Syllabus subtopic: Effect of Policies and Politics of Developed and Developing Countries on India’s interests, Indian Diaspora.

Prelims and Mains focus: about the USTR move: criteria and its implications; about CVD and de minimis standard

News: The U.S. government has changed an administrative rule making it easier for it to impose countervailing duties (CVDs) on goods from India and certain other countries.

Background

- To harmonise U.S. law with the World Trade Organization’s (WTO) Subsidies and Countervailing Measures (SCM) Agreement, the USTR had, in 1998, come up with lists of countries classified as per their level of development. These lists were used to determine whether they were potentially subject to U.S. countervailing duties (CVD). The 1998 rule is now “obsolete” as per the USTR notice.

- U.S. President Donald Trump has repeatedly complained about the WTO’s classification of developing countries. On July 26, 2019, he had issued a memorandum to the USTR titled, ‘Reforming Developing-Country Status in the World Trade Organization’. In it, Mr. Trump had asked the USTR to, among other things, “no longer treat as a developing country for the purposes of the WTO any WTO Member that in the USTR’s judgment is improperly declaring itself a developing country,” if the WTO had not changed its approach to flexibilities associated with developing country status within ninety days of the memorandum being issued.

What are countervailing duties (CVD)?

1. Duties that are imposed in order to counter the negative impact of import subsidies to protect domestic producers are called countervailing duties.
2. **Description:** In cases foreign producers attempt to subsidize the goods being exported by them so that it causes domestic production to suffer because of a shift in domestic demand towards cheaper imported goods, the government makes mandatory the payment of a countervailing duty on the import of such goods to the domestic economy.

3. This raises the price of these goods leading to domestic goods again being equally competitive and attractive. Thus, domestic businesses are cushioned. These duties can be imposed under the specifications given by the WTO (World Trade Organization) after the investigation finds that exporters are engaged in dumping. These are also known as anti-dumping duties.

**About the USTR move**

The Office of the United States Trade Representative (USTR) has published a notice, amending lists of developing and least-developed countries that are eligible for preferential treatment with respect to CVD investigations.

**What does that mean?**

- Countries not given special consideration have lower levels of protection against a CVD investigation.

- A CVD investigation must be terminated if the offending subsidy is **de minimis** (too small to warrant concern) or if import volumes are negligible. The **de minimis standard** is usually a subsidy of **1% or less ad valorem** and **2 percent for special cases**. The de minimis thresholds and import volume allowance are more relaxed for developing and least-developed countries.

(Ad valorem tax means levying of tax or customs duties proportionate to the estimated value of the goods or transaction concerned.)

- If a country’s goods constitute less than 3% of all imports of that good into the U.S., it meets the ‘negligible import volumes’ standard. For special cases it is 4%. Imports do not meet the standard, if, individual...
volumes are less than 3% (special cases: 4%) but the aggregate volume of imports into the U.S. is 7% of all such goods.

- **India** was, until February 10, on the developing country list and therefore eligible for these more relaxed standards. It has now been taken off of that list.

- The new lists consist of 36 developing countries and 44 least developed countries.

**Eligibility Criteria for the de minimis standard**

The USTR used the following criteria to determine whether a country was eligible for the 2% de minimis standard:

1. Per capita Gross National Income or GNI
2. Share of world trade
3. Other factors such as Organisation for Economic Co-operation and Development (OECD) membership or application for membership, EU membership, and Group of Twenty (G20) membership.

**Why was India taken off the list?**

- India, along with Brazil, Indonesia, Malaysia, Thailand and Vietnam were taken off the list since they each have at least a 0.5% share of the global trade, despite having less than $12,375 GNI (the World Bank threshold separating high income countries from others).

- India was taken off the list also because — like Argentina, Brazil, Indonesia and South Africa — it is part of the G20. “Given the global economic significance of the G20, and the collective economic weight of its membership (which accounts for large shares of global economic output and trade), G20 membership indicates that a country is developed,” the USTR notice said.

**Implications**

The move has cast a shadow on India being able to restore preferential benefits
under the Generalised System of Preference (GSP) as part of its trade talks with the US, as only developing countries are eligible for it.

**Way forward**

Mr. Trump is due to visit India on February 24 and 25 and the U.S. and India are trying to finalise a trade package before the U.S. President’s arrival. According to American officials, the timing of the USTR announcement is not linked to the visit, that is, the timing is mostly coincidental and mostly related to dynamics at the WTO on developing country treatment.