaty with respect to the placement and design of the intake structure. Specifically, Pakistan refers to Paragraph 8(f) of Annexure D to the Treaty, which provides that:

The intakes for the turbines shall be located at the highest level consistent with satisfactory and economical construction and operation of the Plant as a Run-of-River Plant and with customary and accepted practice of design for the designated range of the Plant's operation.²⁹⁹

210. Pakistan maintains that India's design places the intake structure deep within the reservoir and does not include any features, such as a skimming wall, that would effectively raise the intake level; accordingly, it is contrary to Paragraph 8(f).³⁰⁰ India has not argued that the Treaty provides no rights for Pakistan in relation to power intakes at an Annexure D, Part 3 HEP. Rather, India maintains that the type and location of the power intake of a project is determined by hydraulics, topography, geology, techno-economics, and other factors that must be taken into consideration.³⁰¹ For instance, to ensure uninterrupted flow and prevent air ingress or vortex formation during load fluctuations, India maintains that a minimum water seal must be established below the Dead Storage Level.³⁰² The calculation of the minimum water seal between intakes and the Dead Storage Level must be in accordance with customarily accepted international practices/formulae.³⁰³

211. The Court recalls that, in its Award on Issues of General Interpretation, the Court decided that the Treaty imposes design obligations with respect to power intake structures such that India shall:

- (1) as a starting point, endeavor to design the HEP so that the intake for the turbines is located at the highest possible level in the dam, meaning that the invert of the intake shall be just below the Dead Storage Level;
- (2) if the customary and accepted practice of design for HEPs calls, in the context of a particular HEP, for the invert of the intake to be located lower in the dam than just below the Dead Storage Level, identify reasonable options based on the standards set forth in Paragraph 8(f), whereby the intake is at the highest level possible that is

²⁹⁹ **PLA-0001**, Treaty, Annexure D, para. 8(f).

³⁰⁰ Pakistan's Memorial, para. 3.36. See also **P-0801**, Neutral Expert (*Indus Waters*), Terms of Reference for Modelling Specialists, Annex E (Scope of Work) (25 May 2026), paras. 11–14.

³⁰¹ **P-0070**, Record of the 108th Meeting of the Permanent Indus Commission, 24 to 25 March 2013, paras. 21, 23.

³⁰² **P-0025**, Record of the 111th Meeting of the Permanent Indus Commission, 31 January to 4 February 2015, para. 40; **P-0070**, Record of the 108th Meeting of the Permanent Indus Commission, 24 to 25 March 2013, para. 23; **P-0051**, Record of the 92nd Meeting of the Permanent Indus Commission, 27 to 29 November 2004, para. 7.

³⁰³ **P-0051**, Record of the 92nd Meeting of the Permanent Indus Commission, 27 to 29 November 2004, para. 7; **P-0057**, Letter No. 3/7/82-IT/1369 (with enclosure) dated 25 May 2007, p. 6.

suitable and not wasteful of resources for the HEP's construction and operation, and is consistent with contemporary HEP engineering principles and practices; and

- (3) among those options, select the intake that is at the highest level in the dam.³⁰⁴

212. In light of the above, the Court finds that the rights asserted by Pakistan in relation to the RHEP power intake structure are at least plausible under the Treaty. For the avoidance of doubt, the Court confirms that this finding does not entail determining whether, in the context of India's design of the RHEP, such rights have been violated.

(c) *The RHEP Freeboard*

213. India's design of the RHEP, as reflected in documents provided to Pakistan, envisages a freeboard of two meters, calculated as the difference between the Full Pondage Level (at 1029 masl) and the dam top (at 1031 masl).³⁰⁵

214. Pakistan asserts that it has rights under the Treaty with respect to the amount of freeboard at an Annexure D, Part 3 HEP. Specifically, Pakistan refers to Paragraph 8(a) of Annexure D to the Treaty, which provides:

The works themselves shall not be capable of raising artificially the water level in the Operating Pool above the Full Pondage Level specified in the design.³⁰⁶

215. Further, Pakistan maintains that the freeboard envisaged in India's design for the RHEP is excessive and thus contrary to Paragraph 8(a).³⁰⁷

216. India has not argued that the Treaty provides no rights for Pakistan in relation to freeboard at an Annexure D, Part 3 HEP. Rather, India has justified the amount of freeboard at the RHEP based, in part, on the need to protect the spillway bridge girders from wave splash and to prevent submergence of the girder bearings.³⁰⁸

217. The Court recalls that, in its Award on Issues of General Interpretation, it observed that freeboard serves as one means by which the operator of a HEP may be able to raise artificially the water

³⁰⁴ Award on Issues of General Interpretation, para. 811(M).

³⁰⁵ **P-0077**, Letter No. 3/5/2007-IT/1947 from the ICIW to the PCIW, 16 August 2012, p. 27, Annex IX(2).

³⁰⁶ **PLA-0001**, Treaty, Annexure D, para. 8(a).

³⁰⁷ Pakistan's Memorial, para. 3.33.

³⁰⁸ See **P-0083**, Record of the 109th Meeting of the Permanent Indus Commission, 22–25 September 2013, paras. 39–40; **P-0024**, Record of the 110th Meeting of the Permanent Indus Commission, 23–27 August 2014, para. 26.

level in the Operating Pool above the Full Pondage Level specified in the design.³⁰⁹ Further, the Court decided that, to ensure compliance with Paragraph 8(a) of Annexure D, the Treaty imposes design obligations with respect to freeboard:

India is limited to a minimum freeboard of only a height necessary to address the safety of the dam as a whole from overtopping, as determined after reference to internationally-recognized standards and in the context of the particular dam site at issue.³¹⁰

218. In light of the above, the Court finds that the rights asserted by Pakistan in relation to the RHEP freeboard are at least plausible under the Treaty. For the avoidance of doubt, the Court confirms that this finding does not entail determining whether, in the context of India's design of the RHEP, such rights have been violated.

(d) *The RHEP Operating Pool*

219. India's design of the RHEP, as reflected in documents provided to Pakistan, envisages an Operating Pool—*viz.*, the storage capacity between Dead Storage Level and Full Pondage Level—with a volume of 23.86 MCM.³¹¹ This volume corresponds to a Dead Storage Level of 1015.86 masl.³¹²
220. Pakistan asserts that it has rights under the Treaty with respect to the maximum Pondage in the Operating Pool at an Annexure D, Part 3 HEP. Specifically, Pakistan refers to Paragraph 8(c) of Annexure D to the Treaty, which provides:

The maximum Pondage in the Operating Pool shall not exceed twice the Pondage required for Firm Power.³¹³

221. Further, Pakistan maintains that the volume of pondage envisaged in India's design for the RHEP is based solely on the operational limits set forth in Annexure D, Paragraph 15, which is not the basis upon which maximum Pondage should be calculated under the Treaty.³¹⁴
222. India has not argued that the Treaty provides no rights for Pakistan in relation to the Pondage at an Annexure D, Part 3 HEP. Rather, in calculating the size of the Operating Pool for Annexure D, Part 3 HEPs other than the RHEP, India has calculated maximum Pondage based on its

³⁰⁹ See, e.g., Award on Issues of General Interpretation, para. 772.

³¹⁰ Award on Issues of General Interpretation, para. 811(Q).

³¹¹ See **P-0077**, Letter No. 3/5/2007-IT/1947 from the ICIW to the PCIW, 16 August 2012, Annexure VII.

³¹² See **P-0077**, Letter No. 3/5/2007-IT/1947 from the ICIW to the PCIW, 16 August 2012, Annex IX(2).

³¹³ **PLA-0001**, Treaty, Annexure D, para. 8(c).

³¹⁴ Pakistan's Memorial, para. 3.34.

understanding that the Treaty permits India to vary turbine discharges however it chooses, subject only to the mandated limits on the volume of releases into the river below the plant as set out in Paragraph 15.³¹⁵

223. In its Award on Issues of General Interpretation and its Supplemental Award on Maximum Pondage, the Court concluded, among other things, that Paragraph 8(c) of Annexure D requires that Maximum Pondage “shall be based upon a realistic, well-founded, and defensible projection of a proposed HEP’s anticipated load”, and:

is not determined solely on the basis of whether the anticipated load allows for releases of water consistent with the operational constraints of the Treaty, including the daily and weekly release requirements set out in Paragraph 15 of Annexure D.³¹⁶

224. In light of the above, the Court finds that the rights asserted by Pakistan in relation to the RHEP Operating Pool are at least plausible under the Treaty. For the avoidance of doubt, the Court confirms that this finding does not entail determining whether, in the context of India’s design of the RHEP, such rights have been violated.

(e) Conclusion

225. In conclusion, on the requirement of plausibility, the Court finds that the rights asserted by Pakistan in relation to the four RHEP design components are at least plausible under the Treaty. It bears emphasis that the Court’s determination that those rights are plausible does not control or constrain the Neutral Expert’s determination of whether the challenged components are Treaty-compliant or the Court’s ultimate decision on the merits of the dispute.³¹⁷

5. Each of the Measures Requested by Pakistan Must Be Necessary

226. Each of the interim measures requested by Pakistan must be necessary on at least one of three grounds. As previously indicated, Paragraph 28 empowers the Court to lay down interim measures if necessary: (1) to safeguard a Party’s interests under the Treaty with respect to the matter in dispute; (2) to avoid prejudice to the final resolution of the dispute; or (3) to avoid aggravation or

³¹⁵ See, e.g., **P-0547 (BR-0012)**, Neutral Expert (*Baglihar*), India’s Rejoinder, 20 March 2006, para. 5.3.7; **P-0082**, Letter No. 3/5/1007-IT/2043 (with enclosures), 11 September 2013, para. 13.

³¹⁶ Supplemental Award on Maximum Pondage, para. 301(C)(5).

³¹⁷ **PLA-0001**, Treaty, Annexure G, para. 28(b).

extension of the dispute.³¹⁸ The Court's Supplemental Rules of Procedure set out this same requirement of necessity virtually *in haec verba*.³¹⁹

227. The Treaty uses the term “necessary” in various contexts,³²⁰ and in each it conveys the same commonly understood meaning. As the Court stated in its Award on Issues of General Interpretation, the ordinary definition of “necessary” is “required, needed, or essential for a particular purpose”.³²¹ Thus, interim measures are “necessary” only if they are “required, needed, or essential” to safeguard the Party's interests, prevent prejudice to a final resolution, or avoid aggravation or extension of the dispute.³²²
228. The three grounds on which interim measures may be necessary are independent and not cumulative. In other words, if only one of the grounds of necessity exists, that is sufficient to order the measure, as these grounds serve different purposes. The first ground focuses on preserving the Parties' rights under the Treaty pending resolution of the dispute. The second ground focuses on preserving the Court's ability to resolve the dispute fairly. The third ground focuses on the need to confine and contain the scope of the differences that divide the Parties pending resolution of the dispute. While these three grounds are independent, the Court acknowledges that, in certain contexts, they may not be mutually exclusive. A particular interim measure may be warranted for two or three reasons, all connected to an overall goal of ensuring that the Parties' differences are settled judiciously in accordance with the terms of the Treaty.

³¹⁸ **PLA-0001**, Treaty, Annexure G, para. 28.

³¹⁹ Article 17(1) of the Supplemental Rules provides:

Consistent with paragraph 28 of Annexure G of the Treaty, a Party may at any time submit a request for the prescription of interim measures by the Court to:

- (a) safeguard the interests of the requesting Party with respect to the matter in dispute;
- (b) avoid prejudice to the final resolution of the dispute; and/or
- (c) avoid aggravation or extension of the dispute.

³²⁰ See, e.g., **PLA-0001**, Treaty, Art. II(4) (requiring Eastern Rivers water discharge observations “as may be necessary”); **PLA-0001**, Treaty, Art. III(3) (requiring Western Rivers water discharge considerations “as may be considered necessary”); **PLA-0001**, Treaty, Art. VI(1)(e) (requiring supplying certain data “considered by either Party to be necessary for operational purposes”); **PLA-0001**, Treaty, Annexure D, para. 15(iii) (allowing certain out-of-basin water transfers “if necessary”); **PLA-0001**, Treaty, Annexure G, para. 29 (identifying non-Treaty law that may be applied when “necessary” for the Treaty's interpretation or application).

³²¹ Award on Issues of General Interpretation, para. 265. That is the same definition that the *Kishenganga* Court employed in its proceedings. See **PLA-0003**, *Kishenganga* Partial Award, para. 397.

³²² The *Kishenganga* Court also employed that definition in its Order on Interim Measures. See **PLA-0042**, *Kishenganga* Interim Measures Order, para. 139.

229. The Court notes that Paragraph 28 contains no express reference to urgency or a need to avoid irreparable injury to a Party. Further, the Court finds that there is no reason to imply such elements in Paragraph 28, given that its express language identifies with relative clarity three grounds that warrant the issuance of interim measures. Accordingly, establishing urgency or irreparable injury is not required before a court of arbitration orders interim measures under Paragraph 28.
230. Thus, the Court must determine whether the specific measures that Pakistan has requested are “required, needed, or essential” to safeguard Pakistan’s interests, to prevent prejudice to a final resolution of the dispute at issue in these proceedings, or avoid aggravation or extension of that dispute.
231. The above analysis is consistent with that of the *Kishenganga* Court, which found that the three reasons were disjunctive (not conjunctive),³²³ that they each had a particular focus,³²⁴ and that a finding of urgency and irreparable injury was not required.³²⁵ In that instance, the *Kishenganga* Court found it sufficient to address solely the second ground (i.e., whether the requested measures were necessary to avoid prejudice to the final resolution of the dispute).³²⁶ In that respect, the Court stated that “what must be preserved *pendante lite* is the Court’s ability eventually to render an award with the content that it considers warranted both in terms of legal principle and in terms of the remedies that it may order, once it has had the benefit of a complete exposition of fact and law by both Parties”.³²⁷
232. For the request now before this Court, the issue of whether the interim measures requested by Pakistan are necessary on one of the three grounds can only be considered in the context of each of the five specific measures that Pakistan requests, to which the Court now turns.

C. THE SPECIFIC INTERIM MEASURES REQUESTED BY PAKISTAN RELATING TO THE RHEP

233. Pakistan requests the Court to order five specific interim measures regarding the construction of the RHEP, which Pakistan maintains are necessary to safeguard its interests, to prevent prejudice to a final resolution of the dispute, or to avoid aggravation or extension of the dispute.

³²³ PLA-0042, *Kishenganga* Interim Measures Order, para. 132.

³²⁴ PLA-0042, *Kishenganga* Interim Measures Order, paras. 133–134.

³²⁵ PLA-0042, *Kishenganga* Interim Measures Order, para. 130.

³²⁶ PLA-0042, *Kishenganga* Interim Measures Order, paras. 136–139.

³²⁷ PLA-0042, *Kishenganga* Interim Measures Order, para. 137.

234. In general, Pakistan seeks such relief at this point in the proceedings based on its assertion that India is moving forward with the RHEP's construction, potentially at an accelerated rate, and it has progressed to a point where the completion of specific components, including concreting of works related to the spillways and intakes, may give rise to a *fait accompli*, precluding as a practical matter future resolution of the matters pending before the Court and before the Neutral Expert. In support of this contention, Pakistan has entered into the record various documents, including the RHEP Construction Schedule dated 3 February 2025, that presents the latest RHEP construction timetable available to Pakistan.³²⁸
235. The below analysis considers each of the five specific measures requested by Pakistan, bearing in mind the requirements of Paragraph 28 of Annexure G to the Treaty and of Article 17 of the Supplemental Rules of Procedure. Pakistan has referred to these five specific measures as Measure A, Measure B, Measure C, Measure D, and Measure E.

1. Measure A

236. Pakistan first asks the Court to impose an interim measure that would enjoin the commencement or continuation of concreting works of the RHEP dam wall above the foundation level of the orifice spillway. As framed by Pakistan, this measure would read as follows:
- A. Until such time as the Neutral Expert renders his final decision on the question of whether the RHEP complies with the terms of Paragraph 8 of Annexure D, India shall not commence or, if already commenced, shall forthwith cease any concreting works in the RHEP dam above the foundation level of the orifice spillway in the dam, being the elevation at which reinforced concrete control structures for the spillway are introduced into the dam wall.³²⁹
237. Pakistan contends that this measure is “necessary” within the meaning of Paragraph 28 because, if concreting proceeds above the foundation level of the orifice spillway, and the Neutral Expert or the Court subsequently concludes that the planned orifice spillway, freeboard, or pondage are not Treaty-compliant, then completed concreting will pose severe practical obstacles to implementing an effective remedy. In particular, once the orifice spillway is set in concrete, Pakistan maintains that it cannot be modified without destroying important elements of the dam at significant and perhaps prohibitive effort and expense.³³⁰ Accordingly, Pakistan maintains that Measure A is necessary “to safeguard Pakistan’s interests under the Treaty, to avoid prejudice to

³²⁸ See Pakistan’s Memorial, para. 2.19.

³²⁹ Pakistan’s Final Submissions, p. 1.

³³⁰ Pakistan’s Memorial, para. 3.51.

the final resolution of the dispute, and to avoid the further aggravation and extension of the dispute”.³³¹

238. Upon review of the positions of the Parties, the Court concludes that an interim measure limiting the concreting of the dam wall is “necessary” to avoid prejudice to the final resolution of the dispute, due to three considerations.

239. *First*, the most recent, available RHEP Construction Schedule indicates that India is pursuing construction at the RHEP at a pace that will entail concreting above the foundation level of the orifice spillway prior to a final decision by the Neutral Expert (and, as necessary, a final resolution by the Court) as to whether India’s planned orifice spillway, freeboard, or pondage for the RHEP is Treaty-compliant. Specifically, it appears that India may have completed construction of the dam foundations ([REDACTED]) as of 13 December 2025,³³² with the intention of concreting up to the crest level of the orifice spillway (EL 985 masl) by 31 January 2027.³³³ Further, India plans to complete the concreting up to the crest level of its surface-gated spillway (EL 1012.5 masl) by 15 February 2027.³³⁴ [REDACTED]

[REDACTED]³³⁵

240. *Second*, the Neutral Expert’s Revised Work Programme dated 6 July 2026 contemplates the circulation to the Parties of his final decision “[a]round 16 July 2027”.³³⁶ Further, the Neutral Expert has decided to retain certain modeling specialists, who are available to conduct their work

³³¹ Pakistan’s Memorial, para. 3.52.

³³² See **P-0726**, Neutral Expert (*Indus Waters*), Letter to the Parties (Bifurcation, Work Programme, and Publication of Decisions) (redacted), 18 December 2025, p. 2, fn. 4 (“It is now in a position to pour the RHEP dam foundation, which is to begin on 8th December 2025, and ends on 13th December 2025.”).

³³³ See **P-0726**, Neutral Expert (*Indus Waters*), Letter to the Parties (Bifurcation, Work Programme, and Publication of Decisions) (redacted), 18 December 2025, p. 2, fn. 4 (“On 14th December 2025 India will begin concreting up to the crest level of its current deep orifice spillway. That process is due to be completed by 31st January 2027.”). See also [REDACTED]

³³⁴ See **P-0726**, Neutral Expert (*Indus Waters*), Letter to the Parties (Bifurcation, Work Programme, and Publication of Decisions) (redacted), 18 December 2025, p. 2, fn. 4 (“On 24th December 2026, India will begin concreting up to the crest level of its current surface gated spillway. That process is due to be completed by 15th February 2027”); **P-0044**, Neutral Expert (*Indus Waters*), “Ratle Hydroelectric Project”, Presentation by Mr. Kushvinder Vohra, Chairman, Central Water Commission, 27 February 2023; See also [REDACTED]

³³⁵ See Figure 1: Upstream View of the RHEP Dam Wall (with Court annotations) as of August 2012, *supra*; [REDACTED] *supra*.

³³⁶ **P-0802**, Neutral Expert (*Indus Waters*), Revised Work Programme, 6 July 2026.

in the period of 15 May 2026 to 21 March 2027.³³⁷ If India maintains its schedule for construction of the RHEP dam wall, it appears that it will complete concreting up to the crest level of the orifice spillway and will have completed the concreting up to the surface-gated spillway before the Neutral Expert issues his final decision.³³⁸

241. *Third*, concreting of the dam wall above the foundation level of the orifice spillway prior to a final decision by the Neutral Expert is not an act that should be left to India's own risk, on an assumption that it can be easily unwound at a future date if that act is found not to comply with the Treaty. While not impossible to remove reinforced concrete of this magnitude, as a practical matter, its destruction and removal would be extraordinarily difficult and costly. Therefore, concreting of the dam wall above the foundation level of the orifice spillway presents a serious possibility, as a practical matter, of affecting the decisions that might be reached by the Neutral Expert or the Court with respect to whether India's design for the RHEP orifice spillway, freeboard, or pondage are Treaty-compliant. In other words, construction above that level may place the Court in a position of having to issue exceptionally difficult remedies, including that of restitution, in the event that one or more Treaty violations are found to exist. As the *Kishenganga* Court put it when considering its issuance of interim measures, the "entirely unconstrained construction of the KHEP ... runs the risk of a prejudicial *fait accompli*, as the existence of such works would inevitably need to be taken into account in any consideration of remedies should a breach of the Treaty be determined to have occurred".³³⁹
242. Collectively, these three considerations mean that a measure precluding construction of the RHEP dam wall above the foundation level of the orifice spillway is necessary to avoid prejudice to the final resolution of the dispute. At present, Pakistan has initiated proceedings before this Court and India has initiated proceedings before the Neutral Expert seeking an authoritative decision as to whether India's design for the RHEP orifice spillway, freeboard, and pondage is compliant under the Treaty. Further, upon issuing such a decision, the Court may be called upon to determine specific remedies in relation to any violations of the Treaty. Accordingly, what must be preserved *pendente lite* is the Court's ability eventually to render an award, and the Neutral Expert's ability eventually to render a decision, with the content that either body considers is warranted to address

³³⁷ **P-0801**, Neutral Expert (*Indus Waters*), Terms of Reference for Modelling Specialists, dated 25 May 2026, para. 4.7.

³³⁸ **P-0802**, Neutral Expert (*Indus Waters*), Revised Work Programme, 6 July 2026. See Pakistan's Memorial, p. 20 (Figure 1); [REDACTED]

³³⁹ **PLA-0042**, *Kishenganga* Interim Measures Order, para. 148.

India's design for the RHEP orifice spillway, freeboard, and pondage, once each has had the benefit of a complete exposition of the relevant facts and law.

243. Having determined that a measure is necessary to avoid prejudice to the final resolution of the dispute, there is no need to address whether the other two grounds identified in Paragraph 28 could also support such a measure.
244. In determining whether, and to what extent, an interim measure is necessary in this regard, the Court is guided by Paragraph 28's requirement that the measure should extend no further in content and duration than is necessary to prevent prejudice to a final resolution of the dispute concerning these components.
245. With respect to the content of the measure, Pakistan's proposed measure refers to the limiting of "concreting works in the RHEP dam above the foundation level of the orifice spillway of the dam", a phrase that is both imprecise and potentially more restrictive than necessary. The principal objective when imposing this measure is to prevent the lowest of the relevant components (the orifice spillway) being fixed in reinforced concrete in a way that would render it, as a practical matter, immovable. That objective can be satisfied through more specific language limiting "any concreting works in the RHEP dam wall above the elevation at which the reinforced concrete structure for the orifice spillway gates is introduced into the dam wall, noting that this will be below the crest level of these gates, which is depicted as being at EL 985.00 masl in India's design for the RHEP as of 31 August 2023".
246. With respect to the duration of the measure, Paragraph 28 provides that the Court must limit it to a "specified period as, in its opinion, will be necessary" to render its future Award.³⁴⁰ In this instance, the Neutral Expert is currently engaged in a work program that is expected to result in a decision on whether India's design for the RHEP is Treaty-compliant by sometime in mid-2027. That decision, if within his competence, shall be binding upon both the Parties and the Court. Accordingly, the Court will limit the duration of the measure to a period of 90 days after the Neutral Expert renders his final decision on the question of whether India's design of the RHEP's orifice spillway, pondage, and freeboard conforms with the terms of Paragraph 8 of Annexure D to the Treaty.³⁴¹ A period of 90 days will allow sufficient time for the Parties to review the Neutral

³⁴⁰ PLA-0001, Treaty, Annexure G, para. 28(a).

³⁴¹ In identifying 90 days as an appropriate period of time, the Court considered that Pakistan is accorded three months to respond to a notification by India pursuant to Paragraph 10 of Annexure D to the Treaty and either Party is accorded three months to seek a clarification or interpretation of an award of a court of arbitration pursuant to Paragraph 27 of Annexure G.

Expert's final decision, for the Parties to make any necessary submissions to the Court as to whether the measure should be extended, vacated, or modified in light of the Neutral Expert's finding, and for the Court to reach a decision in that regard.³⁴²

247. Based on the above, the Court concludes that the following interim measure is necessary in accordance with Paragraph 28 of Annexure G and Article 17 of the Court's Supplemental Rules of Procedure:

Until 90 days after the Neutral Expert renders his final decision on the question of whether the design of the RHEP conforms with the terms of Paragraph 8 of Annexure D to the Treaty, India shall not commence or, if already commenced, shall forthwith cease any concreting works in the RHEP dam wall above the elevation at which the reinforced concrete structure for the orifice spillway gates is introduced into the dam wall, noting that this will be below the crest level of these gates, which is depicted as being at EL 985.00 masl in India's design for the RHEP as of 31 August 2023.

2. Measure B

248. Pakistan also requests that the Court order an interim measure that would enjoin the commencement or continuation of concrete works of the RHEP power intake structure. As framed by Pakistan, this measure would read as follows:

B. Until such time as the Neutral Expert renders his final decision on the question of whether the RHEP complies with the terms of Paragraph 8 of Annexure D, India shall not commence or, if already commenced, shall forthwith cease construction and concreting works for the intake structure above the invert level (approximately EL 997.45 masl) of the bell-mouth inlet.³⁴³

249. Pakistan contends that this measure is "necessary" within the meaning of Paragraph 28 because, if concreting works for the power intake structure proceed above the invert level, and if the Neutral Expert or the Court subsequently concludes that such structure is not Treaty-compliant, then completed concreting will pose severe practical obstacles to implementing an effective remedy. Unlike the orifice spillway, the intake structure is not located in the dam wall; rather it is situated on the adjacent riverbank. But as in the case of the orifice spillway, once the structure is set in concrete, "it will be extremely challenging (if not virtually impossible) to modify ex post facto".³⁴⁴ Accordingly, Pakistan maintains that Measure B is necessary "to safeguard Pakistan's

³⁴² **PLA-0001**, Treaty, Annexure G, para. 28(a); Supplemental Rules of Procedure, Art. 17(4). The Court further notes that Article 2 of the Court's Supplemental Rules addresses the calculation of time periods under the Rules, and applies to the calculation of time periods in the Court's Order.

³⁴³ Pakistan's Final Submissions, p. 1.

³⁴⁴ Pakistan's Memorial, para. 3.60.

interests under the Treaty, to avoid prejudice to the final resolution of the dispute, and to avoid the further aggravation and extension of the dispute”.³⁴⁵

250. Upon review of the positions of the Parties, the Court concludes that an interim measure limiting the construction of the intake structure is “necessary” to avoid prejudice to the final resolution of the dispute due to, *mutatis mutandis*, the same three considerations indicated with respect to the RHEP orifice spillway, pondage, and freeboard.

251. *First*, [REDACTED]
[REDACTED]
[REDACTED]³⁴⁶

252. *Second*, as previously discussed, the Neutral Expert’s final decision is scheduled to be issued, at the earliest, “[a]round 16 July 2027”.³⁴⁷ If India maintains its schedule for construction at the RHEP, it appears that a considerable amount of the concreting of the power intake structure may be completed before the Neutral Expert issues his final decision.

253. *Third*, concreting of the power intake structure above the invert level prior to a final decision by the Neutral Expert is not an act that should be left to India’s own risk, on an assumption that it can be easily unwound at a future date if that act is found not to comply with the Treaty. To the contrary, for the same reason as for the orifice spillway, concreting of the power intake structure above the invert level presents a serious possibility, as a practical matter, of affecting the decisions that might be reached by the Neutral Expert or the Court with respect to whether India’s design for that structure is Treaty-compliant. As with Measure A, construction above that invert level may have the effect of requiring the Court to issue exceptionally difficult remedies of restitution and/or of compensation in the event that a Treaty violation is found to exist. Here, too, a temporary halt to such construction would go a long way toward avoiding a prejudicial *fait accompli* while these proceedings are ongoing.

254. Collectively, these three circumstances mean that an order temporarily prohibiting any construction of the RHEP power intake structure above the invert level is necessary to avoid prejudice to the final resolution of the dispute. At present, Pakistan has initiated proceedings before this Court and India has initiated proceedings before the Neutral Expert seeking an

³⁴⁵ Pakistan’s Memorial, para. 3.61.

³⁴⁶ [REDACTED]

³⁴⁷ **P-0802**, Neutral Expert (*Indus Waters*), Revised Work Programme, 6 July 2026.

authoritative determination as to whether India's design for the RHEP power intake structure is compliant with India's obligations under the Treaty. Further, upon issuing such a decision, the Court may be called upon to determine specific remedies in relation to any violations of the Treaty. Accordingly, what must be preserved *pendente lite* is the Court's ability eventually to render an award, and the Neutral Expert's ability eventually to render a decision, with the content that either body considers is warranted to address India's design for the RHEP power intake, once each has had the benefit of a complete exposition of the relevant facts and law. As with Measure A, having determined that a measure is necessary to avoid prejudice to the final resolution of the dispute, there is no need to address whether the other two grounds identified in Paragraph 28 could also support such a measure.

255. As with respect to Measure A, this measure should extend no further in content and duration than is necessary to prevent prejudice to a final resolution of the dispute concerning the power intake structure.
256. With respect to the content of the measure, Pakistan's proposal, which would limit "construction and concreting works for the intake structure above the invert level", may be expressed more precisely. The principal objective when imposing this measure is to avoid concreting that would prevent design modifications on the reservoir side of the intake—such as incorporating a skimming wall—that effectively raise the invert of the power intake for the main units. That objective can be satisfied through more specific language limiting "construction and concreting works for the intake structure on the reservoir side of the service gates for the power intakes above the invert level of the four main units, which is depicted at EL 997.45 masl in India's design for the RHEP as of 31 August 2023".
257. With respect to the duration of the measure, for the same reasons as indicated in relation to Measure A, this measure also should be limited to a period of 90 days after the Neutral Expert renders his final decision on the question of whether the design of the RHEP power intake structure conforms with the terms of Paragraph 8 of Annexure D to the Treaty. A period of 90 days will allow sufficient time for the Parties to review the Neutral Expert's final decision, for the Parties to make any necessary submissions to the Court as to whether the measure should be extended, vacated, or modified in light of the Neutral Expert's finding, and for the Court to reach a decision in that regard.³⁴⁸

³⁴⁸ PLA-0001, Treaty, Annexure G, para. 28(a); Supplemental Rules of Procedure, Art. 17(4).

258. Based on the above, the Court concludes that the following interim measure is necessary in accordance with Paragraph 28 of Annexure G and Article 17 of the Court's Supplemental Rules of Procedure:

Until 90 days after the Neutral Expert renders his final decision on the question of whether the design of the RHEP conforms with the terms of Paragraph 8 of Annexure D to the Treaty, India shall not commence, or if already commenced, shall forthwith cease construction and concreting works for the intake structure on the reservoir side of the service gates for the power intakes above the invert level of the four main units, which is depicted at EL 997.45 masl in India's design for the RHEP as of 31 August 2023.

3. Measure C

259. Pakistan further requests the Court to order an interim measure that would require India to provide notice of any developments that could advance or delay the RHEP construction in ways that are relevant to the current dispute resolution processes before the Court and the Neutral Expert. As framed by Pakistan, this measure would read as follows:

C. Until such time as the Neutral Expert renders his final decision on the question of whether the RHEP complies with the terms of Paragraph 8 and Annexure D, India shall notify the Neutral Expert and Pakistan promptly, at the point of adoption and in advance of implementation, of any changes to the RHEP Revised Construction Schedule, or any subsequent iteration thereof to be transmitted in due course.³⁴⁹

260. Pakistan contends that this measure is necessary within the meaning of Paragraph 28 because the RHEP is located within India-administered Jammu and Kashmir and only India has knowledge of the progress of construction at the RHEP site.³⁵⁰ Pakistan asserts that India has consistently delayed or avoided sharing such information with the Court, the Neutral Expert, and Pakistan.³⁵¹ In particular, Pakistan maintains that India has not responded in a timely manner to the Neutral Expert's requests for construction information, including an updated construction schedule.³⁵²

261. [REDACTED] 353 [REDACTED]
[REDACTED]

³⁴⁹ Pakistan's Final Submissions, p. 1.

³⁵⁰ Pakistan's Memorial, para. 3.69.

³⁵¹ Pakistan's Memorial, para. 3.69.

³⁵² Pakistan's Memorial, paras. 2.16–2.24.

³⁵³ [REDACTED]

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262. Since India’s adoption of its decision on abeyance, however, Pakistan fears that India may accelerate construction of Treaty non-compliant components without notice, prejudicing the Neutral Expert’s and the Court’s proceedings.³⁵⁶ Although India provided an updated construction schedule for the RHEP on 3 February 2025, that schedule is now more than a year old.³⁵⁷ According to Pakistan, there is good reason to believe, based both on the typical uncertainty in predicting construction progress and reports in Indian media of construction activities, that the schedule is no longer current.³⁵⁸
263. Upon review of the positions of the Parties, the Court concludes that an interim measure calling upon India to report on any replacement of or change to the RHEP Construction Schedule is “necessary” to avoid prejudice to the final resolution of the dispute, due to three considerations.
264. *First*, in determining whether, and to what extent, an interim measure is necessary in this instance, the Court observes that the first two interim measures discussed above are directly related to the time frame by which the RHEP construction appears to be unfolding. Thus, one of the three considerations for issuing those two interim measures is the pace at which concreting is occurring at the RHEP in relation to the orifice spillway, power intake structure, pondage, and freeboard. As the Neutral Expert proceeds with his work, it is important for him to know the schedule for completion of the RHEP components at issue, as it may affect the timing for the issuance of his final decision. Likewise, any change in the schedule for such construction directly relates to the Court’s effort to prevent prejudice to a final resolution of the dispute at issue in these proceedings.
265. *Second*, prior to India’s decision on abeyance, India was providing updates and information as to its construction of RHEP, which allowed Pakistan (and the Neutral Expert) to monitor the pace

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356 Pakistan’s Memorial, para. 3.70.

357 Pakistan’s Memorial, para. 2.19.

358 Pakistan’s Memorial, paras. 2.35–2.36.

and scope of India's activities at the RHEP, in relation to the pace of the Neutral Expert's proceedings. Since India's decision on abeyance, no such updates or information have been provided by India to the Neutral Expert or to Pakistan, thereby making necessary a measure in the form of a reporting requirement.

266. *Third*, when interim measures are issued, a collateral reporting requirement is often viewed by international courts and tribunals as an additional necessary means for protecting the interests that are at stake. The central idea is that transparency as to what is happening “on the ground” is an essential aspect of ensuring that the interests and processes at stake are being protected. India itself recognized in the *Kishenganga* Arbitration the relevance of such transparency, committing to the Court that “any actual or imminent development or steps in relation to the Kishenganga Project during the progress of this arbitration that would have significant adverse effect on Pakistan's stated rights or interests will be promptly intimated to the Court and to Pakistan”.³⁵⁹ Thereafter, the *Kishenganga* Court imposed a reporting requirement as a part of its Order on Interim Measures.³⁶⁰ Other international courts and tribunals, such as the International Court of Justice, have imposed a reporting requirement as an interim measure as well.³⁶¹
267. In light of these considerations, a measure of this kind is necessary to avoid prejudice to the final resolution of the dispute. As with Measures A and B, having determined that a measure is necessary to avoid prejudice to the final resolution of the dispute, the Court finds that there is no need to address whether the other two grounds identified in Paragraph 28 could also support such a measure.
268. The Court further observes that, while this measure—a reporting requirement—is different in nature than the first two measures, there is no limitation in Paragraph 28 on the form that an interim measure must take. The requirements of that paragraph are specific in certain important respects, but not in precluding a reporting requirement. Further, read in context with other provisions of Annexure G—notably the Court's power to require information from the Parties that

³⁵⁹ See **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 70, 123–127.

³⁶⁰ See **PLA-0042**, *Kishenganga* Interim Measures Order, para. 152(2) (requiring the Parties to submit “a joint report setting forth the areas of agreement and any points of disagreement that may arise between the Parties concerning implementation of this Order”).

³⁶¹ Pakistan's Memorial, paras. 3.63–3.64 referring to **PLA-0153**, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Provisional Measures, Order, 2020 ICJ Rep. 3, paras. 79–81; **PLA-0164**, *Enrica Lexi (Italy v. India)*, Provisional Measures, Order, 2015 ITLOS Rep. 176, paras. 138–139; **PLA-0165**, *Application of the International Convention on All Forms of Racial Discrimination (Armenia v. Azerbaijan)*, Provisional Measures, Order, 2023 ICJ Rep. 619, para. 71.

“it considers necessary” for its proceedings—there is no reason to read Paragraph 28 restrictively.³⁶²

269. With respect to the content of the measure, the Court regards as generally appropriate Pakistan’s proposed requirement that “India shall notify the Neutral Expert and Pakistan promptly, at the point of adoption and in advance of implementation, of any changes to the RHEP Revised Construction Schedule, or any subsequent iteration thereof to be transmitted in due course” as generally appropriate.³⁶³ At the same time, the Court also has an interest in receiving such notice, in part given the Court’s supervisory powers over the measures that it orders. As for the wording of the measure, the principal objective in imposing such a measure is to ensure that the Court, the Neutral Expert, and Pakistan are informed as to any replacement of or changes to the RHEP Construction Schedule dated 3 February 2025.³⁶⁴ That objective can be achieved by requiring India “to promptly inform the Court of Arbitration, the Neutral Expert, and Pakistan of any replacement of, or change to, the RHEP Construction Schedule dated 3 February 2025 that India has already made or that it makes hereafter”.
270. With respect to the duration of the measure, a report on any replacement of or change to the RHEP Construction Schedule is necessary throughout the period prior to the issuance of the Neutral Expert’s final decision. Once he has issued his decision, there may be no further need to receive such reports. At that point, India’s design for the RHEP might be found compliant with the Treaty, in which case its construction can proceed as designed. If India’s design for the RHEP, with respect to one or more of the contested components, is found non-compliant with the Treaty, then the situation changes to one of India identifying an alternative design and informing Pakistan of the same, rather than proceeding on the basis of India’s original design. The Court accordingly will limit the duration of the interim measure to a period until the Neutral Expert renders his final decision on the question of whether the design of the RHEP conforms with the terms of Paragraph 8 of Annexure D to the Treaty. Pakistan may request, with reasons, an extension of the duration of the interim measure after the Neutral Expert renders his final decision.³⁶⁵

³⁶² **PLA-0001**, Treaty, Annexure G, para. 20.

³⁶³ Pakistan’s Final Submissions, p. 1.

³⁶⁴ [REDACTED]

³⁶⁵ **PLA-0001**, Treaty, Annexure G, para. 28(a); Supplemental Rules of Procedure, Art. 17(4).

271. Based on the above, the Court concludes that the following interim measure is necessary in accordance with Paragraph 28 of Annexure G and Article 17 of the Court's Supplemental Rules of Procedure:

Until such time as the Neutral Expert renders his final decision on the question of whether the design of the RHEP complies with the terms of Paragraph 8 of Annexure D to the Treaty, India shall promptly inform the Court of Arbitration, the Neutral Expert, and Pakistan of any replacement of, or change to, the RHEP Construction Schedule dated 3 February 2025 that India has already made or that it makes hereafter.

4. Measure D

272. Pakistan also requests the Court to order an interim measure affirming that India's construction of the RHEP during the current dispute resolution proceedings subjects India to an "own risk principle", by which Pakistan means that, if components that are constructed are found not to be Treaty-compliant, then India is at risk of having to discontinue, modify, or dismantle them. As framed by Pakistan, this measure would read as follows:

D. A clear and formal affirmation by the Court that any construction steps that India has taken or may take in respect of the RHEP have been, are and would be taken at India's risk, without prejudice to the possibility that the Court may in a future award order that the works must not be continued, or must be modified or dismantled.³⁶⁶

273. Pakistan contends that, in the absence of India's acknowledgement of its obligations under the Treaty, "a dispositive statement by the Court of the own risk principle, and an affirmation of its applicability in the present proceedings, is a necessary and essential safeguard to the integrity and effectiveness of both the Court and the Neutral Expert proceedings".³⁶⁷
274. Upon review of the positions of the Parties, the Court concludes that the "own risk principle" is applicable in this case, but also concludes that ordering an interim measure of this kind is not "necessary" within the meaning of Paragraph 28.
275. The Treaty contains no provision that expressly refers to an "own risk principle". To the extent that such a principle applies in these proceedings, it does so as a background rule of the law of treaties or the law of State responsibility, including in relation to remedies. The International Court of Justice first articulated the concept in the *Passage through the Great Belt* case, observing that "if it is established that the construction of works involves an infringement of a legal right, the possibility cannot and should not be excluded *a priori* of a judicial finding that such works must

³⁶⁶ Pakistan's Final Submissions, p. 1.

³⁶⁷ Pakistan's Memorial, para. 3.75.

not be continued or must be modified or dismantled”.³⁶⁸ That Court further elaborated in the *Pulp Mills* case, stating that, in constructing the mills at issue in that case, “Uruguay necessarily bears all risks relating to any finding on the merits that the Court might later make”.³⁶⁹

276. Importantly, the Court notes that Pakistan invoked the “own risk principle” when seeking interim measures in the *Kishenganga* Arbitration, arguing in that context that India was on notice that its design of the KHEP might violate its obligations under the Treaty.³⁷⁰ Pakistan maintained, based on principles of international law, that “a State engaged in works that may violate the rights of another State can proceed only at its own risk”³⁷¹ and requested the *Kishenganga* Court to issue an interim measure that: “[a]ny steps that India has taken or may take in respect of the KHEP are taken at its own risk”.³⁷² Although India initially disputed the principle, it ultimately acceded to its application, stating at the close of the hearing that it “is committed to proceed on ‘the own risk principle’ of international law”.³⁷³ The *Kishenganga* Court ultimately declined to issue an interim measure requested by Pakistan, while noting:

But any doubt about India’s acceptance of this principle was put to rest during the last day of the hearing on interim measures, when counsel for India stated, “in unequivocal terms,” that “in this case, India is committed to proceed on the ‘own-risk principle’ of international law.”³⁷⁴

277. In none of these cases was an “own risk principle” or related concept ordered as an interim measure. Rather, the statements were made as part of the court’s or tribunal’s analysis of the standard application of background rules of international law. In essence, the “own risk principle” (or any related concept) automatically arises from the parties’ obligations under a dispute resolution procedure, whenever one party is placed on notice that its conduct may not be compliant with its international obligations. If the party proceeds anyway on an assumption that its conduct is permissible, the “own risk principle” is simply a reminder that, if such assumption

³⁶⁸ **PLA-0161**, *Passage through the Great Belt (Finland v. Denmark)*, Provisional Measures, Order, 1991 ICJ Rep. 12, para. 31.

³⁶⁹ **PLA-0163**, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Provisional Measures, Order, 2006 ICJ Rep. 113, para. 78.

³⁷⁰ **PLA-0042**, *Kishenganga* Interim Measures Order, paras. 31–33, 57–58, 65, 67–69, 122.

³⁷¹ **PLA-0042**, *Kishenganga* Interim Measures Order, para. 122, referring to **PLA-0161**, *Passage through the Great Belt (Finland v. Denmark)*, Provisional Measures, Order, 1991 ICJ Rep. 12, para. 33.

³⁷² **PLA-0042**, *Kishenganga* Interim Measures Order, para. 52(iii).

³⁷³ **PLA-0042**, *Kishenganga* Interim Measures Order, para. 70.

³⁷⁴ **PLA-0042**, *Kishenganga* Interim Measures Order, para. 122. See also **PLA-0042**, *Kishenganga* Interim Measures Order, para. 143 (“In the Court’s view, the continuation of [KHEP construction] activity is appropriately governed by the ‘proceed at own risk’ principle of international law, as specifically recognized by India during the hearing.”).

proves wrong and the party is found in violation of international law, then the breach of international law entails responsibility and reparation, including restitution.

278. In the context of this case, once Pakistan notified India of its objections to the KHEP and RHEP in a timely manner, and invoked its rights to third-party resolution under Article IX of the Treaty, India became subject to the “own risk principle”. To the extent that India has proceeded with construction of the KHEP and the RHEP, notwithstanding the proceedings before the Neutral Expert and the Court, it became subject to the attendant possibility that it could be required to discontinue, modify, or dismantle components of the HEP that are not compliant with the Treaty. Indeed, the Neutral Expert warned India of this possibility in unambiguous terms:

The Neutral Expert finds it important to emphasize at this point that his determination could have implications for the design of the RHEP and that, in order to ensure the effectiveness of the decision, modifications may be required to work that has already commenced or been completed, including excavations, concrete structures, mechanical equipment and other components.³⁷⁵

279. Consequently, India is subject to the “own risk principle” in this case, just as India acknowledged it was subject to that principle in the *Kishenganga* Arbitration. Yet, at the same time, it is not necessary to incorporate that principle into an interim measure. Such a statement, which would simply restate an existing legal duty of India, is not required to safeguard Pakistan’s interests, to prevent prejudice to a final resolution of this dispute, or to avoid aggravation or extension of the dispute. Rather, India’s legal obligation in this regard exists without regard to any such measure.
280. In light of the above, Measure D is unnecessary. Accordingly, Pakistan’s request is denied.

5. Measure E

281. Finally, Pakistan requests the Court to impose an interim measure consisting of a declaration that India must return to full compliance with the Treaty. As framed by Pakistan, this measure would read as follows:

E. Pending the Court’s Award on Pakistan’s Application for Determination of the Present Status of the Treaty, India shall return to full compliance with its obligations under the Treaty.³⁷⁶

³⁷⁵ P-0730, Effectiveness Decision, p. 6.

³⁷⁶ Pakistan’s Final Submissions, p. 1.

282. Pakistan contends that this measure is necessary because India's decision on abeyance, including its refusal to comply with the Treaty's information disclosure and dispute resolution processes, undermines the Treaty's objectives and aggravates and extends the current disputes.³⁷⁷
283. The question of India's decision on abeyance is fully addressed in this Court's Award on the Status of the Treaty issued on today's date. That Award, which affirms India's continuing obligations under the Treaty, obviates the need for Measure E.
284. In light of the above, Measure E is unnecessary. Accordingly, Pakistan's request is denied.

6. Conclusion

285. The Court concludes that three interim measures are necessary to prevent prejudice to a final resolution of the dispute. Two further requests for interim measures, however, are not necessary and therefore will not be ordered. In accordance with this Court's Supplemental Rules of Procedure, the Parties shall promptly disclose any material change in the circumstances upon which the Court has prescribed these three interim measures.³⁷⁸ In addition, a Party may submit a request for the modification or revocation of the interim measures prescribed by the Court. The Court shall decide upon such a request after affording an adequate hearing to both Parties.³⁷⁹

³⁷⁷ Pakistan's Memorial, paras. 3.89–3.92.

³⁷⁸ Supplemental Rules of Procedure, Art. 17(3).

³⁷⁹ Supplemental Rules of Procedure, Art. 17(4).

VIII. ORDER

286. For the reasons indicated above, and having found that it is necessary to lay down certain interim measures in order to avoid prejudice to a final resolution of the dispute, as provided in Paragraph 28 of Annexure G to the Treaty, the Court unanimously:

- A. ORDERS that, until 90 days after the Neutral Expert renders his final decision on the question of whether the design of the RHEP conforms with the terms of Paragraph 8 of Annexure D to the Treaty, India shall not commence or, if already commenced, shall forthwith cease any concreting works in the RHEP dam wall above the elevation at which the reinforced concrete structure for the orifice spillway gates is introduced into the dam wall, noting that this will be below the crest level of these gates, which is depicted as being at EL 985.00 masl in India's design for the RHEP as of 31 August 2023.
- B. ORDERS that, until 90 days after the Neutral Expert renders his final decision on the question of whether the design of the RHEP conforms with the terms of Paragraph 8 of Annexure D to the Treaty, India shall not commence, or if already commenced, shall forthwith cease construction and concreting works for the intake structure on the reservoir side of the service gates for the power intakes above the invert level of the four main units, which is depicted at EL 997.45 masl in India's design for the RHEP as of 31 August 2023.
- C. ORDERS that, until such time as the Neutral Expert renders his final decision on the question of whether the design of the RHEP complies with the terms of Paragraph 8 of Annexure D to the Treaty, India shall promptly inform the Court of Arbitration, the Neutral Expert, and Pakistan of any replacement of, or change to, the RHEP Construction Schedule dated 3 February 2025 that India has already made or that it makes hereafter.

287. This Order does not prohibit India from continuing with other works relating to the RHEP, except for the works specified in 286(A) and 286(B) above.

288. The Court may revise this order or issue further orders at any time in light of the circumstances then obtaining.

289. The Court:

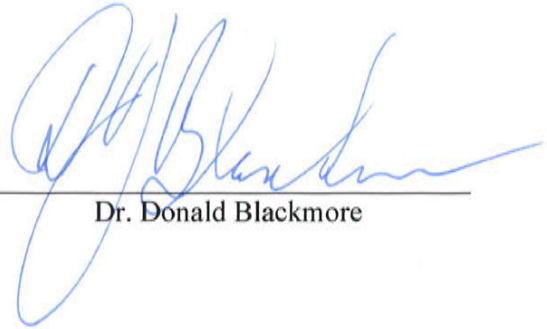
- A. RESERVES the costs of the proceedings to be awarded by the Court pursuant to Paragraph 26 of Annexure G to the Treaty for determination in the Court's Final Award.
- B. RESERVES for further consideration and directions all issues not decided in this Order.
- C. REMAINS seized of the disputes set forth in Pakistan's Request for Arbitration.

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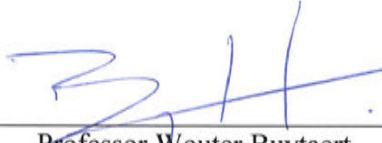
Done this 31st day of August 2026:



Judge Awn Shawkat Al-Khasawneh



Dr. Donald Blackmore



Professor Wouter Buytaert



Professor Jeffrey P. Minear



Professor Sean D. Murphy
Chairman



Mr. Garth Schofield
Registrar