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## **CAATSA Act**



- Recently the United States House of Representatives has approved amendments to the National Defense Authorization Act (NDAA), which proposes to keep India out of the purview of sanctions under the Counteracting America's Adversaries through Sanctions Act (CAATSA).
- It will allow India to freely buy Russia's S-400 missile system without fear of US sanctions.
- The National Defense Authorization (NDAA) is legislation that Congress passes each year to change the policies and organization of the United States defense agencies and provide guidance on how funds allocated to the military sector can be spent.

### **Proposed Amendments:**

- The amendment urges the US administration to use its authority to grant India an exemption under the Counteracting America's Adversaries through Sanctions Act (CAATSA) to help deter aggressors like China.

- The law states that the United States-India Initiative on Critical and Emerging Technologies (ICET) aims to address the latest advances in artificial intelligence, quantum computing, biotechnology, aerospace and semiconductor manufacturing by governments, academia and industry in both countries. It is a welcome and necessary step to develop closer partnership between.

## **CAATSA**

### **US law:**

- CAATSA is a US law that was enacted in the year 2017 and its main objective is to counter the aggression of Iran, Russia and North Korea through punitive measures.
- Its Title II primarily deals with sanctions on Russian interests such as its oil and gas industry, defense and security sector, financial institutions in the backdrop of its military interference in Ukraine and its alleged interference in the 2016 US presidential elections.
- Section 231 of the Act empowers the US President to impose at least five of the 12 sanctions listed in Section 235 of the Act on persons engaged in “substantial transactions” with the Russian defense and intelligence sectors.

### **Sanctions that may affect India:**

- There are only two sanctions that can affect India-Russia relations or Indo-US relations.

### **Prohibition of Banking Transactions:**

- The first of these, which is likely to have an impact on India-Russia relations, is the “prohibition of banking transactions”.
- This will result in difficulty in paying Russia in US dollars for the purchase of the S-400 system for India. It will also affect India’s procurement of spare parts, components, raw materials and other services.
- In the year 2020, Turkey was approved for the purchase of the S-400 system.

### **Export Approval:**

- Viewed in the context of the “export clearance” ban, it has the potential to completely derail the India-US strategic and defense partnership, as it would deny licenses and exports of any goods controlled by the US.

### **Exemption Criteria:**

- The US President was empowered to waive CAATSA sanctions on a ‘case-by-case’ basis in 2018.

### **Russia’s S-400 Triumph Missile System:**

- It is a mobile, surface-to-air missile system (SAM) designed by Russia.
- It is the most dangerous operationally deployed ‘Modern Long-Range SAM’ (MLR SAM) in the world, which is considered to be much more advanced than the US-developed ‘Terminal High Altitude Area Defense’ system (THAAD).
- This system is 30 km. At an altitude of up to 400 km. It can target all types of air targets, including aircraft, unmanned aerial vehicles (UAVs) and ballistic and cruise missiles within range.
- The system can track 100 air targets and hit six of them simultaneously.

### **Importance for India:**

- From India’s point of view, China is also buying defense equipment from Russia. In 2015, China signed an agreement with Russia. And it was launched in January 2018.
- The acquisition of the S-400 system by China has been seen as a “game changer” in the region. However its effectiveness against India is limited.
- Its acquisition is critical to countering attacks in a two-front war, including even the high-end F-35 US fighter aircraft.

### **CAATSA exemption on Indo-US relations:**

- The NDAA amendment also urged the US to take more steps to help India pivot away from its reliance on Russian-made weapons.
- This amendment is in line with the period of recent bilateral strategic relations.

- The crucial year was 2008 and since then US defense contracts with India are worth at least US\$ 20 billion. In the period prior to 2008, it was only US\$500 million.
- In addition, in the year 2016, the US recognized India as a major defense partner. Strategic ties have also been strengthened through groups such as Quad and now I2U2.
- It is in its strategic interest for India to move away from Russian platforms.
- Russia's dependence on China has increased significantly after Russia's invasion of Ukraine, a situation that is unlikely to change in the future.
- Already, China is second only to India as the second largest recipient of Russian arms exports.
- Given India's long-standing border management protocol with China, reliance on Russian weapons is unwise.

**Swadeep Kumar**

# National Institutional Ranking Framework (NIRF) Ranking 2022



- Recently the Ministry of Education has released the 7th edition of National Institutional Ranking Framework (NIRF), Ranking 2022.

## **National Institutional Ranking Framework:**

### **Launch:**

- The 'National Institutional Ranking Framework' (NIRF) was approved by the Ministry of Education (erstwhile Ministry of Human Resource Development) in September 2015.
- This is the first effort of the Government of India to rank higher educational institutions (HEIs) in the country.
- In the year 2018, it was made mandatory for all government educational institutions across the country to participate in the 'National Institutional Ranking Framework'.

### **Evaluation on five parameters:**

- Teaching, Learning and Resources-TLR
- Research and Professional Practices-RP
- Graduation Outcomes-GO
- Outreach and Inclusivity-OI
- Peer Perception

### **Categories:**

- The best institutions have been listed in a total of 11 categories – Overall National Ranking, Universities, Engineering, Colleges, Medicine, Management, Pharmacy, Law, Architecture, Dentistry and Research.

### **Reason to launch:**

- The subjectivity in the ranking methodology developed by the QS World University Rankings and the Times Higher Education World University Rankings prompted India to introduce its own ranking system for Indian HEIs on the lines of the Shanghai Ranking.
- NIRF's long-term plan is to make it an International League Table.
- More than 7,000 institutions participated in the NIRF rankings.

### **Key Features of Ranking 2022:**

- Overall, IIT-Madras, IISc-Bangalore and IIT-Bombay are the top three higher education institutions in the country.
- **University:** IISc- Bangalore University tops the category.

- **Colleges:** Miranda College has retained the first position among colleges for the sixth year in a row, followed by Hindu College, Delhi and Presidency College, Chennai.
- **Research Institute:** IISc-Bangalore has been ranked as the best research institute after IIT-Madras.
- **Engineering:** IIT-Madras has been ranked number one among engineering institutes.
- **Management:** Indian Institute of Management (IIM), Ahmedabad has been ranked first and IIM-Bangalore second in the field of management.
- **Medicine:** All India Institute of Medical Sciences, New Delhi has been at the top position in medicine for the fifth year in a row.
- **Pharmacy:** Jamia Hamdard has topped the list for the fourth time in a row in the field of Pharmacy.
- **Architecture:** IIT Roorkee has topped in Architecture for the second time.
- **Law:** National Law School of India University, Bangalore has maintained its first position in law for the fifth year in a row.
- **Dental:** Savita Institute of Medical and Technical Sciences, Chennai has got the first rank.

**Swadeep Kumar**

## The Indian Patent Regime

The U.S. Trade Representative (USTR) said in a recent report that India was one of the most challenging major economies as far as IP protection and enforcement is concerned.

### **How is India's patent regime?**

A patent is an exclusive set of rights granted for an invention, which may be a product or process that provides a new way of doing something or offers a new technical solution to a problem.

- Indian patents are governed by the Indian Patent Act of 1970.
- Under the act, patents are granted if the invention fulfils the following criteria.
  - It should be novel
  - It should have inventive steps or it must be non-obvious

- It should be capable of industrial application
- It should not attract the provisions of sections 3 and 4 of the Patents Act 1970
- India became a party to the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement following its membership to the World Trade Organization in 1995.
- The original Indian Patents Act did not grant patent protection to pharmaceutical products and was re-introduced after the 2005 amendment to comply with TRIPS.
- India is also a signatory to several IPR related conventions including
  - The Berne Convention (governs copyright)
  - The Budapest Treaty
  - The Paris Convention for the Protection of Industrial Property
  - The Patent Cooperation Treaty (PCT)

### **What were the challenges raised by USTR?**

- **Special 301 Report**– The USTR releases a Special 301 Report on intellectual property (IP) annually.
- It identifies trading partners that do not adequately/ effectively protect and enforce IP rights or deny market access to U.S. innovators and creators that rely on protection of their IP rights and place them in the Priority Watch List or Watch List.
- India continues to be on the '**Priority Watch List**' of the USTR for lack of adequate IP rights protection and enforcement.
- **Issues**- Concerns raised include what can be patented, waiting times for obtaining patents, reporting requirements, and data safety.
- The USTR also highlighted the threat of patent revocations, lack of presumption of patent validity and narrow patentability criteria as issues.
- The USTR report too highlighted issues relating to judicial delays despite constituting the 2015 Commercial Courts Act.
- It has also expressed the concerns against the abolition of IPAB under Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021.

## What is India's stance on the issue?

- The issues regarding IPR were tackled by the Parliamentary Standing Committee which undertook a 'Review of the Intellectual Property Rights Regime in India'.
- **Article 3(d) of the Indian Patent Act**– Section 3 and Section 3(d) deals with what does not qualify as an invention under the Act.
- The Parliamentary Standing Committee pointed out that the section acts as a safeguard against frivolous inventions thus preventing “evergreening” of patents.
- Section 3(d) allows for generic competition by patenting only novel and genuine inventions.
- It said that this ensures the growth of generic drug makers and the public's access to affordable medicines.
- The Committee refers to the judgement in the *Novartis vs. Union of India* which upheld the validity of section 3(d) and held that it complies with the TRIPS agreement and the Doha Declaration.
- It concluded that India must not compromise on the patentability criteria under Section 3(d) as a sovereign country.

## What is the Doha Declaration?

- The Doha Declaration on the TRIPS Agreement and Public Health was adopted in 2001 by the WTO member states.
- It recognises the gravity of public health problems affecting developing and least developed nations and stresses the need for TRIPS to be part of the wider national and international action to address these problems.
- These flexibilities include
  - The right to grant compulsory licences and the grounds for such licences
  - The right to determine what constitutes a national emergency or other circumstances of extreme urgency, including public health crises
  - The right to establish its own regime for the exhaustion of intellectual property rights.

## What positive steps were taken by India regarding IPR?

- **Accession to treaties**– The positive steps taken by India in the recent past include accession to the
  - World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty
  - WIPO Copyright Treaty (collectively known as the WIPO Internet Treaties) in 2018
  - Nice Agreement in 2019
- **Revised manual**– India issued a revised Manual of Patent Office Practice and Procedure in 2019 and revised Form 27 on patent working in 2020 to reduce redundancy of information filing by patent applicants in India.
- **IP division**– After IPAB was abolished, the Delhi High Court created an IP division in 2021, for which the draft rules have been released for comment.
- **CIPAM**– The Cell for Intellectual Property Rights Promotion and Management (CIPAM) has been promoting IP awareness across India.

**MoU**– The United States Patent and Trademark Office (USPTO) and Department for the Promotion of Industry and Internal Trade (DPIIT) are working to further a MOU signed in 2020 relating to IP technical cooperation mechanisms.

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