Chapter Three

EMERGING CONCERNS ASSOCIATED WITH SEZ

3.1 Introduction

3.1.1 Earlier chapters dealt in detail about the structure, types, functioning and preference in location of SEZs in different part of the country. This chapter moves further in explaining various concerns that have developed or may develop in future thereby demanding attention and immediate action. The issues have also been touched at the Ministerial level thereby providing even implicit elements associated with each concern.

3.2 Concerns

3.2.1 Following the SEZ Act 2005 & SEZ Rules of 2006, the Department of Commerce has approved the setting up of large number of SEZ in different parts of the country. This has generated debates on number of issues and they can be broadly clubbed under five heads which are loss in government revenue, decline in agriculture and food security, uneven regional development, misuse of land for real estate, and discrimination against existing industries.

(a) Increased concessions and reduced revenue generation

i) It is argued that there will be loss of government revenue because of the variety of sops granted for setting up of an SEZ has been continuously discussed and debated, even prior to the proposal of setting up of an SEZ in the country. SEZ Act, 2005 offers various fiscal and non-fiscal incentives and facilities for attracting investment (including FDI) into SEZs. Department of Revenue, Government of India is against providing blanket tax concession to all SEZs and also to all types of industrial and service units operating in SEZs without some conditions (Hindustan Time, 2009). It has
estimated that over a five year period (2005-10) there will be revenue loss to the tune of Rs. 175,8470 million due to various tax exemptions or incentives to SEZs (Economic Times, 2008).

ii) The revenue loss is speculative as there would be no revenue if these SEZ are not put in place. Further, since most of the investments in these SEZs will be private, it will not lead to extra burden on the exchequer. All sales made by SEZs to DTA will be only after payment of full custom duty and hence, will add to the exchequer. Department of Commerce of Government of India maintains that Department of Revenue has not taken into account ground realities while passing such statements. The concession in taxes and relaxation in the environment regulation and labour laws are expected to make operations in the SEZ highly profitable. All this being done in the name of exports, to make these zones export competitive by helping industry in these zones to have lower cost of production and higher profits (Hindustan Times, 2008).

iii) The IMF and Asian Development Bank (ADB) have criticized the tax exemptions on account that they are making SEZ business friendly rather than market friendly inherently violating market principles and market reform.

iv) Many of these tax exemptions have been already offered to Export Oriented Units (EOUs)/ Software Technology Parks (STPs) till 2009. The incentives dished out to SEZs will create a titled playing field between SEZ and non SEZ investors (Arunachalam, 2009).

v) Given the amount of incentives, SEZ rather than starting new ventures, would simply attract existing enterprise to relocate themselves from the domestic site to SEZs so as to avail of
the incentives in order to maximize the profits. Further, with strains emerging, the removal of the imposition of duties on sales of products in DTA would result in the entry of SEZ units into production for the domestic market with its damaging effect on the competitiveness of existing production outside SEZs for the domestic market (Arunachalam, 2009). This would amount to a mere shift in existing investments from the outside to the SEZs rather than opening new investment opportunities. This portends closure of industries resulting in unemployment outside SEZs. So with favoured position and pampering along with relaxation of regularity mechanism, SEZ would become the hub of economic offences (Bijoy, 2009).

vi) Hebbar and Kumar (2008) highlights that the most crucial point against the SEZ policy is its sustainability with tax concession. The government is bound to face difficulties in the long run to maintain these concessions. A phased manner of including these SEZs into the mainstream taxation structure could be the right way to go in the right direction.

vii) According to the Department of Commerce, the total revenue loss due to SEZs would not be more than Rs 340,000 million. On the other hand, its assumed that additional economic activity will increase the GDP by Rs 900,000 million approx., thereby generating additional revenue of Rs 150,500 million during the same period of 2005-10.

viii) Mehta and Pahariya (2009) points that the revenue loss on SEZs has been less than that on other export promotion schemes (Table3.1) and also the estimation of revenue loss on account of SEZs has been made by assuming that the same amount of investment, an additional economic activities
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would have generated if the units are located outside SEZs and do not avail any benefits from other export promotion schemes.

- Exports for April 2009-January 2010 were Rs 6,292,240 million as against Rs 7,157,640 million, a fall of 12.1 per cent in rupee terms over the same period last year. The maximum increase in revenue loss in 2009-10 was seen in Vishesh Krishi and Gram Udyog Yojana (or VKGUY, an 88.7 per cent growth to Rs 3,886 crore in 2009-10), followed by Focus Market/Product Scheme (or FM/PS, an 88.5 per cent growth to Rs 769 crore in 2009-10). This was because items/markets under FM/PS as well as products under VKGUY were increased.

**Table 3.1: Revenue Loss on Account of Export Promotion Schemes**

<table>
<thead>
<tr>
<th>Scheme</th>
<th>2006-07</th>
<th>2009-10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advanced Licence</td>
<td>Rs 17610 crore</td>
<td>Rs 10,682 crore</td>
</tr>
<tr>
<td>Vishesh Krishi and Gram Udyog</td>
<td>Rs 800 crore</td>
<td>Rs 3886 crore</td>
</tr>
<tr>
<td>FM/PS</td>
<td>-</td>
<td>Rs 769 crore</td>
</tr>
<tr>
<td>SEZ</td>
<td>Rs 2146 crore</td>
<td>Rs 3204 crore</td>
</tr>
<tr>
<td>DFIA</td>
<td>Rs 530 crore</td>
<td>Rs 1646 crore</td>
</tr>
<tr>
<td>EOU/EHTP/STP</td>
<td>Rs 13651 crore</td>
<td>Rs 8015 crore</td>
</tr>
<tr>
<td>DEPB</td>
<td>Rs 4873 crore</td>
<td>Rs 8806 crore</td>
</tr>
</tbody>
</table>

Source: Department of Revenue, Government of India.

- The Special Economic Zone scheme came next with a 38 per cent jump to Rs 32,040 million in 2009-10, indicating an increase in unit operations.

- The revenue loss due to the popular Duty Entitlement Passbook Scheme (DEPB) recorded a 24.2 per cent increase to Rs 8,806 crore in 2009-
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10 owing to the additional benefit of 1-3 per cent provided to this scheme as part of stimulus packages.

- The Duty Free Import Authorisation (DFIA) scheme also recorded an increase of 29.8 per cent to Rs 1,646 crore in 2009-10 as it replaced the Duty-Free Replenishment Certificate (DFRC). The revenue loss due to DFRC and Target Plus Schemes fell as they were discontinued.

- The maximum chunk of the revenue foregone continued to be due to Advance License Scheme (ALS), though it shrunk by 13.8 per cent in 2009-10 to Rs 10,682 crore. The fall was because of reduction in Additional Customs Duty by around 4 per cent as a consequence of reduction in excise duty.

- Popular schemes such as export-oriented units, electronic hardware and software technology parks (EOU/EHTP/STP) schemes also recorded an aggregate fall in revenue losses of 40.2 per cent to Rs 8,015 crore in 2009-10. Many units under EOU/STP/EHTP have de-bonded due to the uncertainty surrounding extension of tax holiday beyond March 2011.

- Revenue foregone from schemes such as the Export Promotion Capital Goods (EPCG), the Duty Free Entitlement Credit Certificate (DFECC), and the Served from India Scheme (SFIS) has also fallen.
(b) **Specific sector biased development**

i) Of the SEZ, notified, IT/ ITeS constituted the bulk of them (66%) with the single sector IT-SEZ forming the majority. This is followed by pharma/ chemicals (7%) and textiles/apparels/ wool (4%) (www.sez.nic.in). Relocation process is ineffective swing as can be noticed by exceptional number in the IT sector. The government in November 2006 itself decided to stop further IT-SEZs (Times of India, 2007). The STP initiative main scheme also ended in 2009. The majority of investments are from private sector. Real estate sector applicants form the majority in the private sector followed by IT companies forming nearly three quarters of now public sector approvals. IT and multi product SEZs, form bulk of all applications by real estate companies. Real estate development rather than export generation is a factor to reckon with.

ii) With 60 per cent of the approved SEZs in the IT sector the chances of job opportunities in the unskilled sector is low.

(c) **Smuggling concerns**

i) The price of the output from SEZ is likely to be lower than that in the rest of the country, a lot of smuggling will take place and the output in the rest of the economy will be adversely affected, further affecting employment.

ii) The SEZ Act itself insists that all those employed or residing in the zone need to have an identity card with entry restricted to only authorized persons into the processing area. The zones will effectively be secured enclosures, fenced off by boundary wall or wire mesh of minimum height of 2 m 40 cm with top 60 cm being barbed wire fencing with mild steel angle and with specified entry and exit points.
(d) **Extent and size of SEZ**

i) The establishment of SEZ was seen as a strategy for ensuring the continuation of 9 per cent rate of growth of the economy. SEZ have mushroomed all over the country from the most backward states like Orissa and Chhattisgarh to the most advanced ones like Maharashtra and Gujarat. They would cover huge tracts of land across the country. Some of them would be so large so as to create entirely new townships and since they promise world class infrastructure, they would be unlike the existing cities. They promise to create islands of affluence where foreigners and the NRIs can come and live in comfort segregated from the poverty and squalor ridden cities (wepza.in).

ii) The preference for setting up of an SEZ is given to urban and semi-urban areas that are already industrialized like that of Maharashtra, Karnataka, Andhra Pradesh, Gujarat, Tamil Nadu and Delhi. Socially and economically backward states are given secondary treatment in setting up of SEZ. Bihar, Assam, Arunachal Pradesh, Manipur have been completely neglected (Map 3.1, location of SEZs in different states and union territories). Its argued that SEZ will create island of prosperity at the cost of rural areas.

iii) SEZs have created infrastructure strain on the surrounding region as they consume the resources of the adjoining areas thus draining out the best of resources.

iv) On the other hand, there are states that have been on the preference list for setting up of an SEZ but are coping up with internal struggles from farmers and land acquisition issues. These include states like Goa and Kerala.
v) In different parts of the country, farmers and tribals who are sought to be displaced by the creation of these zones are opposing them. In Singur (not on SEZ), Nandigram and earlier in Kalinganagar in Orissa there has been fierce resistance.

vi) SEZs have occupied center stage in the national consciousness due to the events unfolding in Singur (akin to SEZ) and subsequently due to occurrences in Nandigram (HT 2008).

vii) Size requirement of the SEZ is also crucial factor in determining the state selection. Small states do not have the competence to accommodate a large number of migrant labourers from other part of the country. These states are already facing the problems like land, housing, water, pollution and shortage of labour. Migration of manual labour in large number as well as semi skilled workers will aggravate the problem further.

viii) Most of the SEZs have been built on the fringes of cities like satellite close to the infrastructure facilities as suggested by Ramachandran (2008).
(e) Food security concern

i) Critics worry about food security being jeopardized and in response it is argued that less than 0.1% of the arable land will be involved in the proposed SEZs so this will hardly effect total food production. Its also maintained that SEZ will accelerate development, infrastructure, create a large...
number of jobs. The critics argue that it will also destroy lots of low skill jobs in agriculture and forestry. Further, the adverse impact on small scale sector will reduce jobs. Its also suggested that there are backward and forward linkages of the industry so it will promote development.

ii) Its being apprehended that due to the implementation of the SEZ policy in different parts of the country a large amount of agricultural land will be put to use for industrial purpose, and that will have severe implication in the livelihood of the farmers and food security.

iii) In many parts of India, returns from agriculture are steadily falling and also account for fall in agriculture productivity. In many cases, farmers are willing to sell their land for industrial purpose, provided they receive good compensation and other measures such as stake in an industry, employment etcetera.

iv) Another contentious issue in this regard is that of acquisition of agricultural land will damage India's food security. Food security does not depend only on the availability of land and production of food grains. Most crucially, it depends on a person’s access and ability to buy good and that is related to purchasing power.

(f) **Displacement issue**

i) There will be mass scale displacement and migration by SEZ. Rural population of an area where SEZ has been set up will displace, and urban skilled and semiskilled people will migrate in. All this will be made up by mere compensation whereby farmers who lose their lands will get market prices and theoretically will be able to invest their money in other business. New investments by the former agriculturist would
create new non agrarian jobs and all this may be expected to lead to a reduction in the rate of increase of unemployment which has accelerated in the last 6 years. Its often quoted that agriculture cannot create jobs anywhere so jobs have to be created in non-agricultural sectors (ET 2009).

(g) **Labour rights**

i) The SEZs are likely to curtail the rights of labour given that there will be no labour commissioner and the Developer of the SEZ will govern the place along with the Development Commissioner. There will be no democratically elected body. From the earlier no limit on the maximum size of the multi product SEZs now the limit has been set at 5000 ha.

ii) The debate over SEZ Act came up only with people’s resistance that emerged subsequently. Full powers are bestowed by Section 49 of the SEZ Act on the Central Government to modify or repeal any Central Law in its application to SEZ (with the exception of labour law), vested in the parliament. This exception is related to trade union, industrial and labour disputes, welfare of labour including conditions of work, provident funds, employees liability, workmen’s compensation, invalidity and old age pension and maternity benefits applicable in any SEZs.

iii) The left parties opposed any relaxation of labour laws and insisted on the removal of two clauses in the Bill pertaining to the Central Government’s power to modify or withdraw the application of labour laws in SEZs which were amended by the Commerce Minister through amendments in parliament.

iv) However, this exception is virtually nullified by the rules that require that state governments to declare SEZs to be
public utility services and delegate the powers of Labour Commissioner to the Development Commissioner whose specified mandate is for speedy development of SEZ specially the promotion of exports. Moreover, the SEZ only bars the Central Government from relaxing labour laws but not the states. These include exemption from Minimum Wages Act, Contract Labour (Regulation and Abolition) Act, Employees State Insurance Scheme, requirements for posting information and so on.

v) The changes are introduced in working conditions also. Workers are told that they cannot organize trade unions because of the ‘zone status’ which are declared public utility services, designation under Industrial Disputes Act, 1947.

vi) Arbitrarily imposed long working hours, sub-standard living conditions and lowest possible wages are the rules in the SEZs. In SEZs mainly women workers are preferred and there is no permanency in employment. So, workers change job frequently as they have little or no knowledge of experience with trade unions.

(h) **Land acquisition**

i) The state governments are prohibited from acquiring land for the private developers/ players and they cannot form a joint venture (www.sezindia.nic.in). States can acquire land for their own SEZ provided they take care of the relief and rehabilitation as per the new policy. Now the SEZs will be required to at least use 50% of the land processing unit as compared to the earlier 35% (www.sezindia.nic.in) so that the real estate component would be lower. Table 3.2 gives the detail of land required for SEZs.

ii) The notorious Land Acquisition Act 1894 has been used to
acquire land in many cases where developer is private or public sector, at a price well below market prices not taking the dependents of the land as an affected party in the acquisition. Land can be acquired under this Act only for public purpose which are defined in section 3 (f) of the Land Acquisition Act and does not include companies. However, judiciary has deftly re-interpreted the law to say that once the government has acquired a land, the government can sell, dispose or transfer rights of its land at will to whatsoever it wants to, irrespective of the original intent of acquisition. But with resistance (by villagers), the developer purchasing land directly from the owner without the mediation of the state is a proposed remedy.

iii) Acquisition of prime agricultural land became a major issue with all its serious implications which is now attempted to be restricted with restriction of acquisition of single crop agricultural land alone beside waste or barren land. Double cropped agricultural land, if necessary is to be limited to 10% of the total land. The category of waste or barren land most often constitute survival resources base for the most marginalized in the vast umbers is ignored. Land Acquisition or purchase is therefore, to increasingly focus on the marginal or tribal areas.

iv) The land is inevitably located in close proximity to raw materials, urban centers and transportation facilities. At least 35% of the land acquired is to be used as processing area while the rest could be for residential and recreational facilities. This acquisition bypasses local self governance institutions of the panchayats.

v) The SEZs moreover became the nodal points for speculation
fueling large-scale real estate activities around the zones with the emergence of powerful land mafias in the connivance with the authorities to disposes people of their lands in the surrounding areas driving land prices up within SEZ and around it.

vi) The SEZ have already created many controversies, out of which the land question has gained prominence because of several ground level agitations by farmers and farm workers are going on. In Orissa 13 adivasis were killed and hundreds seriously injured in police firing on peasants protesting against land encroachment for Tata Steel Plant. In Haryana and Maharashatra farmers are protesting against acquiring of their fertile land, the only means of livelihood for them. Nandigram has also seen similar protests what makes these issues significant is the fact that projected land requirement for the SEZ near Mumbai is as large as are third of the present size of the Greater Mumbai metro and is an index of the amount of land that is going to be alienated from the farmers through the scheme. Hence, legitimate fears have been raised about the adverse impact on food security by such huge diversion of land for non agricultural purposes. Hence policy relating to conversion of agricultural land into non agricultural land should be reviewed and there should be transparency in this regard. Land prices must be realistic and no scope should be given for developers and property managers to increase the prices artificially.
Table 3.2 Land Requirement for SEZ:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Area (sq km)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Land in India</td>
<td>2973190</td>
</tr>
<tr>
<td>Total Agri Land in India</td>
<td>1620388 (54.5%)</td>
</tr>
<tr>
<td>SEZs formally approved and notified</td>
<td>Approx 642</td>
</tr>
<tr>
<td>Valid In principle approvals (135)</td>
<td>Approx. 1213</td>
</tr>
<tr>
<td>Total Area for proposed SEZs (FA+IP)</td>
<td>Approx. 1855</td>
</tr>
<tr>
<td>Total land requirement for formal in principle approval SEZ</td>
<td>Approx 2015</td>
</tr>
</tbody>
</table>

*Source: Dept. of Commerce, GOI, 2008.*

(i) **Development biased towards well off**

i) The benefits are being taken by the better off sections of the society. Its argued that SEZ policy would lead to a rise in investment rate in the economy to achieve a 10% rate of growth. Its suggested that there would be trickle down and that would lead to the poor also benefiting. But, Arunachalam, 2009 opines that one needs to be sure whether there will be trickle down to the poor or would there be two separate circles of development a high growth the elite benefiting and a low growth path in which bulk of population would be trapped, as trickledown effect has not really worked.
(j) **Livelihood apprehensions**

i) The real issue is whether those who are losing their immediate livelihood opportunities on account of land acquisition, not only land owners but also share croppers, tenant farmers, agricultural labourers are expected to avail alternative livelihood opportunities or not. This is a complex issue and cannot be resolved in a short time, as availing alternative livelihood opportunities would require acquiring different types of skills etc. Multi pronged and cogent efforts on the part of the state and non state actors are required in order to overcome this challenge over time.

ii) SEZ will generate new jobs. However, at first people would be displaced, work on creation of new infrastructure would then begin and new industry would take even longer time to come up so new jobs will not immediately come. Further, the new infrastructure and industry is much more capital intensive than agriculture or non-farm rural activities it would displace so that fewer jobs would be created.

iii) The displaced would require training to get even the low skilled jobs in the SEZs. The poor who have not even attended schools or drop out by the fifth grade are unlikely to be able to afford the training required and would be ruled out of working in these enclaves. Even if the training is sought to be given it will be for low skills like guards or will take considerable time by which others will get job and displaced people will languish.
iv) Its not that those displaced did not receive compensation. However, since most of them did not know the modern institutions and practices they did not know what to do with compensation received often money was blown up in drinks and conspicuous consumption. This jeopardized the future of the families.

v) Most of the poor have little idea of what it means to invest and what is the risk of investment, of how to regulate their investment so as to get secure future return. Thus, their ownership of an asset is far more important than the financial market compensation they may get for it.

vi) With no other skill, its unlikely that a farmer may invest his money elsewhere and would mostly spend it on wasteful expenditure. So this act will de Void him of his lifetime assets on one hand and snatch away from them their social status (identity).

(k) Compensation and investment concerns

i) Farmers receiving compensation for land would not really know of any activity other than agriculture so they are unlikely to be able to invest in new business and may simply waste most of the capital they get. Its hard to expect the ill trained farmers to seamlessly transit to other businesses. Every business requires some minimum capital to start but a large number of Indian farmers are small or middle farmers who would get marginal amount of compensation which would be totally inadequate to start any kind of businesses even if they were competent to do so. Also consider the
impact on small businesses which are failing in large numbers due to the new economic policies. The SEZs would accelerate this process since reservations will get further diluted. This will result in loss of large number of jobs.

ii) Many of the displaced are not likely to receive much compensation. This would include the landless who would not receive any compensation and those performing non-farm activities like the potters, herdsmen, craftsman, carpenters etc. These people, traditionally integrated into the farm economy would be completely at loss without much of capital. Such people will make about half of the population of the villages and will only add to the ranks of unemployed.

(l) **Breaking of family ties**

i) Family ties are also critical especially for agricultural communities. For them, it is an interdependent life and kinship is crucial. Thus, the displacement is very painful since it breaks the family and neighbourhood bonds that are not easy to re-establish in a new settings. Especially, if the displaced migrate to urban or semi urban settings, life is very alienating to them. These relationships cannot be valued in the market. Thus, paying market price cannot be a just compensation for the displaced because they lose much more than the land.

(m) **Land price speculation**

i) Finally when the land passes on to the businessman they establish a market in the land, thus a piece of land bought cheaply from agriculturist shoots up in
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price. Further, often there is land mafia which operates in most areas where land is likely to be acquired. This mafia often gets to know where land is likely to be acquired and buys up land at prices higher than the current price knowing that the price would soon jump to much higher levels. The mafia also coerces sales by various devices. This is how real estate developers have become billionaire.

ii) Amongst the many concessions being offered to the developers of the SEZs, one is cheap land close to the cities and new highways. Land is being allotted much in excess of the requirement of industries. The implication is clear that land is being seen as urban real estate where huge profits can be made. The argument often given for large industrialization drive being that agriculture cannot accommodate more people. In the last 3 years, the corporate sector profits have been growing at an average of 30% so that they have a lot of cash to invest. Real estate is a good proposition to park their funds in. Finally developers hope there will be a shift of industries to these new sites.

iii) Once the land is acquired, the developers do everything in their power to have rules changed. Given the past experience, what's the guarantee that land acquired by industries for SEZs would only be used for specified purposes and not for speculative purposes as real estate. The example of the DLF and others in Gurgaon is the case in point. They acquired advance information as to which areas are likely to be urbanised around the new NH 8 and
acquired that land from farmers at literally throw away prices i.e. market price for that time. They have then released the land slowly over the last 20 years keeping prices artificially high all along and benefiting enormously. Land prices in this period have arisen almost 500 times, for higher than other index of prices.

iv) When industry goes back on its promise as it inevitably does, would the land revert back to farmers and what would be mechanism for this. In SC judgment, land need not be returned to those from whom the government acquires it. Thus, it is a one way road/street and mistake is costly to the displaced.

(n) Manipulation of land for real estate development

i) There are apprehensions that the promoters of SEZs will get land cheaply and will make a fortune out of real estate development and indiscriminate speculation. The required minimum processing area is 35% raised to 50% by EGoM. The rest will be for residential, recreational facilities, which will be used by these developers for real estate/commercial purposes.

ii) The provision of the SEZ Act clearly mentions that the land utilization will be strictly according to Urban Development Plan Formulation and Implementation (UDPFI, GOI). Table 3.3 points towards the guidelines and the actual proposed usage as per the master plan of Multi-product SEZs. As per the SEZ Rules a developer may allot land in non processing area for business and social purposes such as educational institutions,
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hospitals, hotels, recreation and entertainment facilities, residential and business complexes, provided that infrastructure for business or social purposes in the SEZs, as may be approved by the Board, shall be eligible for exemptions, concessions and drawbacks.

iii) To regulate usage of SEZ area by the developers the SEZ Board of Approvals will assess the size requirement of infrastructural facilities like housing, commercial spaces, recreational amenities etc. based on the employment generation potential of an SEZ. In the first phase it is proposed to allow only a maximum of 25% of the approved housing while the other approved infrastructure will be allowed to be created as per the developers plans and as approved in the Master Plan. The balance housing shall be allowed to be established by the Approval-Committee in three phases depending upon the progress in allotment/ occupancy of units in the processing area.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Area Allocation As Per UDPFI Guidelines (in %)</th>
<th>In Multi Product SEZ (in %)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>35-40</td>
<td>27</td>
</tr>
<tr>
<td>Commercial</td>
<td>4-5</td>
<td>2.8</td>
</tr>
<tr>
<td>Industrial</td>
<td>10-12</td>
<td>35</td>
</tr>
<tr>
<td>Recreational</td>
<td>18-20</td>
<td>8.4</td>
</tr>
<tr>
<td>Public &amp; Semi Public Activities</td>
<td>12-14</td>
<td>6.6</td>
</tr>
<tr>
<td>Transportation</td>
<td>12-14</td>
<td>7.2</td>
</tr>
<tr>
<td>Others</td>
<td>Balance</td>
<td>13.2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

(o) **Bias against operating industries:**

i) Due to fiscal incentives enjoyed by units in an SEZ they will be relatively more competitive than similar industries outside SEZs and as a result of these there may be tendency to establish industrial units only in SEZs, which can aggregate uneven economic development of the country.

ii) However, it is also true that many related incentives are equally applicable and units in the SEZs are required to undertake many obligations too (such as export obligation), which may not be the case with non SEZ units.

(p) **Regional disparity**

i) SEZ are set up in states where there is already strong tradition of manufacturing and exports thus will aggravate regional disparity. Except for Andhra Pradesh, most of the states (where SEZ have been established) have witnessed significant industrial development since independence.

ii) Even smaller states are keen to develop SEZs in their area, as they have potential to generate employment, expand the market and thus, there would be additional sources for revenue. Nagaland has urged the center to set up an SEZ along with STP around Dimapur, which will be in line with countries Look East Policy. The then President of India Dr Kalam had suggested the setting up of three SEZs in Meghalaya which is one of the most backward regions of the country in terms of industrial development.

iii) Over three quarters of the approved SEZ are located in six states; Andhra Pradesh, Gujarat, Haryana, Karnataka, Maharashtra and Tamil Nadu. Maharashtra, A.P. alone account for more than a third of all approvals. These states are relatively well developed states with high industrial capacity.
These are also highly urbanised with the partial expansion of Maharashtra. So, investment is channelized to areas of high levels of industry and investment which further propels these states to showcase their success further.

(q) Environmental degradation

i) There is movement of resources from the non SEZ areas to the SEZ. The establishment of SEZ usually drains the area of its vital resources like water, electricity etc. The rivers and the reservoirs meant for irrigation purposes are now at the services of industries. Bhaskar (2008) points that more than half of the Godavari river basin is categorized as cultivable land while on the other hand, International Water Management Institute has pointed that contrary to the National Water Development Agency’s claims, Godavari does not have enough water to spare. It’s quite obvious that such massive scale industrialization would definitely result in water shortage in the region.

(r) Social disharmony

i) The preference in workforce is given to women labourers in SEZ as they can be easily hired and fired. The female workforce is not aware of its rights and is not much exposed to the trade union.

ii) Also with the rural areas being devoid of their primary occupation i.e. agriculture, there has been increase in the number of suicide rates of farmers.

iii) Large numbers of slums have developed. Urban poverty rates have increased drastically as result incidences of crime; riots and exploitation have been rampant.
3.3 **Arguments For and Against SEZ**

3.3.1 The SEZ policy has become one of the most hotly debated issues in recent years. There has been a scathing campaign against SEZ by politicians, scholars, media and civil society. The advocates of the policy led by the Ministry of Commerce have however defended the policy. Table 3.4 summarizes some of the major concerns and counter arguments.

<table>
<thead>
<tr>
<th>ISSUE</th>
<th>FOR</th>
<th>AGAINST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reallocation</td>
<td>Companies will prefer SEZ location to take advantage of the tax concessions being offered.</td>
<td>Tax exemptions are applicable only if the unit is not formed by splitting up a reconstruction of a business already in existence and its not formed by the transfer to new business of machinery or plant previously used for any purpose.</td>
</tr>
<tr>
<td>Revenue loss</td>
<td>It is estimated that as an average 67 per cent of central governments total revenue would be lost in a year.</td>
<td>Revenue loss is notional as without the SEZ Act there would not be much of investment in the zones.</td>
</tr>
<tr>
<td>Land revenue</td>
<td>The Act lead to the large scale land acquisition by developers, displacement of farmers, meager compensation and no alternative livelihood for them.</td>
<td>The land requirement of all SEZs in 1,00,000 ha which is less than 0.1 per cent of total cultivable area land in India. Different states have their own land acquisition laws for SEZs. The onus is on state government to put in place reasonable and transparent land acquisition laws for SEZs and implement them effectively. SEZ developers are required to provide for an adequate relief and rehabilitation package for the affected.</td>
</tr>
<tr>
<td>Loss of Agricultural Land</td>
<td>SEZ will be built on prime agricultural land with serious implications on food security.</td>
<td>The general consensus between BoA and state Governments is that mainly waste and barren land and if necessary single crop agricultural land alone should be acquired for SEZs. If double cropped agricultural land has to be acquired to meet the minimum area requirements, the same should not exceed 10% of the total land required for the SEZs.</td>
</tr>
<tr>
<td><strong>Misuse of land for real estate</strong></td>
<td>Promoters will get land cheaply and will make their fortune out of real estate development and speculation indiscriminately. The minimum required processing area is 35% the rest will be for residential, recreational facilities.</td>
<td>To regulate the usage of the SEZ area by the developers, the SEZ BoA will assess the size requirement of infrastructural facilities like housing commercial spaces, recreational amenities. Its based on the employment generation potential of the SEZ.</td>
</tr>
<tr>
<td><strong>Uneven growth</strong></td>
<td>SEZs will be set up in states where there is a already strong tradition of manufacturing and exports. This will aggravate regional disparities, which is already evident in the share of four most industrialized states (TN, Karnataka, Gujarat &amp; Maharashtra) in total approvals is 49.5%. On other hand industrially backward states of Bihar, North East and J &amp; K do not have a single approval.</td>
<td>Almost every state will have SEZs under the policy. This will promote infrastructure development and industrialization in states such as Uttar Pradesh, Orissa, West Bengal.</td>
</tr>
<tr>
<td><strong>Inequities</strong></td>
<td>The incentives given to SEZ will create a titled playing field between SEZ and non SEZ investors.</td>
<td>EOUs have the freedom of setting up their business anywhere in the county and are enjoying the benefit of DTA sales, which is not available to zone units.</td>
</tr>
</tbody>
</table>
3.4 Issues Arising In Various Ministries

3.4.1 Various issues have also risen, since establishment of SEZ to its post functioning phase in different ministries which have been debated, argued and changed to best suit the Indian condition. The approval mechanism of SEZs is through Board of Approval, constituted by Central Government. All decisions are taken in the Board of Approval by consensus. The Board of Approval has 19 members. Its constitution is as follows – Secretary, Department of Commerce as Chairman, Members for CBEC, IT, CBDT and Joint Secretary as member from Department of Economic Affair, Department of Commerce, DIPP, Ministry of Science and Technology, Ministry of Small Scale industries and Agro and Rural Industries, Ministry of Home Affairs, Ministry of Defense, Ministry of Environment & Forest, Ministry of Law and Justice, Ministry of Overseas Indian Affairs, Ministry of Urban Development, nominee of State government concerned, Director General of Foreign Trade, Development Commissioner concerned, a professor in Indian Institute of Management or Indian Institute of Foreign Trade.

3.4.2 There are various issues that arise in the policy formulation of SEZ with the concerned ministries and departments. Some of these issues are so closely intertwined that they require attention of various ministries, while some other comes under a particular Ministry which has neither been linked as member in BoA nor does a BoA requires its clearance like Ministry of Agriculture.

(a) Issues arising under Department of Commerce

i) Government or even Department has not done any formal study on the functioning, levels of performance, achievement and short comings of SEZs. Most of the study has been made privately and numerous procedural impediments and shortcomings have come up in these reports.

ii) Various other issues which had evolved during the policy formation of SEZ have been solved satisfactorily or at least an attempt is being made in this regard. Some of these being
income tax concessions. Earlier Act provided concession only for the unit and not to the developer. But now it has been amended to provide the same to developer also. On the issue of land as per the SEZ Rule 2006, the developer cannot sell the land in a SEZ and the land in the processing and non-processing area can be allotted on-lease basis. Also if a party does not do any development work, there is a provision in the Act itself for taking over the land by the Central Government.

iii) With regard to the development of infrastructure, the developer is not responsible for creation of infrastructure outside SEZ. However, the department provides support for the creation of external infrastructure under Assistance to States for Development of Infrastructure for Exports (ASIDE) scheme. But the infrastructure development did not take place fully, due to lack of funds. While in most of the government SEZ land allotment was made to the industrial units at a low rate whereas, in the SEZ like Moradabad, Indore, though Uttar Pradesh government or Industrial Development Corporation in Madhya Pradesh were supposed to build infrastructure they had not done so. Therefore the number of units that came up in such SEZs was very small and even they had faced difficulties because of lack of water and power.

iv) On the measures under taken to develop the underdeveloped areas, contiguous to SEZ and the provision of social responsibility clause for the units set up in the SEZ, though, the developer is not responsible for development of the area outside the SEZs, yet, the gains of economic development trickles to the nearby areas and also the workforce of these areas gets job opportunity. With regard to the impact of SEZ on national/indigenous industries, located outside SEZ, it will provide a good scope for development of strong
Emerging Concerns Associated With SEZ

backward linkages with the DTA. Further, the SEZ Act 2005, read with SEZ rules, 2006 does not allow for conversion of existing units to SEZ.

v) To ensure that the private parties does not misuse the facilities in the name of establishing SEZs and acquire property at concessional rates without fulfilling the obligations concerned. SEZ Rule 2006 states that developers is required to take effective steps to implement the approved proposal within a period of three years, from the issue of the letter of approval and incentives and facilities under SEZ Act 2005 and SEZ Rules 2006 are available to the developer and units, only after the particular area is notified as SEZ. Further as per section 10 of the SEZ Act 2005 under certain conditions, BoA may suspend the letter of approval and appoint Administrator to discharge the functions of the developer. As per section 16 of SEZ Act 2005, Development Commissioner if it has any reason or cause to believe that the entrepreneur has persistently contravened any of the terms and conditions or its obligation may cancel the letter of approval. From the date of such cancellation the unit shall no longer be entitled to exemption, concession, benefit or deduction available to it, being a unit under SEZ Act.

vi) Also to check that investors are not for minting money, both in case of developers as well as the units, the representatives of the Home Ministry and Defence Ministry are in Board of Approval. Regarding the zones situated on the sea-shores where smuggling could take place, each SEZ has a boundary wall and the processing area is custom bounded. The Department has also entered into an arrangement with INFOSYS, which has developed software to keep records of movement.
vii) But the problems is with the movement of undesirable goods like AK-47, RDX and uranium as monitoring mechanism is yet to be developed. Also all the SEZs do not have any direct access to any port or airport. Every cargo enters through JNPT Mumbai or Chennai ports, which have good security arrangements in line. Even if self certification is accepted every cargo goes into the zone where custom officials have right to open certain percentage of cargo.

viii) In respect of exemptions and incentives the developers and entrepreneurs do not get same facilities. The developer gets benefit only for constructing the buildings but maintenance thereof is not covered. Whereas, entrepreneur in the units gets the concessions from day one till he / she starts the manufacturing. On issue of setting up of SEZs in predominantly agricultural states like Punjab, Haryana and other states that do not have mono-crop or fallow crop, BoA considers only those proposals which have been duly approved by the State Government. State Government of respective states have already stressed that first priority should be given for acquisition of waste and barren land and if necessary single crop land could be acquired for the SEZs. If a portion of double cropped agricultural land has to be acquired the same should not exceed 10% of the total land required for the SEZ.

ix) Regarding the different procedures for acquisition of land and compensation thereof prevalent in different states, there is a Central Land Acquisition Act of 1894, extensively amended in 1971, the states have made modifications to the same and have their own compensation and Relief and Rehabilitation measures, depending upon states requirement and necessities. On the issue of fixing of an upper limit on acquisition of land for SEZ, there
is no proposal at present with the Department to fix any maximum land area for establishment for SEZ. Also, because of the zoning regulation of a state government has earmarked an area as residential then the commercial activity cannot be allowed. Likewise a proposal for SEZ had to be dropped due to environmental restrictions in Aravali area.

x) There is a wide apprehension regarding the manipulation in current land records showing an agricultural land as non-agricultural, fallow land, a land without any crop or a single crop land. Department of Commerce is formulating a policy to bring in transparency of records or documents made available to the local gram panchayat. The Development Commissioner may be asked to give the report after physical inspection of the land.

(b) Ministry of Agriculture

i) National Agricultural Policy of 2000 categorically states that the National Land Use Policy will seek to promote "Technically sound, economically viable, environmentally non-degrading and socially acceptable use of country's natural resources; land, water and genetic endowment to promote sustainable development of agriculture. Measures will be taken to contain biotic pressure on land and to control indiscriminate diversion of agricultural lands for non-agricultural purposes. The Regional plan 2021 for National Capital Region recommends that while preparing Master/Development Plans for the towns, its to be ensured that the proposed development should not be permitted in the natural conservation zones, planned green areas, ground water recharging areas and water bodies. Every state should constitute a land zonation team consisting of soil scientists, agronomists and remote sensing specialist to earmark soils,
with a biological potential for farming such as waste land, lands affected by salinity, acidity etc, for industrial activities and construction. The total cultivable land decreased from 185 million hectare in 1980 to 183 million in 2003. In the same period, the per-capita availability of cultivable land declined from 0.27 to 0.18 hectare. The satellite imagery and space research analysis have found that there is drastic reduction in agriculture land. The net sown area in the country is 141 million hectare consisting of 55 mha irrigated and 86 million hectare unirrigated land. About 127 million cultivation and 107 million agricultural labours depend on on-farm income. The diversion of 1000 hectare of cultivated land to non agriculture uses will deprive about 900 cultivators and 760 agricultural labourers of their livelihood. Also there is a need to address the issue of food security.

ii) Land is also required for common purpose especially for grazing of cattle. These lands which are not owned by the farmers will have adverse implications.

iii) Land is not only an economic asset, but has enormous social, cultural, psychological and emotional implications also for those deprived of the assets. Rights and access to land are fundamental to empower the poor. This is more so, because inspite of higher rates of growth of GDP in recent times there does not seem to have been corresponding increase in employment opportunities for the rural poor. Agrarian land put to non-agrarian practices not only de-voids farmer of income but also deprives him of the correct valuation process of land in regard to compensation that does not capture the future potential. The sale statistics for the last five years or ten years do not represent the actual value.
iv) Regarding the acquisition of land Ministry of Agricultural maintains that in our country where 60% of the people still depend on agriculture, coastal saline land unfit for cultivation should be considered. This is the area where SEZs or any industrial enterprises can be set up, that will not affect our food security. However, the Ministry of Agriculture is not represented on Board of Approval of SEZs. The BoA approves the proposal without getting any clearance from Ministry of Agriculture. BoA can call a representative of Ministry of Agriculture if required as a special invitee for advisory purpose only.

(c) **Issues arising under Ministry of Rural Development**

i) Ministry of Rural Development states that degraded forest land could also be considered but with higher than the usual norms of compensatory aforesations or reforestation. Acquisition of land in this regard should be considered only after exploring alternatives prior to displacement.

ii) Ministry of Rural Development is considering changes in Land Acquisition Act of 1894 also, its new enlarged revised policy called National Rehabilitation Policy 2007 will consider the issues arising from rehabilitation and re-settlement of displaced people. There is also an apprehension that cash compensation as has been in the past does not ensure betterment in the quality of life of the person. So the compensation should be as a package and the displaced persons to be made employed in the SEZ area thus ensuring they get training and skill development and should be given first preference in employment in that area. On the issue of quality of land for acquisition and compensation its understood that much of the land records are very old dated and they do not reflect the ground situation. Therefore,
wherever acquisition is to take place, it must be provided by a complete survey, indicating the correct kind (kisam) of the land otherwise, market value is diminished if the kisam of land is wrongly recorded.

(d) **Issues arising under Ministry of Home Affairs**

i) Before the creation of new SEZ, Ministry of Home Affairs is needed to be consulted, to ensure that the creation of SEZ does not belong to a sensitive industry / sector and does not fall in a sensitive area, where presence and easy access of foreigners may have adverse implications from the national security point of view.

(e) **Issues arising under Ministry of Urban Development**

i) The issues under Ministry of Urban Development mainly pertains to providing appropriate civic amenities in the urban areas and basic amenities to the poor as there is effect of pressure as amenities on SEZ set up near urban areas. In regard to the participation of workers there is Development Authority Model which is available and applicable to SEZ also. SEZ need to have a master plan as what should be residential space, what should be road percentage, commercial area, green area etc.

ii) It should confirm to the planning and other requirements as prescribed in the National Building Code to justify an integrated development of an SEZ. A provision for construction of houses for the skilled and semi skilled workers should be made within the SEZ area. So that haphazard and unorganized construction of residence and its conversion into slums can be prevented.

iii) On the issue of protecting the interests of the common people or the employees residing therein, in the event of some clash
of interests between the existing municipal corporations or municipalities and administration in the SEZ area a clear guidelines have to be formulated.

iv) Regarding the town planning in the SEZ, however, as of now there is no linkage between state and central government, because most states have their own town planning departments. Urban Development Ministry will prepare Master plan for the entire area and any scheme within the Master Plan would be subservient to that Master Plan. If any development is proposed then it will have to be in line with Master Plan.

(f) Ministry of Labour

i) SEZ Act specifies that any modification as may be allowed in other areas, shall not apply to matters relating to trade unions, industrial and labour disputes, welfare of labour including conditions of work, provident fund employees liability, workers compensation, old age pension and maternity benefits which are applicable to workers in domestic area. The Ministry has direct responsibility in respect of Employees State Insurance and Employees Provident Fund. With regard to the laws which are to be implemented by both central and state governments, the Ministry has larger responsibility as these laws are very sensitive and important. The ministry has direct responsibility in so far as the laws passed by the central government are concerned. The state government is declared to be appropriate government under these laws, so that they do not shrug off the responsibility and remain unsupervised.
3.11 In this chapter an attempt has been made to touch upon all the issues and concerns emerging from the proposal stage of SEZs to their operational stage. These concerns have been discussed at various levels, from the point of different ministries and all the stakeholders involved. The understanding of these issues may help in developing a suitable policy to address the concerns. Most of the issues either overlap or result in a multiplier effect. The concerns highlighted in this chapter would vary from place to place and in intensity as can be evident from the primary survey which is being attempted in the succeeding chapter to throw light on the ground realities.