Sale of Enemy Property

Why in news?

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The Cabinet approved the sale of ‘enemy shares’ that are in the custody of the Ministry of Home Affairs or the Custodian of Enemy Property of India recently.

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What is an enemy property?

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- As per the Enemy Property Act, 1968, ‘enemy property’ refers to any property that was belonging to a person who migrated from India to an enemy country when a war broke out.
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- During World War II, the US and the UK took over the properties of people who fled their shores to settle in ‘enemy’ countries such as Germany and Japan.
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- This was touted as a move to protect their turf from hostile forces in enemy States who might take control of such assets and use it to their advantage.
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- Similarly, in India too, after the war with China and Pakistan in 1962 and 1965, the government took over the properties, under the Defence of India Act, from persons who migrated to these countries.
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- The confiscated property included both movable and immovable properties such as securities, jewellery, land, and buildings.
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- Later in 1968, a law called the Enemy Property Act was enacted to regulate such properties and entrusted with the Custodian of Enemy Property(CEPI).
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- Now, for the first time, the government has decided to sell off the property held in the form of shares (‘enemy shares’) which are lying with the custodian.
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- The sale is expected to fetch about Rs 3,000 crore and will be counted as

disinvestment.
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- It expects to use these proceeds from sale for development and social welfare programmes.
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- With the Cabinet approval, the disposal of other properties such as land and building could also likely to happen.
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Why is it important?

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- The property now approved for sale consists of about 6.5 crore shares which are under the custody of CEPI belonging to 20,323 shareholders in 996 companies.
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- Of these, 588 companies are currently functional and 139 are listed on stock exchanges.
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- Hence, selling these shares will lead to monetisation of assets that have been lying dormant for decades.
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- The government also made amendments to The Enemy Property Act, 1968 recently.
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- It has made even the property **lawfully transferred** by the 'enemy' (the fleeing citizen) to his/her **legal heir or successor** before migrating to Pakistan or China, to come under enemy property.
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- To illustrate, say a person 'A' transferred his property to his son in 1963 and migrated to Pakistan during the war in 1965.
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- After the amendment to the Act, the property transferred by A before migrating, now owned by his son, also falls under the definition of 'enemy property' and can be confiscated.
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- Thus inheritance law will not be applicable on Enemy Property.
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- The government introduced this amendment to put an end to the long-lasting disputes on claims made by the legal heirs.
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- Thus these measures come at a time when the government facing the

concerns with the twin deficits and hence it can pave the way to balance its budget.
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What is the ongoing process?

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- The process for selling these shares is to be approved by the Alternative Mechanism (AM) under the chairmanship of finance minister.
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- The other members of the committee will include Minister of Road Transport and Highways and Home Minister.
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- The AM will be supported by a high-level committee (HLC) of officers co-chaired by the secretaries of the department of investment and public asset management (DIPAM) and the ministry of home affairs (MHA).
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- It would give its recommendations with regard to quantum, price and principles, as well as mechanism for sale of shares.
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- The government has so far raised Rs 10,028 crore as disinvestment proceeds this fiscal against the target of Rs 80,000 crore.
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- The 2017 amendment had just made an enabling legislative provision for the disposal of enemy property.
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- With the approval, now, of the procedure and mechanism for sale of enemy shares an enabling framework has been institutionalized for their sale.
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Source: Business Line

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