

**The Hindu Important News Articles & Editorial For UPSC CSE**

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At CoP29, securing better climate finance for the Global South is a key objective. The need for climate funding has surged dramatically, as the Global South bears the brunt of climate change impacts.

- ➔ However, there are significant challenges regarding the adequacy, terms, and accessibility of these funds, leading to tensions between the Global South and the Global North over climate justice and financing arrangements.

### *All eyes on Baku and the climate finance goal*

**T**he New Collective Quantified Goal (NCQG) will be a key determinant of COP29 (also touted as a 'finance COP') turning out to be successful. The foundation of climate finance actions is unequivocally centred on addressing the "needs and priorities of developing countries", as mandated in Article 9 of the Paris Agreement. NCQG, and set to be finalised at COP29, will shape the future of climate finance. COP29 is being held in Baku, Azerbaijan, from November 11 to 22, 2024.

#### Unresolved battles

In the debate over the NCQG, countries with diverse interests are taking sharply differing positions, as highlighted in the recent high-level ministerial dialogue on NCQG ahead of COP29. Key unresolved issues include the structure and the scope of the NCQG, the scale of financial contributions, and time frames, and sources. Developing countries insist that the financial burden must not shift unfairly onto them. They emphasise the responsibility of developed countries to provide support, laying stress on the need for equity in climate finance, with a balance between adaptation and mitigation. Their position favours clear, quantitative targets, with a focus on public finance, grants, and concessional loans, alongside specific, predictable time frames of either five or 10 years.

In contrast, developed countries push to broaden the contributor base, advocating for a more inclusive approach to climate finance. They prioritise outcome-driven strategies, targeting low emissions and climate resilience, while exploring innovative financing and flexible, multilayered finance structures.

The \$100 billion annual climate finance pledge, made in 2009 and extended to 2025, has been a glaring source of distrust. Developed countries missed the original 2020 deadline, only meeting the target in 2022, undermining faith in their commitments and leaving developing countries struggling with the consequences of delayed action. Moreover, the \$100 billion target is woefully insufficient. Trillions are needed. The Standing Committee on Finance estimates that for 48% of costed needs from 98 parties, the amount required for climate action ranges between \$5.036 trillion and \$6.876 trillion.

Although the OECD reports that the \$100 billion goal was met for the first time in 2022, with developed countries mobilising \$15.9 billion, the reality exposes serious flaws. There are insufficient resources for adaptation, and the over-reliance on loans, instead of grants, is pushing vulnerable countries further into debt.

Grants-based public finance must be the core of climate finance, with concessional loans supplementing but not replacing it. Private investment is useful for clean energy but falls short in adaptation projects, where the returns



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With developing countries burdened by the climate crisis they did not cause, the critical question is whether negotiations on global climate finance will deliver outcomes or just promises

are less clear. This investment bias towards mitigation leaves crucial adaptation efforts such as infrastructure resilience and disaster management severely underfunded. Accessing funds from entities such as the Green Climate Fund and Global Environment Facility remains a significant hurdle for developing countries, hindering their ability to adapt.

#### Issue with expanding the contributor base

Discussions on expanding the contributor base for the NCQG raise significant concerns regarding equity and the effectiveness of climate finance negotiations. According to submissions on the new collective quantified goal on climate finance, Switzerland and Canada have proposed expanding the contributor base to include additional countries based on criteria such as emissions and GNI per capita (PPP). The Canadian and Swiss proposals largely seek to target China along with oil-producing countries such as Bahrain, Brunei, Kuwait, Qatar, Saudi Arabia and the United Arab Emirates. Considering climate change impacts, aspects such as vulnerability, energy poverty and human development are extremely important.

The discussions on expanding the contributor base are not new and were pushed during the Paris Agreement talks. Developed countries argued that wealthier nations should step up, citing shifting global economies. The developing countries pushed back, seeing it as an attempt to sidestep the core principles of equity and common but differentiated responsibilities that underpin climate negotiations. This move was seen as a threat to dilute accountability, shifting the burden away from those historically responsible for the climate crisis. The discussion on the contributor base exceeds the intended mandate, risking delays in crucial negotiations. Given the pressing need for climate action, this debate risks stalling progress at COP29.

The foundation of the NCQG and climate finance commitments should be firmly anchored in Article 9 of the Paris Agreement, which mandates a balance between adaptation and mitigation finance, emphasising public and grant-based finance for adaptation to avoid increasing the debt burden on developing countries.

Yet, developed countries are advancing a narrative focused on "low greenhouse gas emissions and climate-resilient development", which carries significant political implications for their legal obligations under the Paris Agreement and the United Nations Framework Convention on Climate Change.

This narrative shift appears to be an attempt to dilute explicit responsibilities by broadening the scope of interpretation. Such a shift undermines both the spirit and the letter of Article 9 of the Paris Agreement, violating the principle of *pacta sunt servanda*, which demands that treaties and

agreements be upheld in good faith.

The Standing Committee on Finance (SCF) has updated the operational definition of climate finance. The current definition of climate finance is "Climate finance aims at reducing emissions and enhancing sinks of greenhouse gases, aims at reducing vulnerability, increasing adaptive capacity, and mainstreaming and increasing resilience of human and ecological systems to negative climate impacts, and includes financing for actions identified in a country's nationally determined contribution, adaptation communication, national adaptation plan, long-term low-emission development strategy, or other national plan for implementing and achieving the goals of the Paris Agreement and the objective of the Convention".

The absence of an explicit reference to additionality in the adopted definition is a critical oversight, as it leaves room for ambiguity on whether climate finance constitutes new and incremental support. Finance refers to the targeted allocation of public funds from developed to developing countries to support climate mitigation and adaptation, while investment involves the allocation of capital with the expectation of profit, which may not align with climate priorities. Counting private investments as part of the NCQG risks diluting the accountability and the responsibility of developed countries to provide clear, targeted, and equitable climate finance, as private capital often lacks the public purpose and oversight essential to meeting international climate objectives, especially adaptation. Having common accounting frameworks continues to be critical.

#### On the NCQG

Developing countries need not only finance but also technology transfer and capacity building as a means of implementation to support both mitigation and adaptation. However, procedural barriers within multilateral mechanisms, which often prioritise 'value-for-money' over 'need-for-money', can hinder their access to funds.

As COP29 approaches and the NCQG is set to be finalised, the negotiations will decide if climate finance truly addresses the urgent needs of developing countries burdened by the climate crisis they did not cause.

The NCQG's success hinges on whether it restores faith in multilateralism and rebuilds the fractured trust between developed and developing countries. If the process fails to account for historical responsibility, the unique challenges of developing countries, and the need for capacity building, it risks widening the divide. As the world heads towards Baku, the critical question remains: will the negotiations on global climate finance deliver just outcomes or just promises?

### Growing Finance Needs and Inequities

- ➔ **Escalating Climate Finance Demands:** The Global South's financial requirements to address climate change have skyrocketed to over USD 1 trillion annually, a sharp increase from the USD 100 billion per year promised in 2009.
  - Despite this, climate finance only surpassed USD 100 billion for the first time in 2022, and a significant portion of it was in the form of loans rather than grants, deepening the financial strain on already indebted nations.

- **Debt Servicing and Its Impact:** The debt burden in the Global South is severe, with some of the poorest nations spending up to 40% of their national budgets on servicing debt. This leaves little room for investing in critical climate adaptation and clean energy projects.
  - Many countries face higher borrowing costs due to perceived investment risks, with nations like India facing 3-4 times higher capital costs compared to wealthier countries like Germany.
- **The Reluctance of Rich Countries and Investors:** Climate change is impacting both the Global North and South, with developed countries also facing severe weather events.
  - However, investors remain hesitant to lend to developing countries due to the perceived risks, which has hindered the flow of necessary funds to the Global South for climate resilience and renewable energy development.

### Proposed Solutions and Pathways for Cooperation

- **Encouraging Higher Returns for Investors:** To attract more private investment into climate projects, Global South nations, particularly India, may need to offer higher returns on infrastructure projects.
  - By increasing potential returns—say to 17-18% for projects like green hydrogen or electrified public transport—the attractiveness of these markets to foreign investors could increase. This would enable quicker recoupment of investments and incentivize reinvestment into other climate projects.
- **Leveraging Climate Finance as a Backstop for Lenders:** One strategy could involve using climate finance as a backstop to reassure private and public lenders, especially for projects like solar, wind, and hydropower, which may face output curtailment and perceived risk.
  - By providing an underwriting mechanism from international climate funds, countries like India could unlock more concessional financing for such renewable energy projects, provided the national policy environment supports renewable capacity expansion.
- **Negotiation and Concessions at CoP29:** CoP29 offers a critical platform for negotiations, where both the Global South and the Global North must make concessions.
  - A more generous approach from the Global South—such as offering to improve returns for investors—could foster cooperation and lead to a more successful climate finance framework. This could be a significant step in advancing global climate goals while addressing equity concerns.



A recent nine-judge Bench of the Supreme Court of India has examined the scope of the Directive Principles of State Policy (DPSP), particularly Articles 39(b) and (c), which aim to prevent the concentration of wealth and ensure that material resources are distributed for the common good.

# Can the state acquire all private property?

When can private properties be taken over by the government? Why was the right to property taken out from the list of Fundamental Rights? What does Article 39 (b) of the Directive Principles of State Policy articulate? Why was Justice V.R. Krishna Iyer's interpretation of the same struck down?

### EXPLAINER

Rangarajan. R

#### The story so far:

A nine-judge Constitution Bench of the Supreme Court, in a majority judgment (8:1), held that not every private resource can be considered a 'material resource of the community' to be used by the government to serve the 'common good.' This overturns the earlier interpretation formed in 1977 that has been followed by the Supreme Court till 1997.

#### What are constitutional provisions?

Part IV of the Constitution contains the Directive Principles of State Policy (DPSP). These are principles that the government should follow to achieve social and economic justice in our society. Article 39(b) in Part IV provides that 'ownership and control of material resources of the community are so distributed as best to subserve the common good.'

The Constitution originally guaranteed right to property and compensation for acquisition as a Fundamental Right under Articles 19(1)(f) and 31 respectively. Article 31C was added through the 25th amendment in 1971. It provided an exception that laws made to fulfil the principles under Articles 39(b) and (c) shall not be void on the ground that it violated Fundamental Rights including right to property. In the *Kesavananda Bharati* case (1973), a 13-judge Bench of the Supreme Court upheld the validity of Article 31C but made it subject to judicial review. In 1978, the right to property was omitted from Fundamental Rights and made a constitutional right under Article 300A. Any law to acquire private property by the government should only be for a public purpose with adequate compensation meted out.

#### What were earlier judgments?

In *State of Karnataka versus Ranganatha Reddy* (1977), a seven-judge Bench of the



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Supreme Court upheld a Karnataka State law that nationalised private bus transport services. Justice V.R. Krishna Iyer wrote a separate 'afterword' interpreting the phrase 'material resource of the community' contained in Article 39(b). He held that it embraces all national wealth, not merely natural resources, and all the private and public sources of meeting material needs. This minority judgment formed the basis of the *Sanjeev Coke Manufacturing Company versus Bharat Coking Coal Limited* (1982) case, that upheld the nationalisation of coke oven plants. It was again relied on in *Mafatlal Industries Limited versus Union of India* (1996).

#### What is the current ruling?

In *Property owners' association versus State of Maharashtra*, a seven-judge Bench

referred the issue of interpretation of Article 39(b) to a nine-judge Bench. The current majority opinion (for seven judges including the CJI) held the interpretation of V.R. Krishna Iyer, that every privately-owned property could be used by the state as a 'material resource' to 'subserve the common good', as a rigid economic ideology that advocates greater governmental control over private resources. Therefore, it was rejected by the majority opinion which said that India has moved on from a socialistic model to a market-based liberalised economic model.

It held that to qualify as a 'material resource of the community,' a resource must be 'material' and 'of the community.' The 'public trust doctrine' and context-specific key factors that would determine this are the inherent

characteristics of the resource; its impact on community well-being; its scarcity; and the impact due to its concentration in private hands. Hence, certain resources like forests, ponds, spectrum, mines and minerals may fall within the scope of Article 39(b) even if they are privately held. However, not every private resource automatically qualifies just because it meets material needs. The term 'distribute' in Article 39(b) also carries a wide meaning that can include both government acquisition and redistribution to private players, as long as it serves the common good. Justice Nagarathna concurred partially with the seven-judge majority while opining that all private resources except 'personal effects' like apparel, jewellery etc., can be transformed into a 'material resource of the community' through nationalisation, acquisition etc. Justice Sudhanshu Dhulia wrote the sole dissenting opinion where he upheld the interpretation of V.R. Krishna Iyer in the *Ranganatha Reddy* case and opined that it is for the legislature to decide on how the ownership and control of material resources is to be distributed.

#### What is the way forward?

Our economy has changed from a socialistic pattern to a liberalised, market-oriented model. The ensuing growth has uplifted vast majority of people from abject poverty. However, there is also a growing inequality that needs to be addressed. This judgment should protect the small farm and forest lands of marginalised sections from forceful acquisitions by the government. Equally important is the sustainable exploitation and distribution of material public resources within the domain of the government.

We must bear in mind that we have not inherited the earth and its resources from our ancestors but have borrowed it from our future generations.

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### THE GIST

Article 39(b) provides that 'ownership and control of material resources of the community are so distributed as best to subserve the common good.'

In *State of Karnataka versus Ranganatha Reddy* (1977), Justice V.R. Krishna Iyer wrote a separate 'afterword' interpreting the phrase 'material resource of the community' contained in Article 39(b). He held that it embraces all national wealth, not merely natural resources, and all the private and public sources of meeting material needs.

The current majority opinion (for seven judges including the CJI) held the interpretation of V.R. Krishna Iyer, that every privately-owned property could be used by the state as a 'material resource' to 'subserve the common good', as a rigid economic ideology that advocates greater governmental control over private resources.

- The Court's verdict specifically addresses the question of whether the state can acquire and control private property in the public interest, and to what extent the state's duty under these Articles can override individual fundamental rights.

## Court's Majority Opinion and Interpretation of Article 39

- **Article 39(b) and (c) – Economic Philosophy of the Constitution:** Articles 39(b) and (c) mandate that the material resources of the community must be so distributed to serve the common good and prevent wealth concentration.
  - The majority of the Supreme Court rejected an expansive view of the state's power over private resources, asserting that only specific types of private property—based on non-exhaustive factors like scarcity, concentration, and necessity—can be subject to state acquisition for the public good.
- **Factors for State Action:** The state's power to acquire private property for distribution to the community should consider factors such as the nature of the resources, their scarcity, and the potential consequences of their concentration in private hands.
- **Non-Ideological Interpretation of Economic Goals:** The Court's majority also held that the DPSP must be interpreted flexibly and not tied to any specific ideological or economic framework.
  - The framers of the Constitution had deliberately framed Article 39 in broad terms to allow future governments to address emerging economic realities without being bound by particular economic doctrines.

### Dissenting Opinion and Its Significance

- **Dissent:** Justice Sudhanshu Dhulia dissented from the majority view, arguing that the scope of the material resources under Article 39 should not be limited by factors such as scarcity or concentration.
  - Given the persistent inequality in Indian society, leaving the determination of what constitutes "material resources" to the wisdom of the legislature would have been a better approach, ensuring that the state has greater flexibility in addressing social disparities.
- **Question of Legislative Discretion:** The legislature should have the discretion to decide which resources are essential for the common good, as this could be more in tune with contemporary socio-economic realities.
- **Impact on Future Legal and Economic Frameworks:** The dissent holds significance as it challenges the majority's restrictive interpretation of the Directive Principles, raising concerns about the potential for continuing economic inequality in society.



In India, agriculture plays a crucial role in the economy, providing employment to nearly 47% of the population and contributing around 16.73% to the GDP.

# Are CSR contributions to agriculture properly tracked?

How much of an impact does agriculture have on India's GDP? What are the key requirements to improve agricultural sustainability? What hinders CSR's potential with respect to agriculture?

**Dasari Giridhar**  
**Manan Bhan**

## The story so far:

A decade ago, India became the first country to legally mandate Corporate Social Responsibility (CSR). Section 135 of the Companies Act 2013 outlines the rules and regulations governing CSR. According to the National CSR Portal, from 2014 to 2023, ₹1.84 lakh crore of CSR funds were disbursed. With the extent of contributions increasing, a question arises: how can CSR help agriculture?

## CSR's contribution to agriculture

Nearly 47% of the population depends on agriculture for employment, and the fraction of India's labour force in agriculture is significantly higher than the global average of 25%. Economically, agriculture accounts for 16.73% of India's

GDP. Now that India's food production is on a relatively stable footing, concerns focus on the degradation of the natural resource base, stagnant farmer incomes, and threats caused by climate change.

Lately, there have been clear signs from corporate entities that they wish to contribute to climate action and sustainability in the agricultural sector in India through their CSR budgets. According to an outlook report prepared by a CSR platform last year, 23% of companies surveyed had "environment and sustainability" as their CSR priority area. Capital requirements and infrastructural development are the most important needs of Indian agriculture today – and this is also where CSR activities have previously contributed and are expected to continue doing so. Some examples of such activities include establishing grain banks, farmer schools, livelihood projects based on agriculture

and allied activities, water conservation projects, and energy-efficient irrigation. The recent paradigm shift in agriculture towards sustainability and modern agriculture makes a good case for CSR funds from the private sector.

## The main obstacle

There is an important problem that hinders CSR's potential in agriculture: there is currently no way to fully determine the extent of funding going into these projects consistently and distinctively, and to categorise them based on targeted sectors of CSR activities. In other words, current reporting mechanisms have little to no emphasis on agriculture-related CSR initiatives. Under activities mentioned in Schedule VII of the Companies Act, activities targeting agricultural sustainability could fall under II of the 29 development sectors of CSR allocations.

These are gender equality; agroforestry; poverty, eradicating hunger and malnutrition; technology incubators; animal welfare; environmental sustainability; livelihood enhancement projects; conservation of natural resources; rural development projects; socio-economic inequalities; and women's empowerment. But there's little chance of tracking the funds spent for agriculture-related initiatives alone because these 11 sectors encompass a great variety of activities, many of which are unrelated to agricultural sustainability, thus affecting reporting and limiting sectoral impact assessments.

Given the importance of agriculture for the Indian economy and its place in the country's plans and strategies to engender more sustainable growth and effect a just transition, specifying agriculture as a distinct sector in CSR activities is crucial. Transitioning the reporting framework based on sectors receiving funds would also help streamline and better target the available funds, add more meaning to the contributions, and ensure transparency. Likewise, identifying the prevailing sustainability issues vis-à-vis agroecosystems and directing funds according to requirements will help drive tractable changes.

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## THE GIST

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- Recognizing this, India legally mandated Corporate Social Responsibility (CSR) in 2013 under Section 135 of the Companies Act, requiring certain corporations to allocate part of their profits towards social causes.
- Since then, CSR contributions have increased significantly, with ₹1.84 lakh crore disbursed from 2014 to 2023.
- This raises questions about CSR's role in agriculture, especially regarding the impact of contributions on agricultural sustainability.
- **CSR's Role in Agriculture:**
  - With a high percentage of India's workforce employed in agriculture, CSR initiatives have the potential to address key issues in the sector:
  - Environmental Degradation: As natural resources become strained, the need for sustainable agricultural practices grows.
  - Stagnant Farmer Incomes: With limited growth in earnings, initiatives can help improve productivity and livelihood.
  - Climate Change Threats: Shifts in climate patterns challenge crop yields and agricultural stability, requiring adaptive practices.
  - A CSR outlook report highlighted that 23% of surveyed companies prioritize "environment and sustainability," indicating an interest in supporting agricultural and environmental projects.

- CSR funds have been allocated to activities like grain banks, farmer schools, agricultural livelihood projects, water conservation, and energy-efficient irrigation.
- The recent focus on sustainability in agriculture aligns with CSR goals and encourages private sector engagement.

### ➤ **Importance of Sector-Specific Reporting:**

- Designating agriculture as a standalone CSR category could improve the clarity and effectiveness of contributions. This would enable:
  - Targeted Funding: Funds could be directed toward specific needs in agriculture, such as sustainable farming methods or climate resilience measures.
  - Transparency and Accountability: More precise reporting on CSR contributions would ensure companies are held accountable for their impact on agricultural sustainability.
  - Enhanced Impact Measurement: Identifying the unique needs within agricultural ecosystems allows for targeted interventions, which could result in more measurable and meaningful changes in the sector.

### **Origin of CSR:**

- Howard Bowen, an American economist, is widely regarded as the father of modern CSR.
- In his book "Social Responsibilities of the Businessman" in 1953, he writes, "CSR refers to the obligations of businessmen to pursue those policies which are desirable in terms of the objectives and values of our society".
- This has become the backbone by which modern CSR principles are based.

### **Meaning of CSR:**

- The concept of CSR rests on the ideology of businesses giving back to society as they grow and benefit.
- Companies take resources in the form of raw materials, human resources etc from the society.
- By performing the task of CSR activities, the companies are giving something back to the society.
- Examples of common CSR objectives include minimizing environmental externalities, promoting volunteerism among company employees, and donating to charity.

### **CSR in India:**

- CSR in India has traditionally been seen as a philanthropic activity.
- However, with the introduction of Section 135 in the Companies Act 2013, India became the first country to have statutorily mandated CSR for specified companies.
- The mandatory CSR provisions were made effective from 1st April, 2014 for companies with a certain profit, turn-over or valuation.

### **Concerned Ministry: Ministry of Commerce and Industry**

#### ➤ **Companies Covered under the Act:**

- The companies which fall in the ambit of any of the following three criteria are required to spend on CSR.
- Company with a net worth of Rs. 500 crore or more, or
- Turnover of Rs. 1,000 crore or more, or

- Net profit of Rs. 5 crore or more during the immediately preceding financial year.
- Such companies are required to do CSR spend amounting to 2 % of their average annual profit over last three years.
- The Act also enumerates the activities that can be undertaken and the manner in which the companies can undertake CSR projects/programmes.

### ► Performance So Far:

#### ○ CSR Expenditure Trends:

- Cumulative Spending: From 2014 to 2023, companies in India have collectively spent approximately , ₹1.84 lakh crore on CSR activities.
- Annual Spending: In the fiscal year 2022-23, the prescribed CSR budget for 301 large companies was , ₹13,426 crore, with an actual expenditure of , ₹12,890 crore, indicating a compliance rate of over 96%.

#### ○ Sectoral Allocation:

- Healthcare and WASH (Water, Sanitation, and Hygiene): 26% of companies identified this as their primary CSR focus.
- Environment and Sustainability: 23% of companies prioritized this area, reflecting a growing commitment to environmental issues.
- Promotion of Education: 23% of companies dedicated resources to educational initiatives.



In a departure from the government's stated position, the top official from the Niti Aayog said India should be part of the China-backed Regional Economic Partnership (RCEP) trade bloc.

## India should be part of RCEP, CPTPP: NITI Aayog CEO B.V.R Subrahmanyam

**Press Trust of India**  
NEW DELHI

India should be a part of the Regional Comprehensive Economic Partnership and Comprehensive and Progressive Agreement for Trans-Pacific Partnership,

NITI Aayog CEO B.V.R. Subrahmanyam said on Thursday.

India pulled out of the RCEP in 2019 after entering negotiations in 2013. The RCEP bloc comprises 10 ASEAN group members (Brunei, Cambodia, Indo-

nesia, Malaysia, Myanmar, Singapore, Thailand, the Philippines, Laos and Vietnam) and six FTA partners – China, Japan, South Korea, Australia and New Zealand.

"India is one of few countries which are not a

part of large trade agreements. India should be a part of RCEP (Regional Comprehensive Economic Partnership) and CPTPP (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) and become a member,"

Mr. Subrahmanyam said at an ASSOCHAM event.

"...that will be best for India's Micro, Small & Medium Enterprises (MSME) sector. The 40% of India's exports are from MSMEs. Big corporates are not great exporters," he added.

CPTPP is a free trade bloc spanning five continents made up of Pacific rim countries of Canada, Mexico, Peru, Chile, New Zealand, Australia, Brunei, Singapore, Malaysia, Vietnam and Japan.

"I don't think we have

captured the 'China plus one' opportunity as much as we could have," Mr. Subrahmanyam said, adding countries like Vietnam, Indonesia, Malaysia, Turkey, and Mexico probably benefited more from 'China plus one' than India.

### About Regional Comprehensive Economic Partnership:

- It is a proposed agreement between the member states of the Association of Southeast Asian Nations (ASEAN) and its Free Trade Agreement (FTA) partners.
- The pact aims to cover trade in goods and services, intellectual property, etc.
- Member Countries: The RCEP bloc comprises 10 ASEAN group members (Brunei, Cambodia, Indonesia, Malaysia, Myanmar, Singapore, Thailand, the Philippines, Laos and Vietnam) and their six FTA partners - China, Japan, South Korea, Australia and New Zealand.
- RCEP negotiations were launched in November 2012 and entered into force on 1 January 2022

### Objective

- RCEP aims to create an integrated market with 16 countries, making it easier for products and services of each of these countries to be available across this region.
- The negotiations are focused on the following: Trade in goods and services, investment, intellectual property, dispute settlement, e-commerce, small and medium enterprises, and economic cooperation.

**In News : Kumbhalgarh-Todgarh Raoli Sanctuary**

Recently, an 11-member expert committee has recommended urgent conservation and management for habitat improvement and prey base development before designating Rajasthan's Kumbhalgarh-Todgarh Raoli sanctuaries as a tiger reserve.



**Background:**

- The Union government and National Tiger Conservation Authority in 2023 gave in-principal approval for designating Kumbhalgarh-Todgarh Raoli sanctuaries as a tiger reserve.
- It is proposed to span around 1,397 square kilometres across the Rajsamand, Udaipur, Pali, Ajmer and Sirohi districts of Rajasthan.

**About Kumbhalgarh Wildlife Sanctuary:**

- Location: It is situated in the Rajsamand district of Rajasthan.

- ▶ Covering a total surface area of 578 sq km and stretching across the Aravalli ranges, it encircles parts of Udaipur, Rajsamand and Pali districts.
- ▶ Once the hunting grounds of royals, this area was declared a wildlife sanctuary in 1971.
- ▶ The wildlife sanctuary encompasses the historic Kumbhalgarh Fort and is also named after the fort.

### Rivers:

- ▶ River Banas also graces the sanctuary and is the primary source of water.
- ▶ The rainwater on the western slopes flows as small rivers such as Sukdi, Mithdi, Sumer and Kot, all of which are the tributaries of River Luni that ultimately merge into the Arabian Sea.

### Flora:

- ▶ Many types of flora are found here, mainly a variety of herbal flora like Dhok, Salar and Khair.

### Fauna:

- ▶ It provides a suitable habitat for endangered and rare wild animals, including four-horned antelope, sambar, wild boar, nilgai, sloth bear, leopard and caracal.

### About Todgarh Raoli Sanctuary

- ▶ It spans approximately 495 square kilometers across the districts of Ajmer, Pali and Rajsamand.
- ▶ It has been named after Colonel James Tod, a British officer who chronicled Rajasthan's history.
- ▶ It was established in 1983.
- ▶ The sanctuary encompasses the ancient Raoli forest, home to numerous indigenous tribes.
- ▶ **Flora:** It is characterized by dry deciduous forests, with prominent species such as teak, bamboo, and dhok trees. The forest canopy is interspersed with flowering plants like kachnar (*Bauhinia variegata*), palash (*Butea monosperma*) and the vibrant flame of the forest, which add a splash of color to the greenery, especially during the blooming season.
- ▶ **Fauna:** It is a crucial habitat for several species, including the elusive leopard, sloth bear, and sambar deer. Birdwatchers can delight in the sight of over 200 bird species, including the grey junglefowl, Indian pitta and crested serpent eagle.



# India, Pakistan and modifying the Indus Waters Treaty

India's move to serve formal notice on August 30, 2024, in line with Article XII (3) of the Indus Waters Treaty (IWT), underlines its concerns about meeting ever-increasing domestic water needs in a sustainable manner. The notice is to review and modify the treaty to address India's specific concerns relating to altered population demographics, along with agricultural and other uses apart from the need to accelerate the development of clean energy to meet India's emission rights. India has also mentioned in the notice that the impact of persistent cross-border terrorism in Jammu and Kashmir is impeding smooth operations of the Treaty, undermining the full utilisation of its rights in the Indus.

Article XII, which allows modification in the treaty from time to time, lays down a very high threshold: 'a duly ratified treaty concluded for that purpose between the two Governments'. If one goes by the plea made by India and Pakistan during the Kishenganga arbitral award 2013, it appears unlikely that Pakistan and India will reach a modification formula that is to their satisfaction.

## Divergent approaches

India, as the upper riparian, treats optimal utilisation as the object and the purpose of the IWT. This is opposed to Pakistan's (the lower riparian) understanding of uninterrupted flow to its side. This divergent approach relating to the interpretation of the IWT's purpose is one of the factors responsible for the claims and counterclaims by India and Pakistan over water use. The Hague based Permanent Court of Arbitration (PCA) did not side with the plea of ecological harm raised by Pakistan under Article IV (6) of the IWT. It allowed India to build hydropower projects on the Kishanganga. But the Tribunal has added a caveat: that India has to



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Given the lack of trust between the two countries, renegotiating the IWT to review and make changes might prove difficult

maintain a minimum nine cubic metre a second flow. India has 33 hydro-power projects, in either construction or planning phase, along the western tributaries. The use of western rivers for hydro-power generation is permitted under the IWT but the crucial point is about India maintaining minimum flow.

## Challenges in managing resources

Ensuring optimum utilisation and maintaining minimum flow would require better management of the entire Indus Water Basin, resulting in enhanced water resource. Meeting these goals is remote in the given structure of the IWT, which divides the separation of the Indus Basin into eastern and western waters. India has proprietary rights in the eastern rivers (Article II, Ravi, Sutlej and Beas) while Pakistan has proprietary rights in the western rivers (Article III, Indus, Jhelum and Chenab). The idea of partitioning the rivers was driven by historical contingency relating to Partition and the appeal to the Indian and Pakistani leadership as the only rational strategy. The partitioning of the river basin essentially severed hydrological relationships between the rivers and their tributaries, which not only made integrated water resources management elusive but also led to either minimal or no cooperation.

Although the IWT does not have a provision relating to no harm rule, it still binds both the riparians as the rule is a customary international law. The obligation not to cause significant harm is a due diligence obligation – it amounts to saying that both riparians have to take every appropriate measure to prevent harm while undertaking a hydropower project or projects on the shared water course having a potential transboundary impact. The International Court of Justice (ICJ), in the Pulp Mills on the Uruguay

river case (2010) has identified conducting a transboundary environmental impact assessment (EIA) as an essential requirement of customary international law for projects or activities with a potential for transboundary effects. This judgment amounts to saying India and Pakistan will have to undertake EIA if a project has potential transboundary effects. The ICJ did not identify the core components of an adequate EIA.

The Rule relating to equitable and reasonable utilisation (ERU) of international watercourse, which is enshrined in Article 5, and the factors and circumstances for consideration to arrive at an ERU in Article 6 of the 1997 UN Watercourses Convention can guide both the riparians to meet unforeseen circumstances. The ERU may be leaned on to deal with unforeseen effects of climate change such as depletion of glacial reserves which cause a 30%-40% decrease in the Indus's water flow.

The proposal to review should consider the provision in Article VII.1c which explicitly provides that if both the parties are in agreement, they can cooperate in joint engineering projects along the river. Joint projects that are appropriately designed and operated could offer a chance to mitigate water variability that arises from climate change.

## Some suggestions

Given the lack of trust between the two parties, renegotiating the treaty to review and make modifications might prove difficult. A suggestion could be using the IWT's formal negotiation procedures to arrive at a memorandum of understanding and other cooperative avenues that address issues as they arise, while using the treaty as a structure to organise their development of the basin (N. Zawahiri and D. Michel, 2018).

## GS Paper 02 : International Relations

**UPSC Mains Practice Question:** Evaluate the implications of India's proposal to modify the Indus Waters Treaty (IWT) in light of its growing water needs and environmental concerns. How do the divergent interests of India and Pakistan impact the management of the Indus River system? Discuss potential pathways for future cooperation under the treaty framework. (200 words/12.5m)

Context :

- India recently issued a formal notice, under Article XII(3) of the Indus Waters Treaty (IWT), seeking a review and modification of the treaty.
- The notice highlights India's growing domestic water needs, changing population demographics, agricultural demands, and the need for clean energy development to meet emission targets.
- India also raised concerns regarding cross-border terrorism affecting the smooth implementation of the treaty, particularly in Jammu and Kashmir.

### Legal Provisions and India's Approach

- **Article XII(3) of the IWT:** India's move to review the IWT is grounded in Article XII(3), which allows treaty modification with mutual consent. However, such modifications require a ratified treaty between India and Pakistan, a significant hurdle given their strained relations and historical disputes.
- **India's Objective: Optimal Utilisation:** India, as the upper riparian, seeks optimal utilization of the Indus River waters for energy and agricultural needs. India aims to balance water use for hydropower projects while ensuring the minimum flow requirement stipulated in past arbitration awards, such as the Kishenganga dispute.
- **Pakistan's Opposition to Modifications:** Pakistan, as the lower riparian, views the treaty as ensuring uninterrupted flow of water to its side. The divergent perspectives on the treaty's purpose—India's push for utilization versus Pakistan's demand for protection from water diversion—remain a core issue between the two nations.

### Hydro-Power Projects and Environmental Concerns

- **Hydropower Development and Minimum Flow:** India has 33 hydropower projects in progress on the western rivers of the Indus system, which is allowed by the IWT. However, India must maintain a minimum flow of water to Pakistan's side, as prescribed by the 2013 Permanent Court of Arbitration (PCA) ruling in the Kishenganga case.
- **Customary International Law on No Harm Rule:** Although the IWT does not explicitly include a "no harm" rule, it is implied by customary international law, which obliges both riparians to prevent significant transboundary harm. This principle is particularly relevant for hydropower projects with potential cross-border effects.
- **Environmental Impact Assessment (EIA):** The International Court of Justice (ICJ), in the 2010 Pulp Mills case, established the necessity of conducting transboundary Environmental Impact Assessments (EIA) for projects with potential environmental consequences. Both India and Pakistan will need to comply with this requirement for projects that could impact the shared waters.

### Challenges and Suggestions for Cooperation

- **Partition of River Basin and Its Challenges:** The IWT partitions the Indus Basin into two sectors: India controls the eastern rivers, while Pakistan controls the western rivers. This partition has created significant challenges in integrated water resource management, making bilateral cooperation difficult and minimal.

- **Impact of Climate Change on Water Availability:** Climate change, particularly the depletion of glacial reserves, has caused a 30-40% decrease in the Indus's water flow. India and Pakistan can refer to the principles of equitable and reasonable utilization (ERU) from the UN Watercourses Convention to address this emerging challenge.
- **Possibility of Joint Projects and Negotiation:** The IWT allows both parties to cooperate on joint engineering projects (Article VII.1c), which could help mitigate water variability due to climate change. However, due to the lack of trust between the two nations, renegotiating the treaty might be challenging. A more practical approach could be to create a Memorandum of Understanding (MoU) for cooperation under the existing framework.

### Conclusion

- Given the lack of trust between the two parties, renegotiating the treaty to review and make modifications might prove difficult.
- A suggestion could be using the IWT's formal negotiation procedures to arrive at a memorandum of understanding and other cooperative avenues that address issues as they arise, while using the treaty as a structure to organise their development of the basin (N. Zawahiri and D. Michel, 2018).
- Effective management and cooperation are crucial for resolving water disputes