

## UPSC CURRENT AFFAIRS NOTES 12-02-2024

### BILATERAL INVESTMENT TREATY (BIT) IN INDIA



The Finance Minister's announcement in the interim Union budget reflects a renewed focus on negotiating Bilateral Investment Treaties to attract foreign direct investment (FDI).

#### Details

- Bilateral Investment Treaties (BITs) are agreements that establish the terms and conditions for private investment by nationals and companies of one country in another country. They are designed to promote and protect foreign direct investment (FDI), which is a type of investment that indicates a significant influence and long-term interest in an enterprise in another country.
- BITs typically include guarantees such as fair and equitable treatment, protection from expropriation, free transfer of means and full protection and security for the investors. They also allow investors to resort to international arbitration in case of disputes with the host state, rather than suing in domestic courts.
- BITs are often based on model texts prepared by influential capital-exporting countries, and may also contain environmental provisions or lists of excluded industries.



## Background

- India initially saw BITs as a way to attract foreign investment in the 1990s. However, concerns arose about the burden on the government due to investor-state dispute settlements (ISDS).
- In 2016, India adopted a new BIT model with stricter terms and terminated many existing treaties. This stricter model has made it difficult to renegotiate treaties and attract FDI.
- FDI inflows declined by 24% in April-September 2023 compared to the previous year.

## Key Features of Indian BITs

- **National Treatment:** Foreign investors are treated no less favourably than domestic investors in similar situations.
- **Most-Favoured-Nation Treatment:** Investors receive the same benefits as those granted to investors from any other country with a BIT with India.
- **Fair and Equitable Treatment:** Investors are guaranteed fair and equitable treatment in accordance with international law.
- **Protection from Expropriation:** Investments are protected from expropriation by the host government without due process and compensation.
- **Dispute Settlement:** Mechanisms exist for resolving disputes between investors and the host government, often through arbitration.

## Impact of BITs

- **Increased Foreign Investment:** BITs can attract foreign investment by providing investors with greater certainty and predictability.
- **Economic Growth:** Increased foreign investment can contribute to economic growth and job creation.
- **Investor Protection:** BITs provide a legal framework for protecting investors' rights and interests.
- **Potential for Disputes:** BITs can also lead to investor-state disputes, raising concerns about corporate accountability and the potential for undermining government regulations.

## Status of BITs

- India's history with Bilateral Investment Treaties (BITs) involves signing agreements with 83 countries until 2015, based on the 1993 Model BIT.
- India has signed 83 BITs with different countries, of which 66 are in force.
- India is currently negotiating new BITs with several countries, incorporating updated provisions on issues like intellectual property, environment, and corporate social responsibility.

India needs to move beyond the limitations of the 2016 BIT model and adopt a forward-looking approach that balances investor protection with national interests. By implementing the recommendations above and tailoring BITs to specific partnerships, India can create a more attractive environment for foreign investment and contribute to its economic growth.

## Unlawful Activities (Prevention) Act, (UAPA) 1967



Recently, the Supreme Court denied bail to Gurwinder Singh for alleged crimes under the Unlawful Activities (Prevention) Act, (UAPA) 1967.

### Accusation and Legal Interpretation:

- Singh is accused of receiving funds illegally from Sikhs for Justice to promote a separatist agenda for Khalistan.
- Justices M.M. Sundresh and Aravind Kumar interpreted Section 43D(5) of the UAPA, stating that bail is an exception and jail the rule under this law.
- Section 43D(5) restricts bail if a prima facie case exists against the accused based on police records without delving into evidentiary value.



### **Brief Facts of the Case:**

- Punjab police received information about banners promoting Khalistan on October 19, 2018.
- Sukhraj Singh and Malkeet Singh were apprehended, leading to charges under sedition and related laws.
- Investigation revealed a module of Sikhs for Justice involved in promoting Khalistan, resulting in the arrest of Gurwinder.

### **NIA Investigation and Charges:**

- NIA took over the case in April 2020 and charged eleven individuals with funding terrorism and promoting separatist ideology.
- Accused allegedly received funds through illegal means, including hawala transactions, for terrorist activities and procuring weapons.
- Javed Khan, an ISI handler, was implicated in coordinating operations.

### **Legal Proceedings and Bail Rejection:**

- Gurwinder's bail was rejected by NIA court in December 2021 and upheld by Punjab and Haryana High Court in April 2023.
- Supreme Court heard the case based on a special leave petition.
- Defense argued against bail citing lack of incriminating evidence and prolonged incarceration violating fundamental rights.
- Prosecution opposed bail citing grave nature of charges and UAPA's bail restrictions.

### **Supreme Court's Ruling:**

- Court interpreted **Section 43D(5) of UAPA, emphasizing bail as the exception.**
- Prima facie examination for bail under UAPA relies on case diary and final report without delving into evidence.



- Court set a twin-prong test for bail under UAPA, focusing on **prima facie truth of accusations and the 'tripod test' to assess flight risk, witness influence, and evidence tampering.**
- Delays in trial and severity of charges do not automatically warrant bail under UAPA, as per the court's ruling.

### **Unlawful Activities Prevention Act (UAPA)**

- The Unlawful Activities Prevention Act (UAPA) stands as India's most stringent anti-terror legislation, albeit with contested provisions. Its enforcement stems from the nation's history of terrorism, necessitating robust measures for national security.

### **Overview of UAPA:**

- **Enacted in 1967**, the UAPA originally aimed to counter secessionist movements and anti-national activities.
- Subsequent amendments, notably in 2019, broadened its scope to include provisions addressing terrorist financing, cyber-terrorism, and individual designation.
- Empowers the National Investigation Agency (NIA) for nationwide enforcement and prosecution under UAPA.
- Prescribes severe penalties, including death penalty and life imprisonment, for terrorist acts.

### **Key Provisions:**

- Allows for preventive detention of suspects without charge for up to 180 days and denial of bail unless proven innocent.
- Defines unlawful activities to encompass actions undermining India's sovereignty or territorial integrity.
- Defines terrorism as acts causing death, injury, or property damage threatening national unity or security.

### **Analysis of UAPA Usage:**

- Data from the National Crime Records Bureau indicates delays in filing charge sheets under UAPA cases, raising concerns about procedural efficacy.





### Arguments in Favor:

1. **National Security:** UAPA proponents argue its necessity in safeguarding national interests against terrorist threats.
2. **Counterterrorism Measures:** Seen as comprehensive legislation aiding law enforcement agencies in combating terrorism effectively.
3. **Preventive Detention:** Essential for averting potential threats, especially when evidence for formal trials is lacking.
4. **Global Commitments:** Aligns with international efforts to combat terrorism, enhancing cooperation with other nations.
5. **Effective Prosecution:** Provides legal framework and tools for prosecuting terrorists, aiding in convictions.
6. **Deterrence:** Severe penalties deter individuals and organizations from engaging in unlawful activities.

### Arguments Against:

1. **Violative to Fundamental Rights:** Criticized for infringing on constitutional freedoms of expression, assembly, and association.
2. **Lacks Safeguard Mechanism:** Absence of adequate checks and balances leads to potential misuse of power by authorities.
3. **Against Federal Structure:** Encroaches upon state powers and undermines federalism by centralizing authority.
4. **Low Conviction Rate:** Indicates inefficacy and arbitrary application, potentially leading to harassment of innocents.

### Judicial Perspectives:

- Supreme Court rulings, including *Arup Bhuyan vs State Of Assam* (2011) and *Union of India v. K A Najeeb* (2021), offer guidance on interpreting and applying UAPA provisions.
- Recognizes the importance of dissent while emphasizing the need to balance security concerns with individual liberties.



## Reform Suggestions:

1. **Amendments:** Refine definitions to exclude constitutionally protected activities, ensuring clarity and fairness.
2. **Burden of Proof:** Shift the burden to prosecution to prove guilt, maintaining fairness in legal proceedings.
3. **Review Mechanism:** Establish impartial oversight to scrutinize government decisions on designations and bans.
4. **Last Resort Usage:** Reserve UAPA application as a last resort, prioritizing dialogue and reconciliation.

## Unified Payments Interface (UPI)

India's Unified Payment Interface (UPI) services will be rolled out in Sri Lanka and Mauritius at a virtual ceremony.

### About Unified Payments Interface (UPI)

- The UPI is a digital and real-time payment system developed by the National Payments Corporation of India (NPCI) and regulated by the Reserve Bank of India (RBI).
- It was launched on April 11, 2016.
- It is designed to enable peer-to-peer inter-bank transfers through a single two-click factor authentication process.

### Features:

Unlike traditional methods, UPI simplifies transfers using the recipient's UPI ID, be it a mobile number, QR code, or Virtual Payment Address, eliminating account numbers.

It eliminates the need to enter bank details or other sensitive information each time a customer initiates a transaction. A consistent UPI transaction PIN across apps enhances cross-operability, enabling 24/7 transactions.

- UPI operates as a digital public infrastructure, allowing seamless interactions for all players, including merchants and customers, without transaction costs.



- UPI uses technologies like the Immediate Payment Service (IMPS) and the Aadhaar-Enabled Payment System (AEPS) to ensure that payments between accounts go smoothly.
- It facilitates push (pay) and pull (receive) transactions and even works for over-the-counter or barcode payments, as well as for multiple recurring payments such as utility bills, school fees, and other subscriptions.
- It also works with "Peer-to-Peer" requests, which can be scheduled and paid for based on need and convenience.

### **What is the National Payments Corporation of India (NPCI)?**

- NPCI is an umbrella organisation for operating retail payments and settlement systems in India.
- It is an initiative of the RBI and the Indian Banks' Association (IBA) under the provisions of the Payment and Settlement Systems Act, 2007, to create a robust Payment & Settlement Infrastructure in India.
- The ten main promoter banks of NPCI are Punjab National Bank, State Bank of India, Canara Bank, Union Bank of India, Bank of Baroda, ICICI Bank Limited, Bank of India, HSBC, Citibank, and HDFC Bank Limited.
- It has been incorporated as a Not-for-Profit Company with an intention to provide infrastructure to the entire banking system in India for physical as well as electronic payment and settlement systems.
- NPCI is focused on bringing innovations to retail payment systems through the use of technology to achieve greater efficiency in operations and widen the reach of payment.
- The regulatory board of the NPCI, headquartered in Mumbai, includes nominees from the RBI along with nominees from ten core promoter banks.

### **What is the Immediate Payment Service (IMPS)**

Immediate Payment Service (IMPS) is a mode of money transfer from one bank account to another in the Indian banking system. The system enabled 24x7x365 real-time, interbank, electronic money transfers when there was only NEFT and RTGS facilities available in India. Citizens could access the facility through multiple channels, such as mobile phone, ATM, the internet, and SMS.



## Bochasanwasi Akshar Purushottam Swaminarayan Sanstha (BAPS)



Prime Minister will inaugurate the Bochasanwasi Akshar Purushottam Swaminarayan Sanstha BAPS Mandir, the first Hindu temple in Abu Dhabi.

### About Bochasanwasi Akshar Purushottam Swaminarayan Sanstha (BAPS)

- BAPS is a socio-spiritual Hindu faith with its roots in the Vedas.
- It is based on the Vedic teachings propagated by Bhagwan Swaminarayan (1781-1830 CE).
- It was formally established in 1907 CE by Brahmaswarup Shastriji Maharaj.
- Founded on the pillars of practical spirituality, the BAPS reaches out far and wide to address spiritual, moral and social challenges and issues.
- No Alcohol, No Addictions, No Adultery, No Meat, No Impurity of body and mind are the five lifetime vows of BAPS followers.
- Its global network of mandirs and centres hosts many moral, social, cultural, and spiritual activities.

- Education and women development are other focus areas, with many schools, hostels, and community development activities targeted at women being managed by BAPS.
- It is also engaged in a variety of humanitarian activities that include services in times of natural calamities, primary schools, students' hostels, hospitals, diagnostic camps, anti-addiction drives, environment-awareness programs, tribal uplift, and literacy campaigns.
- BAPS is an NGO with a Consultative Status with the Economic and Social Council of the United Nations.

### **Economic and Social Council of the United Nations**

It is one of the six principal organs of the UN, which was established by the UN Charter (1945). It is responsible for the direction and coordination of the economic, social, humanitarian, and cultural activities carried out by the UN. Decisions are taken by a simple majority vote. The presidency of ECOSOC changes annually.

## **SPECTRUM ALLOCATION IN INDIA**



The government plans to auction a total of 10,523.15 MHz of spectrum across various bands.

This includes spectrum in the following bands: 800 MHz, 900 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 2500 MHz, 3300 MHz, and 26 GHz.

### **Spectrum Auctions:**

**Introduction:** Communication devices like cellphones and wireline telephones rely on signals transmitted through airwaves, or radio waves, at designated frequencies to avoid interference.



**Need for Spectrum Auctions:** As the number of cellphone, wireline telephone, and internet users grows, there's a demand for more spectrum space to accommodate the increasing volume of signals. The Union government, which owns all publicly available assets within the country's boundaries, including airwaves, auctions spectrum to companies willing to invest in the infrastructure needed to transmit these signals.

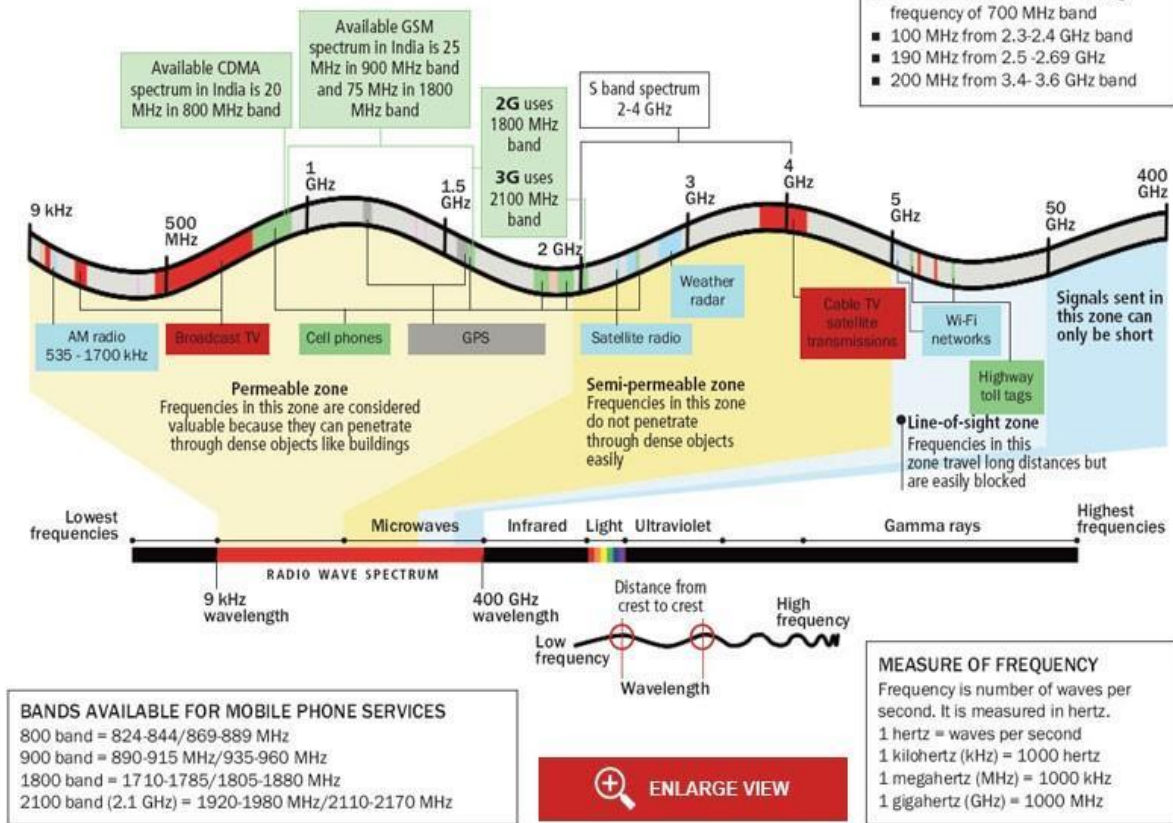
**Process:** The Department of Telecom (Ministry of Communications) oversees the auction process, facilitating the sale of airwaves, known as spectrum, to interested companies. Spectrum is subdivided into bands with varying frequencies to accommodate different types of communication services.

**Validity Period:** Airwaves sold through auctions come with a predetermined validity period, typically set at 20 years. After the validity period lapses, companies must renew their spectrum licenses to continue using the allocated airwaves.

**Conclusion:** Spectrum auctions conducted by the government play a vital role in meeting the increasing demand for communication services. By selling airwaves to companies, the government ensures efficient utilization of spectrum resources while promoting investments in telecommunications infrastructure.



## RADIO SPECTRUM



### Frequency Bands:

1. **800 MHz:** Used for mobile communication, including 2G, 3G, and 4G services.
2. **900 MHz:** Primarily allocated for 2G and 3G mobile services.
3. **1800 MHz:** Utilized for 4G LTE services.
4. **2100 MHz:** Allocated for 3G and 4G services, including data transmission.
5. **2300 MHz:** Designated for broadband wireless access (BWA) services like 4G.
6. **2500 MHz:** Used for high-speed wireless broadband services.
7. **3300 MHz:** Identified for 5G services and future technologies.



8. **26 GHz:** Allocated for millimeter-wave spectrum, suitable for high-capacity applications like 5G.

### **Upcoming Spectrum Allocation:**

The government of India is set to auction various spectrum bands to telecom operators, facilitating the expansion of communication services across the country.

### **Auction Details:**

- The spectrum to be auctioned includes frequencies in the 800, 900, 1800, 2100, 2300, 2500, 3300 MHz, and 26 GHz bands.
- Additionally, spectrum held by certain companies undergoing insolvency proceedings and those expiring in 2024 will also be auctioned.
- The validity of the spectrum purchased in this auction will be 20 years.

### **Timeline and Process:**

- The auction timeline is yet to be announced, but it is expected to take place in the coming months.
- Typically, there is a 9-10 week window between the release of the notice inviting applications (NIA) and the actual auction.
- The Department of Telecommunications (DoT) will issue the NIA, outlining the auction rules and processes, followed by the commencement of the auction.

### **Fresh Spectrum Allotment:**

- Bharti Airtel and Vodafone Idea (Vi) will receive fresh spectrum allotment to ensure uninterrupted telecom services until the auction is conducted.
- Both telcos can continue to use the spectrum by paying the price determined in the last auction until the new spectrum is allocated.
- Airtel's spectrum renewal is due in six circles, while Vi's license expires in specific circles.





### **Expected Demand and Revenue:**

- The Department of Telecommunications (DoT) anticipates a subdued response from telecom operators, with demand primarily for spectrum up for renewal in certain circles.
- The government expects to generate revenue of around Rs 10,000 crore from the upcoming auction.

### **Previous Auction and Utilization:**

- In the last auction held in 2022, Reliance Jio, Bharti Airtel, and Vi acquired spectrum, with Jio being the largest spender.
- However, analysts suggest that the spectrum acquired in 2022 remains largely unutilized, influencing the anticipated demand in the upcoming auction.

### **Spectrum Reforms:**

- The government will establish a committee of secretaries to consider re-farming existing spectrum usage to meet future needs.
- This committee, chaired by the cabinet secretary, will finalize plans to repurpose allotted spectrum in specific bands to optimize spectrum utilization as technologies evolve.

### **Spectrum Allocation for Special Purposes:**

- Additional spectrum in the 700 MHz band will be allocated for Indian Railways' Kavach anti-collision technology.
- The spectrum will also be reserved for the National Capital Region Transport Corporation to enhance safety and operations in transportation systems.