

(Draft of the Memorandum to be sent to local, state and central government. You can make changes in it according to local situations)

Demand to Repeal the Special Economic Zone (SEZ) Act 2005

As members of the civil society, academia, people's movements, action groups and representatives of various community based organisations we have for the last four years been consistently raising several concerns in the matter of the SEZ legislation passed by the UPA government in 2005 followed by the widespread establishment of SEZs across the country. Today, at the eve of the Parliamentary Elections we once again consolidate our brutal and honest criticism of the UPA government's SEZ policy which we feel has alienated the 'aam aadmi' more than ever. The UPA government has been amply aware but has chosen to ignore, resistance against forced land acquisition for creation of Special Economic Zones in various parts of the country - West Bengal, Maharashtra, Gujarat, Andhra Pradesh, Tamil Nadu, Punjab and Haryana. Despite repeated demands made by farmers and affected communities to stop this forced acquisition and grabbing of resources for these zones, governments across the country instead of having a dialogue have used force of the state machinery, coercion and fraudulent means to subvert and suppress people's protests be it in Nandigram (Salim SEZ), Kakinada (KSEZ and GMR SEZ), Kalinganagar (Jindal SEZ) or Jagatsinghpur (Posco). Through our memoranda, petitions, representations and

appeals we have repeatedly raised the following issues with our governments:

SEZ are foreign Island—SEZ Act-2005 gives deemed foreign territory status to the SEZs. These foreign enclave like structure will have a different set of laws which are contrary to the letter and spirit of our constitutions and as such SEZs pose a grave danger to unity, integrity and sovereignty to the Indian republic.

- **Large scale requirement of land:** As of December 2008 the Central government has given formal approval to a staggering 552 SEZs in 19 states; 272 of these have been notified. Reportedly, hundreds more have been proposed to the Board of Approvals, and a majority have likely received what is known as “in-principle approval”. The area being acquired by all the SEZs with “in-principle approval” is close to 200,000 hectares already (2000 sq kms, or greater than the area of Delhi in the National Capital Region).

- **Forced Acquisition of Land:** Despite empty promises and issuing of guidelines by the MoC and the EGoM all states are using the Land Acquisition Act 1894 to forcefully acquire the land for developers of SEZs and that too in the absence of any provision for rehabilitation. . In some states like Tamil Nadu and AP the governments are even using the urgency clause – 17/4 of the LAA to acquire land compulsorily. In many cases lands which have previously been acquired by State Industrial development Corporations using the Land Acquisition Act are now being transferred to SEZ developers at much higher rates than their original acquisition price which has spurred a whole new set of issues. There have also been

cases of court battles for better compensation by original owners

- **Landless and Agricultural labourers displaced without compensation:** Almost 80% of the agricultural population in India owns only about 17% of the total agriculture land, making them near-landless workers.¹ Far more families and communities depend on a piece of land (for work, grazing) than those who own it outright. However, compensation is being discussed only for those who hold titles to land. No compensation has been planned for those who don't. The proponents of SEZs are working against the letter and spirit of Indian Constitution, which promises right to life and livelihoods to citizens through the Constitution Article 21.
- **Destruction of Agro-based economy;** loss of local agriculture, fisheries based and other traditional livelihoods leading to large scale displacement and food insecurity. The bulk of land being acquired for SEZs is fertile, agricultural land, especially in case of the multi-product zones. Agriculture Scientists have estimated that close to 1.14 lakh farming households (each household on an average comprising five members) and an additional 82,000 farm worker families who are dependent upon these farms for their livelihoods, will be displaced. The total loss of income to the farming and the farm worker families, then, is an astounding Rs.212-crore a year. These were the estimates in 2006 after the initial SEZ approvals which are now multiplied three-fold.
- **Creation of exploitative employment opportunities and working conditions resulting from nullification of labour protection laws:** The harsh condition of workers

in existing SEZs in India and China is already well known. The power in the hands of the development Commissioner to declare SEZs as “public utility services” under the Industrial Disputes Act would mean that in SEZ areas workers will have no rights to strike or even to form unions and organize collectively to bargain for better wages or working conditions. The SEZ policy of the government transfers all the powers of the state Labor Commissioner to the Development Commissioners of the SEZs. In Maharashtra the Directorate of Industrial Safety and Health cannot carry out inspections in SEZs without the permission of the Development Commissioner. Andhra Pradesh is offering concessions in minimum wages and is allowing work for 365 days per year, even for 24 hours a day (if overtime is paid). In the Noida EPZ workers have been sacked for demanding the implementation of labor laws.²

- **Revenue Losses due to unnecessary tax concessions:** The Ministry of Finance conducted a study, and came up with the figures that the cumulative revenue loss from tax holidays to SEZs over the period 2004-05 to 2009-10 is estimated to be 1,75,487 Cr. Annually, this is equivalent to about 6-7% of the central government’s receipts during 2005-06. The foregone tax revenue is four times the annual allocation for the National Rural Employment Guarantee Scheme (NREGS) and can feed each year 50 million hungry people every day. In its performance audit-report on indirect taxes for Union Government tabled in parliament on 11 March 2008, the CAG brought 370 SEZ units under scanner with a limited objective to verify if they had complied with existing Customs Act, Rules,

notifications etc. The review brought out systemic as well as compliance weaknesses that caused lost revenues to the tune of Rs.246.72 crores. Furthermore, the CAG threw light on the absence of enabling provisions which resulted in Rs.1724.67 crores of revenues forgone, or irrecoverable.

- **Regional and sectoral imbalances:** If we look at the distribution of the lands within SEZs approved we find that 70% of the land is concentrated in the hands of the 25 to 30% of medium and large sized multi product zone developers. The rest of the smaller SEZs are mostly in the IT sector. Most of the SEZs are also concentrated around urban areas and their peripheries and other infrastructurally developed centres in the top 5 states, already considered as industrially progressive. Further if we look at the IT sector approvals we find that it is real estate companies like Rahejas, Unitech, DLF, Parsavnath, Emaar and many others who are dominant. These companies have found their own methods of subverting the ceiling laws by floating subsidiaries. According to a news report, DLF (a major SEZ developer) has floated 68 subsidiaries, each of which have subsidiaries. EMAAR, another infrastructure developing company has 350. The Parliamentary Standing Committee in its 83rd Report on 'functioning of SEZs' has also shown concern about real estate speculation in areas where SEZs are coming up.
- **Stated objectives remain unfulfilled:** The much touted goals of giving boost to employment and export remain unfulfilled even as more than 550 SEZs stand approved. The Secretary of the Ministry of Commerce has admitted that 40% of the SEZs approved may never really "take off

the ground”. Additionally the figures of 3.5 lakhs employment and 90,000 crores investment generated by SEZs are being questioned on their authenticity. Even if these are true it means that it takes an investment of 33 lakhs to create a single job in an SEZ. With the same investment, 10 to 50 times the jobs could be created through schemes like the NREGA. Besides if the MoC does not provide any figures on the livelihoods lost as a result of creation of an SEZ. Now with the economic recession being faced across the globe and country the IT, real estate and export sectors have been the most hit. The MoC itself admits that 50000 jobs have been lost in SEZs alone in the last six months. And many developers are lining up to ‘denotify’ their SEZs or cancel the received approvals.

- **Breakdown of governance systems especially of the local self governments with the creation of foreign enclaves :** The status of deemed “foreign territory” to SEZs will encroach upon the rights of the local self governments like Gram Panchayats’ and will be violation of the 73rd Constitutional Amendment. The SEZ Act (Section 9, 11, 12 and 31) is taking away this power back to the center and bureaucracy (by creating ‘Board of Approvals’ and ‘Development Commissioner’ and ‘SEZ Authority’), whose accountability is not certain. The fact that the SEZs would have their own regulations, the rights for environmental and labour related clearances, security arrangements, means that they would be ‘self contained privatized autonomous entities’, where existing constitutional rights would be difficult to exercise.

· **No space for popular concerns or public consultation:** The SEZ Act was passed in haste without much public debate. There was no public consultation; participation and debate on the SEZ Act facilitated by the Ministry. In both houses of Indian Democracy has passed this bill was passed within a day (10th and 11th May 2005) with virtually no discussion, undermining many of the objections that were raised. The entire process of approvals of SEZ is undemocratic and extremely centralized with the BoA approvals approving close to 30 SEZs in a 2 hour meeting based on virtually no information about the companies. Further, information that has been demanded from the Ministry of Commerce on the approved projects under the RTI Act, 2005 has been denied on the clause of maintaining “trade secrets”. This has been done despite the fact that many of these projects have initiated acquisition procedures displacing livelihoods of a large number of people and therefore the information about them should be provided in Public Interest.

The above mentioned issues were raised at meetings with the Union Minister of Commerce, the Special Secretary MoC, Minister of State (MoC) in September 2006, Chairperson of the Empowered group of Ministers in April 2007 and with the Parliamentary Standing Committee on Commerce in May 2007 by delegations of civil society members, activists and representatives of affected communities. Each time assurances of consultations with people’s groups were given but no such initiatives were taken and the demands put forth have been completely overlooked till date. In the time that has lapsed more that

550 projects have received approvals and land grab continues.

We reiterate once again that we are demanding the Repeal of this Act because we believe that it provides legislative and judicial support to privatization of the country's resources and has the potential to destabilize the democratic governance system. In addition to this, it threatens and over rides the existing rights of workers, farmers and other communities to be affected by SEZs. We are also concerned about the huge costs to the state exchequer as well as the economy of this country as a result of concessions provided to Private Corporations under the SEZ legislation and policy.

Therefore, we once again firmly demand that to ensure industrial and economic development which is sustainable, equitable and democratic the SEZ Act 2005 and the SEZs created so far under the this Act be scrapped. The land acquired for these SEZs be returned to its original owners.

Signatures

March 8, 2009

**National campaign against SEZ and Land displacement
Nationwide protest on March 25, 2009**

Dear,

Every state of the country is witnessing mass protest against land acquisition for SEZ and other projects. Representatives of these protest movements met on December 27-28, 2009 in Sewagram in the national convention of ABA and they unanimously decided to hold a joint protest programme at national level on March 25, 2009. On this day activists of these movements will organise demonstration, meeting, rally, whatever they can according to their preparations and send a memorandum to local, state and central government. The same be also sent to main political parties of the country. A draft of the memorandum is attached with this letter. You can make change in it according to the local requirements. We will appreciate if you write a post card to us.

With regards.

Yours

sincerely

(Dr. Banwari Lal Sharma)

National Convener.