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In the July 10 Issue of Foreign Policy in focus, Conn Hallinan has made a strong case that the World needs a Water treaty and has suggested that the International Water Courses Convention that came into effect on August 2014 following the endorsement of the treaty by Vietnam should be a good starting point in any dispute/conflict/cooperation among the member countries.

It is said that Water Consumption appropriates 54 percent of the World's accessible fresh water run off. 786 million people in the world lack access to safe drinking water.

It is significant that India and China that have a third of the World's population, both together have access to only ten percent of the Globe's water resources. It is therefore all the more important that the countries in Asia should think of a water treaty in a larger context. China's outright rejection and India's abstention of the International convention of 2014 should therefore be a cause for concern.

It was in 1997 that more than 36 countries sponsored a convention on the Law of use of International water courses (non navigable) and 106 countries were in favour of such a convention. There were 26 abstentions which surprisingly included India and Pakistan.

More surprising was that despite an overwhelming support of a large number of nations for the convention, China along with Burundi and Turkey opposed the convention.

Of concern to the Asian countries was the refusal of China. Ten major River systems including the Indus, Sutlej, Brahmaputra, Irrawady, Salween and Mekong originate from the Tibetan Plateau and it is important that China should at some stage be a party to the convention.

Some of the important articles of the convention include

1. Article 1 refers to the uses of International Water Courses for purposes other than navigation as a means of protection, preservation and management.
2. Article 5 emphasizes that water by the water courses states should be used in an equitable and reasonable manner. In particular an international water course shall be used and developed by the States with a view to attain optimal and sustainable utilization and benefits therefrom taking into account the interest of other water course States concerned.
3. Article 6 gives detailed account what it means to be "equitable and reasonable". This should include geographic, hydrographic, hydrological, climatic, ecological, and other factors of a national character, besides social and economic needs, dependency on water resources, existing and potential use of water, availability of alternate water sources etc. These factors are legitimate and reasonable.
4. Article 8 mentions about a regular exchange of available data and information on the conditions of the water course.

None of the articles is controversial and it is surprising that China should reject outright this convention when ten major river systems of Asia that pass through populated countries, originate from China! A majority of the population in these countries depend on these rivers for their sustenance.

In this otherwise good article, Hallinan makes the following points in respect of the Indus Water Treaty which are not based on facts. He quoted the Indian Minister's statement of Feb. 21 and comes to the wrong conclusion.

"Our government has decided to stop our share of water which used to flow to Pakistan," said Indian Transport Minister Nitin Gadkari in ^[1] on February 21. "We will divert water from eastern rivers and supply it to our people in Jammu and Kashmir and Punjab." India controls three major rivers that flow into Pakistan.

If India had followed through, it would have abrogated the 1960 Indus Water Treaty (IWT) between the two countries, a move that could be considered an act of war.

Under Article 2 of Indus Water Treaty, all the waters of the Eastern Rivers shall be available for unrestricted use of India except as expressly provided.

Article 3 (9) even while discussing the transition arrangements, mentions that Pakistan shall have no claim or right to releases in the event that Pakistan uses any of the waters, Pakistan shall not acquire any right whatsoever.

This makes it clear that India can use the eastern waters as it likes no matter whether some of the waters had gone into Pakistan. This is exactly what Minister Gadkari had said on Feb 21 and the question of violation of Indus Water Treaty does not arise.

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