

## India-EU: global dynamics (GS Paper 2, International Relation)

### Context:

- With carbon neutrality being the byword to a sustainable world, a host of countries; Norway, Sweden, the United Kingdom, France, Spain, Japan, Germany, Canada, Costa Rica, the United States, Brazil, India, and China among others have **set for themselves net-zero targets** for the middle and later part of the century.
- **At the forefront of the commitment to net-zero is the European Union**, which wants to be the **first carbon-neutral region in the world by 2050**.
- It brought out the **'European Union Green Deal'** in July 2021 to focus on a new growth strategy that aims to transform the EU society into a fair and wealthy one with a modern, resource-efficient and competitive economy.



### CBAM: carbon-pricing system:

- To attain carbon neutrality, the EU has set forth immediate targets and has brought out the **'Fit-for-55' package**, a communication of its 2030 climate targets.
- A provision in the policy plan is the introduction of **Carbon Border Adjustment Mechanism (CBAM)**, a carbon-pricing system proposed for imports into the EU.
- The CBAM suggests **taxing the imported goods-based difference** between carbon used in the production of domestic and imported goods.

### How CBAM will be implemented?

- Proposed to be **complementary to the EU Emission Trading Scheme (EUETS)**, during the transition phase of CBAM, beginning January 1, 2023 **importers will only have to report emissions** embedded in the production of goods and are not obliged to pay a financial penalty.
- The CBAM, however, will come completely into force from January 1, 2026 and the measure will see a gradual reduction of free EUETS allowance coverage of 10 percentage points per year and a complete phase-out by 2035.
- In the initial phase, **five CITE (Carbon Intensive and Trade Exposed) sectors** such as iron and steel, aluminium, cement, fertilizers and electricity will be taxed under CBAM. Eventually, all sectors under EUETS will be brought under its ambit.

### Protectionism:

- The EU claims that CBAM is intended to **reduce carbon leakage**, create a **level playfield for EU producers** and encourage producers in other countries to adopt cleaner technologies. But several discussions have cropped up around CBAM.
- Developing countries have raised their concern on the **legality of CBAM pointing out its conflict with World Trade Organization (WTO)** and the United Nations Framework Convention on Climate Change (UNFCCC) norms, and are afraid that it encourages protectionism.
- History provides several instances of conflict between domestic restrictive policies stating environmental concern and trade openness such as the *Shrimp-Turtle Case* and *Air Transport Association of America vs Energy Secretary Case for Energy and Climate Change*.
- Rulings in these cases have been in favour of environmental laws, proving that the ongoing debate is a continuation of pre-existing issues and, in the past, environment concerns have outweighed those related to trade.

### Revenue from CBAM:

- Developing countries also flag the use of revenue collected from CBAM. According to the EU, revenue collected from CBAM will be a **part of the EU's budget**, the NextGenerationEU, a recent initiative launched to provide economic support to EU member countries impacted by the COVID-19 pandemic. Countries opposing the proposed revenue utilisation mechanism suggest that if CBAM is to be implemented, revenue collected from it should be used for cleaner technology adoption in developing countries.

### India-EU relations:

- India and the EU share a healthy trade relationship. The **EU is India's third largest trading partner**, while **India is EU's 11th largest trading partner**.
- In 2019-20, India-EU trade accounted for ₹63.8 billion (11.1% of total Indian trade) in goods, while a total of 1.9% of EU's total trade in goods in 2020 came to India. India exports almost 14% of its global exports to the EU.
- Recently, there has been increasing initiative from both sides to deepen engagement with each other. Talks on India-EU Free Trade Agreement (FTA) that were stalled a while ago have picked up again and are scheduled to take place in June.
- The **target to finalise the Free Trade Agreement has been set for 2023-24**.

### Way Forward:

- Both **India and the EU are committed to climate change**, and the recent progress in India-EU alliance opens prospects of a customised partnership and mutual growth.
- Rather than tax on exports to EU as proposed in CBAM, **India and EU can cooperate better by investing in cleaner and greener technologies** in India and helping in cleaning up production in India. Such a partnership will ensure that both India and the EU have their agendas of economic growth and sustainability fulfilled, a win-win situation for both entities.

## A 'no' to pharma freebies, a 'yes' for public good

(GS Paper 2, Judiciary)

### Context:

- The judgment by a two-judge Bench of the Supreme Court of India in *M/s Apex Laboratories Pvt. Ltd. vs Deputy Commissioner of Income Tax, Large Tax Payer Unit-II*, on February 22, 2022 has struck a blow for public good.

### Highlights of the judgement:

- The judges **dismissed the Special Leave Petition** by Apex Laboratories **to claim deduction on freebies** given to doctors.
- Upholding a decision by the Madras High Court, the Bench said that **the act of pharmaceutical companies giving freebies to doctors is clearly 'prohibited by the law'**. Further, it cannot be claimed as a deduction under Section 37(1) of the Income Tax Act, 1961.

- The judgment will go a long way in checking unethical and illegal practices in the pharma sector which has become so out of reach for the common man.

#### A case of misuse:

- The SC Court said that pharmaceutical companies have **misused a legislative gap** to actively perpetuate the commission of an offence of giving freebies to doctors to promote their brands, even though this was prohibited in the law framed by the Medical Council of India (MCI).
- In the said case, the **company was giving out freebies to doctors in order for them to create awareness** about a health supplement it was manufacturing called Zincovit.
- The judge said that in the process of interpretation of the law, it is the responsibility of the court to discern the social purpose which the specific provision subserves.



#### Principle of implied condition:

- Upholding the Central Board of Direct Taxes (CBDT) circular dated August 1, 2012, and applying it to the case, the Court also cited and relied upon Regulation 6.8 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 framed under the Medical Council Act, 1956, now repealed and substituted by the **National Medical Commission Act, 2019**.
- The Court also highlighted *Quereshi (2007) 2 SCC 759* and *Commissioner Of Income Tax vs Khemchand Motilal Jain* to show that the assessee was not a wilful participant in any offence or illegal activity prohibited by law.
- While overruling the Income Tax Tribunal's view in the case of *PHL Pharma (2017)* and *Max Hospital (2014) ILR 1 P. 620*, the Court held that **Regulations 2002 did apply to pharma companies also**. Further, they could not be allowed to perpetuate the illegality of violations of norms by doctors.
- Invoking the principle of implied condition, the **Court relied on the precedents in the case of P.V. Narasimha Rao (1998) 4 SCC 626** under the Prevention of Corruption Act, and *Jamal Uddin Ahmad (2003) 4 SCC 257* under the Representation of the People Act.

#### Immoral act:

- Laying emphasis on the fiduciary relationship between doctor and patient, the Court noted that a doctor's prescription is considered as the final word on medication by the patient even if the cost of such medication is unaffordable.
- In a situation where such trust is reposed in doctors, having prescriptions manipulated by the lure of freebies is immoral.
- The Court was conscious that the **cost of such freebies is factored in the cost of medicines sold**, in turn driving up their prices and **perpetuating a publicly injurious cycle**.
- This fact was taken note of by the Parliamentary Standing Committee on Health and Family Welfare in its 45th report, dated August 4, 2010.

#### **In the U.S.**

- In its elaborate judgment, the Court also took note of a report issued by the United States Department of Health and Human Services Office called "**Savings Available Under Full Generic Substitution of Multiple Source Brand Drugs in Medicare Part D**" dated July 23, 2018.
- Here, it was stated that the **beneficiaries could have saved over \$600 million in out-of-pocket payments** had they been **dispensed generic equivalent drugs**.
- In the U.S., by the reason of the **Physician Payments Sunshine Act 2010** also known as Section 6002 of the Affordable Care Act (ACA) of 2010, **the law compels** the manufacturers of drugs, devices, biologic and medical supplies to report to the Centers for Medicare and Medicaid Services, **on three broad categories of payments or transfers of value** such as meals, travel reimbursements and consulting fees.
- These include expenses borne by manufacturers such as speaker fees, travel, gifts, honoraria, entertainment, charitable contribution, education, grants and research grants, etc.

#### **The issue of retail price:**

- Obviously, the uncovered field in this judgment and it was not the controversy in hand before the Court is the **sale of medicines at Maximum Retail Price**, or MRP.
- This is a scam and a case of underhand dealing that happens in the pharma world (the giving away of freebies is a smaller part of it) because drugs are invariably sold in pharmacist shops at MRP only. This is what affects medical treatment.
- Even though the **Drug Price Control Order and Drugs and Cosmetics Act are there on the statute book**, there is hardly any action to keep the sale price of medicines under control with due and proper investigation into their so-called research and development costs and keeping their profit margins within a prescribed limit.
- One fails to understand why the law cannot be amended to compel the manufacturer of drugs to sell at the **verified genuine cost**, that also factors in a reasonable profit margin for each product by bringing manufacturers, both foreign or domestic, under the control of the MCI or any other equivalent body such as the Institute of Chartered Accountants of India.
- This must be at a uniform rate throughout the country; further, classified life saving drugs should be sold at cost only or even at subsidised rates.

#### **Way Forward:**

- This judgment can also go far. It should be debated and **applied to other unethical practices and expenditure out of public funds**.
- The strategy here should be to use financial tools such as income-tax provisions for disallowing such expenditure and taxing the same as perquisites or taxable income in the hands of recipients viz. assurances and declarations in election campaigns by political parties by giving away free laptops, waived electricity charges, food grains, loan waivers, etc.

### **G7-led climate club** **(GS Paper 2, International Relation)**

#### **Why in news?**

- Recently, the leaders of the Group of Seven most developed economies, who met in Germany for the 48th G7 Summit, have agreed to set up an international "climate club" for nations that want to take more decisive climate action and combat global warming.

- The G7 is made up of the US, the UK, Canada, France, Germany, Italy and Japan.
- The club, expected to be established by the end of 2022, will be “open and inclusive in nature” to those committed to follow the 2015 Paris climate agreement.



### What is a climate club?

- The **concept of a climate club** was developed by **Yale economist William Nordhaus in 2015** and has since gained popularity in policy circles. Mr. Nordhaus also won the **2018 Nobel Prize in economics** for his work on climate change.
- In his work, the economist argued that **existing climate agreements such as the 1997 Kyoto Protocol** and the 2015 Paris climate accord are flawed due to their voluntary nature, which induces free-riding while responsible nations bear the cost of switching to cleaner technologies.
- To address this issue, Mr. Nordhaus proposed a club for countries to boost climate action. This club would exempt its members from climate-related trade tariffs to which non-members will be subjected.
- Most recently, Germany put the formation of an “ambitious” climate club on top of the agenda ahead of the G7 summit. The summit was hosted by Germany in 2022.

### What will the climate club do?

- The G-7 leaders said the club will be open to countries committed to implementing the 2015 Paris Climate Accord which aims to limit global warming to below 2, preferably to 1.5 degrees Celsius, compared to pre-industrial levels, as per the United Nations.
- The climate club will be **built on three pillars** —
  - a) focus on advancing transparent policies to achieve climate neutrality (reducing all greenhouse gases as much as possible),
  - b) transforming industries to accelerate decarbonisation, and facilitating partnerships and
  - c) cooperation to encourage climate action and unlock socio-economic benefits of climate cooperation.

### Will China join the club?

- Though the club will be open to all, experts say the idea will take some time to take off, especially with China, which is the world's biggest emitter of greenhouse gas.
- China has been clear on its opposition to climate-related tariffs. It has also tried to get the support of other developing countries on the matter.

## Protest over Mattewara forest in Punjab (GS Paper 3, Environment)

### Why in news?

- The people of Punjab, environmental activists and various social organisations are protesting the state government's decision to set up an industrial park near the Mattewara forest.

### Details:

- It was in July 2020 that the erstwhile Congress government in Punjab approved setting up an industrial park on 955.67 acres near Mattewara forest and the Sutlej River.
- The Punjab government then clarified that the Mattewara Industrial Park would not be set up on forest land, but on land acquired in Sekhowal, Mattewar, Salempur, Garhiyan, Cell Kalan and Kalewal villages, in addition to the land of the animal husbandry and rehabilitation departments.



### Linkage to Sikh history:

- The Mattewara forest has a special appeal among the Sikh masses of Punjab as it features in Sikh history. Guru Nanak Dev, the founder of Sikhism, had emphasised the importance of Mattewara forest when he said only it could save Ludhiana from floods.
- Guru Gobind Singh escaped into the forest of Mattewara in a wounded condition after the Battle of Chamkaur Sahib in 1704, with Mughal forces in hot pursuit.
- The forest is the location where the Guru composed 'Mittar Piare nu haal Mureedan da kehna'.

### Environmental impact:

- The Mattewara forest **protects the city of Ludhiana from floods in the Sutlej** and also **absorbs the gases emitted from industrial units** in the city. It is also a source of oxygen and clean breathing air.

- The industrial park near Mattewara forest though, would be an invitation to the death of the jungle.
- **Sulphur dioxide and nitrogen oxide emitted from industrial units** emit two types of acidic substances (dry and wet) in the air.
- Dry acid particles settle on the leaves, twigs, flowers, and fruits of all types of vegetation in the vicinity of industrial units. Wet acidic deposition in the form of acid rain causes severe damage to vegetation.
- Their photosynthesis process and their ability to produce food are reduced. In this way, the industrial park would not only pollute the surrounding environment but also cause severe damage to the Mattewara forest.

#### **Water pollution:**

- The industrial park will not only endanger the existence of the forest but would further pollute the water of the already-polluted Sutlej River.
- Industrial units on the banks of rivers usually discharge water contaminated with chemicals directly into them without any treatment. **Ludhiana's Budha Nalla**, once a tributary of the Sutlej, has been **converted into a sewer** by the industrial units of Ludhiana.
- A large number of fish died in 2018 due to polluted water released from the Kiri Afgana Sugar Mill into the Beas, another major river of Punjab.
- After the Nangal dam, the Sutlej flows through Punjab with a negligible amount of water. However, it is in Punjab's best interest to save what is left from the clutches of this so-called economic development.

#### **Forest coverage in Punjab:**

- According to the State of India's Forests, **only 3.67 per cent of Punjab's total area is under forests**. This should ideally be 33 per cent.
- In order to keep the natural environment in balance, there should be at least 29.33 per cent more forest area in the state. According to the report, Punjab has dense forests on only 0.02 per cent of its land and the remaining 1.59 per cent is moderate forest and 2.06 per cent is open forest.
- The **forest cover in Punjab is less than that of a desert state like Rajasthan** (4.36 per cent). Unfortunately, there is no district in Punjab that meets the requirement of 33 per cent forest cover. Hoshiarpur district has a forest cover of 21.54 per cent, which is higher than all the other districts of Punjab, but it is also lower than the national average.
- Barnala, Fatehgarh Sahib, Jalandhar, Shri Muktsar Sahib, Sangrur, Tarn Taran, Ferozepur, Mansa, Moga and Kapurthala districts of Punjab have less than one per cent forest cover.
- The Mattewara forest falls in the Ludhiana district where the forest cover is only 1.65 per cent.

#### **Land issue:**

- All the villages from which land is supposed to be acquired for this industrial park, Sekhowal, Mattewar, Salempur, Garhiyan, Cell Kalan and Kalewal are located in the area adjacent to the Sutlej, where the **groundwater level is very high and** farmers have no problem planting paddy.
- However, in more than three-fourths of the community development blocks in Punjab, the groundwater level has dropped to dangerous levels.
- A research study has revealed the fact that groundwater in Punjab is likely to be depleted in the next 17 years. If that happens, the terrible consequences would be unspeakable and unbearable.
- The entire land of Sekhowal village has been acquired for this industrial park except 100 acres meant for houses and fodder. The people of the village have no livelihood other than farming. No one knows whether the government has any plans for the employment of these people.

#### **Way Forward:**

- The Punjab government should build industrial parks for the economic development of the state but not at the cost of precious natural resources.
- In this regard, it is important to keep in mind that the main priority for the industrial development of Punjab should be given to the agro-processing industrial units which the people of the villages can start in their homes or on the common lands or shamlat.