



## US Priority Watch List

**For Prelims:** [Intellectual Property Rights Policy Management framework](#), [National IPR \(Intellectual Property Rights\) Policy 2016](#), [Geographical Tag](#), [Copyrights](#), [Universal Declaration of Human Rights](#).

**For Mains:** [Intellectual Property Rights](#), [Need and Challenges](#).

**Source:** [BL](#)

### Why in News?

Recently, the United State's **USTR Special 301 Report** has again included India in the '**Priority Watch List**' (**PWL**) of countries, along with China, Russia, Venezuela, and three others due to concerns about **Intellectual Property (IP)** protection and enforcement.

- Over the years, **including 2020 and 2021, India has been listed in the USTR Special 301 Report.**

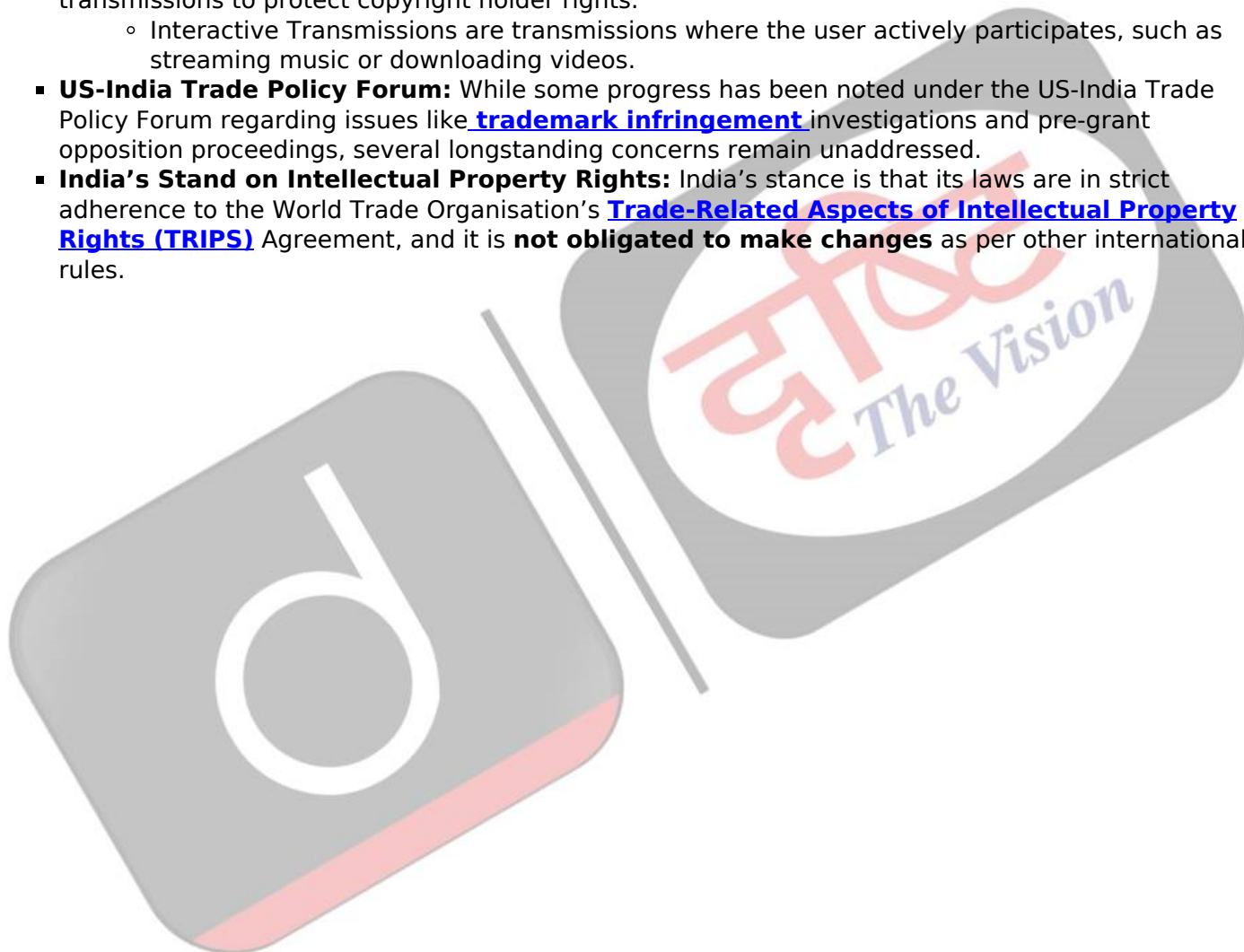
### What is the USTR's Special 301 Report?

- **About:**
  - Mandated by Section 182 of the **US Trade Act of 1974**, it is an annual review conducted to assess the adequacy and effectiveness of US trading partners' IP protection and enforcement practices.
- **Designation Criteria:**
  - The USTR considers factors like the **severity of IP concerns**, the economic impact on US rights holders, and the lack of progress made in addressing identified issues when designating countries to the PWL or Watch List.
    - **Priority Watch List (PWL):** Countries on the PWL face the most serious allegations of inadequate IP protection and enforcement. The USTR may initiate formal trade investigations or impose sanctions if they fail to demonstrate significant improvements.
    - **Watch List:** Countries placed on the Watch List have some concerning IP practices, but the **issues may not be as severe** as those on the PWL. The USTR uses the Watch List to monitor countries and encourage them to strengthen their IP regimes.
- **US Government Initiatives:**
  - **Advocacy Efforts:** The USTR employs bilateral negotiations, [World Trade Organisation \(WTO\)](#) participation, and stakeholder engagement to bolster IP protection with trading partners.
  - **Technical Assistance:** The US strengthens developing countries' IP systems through training for legal and administrative personnel.
  - **Anti-Counterfeiting and Piracy Efforts:** The USTR fights counterfeiting and piracy through joint actions, information exchange, and capacity building with partner nations and organizations.

## What are the Concerns Raised Related to India in the Report?

- **India's Placement:** India has **consistently been placed** on the 'priority watch' list in the Special 301 Report, indicating **significant concerns** regarding IP protection, enforcement, and market access for American IP stakeholders.
  - As per the report, India remains one of the most challenging major economies concerning IP protection and enforcement.
- **Inadequate IP Enforcement:** The USTR report identifies various shortcomings in India's IP enforcement, including **high rates of online piracy**, a significant backlog in trademark opposition cases, and insufficient legal mechanisms for protecting trade secrets.
  - These include high customs duties on IP-intensive products and concerns over whether India has an effective mechanism for the early resolution of potential pharmaceutical patent disputes.
- **Copyright Compliance Issues:** India should fully implement [World Intellectual Property Organisation \(WIPO\)](#) Internet Treaties and avoid extending copyright licenses to interactive transmissions to protect copyright holder rights.
  - Interactive Transmissions are transmissions where the user actively participates, such as streaming music or downloading videos.
- **US-India Trade Policy Forum:** While some progress has been noted under the US-India Trade Policy Forum regarding issues like [trademark infringement](#) investigations and pre-grant opposition proceedings, several longstanding concerns remain unaddressed.
- **India's Stand on Intellectual Property Rights:** India's stance is that its laws are in strict adherence to the World Trade Organisation's [Trade-Related Aspects of Intellectual Property Rights \(TRIPS\)](#) Agreement, and it is **not obligated to make changes** as per other international rules.

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# INTELLECTUAL PROPERTY RIGHTS (IPRs)

**IP refers to intangible assets owned/legally protected by an individual/company from outside use or implementation without consent.**



## NEED FOR IPR

- ↳ Encourages Innovation
- ↳ Economic growth
- ↳ Safeguard rights of creators
- ↳ Enhances ease of doing business



## RELATED CONVENTIONS/TREATIES (INDIA SIGNATORY TO ALL)

- ↳ WIPO Administered (first recognised IPR under):
  - ↳ Paris Convention for the Protection of Industrial Property 1883 (**Patents, Industrial Designs**)
  - ↳ Berne Convention for the Protection of Literary and Artistic Works 1886 (**Copyrights**)
- ↳ WTO - TRIPS Agreement:
  - ↳ Ensures adequate standard of protection
  - ↳ Argues for incentives for technology transfer to developing countries
- ↳ Budapest Treaty 1977:
  - ↳ International recognition of the deposit of micro-organisms for the purposes of patent procedure
- ↳ Marrakesh VIP Treaty 2016:
  - ↳ Facilitate access to published works by visually impaired persons and persons with print disabilities
- ↳ IPR also outlined in Article 27 (Universal Declaration of Human Rights)



## INDIA AND IPRS - INITIATIVES

- ↳ National IPR Policy 2016:
  - ↳ Motto: "Creative India; Innovative India"
  - ↳ Compliant with TRIPS Agreement
  - ↳ Brings all IPRs to single platform
  - ↳ Nodal Dept - Department of Industrial Policy & Promotion (Ministry of Commerce)
- ↳ National (IP) Awareness Mission (NIPAM)
- ↳ Kalam Program for Intellectual Property Literacy and Awareness Campaign (**KAPILA**)

**World Intellectual Property Day: 26th April**

Intellectual Property	Protection	Law in India	Duration
Copyright	Expression of Ideas	Copyright Act 1957	Variable
Patent	Inventions- New Processes, Machines, etc.	Indian Patent Act 1970	20 years Generally
Trademarks	Sign to distinguish business goods or services	Trade Marks Act 1999	Can last Indefinitely
Trade Secrets	Confidential Business Information	Protected without Registration	Unlimited time
Geographical Indication (GI)	Sign used on specific geographical origin and possess qualities due to site of origin	Geographical Indications of Goods (R & P) Act, 1999	10 years (Renewable)
Industrial Design	Ornamental or aesthetic aspect of an article	Design Act, 2000	10 years



## Way Forward

- **Joint IP Commission:** Establish a permanent **India-US IP** Commission with representatives from **government, industry, and academia.**
  - This approach mirrors the successful **US-China IP Working Group**, credited with fostering dialogue and addressing specific concerns. This commission can:

- Identify areas of **mutual concern and prioritize** joint action plans.
- Facilitate **knowledge exchange** on best practices in IP protection and enforcement.
- Develop **harmonized IP policies** to bridge legal discrepancies.
- **Focus on Capacity Building:** The US can offer **technical assistance** to India's patent office and judiciary to:
  - Streamline patent application processes and reduce backlogs.
  - Enhance training for judges and law enforcement on IP enforcement mechanisms.
    - This strategy echoes the success of the [US-Mexico-Canada Agreement \(USMCA\)](#), which includes provisions for technical assistance on IP enforcement.
- **Transparency and Stakeholder Engagement:** Both countries should promote **increased transparency** in IP decision-making processes.
  - **Regular consultations** with industry stakeholders from both nations can identify practical challenges and solutions.
  - This approach draws on the **EU's transparent IP** enforcement regime, which emphasizes stakeholder involvement.
- **Dispute Resolution through Arbitration:** Establish a **streamlined arbitration mechanism** for resolving IP disputes between companies. This could involve:
  - Independent panels of experts with knowledge of both US and Indian IP law.
  - **Faster and more cost-effective** resolution compared to traditional litigation.
    - This approach is similar to the successful IP arbitration provisions within the [Singapore-India Comprehensive Economic Cooperation Agreement \(CEPA\)](#).

## Conclusion

By fostering **collaboration, capacity building, and establishing** efficient dispute resolution mechanisms, India and the US can move beyond the "Priority Watch List" narrative. This innovative approach, inspired by successful global practices, can pave the way for a more harmonious and productive relationship, fostering innovation and economic growth for both nations.

### **Drishti Mains Question:**

Q. Discuss the implications of the India-US dispute over the Intellectual Property Rights (IPR) regime on bilateral relations, considering the divergent perspectives. Evaluate the challenges and opportunities for both countries in reconciling their differences.

## UPSC Civil Services Examination, Previous Year Questions (PYQs)

### **Prelims**

**Q1. With reference to the 'National Intellectual Property Rights Policy', consider the following statements: (2017)**

1. It reiterates India's commitment to the Doha Development Agenda and the TRIPS Agreement.
2. Department of Industrial Policy and Promotion is the nodal agency for regulating intellectual property rights in India.

**Which of the above statements is/are correct?**

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Ans: (c)**

**Q2. Consider the following statements: (2019)**

1. According to the Indian Patents Act, a biological process to create a seed can be patented in India.
2. In India, there is no Intellectual Property Appellate Board.
3. Plant varieties are not eligible to be patented in India.

**Which of the statements given above is/are correct?**

- (a) 1 and 3 only
- (b) 2 and 3 only
- (c) 3 only
- (d) 1, 2 and 3

**Ans: (c)**

**Mains**

**Q.** In a globalized world, Intellectual Property Rights assume significance and are a source of litigation. Broadly distinguish between the terms—Copyrights, Patents and Trade Secrets. **(2014)**

PDF Refernece URL: <https://www.drishtiias.com/printpdf/us-priority-watch-list>

