

## 5. Annual Special 301 Report

**Prelims Syllabus:** International Policies & Schemes

**Mains Syllabus:** GS-II Effect of Policies and Politics of Developed and Developing Countries on India's Interests, Indian Diaspora.

### Why in News?

- The United States Trade Representative (USTR) has released its Annual Special 301 Report.

### What is Special 301 Report?

- It is prepared annually by the **Office of the United States Trade Representative (USTR)** that identifies trade barriers to United States companies and products due to the intellectual property laws, such as copyright, patents and trademarks, in other countries.
- It is published pursuant to **Section 301 of the Trade Act of 1974**.
- The Report includes a list of “**Priority Foreign Countries**”, that are judged to have inadequate intellectual property laws; these countries may be subject to sanctions.
- In addition, the report contains a “**Priority Watch List**” and a “**Watch List**”, containing countries whose intellectual property regimes are deemed of concern.

### Report with Respect to India:

- India continues to be on the ‘**Priority Watch List**’ for lack of adequate intellectual property (IP) rights protection and enforcement.
- While India made “**Meaningful Progress**” to enhance IP protection and enforcement in some areas over the past year, it did not resolve recent and long-standing challenges, and created new ones. The same assessment was made in the 2019 Report.

### What are the Unresolved Issues as per the Report?

- Innovators being able to receive, maintain and enforce patents particularly in the pharmaceutical sector.
- Concerns over copyright laws not Incentivising the creation and Commercialisation of content.
- An outdated trade secrets framework.
- Restrictions on transparency of information provided on state-issued pharmaceutical manufacturing licenses
- Restrictive patentability criteria to reject pharmaceutical patents.
- Absence of an effective system for protecting against the unfair commercial use.

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- High customs duties on medical devices and Information and Communications Technology.
  - Weak enforcement by courts and the police, and Lack of familiarity with investigative techniques and no centralised IP enforcement agency.
  - India was ranked among the top five source economies for fake goods by the Organization of Economic Development and Cooperation (OECD) in 2019.
  - Trademark counterfeiting levels were “problematic” and there were “excessive delays” in obtaining trademarks due to a lack of examination quality.
  - The government’s 2019 draft Copyright Amendment Rules, if implemented, would have “severe” consequences for Internet-content rights holders, as the proposed rules broadened the scope of compulsory licensing from radio and television broadcasting to online broadcasting.

#### **Demands by the USTR:**

- It has urged India to join the Singapore Treaty on the Law of Trademarks, a treaty that harmonises trademark registration.
- The treaty was adopted in Singapore on 28 March 2006. It entered into force on 16 March 2009.
- As of July 2016, there are 50 contracting parties to the treaty, which includes 48 states plus the African Intellectual Property Organization and the Benelux Organization for Intellectual Property.
- It includes provisions on the recording of trademark licenses, and establishes maximum requirements for requests for recordal, amendment or cancellation of the recordal of a license etc.
- The Treaty is open to States members of WIPO and to certain intergovernmental organizations.