

Special Economic Zones In India: Some Ground Realities

** Dr. Mandeep Singh*
*** Dr. Ashok Khurana*

INTRODUCTION

The SEZ policy was first introduced in India in April 2000, as a part of the Export-Import policy of India. Considering the need to enhance foreign investment and promote exports from the country and realizing the need that level playing field must be made available to the domestic enterprises and manufacturers to be competitive globally, the Government of India in April 2000 announced the introduction of Special Economic Zones policy in the country deemed to be foreign territory for the purposes of trade operations, duties and tariffs. Accordingly, the Government converted Export Processing Zones located at Kandla and Surat (Gujarat), Cochin (Kerala), Santa Cruz (Mumbai-Maharashtra), Faltta (West Bengal), Madras (Tamil Nadu), Visakhapatnam (Andhra Pradesh), Noida (Uttar Pradesh) into Special Economic Zones. The Government of India enacted the SEZ Act, which received the assent of the President of India on June 23, 2005. The SEZ Act and the SEZ Rules, 2006 were notified on February 10, 2006. The SEZ Act is expected to give a big thrust to exports and consequently, to the foreign direct investment inflows into India, and is considered to be one of the finest pieces of legislation that may well represent the future of the industrial development strategy in India. The new law aimed at encouraging public-private partnership to develop world-class infrastructure and attract private investment (domestic and foreign), boosting economic growth, exports and employment.

OBJECTIVES OF SEZ

The specific objectives of SEZ policy are as follows:

- (a) Generation of additional economic activity;
- (b) Promotion of exports of goods and services;
- (c) Promotion of investment from domestic and foreign sources;
- (d) Creation of employment opportunities;
- (e) Development of infrastructure facilities;
- (f) Maintenance of sovereignty and integrity of India, the security of the State and friendly relations with foreign States.

INCENTIVES AND FACILITIES UNDER SEZ

SEZ act provides following incentives to SEZs:

- i. 100% Foreign Direct Investment (FDI) is allowed for townships with residential, educational, recreational facilities and franchise for basic telephone service in SEZs.
- ii. A 10-year tax holiday (i.e. a tax holiday for any consecutive block of 10 years in the first 15 years of operation) has been provided for undertakings involved in developing and/or operating and/or maintaining notified SEZs before March 31, 2006.
- iii. Duty free import/domestic procurement of goods for development, operation and maintenance of SEZs.
- iv. Exemption from Central Excise duty on the procurement of capital goods, raw materials, consumable spares etc. from the domestic market.
- v. Exemption from Service Tax and/or Central Sales Tax.

* Associate Professor, P. G. Department of Economics, G. N. Khalsa College, Yamunanagar, Haryana.
E-mail: mandeepbindra@live.in

** Associate Professor, P. G. Department of Commerce, G. N. Khalsa College, Yamunanagar, Haryana.
E-mail : khuranaa17@yahoo.co.in

- vi. Income of an infrastructure capital fund/company from investment in a SEZ is exempt from Income tax.
- vii. Investment made by individuals in SEZs is also eligible for exemption under Section 88 of Income-Tax Act, 1961 (the IT Act).
- viii. Generation, transmission and distribution of power in SEZs is allowed.
- ix. Full freedom in allocation of space and built up area for approved SEZ units on a commercial basis.
- x. Authorization to provide and maintain services like water, electricity, security, restaurants, recreation centers, etc on commercial lines is allowed.
- xi. The sale of goods or merchandise that is manufactured outside the SEZ (i.e., in DTA) and which is purchased by the Unit (situated in the SEZ) is eligible for deduction and such sale would be deemed to be exports.
- xii. The SEZ unit is permitted to realize and repatriate to India, the full export value of goods or software within a period of twelve months from the date of export.
- xiii. Allowed to carry forward losses.
- xiv. "Write-off" of unrealized export bills is permitted up to an annual limit of 5% of their average annual realization. No routine examination by Customs officials of export and import cargo.
- xv. Setting up Off-shore Banking Units (OBU) allowed in SEZs. OBUs allowed 100% income tax exemption on profit earned for three years and 50 % for next two years.
- xvi. Exemption from requirement of domicile in India for 12 months prior to appointment as Director.
- xvii. Since SEZ units are considered as 'public utility services', no strikes would be allowed in such companies without giving the employer six weeks prior notice in addition to the other conditions mentioned in the Industrial Disputes Act, 1947.
- xviii. The Government has exempted SEZ Units from the payment of stamp duty and registration fees on the lease/license of plots.
- xix. External Commercial Borrowings up to \$500 million a year allowed without any maturity restrictions.
- xx. Enhanced limit of ₹ 2.40 crores per annum allowed for managerial remuneration.

SEZs : CURRENT STATUS

Pursuing the policy of industrial and business development through establishment of SEZs, the government has taken a large initiative. Up to March 31, 2007, the number of notified SEZs had reached 63 and land had been duly acquired and development process has been initiated. The number of formal approvals pending notification for SEZs is 171. Thus, the number of SEZs with valid approval has reached 234. In case of another 162 SEZs, approvals have been given in principle, raising the number of SEZs to 396, which have been formally approved or approved in principle. The approval of the 396 SEZs has been made out of 765, the total number application made up to 5th April 2007 for development of SEZs in India. The estimates of land requirements for formally approved SEZs are 350 sq. km. out of which 67 sq. km. have been notified. The land required for SEZs approved in principle stood at 1400 sq. km. Thus, the estimated land requirement for approved SEZs is worked out at 1750 sq. km. The estimated amount of investment expected at the approved SEZs stood at ₹ 3,00,000 crore with expected employment of 4,00,000 persons (Table 1). In view of the massive concessions and incentives given, the corporate sector is very enthusiastic to develop SEZs and make investment at these locations. The development of SEZs is visualized as a major strategy of industrial and business development in the country. This strategy is based on massive subsidy to industry and business located at SEZs to make these units competitive at the global level. The subsidies given to the units are in the form of tax concessions. It is estimated that if 233 more SEZs are included in the list of 63 SEZs earlier approved, the total revenue loss to the government would be ₹ 1,02,621 crore for the period between 2006-07 to 2009-10 (Update, 2007). This model of industrialization is described by the critics as corporate industrialization. It is argued that this model is anti people and would create very little employment for them. The development of SEZs would lead to destruction of employment of peasants, whose land is acquired and would create very less employment for high tech or high skilled persons and total net employment generated may well be negative. For proper employment generation, public sector and co-operative models have better potentials than those of corporate based industrialization as incorporated in the SEZs strategy (Patnaik 2007). The farmers/peasants in various states such as Orissa, West Bengal, Maharashtra and Punjab have opposed acquisition of their land for SEZs. The highest level of opposition has been observed in West Bengal when land was acquired by West Bengal government for Tata Group at Singur and Salim group of Indonesia at

Table 1: Some Facts Related to Progress of SEZs**(up to April 7, 2007)**

Sr. No.	Item	
A.	Approvals	
	No. of Notified SEZs (a)	63
	No. of Formal Approvals pending Notifications (b)	171
	No. of valid Formal approvals (a+b)	234
	No. of Approvals in Principle (c)	162
	Total (a+b+c)	396
B.	Land Requirement	
	Land Requirement for Notified SEZs	67 sq. km.
	Land Required for Formally Approved SEZs	350 sq. km.
	Land Requirement for SEZs Approved in Principle	1400 sq. k.
	Total Land Required for SEZs both Formally Approved (FI) and Approved in Principle (IP)	1750 sq. km.
C.	Investment and Employment	
	Investment made in 63 Notified SEZs	₹ 13,435 crore
	Employment created	18,457 persons
	Expected Investment in 63 SEZs Notified (by 31 December, 2009)	53,561 crore
	Expected Employment (by 31 December 2009) in 63 SEZs Notified	15,75,432 persons
	Expected Investment if 234 formally approved SEZs became operational	₹ 3,00,000 crore
	Expected Employment in 234 SEZs formally approved	40,00,000 persons

Source: Business Standard/16.04.2007 and Times of India 14.4.2007.

Nandigram and Singur have become symbol of protests against SEZs as there has been massive mobilization of the rural people against the land acquisition. Peasant protests in West Bengal have attracted lot of attention of mass media in wake of violence and killing of several people and support for peasants have come from political parties, NGOs and intellectuals. In the wake of protests, several scholars and civil society activists have brought out the land grabbing tendency of the corporate capitalism with its adverse effect on the rural people of India (S. Banerjee, 2006; P. Banerjee, 2006; Sarkar, 2007; Bhaduri, 2007; Banerjee et. al., 2007; Patnaik, 2007; Bhattacharya, 2007; Sarma, 2007, Farnandes, 2007). In view of intensive intellectual debate, intervention of political parties and groups and civil society activities, some changes have been made in the SEZ Act on 5th April 2007. These changes are (*The Economic Times*, April 6, 2007):

- (i) Ceiling has been fixed at 5000 hectares (12,500 acres) on the size of SEZs, the state governments can fix lower ceilings if they so choose;
- (ii) Earlier, the area earmarked for processing was 35 percent for multi product SEZs and 50 percent for sector specific SEZs. Now, atleast 50 percent area has been earmarked for processing for all SEZs. This has been done to control area for non processing (real estate) activities;
- (iii) State governments can neither acquire land for SEZs on behalf of private developers nor can state governments form joint ventures with private developers if they do not have land in their procession to offer the project;
- (iv) The state governments can acquire land to develop SEZs on their own, provided they stick to the new relief and rehabilitation package (yet to be announced); and
- (v) The SEZs, instead of being net earners of foreign exchange, will have to export earnings at least equivalent to their purchases from the domestic tariff area.

THE INDIAN ECONOMY AND SEZs: GROUND REALITIES

Benefits derived from SEZs are evident from the investment, employment, exports and infrastructural developments additionally generated in the Indian economy. The benefits derived from multiplier effect of the investments and additional economic activity in the SEZs and the employment generated thus has far outweighed the tax exemptions and the losses on account of land acquisition. Stability in fiscal concession is absolutely essential to ensure credibility

of Government intensions. Tables given below containing the information regarding 'Level of investment in functional SEZs in India', 'Level of Employment in Functional SEZs' in India', 'Exports from SEZs' paint a clear picture of efficacy of SEZs in the Indian economy.

Table 2: Level Of Investment In Functional SEZ's In India

INVESTMENT (As on 30th June, 2009)	Incremental investment	Total Investment
SEZs Notified under the Act	₹ 1,04,589.3cr	₹ 1,04,589.3 cr
State/Pvt. SEZs set up before 2006	₹ 4,901.27 cr	₹ 6,657.58 cr
Government SEZs	₹ 1,114.45 cr	₹ 3,393.65 cr
Total	₹ 1,10,605.02 cr	₹ 1,14,640.53 cr

Source: www.sezindia.nic.in

Table 3: Level of Employment In Functional SEZ's In India

EMPLOYMENT (As on 31st March, 2009)	Incremental Employment	Total Employment
SEZs Notified under the Act	1,34,627persons	1,34,627persons
State/Pvt. SEZs set up before 2006	43,422 persons	55,890 persons
Government SEZs	74,686 persons	1,96,922 persons
Total	2,52,735 persons	3,87,439 persons

Source : www.sezindia.nic.in

Table 4 : Exports From SEZs During The Last Five Years (2003-04 to 2007-08)

Year	Value (₹ Crore)	Growth Rate (over previous year)
2003-2004	13,854	39%
2004-2005	18,314	32%
2005-2006	22,840	25%
2006-2007	34,615	52%
2007-2008	66,638	92%
2008-2009	99,689	50%
2009-2010 as on 30th June 2009	42,501.76	-----

Source: www.sezindia.nic.in

The three tables clearly reveal that SEZs have led to multifold increase in investment, employment & exports. The total investment in SEZs as on 30th June 2009 was ₹ 114640.53 crores. Employment was provided to 387439 persons, while Exports were worth ₹ 42501.76 crores.

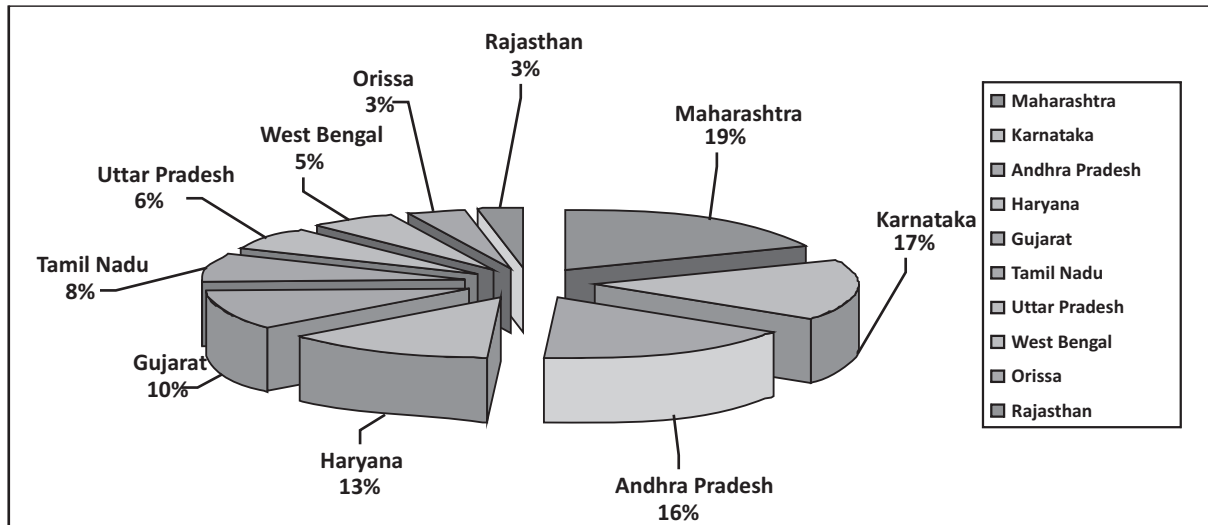
SEZs: SOME CONCERNS

✿ **Locational Aspects of SEZs** : Among the many concessions being offered to the developers of the SEZs, one is cheap land close to 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. While Singur was not an SEZ, the Tata group was to be given about a 1,000 acre of land when they only need perhaps 70 acre for the car factory. Since the land in Singur is at the intersection of two important highways, it is prime land. This kind of consideration is clearly important for many of the planned SEZs.

There is another reason for the rush to set up these huge estates. 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. Thus, we are witnessing the creation of a large number of new landlords. Moreover, the location of most of the SEZs is in the states which are already developed as evident in Fig 1.

✿ **The Economic Aspects** :The Central government perhaps believes that the economic gains will dilute the opposition over time. It expects these SEZs to be the nucleus of new investment, jobs and greater exports. Thus, it is propagating the SEZs as the solution to the country's problems. The critics worry about food security being

Figure 1: Pie-Diagram Presenting State Wise Distribution Of SEZs



jeopardized and in response, it is argued that less than 0.1 per cent of the arable land will be involved in the proposed SEZs, so this will hardly effect total food production. Another argument is that SEZs will accelerate development and create a large number of jobs. The critics argue that it will also destroy loads of low skill jobs in agriculture and forestry. Further, the adverse impact on small scales sector will reduce jobs. So, in the net, it is not clear that it will lead to more employment.

It is suggested that there are backward and forward linkages of industry, so it will promote development. But does agriculture not have such linkages? There is a fear that the large number of tax concessions being granted will lead to loss of revenue. However, the proponents suggest that increased production will result in enhanced tax collections. Will SEZs spur smuggling and tax evasion, which will cause the tax loss to be larger than what is being anticipated? Clearly, those who will benefit or loose from the SEZs will be different sets of people. Those who will be displaced by the SEZs will be the rural people and those who will come in their place will be the skilled urban people. It is true that those who lose land will get “market prices” (according to the government) for their land and theoretically, will be able to invest their money in other businesses. Thus, theoretically, not only in the SEZs, but the new investments by the former agriculturists would create new non-agricultural jobs and all this maybe expected to lead to a reduction in the rate of increase of unemployment, which has accelerated in the last 6 years. It is said that agriculture cannot create jobs anymore and these jobs have to be created in non-agricultural sectors.

✿ **Labour Environment :** The new SEZ law is unlikely to address the critical issue of labour flexibility. A restrictive labour law environment can be one of the major hurdles for the development of the Indian manufacturing sector. Currently, over 40 labour related statutes have been enacted by the central government. In addition, state governments have enacted various statutes on this subject. The most restrictive central government regulation is that which requires all employers with more than 100 employees to gain compulsory government approval (normally a long drawn-out process) before retrenching workers or closing part of an enterprise. This provision has not changed since 1982. As highlighted in the official report on employment released by the Planning Commission of India, although the law does not bar retrenchment or closure and only requires prior approval, in practice, the Act has been interpreted in a way that has made retrenchment almost impossible. In practice, termination at the end of a probation period has also been treated as retrenchment, even if the termination was due to failure to pass a test that was a condition of employment. The original draft of the new SEZ law intended to give state governments the freedom to allow implementation of flexible labour laws within the SEZ area.

✿ **Displacement And Loss Of Livelihoods :** Estimates show that close to 114,000 farming households (each household on an average comprising of five members) and an additional 82,000 farm worker families who are dependent upon these farms for their livelihoods, will be displaced. In other words, at least 10 lakh (1,000,000) people who primarily depend upon agriculture for their survival will face eviction. Experts calculate that the total loss of

income to the farming and the farm worker families is at least ₹ 212 crores a year. This does not include other income lost (for instance of artisans) due to the demise of local rural economies.

The government promises 'humane' displacement followed by relief and rehabilitation. However, the historical record does not offer any room for hope on this count: an estimated 40 million people (of which nearly 40% are Adivasis and 25% Dalits) have lost their land since 1950 on account of displacement due to large development projects. At least 75% of them still await rehabilitation.

Almost 80% of the agricultural population owns only about 17% of the total agriculture land, making them near landless farmers. Far more families and communities depend on a piece of land (for work, grazing) than those who simply own it. However, compensation is being discussed only for those who hold titles to land. No compensation has been planned for those who don't.

✿ **The New Culture of SEZs Area :** Many of the SEZs, like the Maha Mumbai SEZ (to be built by Reliance Industries) will be like a mid-sized city, over 100 sq km in area (the size of Chandigarh). There will be no elected local government. A government appointed 'Development Commissioner' will govern the SEZ with the main aim of facilitating economic growth. SEZs have been declared "public utilities" under the Industrial Disputes Act, making collective bargaining and strikes illegal. Infrastructure, like power, roads and water supply has been guaranteed to investors and developers, not to people of the region. Several lakh people may be living/working inside the SEZ. In some cases, the developer may have the right to tax the population in order to provide essential services. The Constitutional tenability of private monopolies running local governments (for a sizeable cluster of the urban population) without being elected is questionable. All the non-economic laws of the land under the IPC and the CrPC would be applicable to SEZs. However, internal security will be the responsibility of the developer. Would the SEZs turn ultimately into sovereign city-states- treasure islands of prosperity in a sea of poverty and misery unaccountable to the vast majority of citizens in the neighborhood?

✿ **Emerging Real Estate Scam :** What are SEZs likely to become in a few years' time? According to a clause in the SEZ Act (Section 5(2)), as much as 75% of the area under large SEZs (above 1000 hectares) can be used for non-industrial purposes. What will the remainder of the land be used for? This lacuna in the law is likely to become a loophole for the accumulation of land banks by private developers and property dealers for the purposes of real estate speculation. (This explains why so many of them have been buying areas for SEZs.) In fact, it may well be the case that the rationale for the above clause in the SEZ Act is the uncertainty surrounding the economic attractiveness (and ultimate viability) of SEZs. If adequate productive investment is not forthcoming, the SEZ developer can at least cash in on the land value. Conglomerates like Reliance already own upwards of 100,000 acres of land in the countryside.

Furthermore, the government has enabled foreign direct investment (FDI) in real estate as of January, 2007, leaving the door wide open to massive amounts of international speculative investment in property. Far from giving "*land to the tiller*", as the original idea of land reform had promised, the present tendency of the Indian governments is to remove all ceiling on the ownership and use of land, thereby serving the interests of big businesses. It is noteworthy that there is no legal upper limit on the size of land area under an SEZ.

FINDINGS & RECOMMENDATIONS

✿ **Increase Minimum SEZ Area:** India has a policy of establishing sector specific Special Economic Zones. In such SEZs, the economies of scale are really difficult to achieve and so, the proper benefits of the SEZs do not percolate to the society. On the other hand, the Ministry of Finance ended up losing the export subsidy provided under the DEPB scheme. So, what we propose is to increase the size of new Special Economic Zones from existing 5000 hectares to 1 mn hectares, and should concentrate on establishing the large size quality SEZs instead of concentrating on large number. If India continues to approve the small size SEZs, then it ended up establishing the subsidized enterprises and low cost real estate development projects in the disguise of economic development for the society and country.

✿ **Promoting SEZ In Mid Size Cities And Coastal Areas:** As pointed out earlier in the paper, that India had developed most of the Special Economic Zones at the out skirts of the Major Cities. This actually prevents the benefits derived from the subsidized development to the backward areas of the country. Also, we know that the increasing population will increase the burden on existing land holdings and this will further reduce the already existing low marginal product in Agriculture. It is, therefore, paramount to wean away the excess labor to manufacturing sector. This entails

that we should focus on the development of the SEZs in the small and mid size cities and to facilitate the cheap transportation, preferably in coastal areas. The recent spurt in prices of agricultural goods and the stagnation in production of agricultural commodities have made it critical to protect our prime agricultural lands. Barren lands or the ones with little output should be developed by Government to generate further interest in private players.

✿ **Development of Manufacturing Base And Singapore As Natural Gateway:** For sustained economic growth and continuous FDI flow in Special Economic Zones, it is very much desirable to promote India as a back office for the developed countries in manufacturing sector too. In this regard, Singapore and other ASEAN countries seem to be a first logical option. If India could prove its abilities in the manufacturing sector as it proved in services, then it would be a great competitive advantage. For this, we recommend to work towards development of mechanism for generation of information about potential markets, development of exporting infrastructure and eliminating bureaucracy.

✿ **Liberal Labor Laws And Contract Agreements Within SEZs:** One of the biggest deterrents in the flow of foreign investments in India is its strict Labor Laws and restricted hire fire policies. In India, it is really difficult to set up a base but it even more difficult to wind up. Contract Labor is not allowed in most of the sectors. However, we believe that it is the need of the hour and India should realize that contracted Labor will benefit the labors as well, as it will allow them to switch work between their farms during the agricultural season and manufacturing during the lean season. The hindrance in the relaxation of Labor Laws is that it may provoke the exploitation of labors by the industrialists. But organized sector governed by proper employee benefits is miniscule compared to the unorganized sector. Having a contract would rather secure their rights to consideration to their work as justified under the law. So, we still believe that relaxing the hire and fire policy and providing the contractual labor, at least within the SEZs, will be in the interest of both the parties.

✿ **Stable Economy And Currency:** India has a policy of free float currency and so, the Indian Rupee fluctuates with the changes in demand and supply of the rupee. Sometimes, due to global impact, the rupee appreciates heavily and makes the exports very uncompetitive in the world market. Such huge fluctuations in the currency are really unwarranted. What we recommend to implement is a policy of a free float currency in a specific band or tie-up it with a basket of currencies as done by China. Now, as India is sitting on the pile of foreign reserves and so, she can afford to do so.

✿ **Development Initiatives From Government:** As seen in the Chinese development model, Government should proactively develop SEZ's and arrange for requisite infrastructure. For developing SEZ's of a scale as huge as the Chinese one, Government is the most suitable contender as it can mobilize resources and various departments rather than a private player whose prime motive would be Return on Investment.

✿ **Development With Social Inclusion:** Government should ensure that the sites boost the overall growth of the country. Developing SEZs in states which are lagging compared to other states can help to alleviate the inequities which will boost overall consumption. The size of the domestic market as seen in case of China is equally important for attracting investment.

✿ **Reducing Duties For Imported Goods In DTA:** An industrial base in Indian SEZ might require raw materials or components which are not available in India. In such cases, if waiver or reduction of duties is given, it might help in attracting FDI. Else, it will be pulled by any other country ready to forgo short term revenue to develop competitiveness in that sector.

POLICY RECOMMENDATIONS

✿ The Government should permit for 12 hours of work per day under special circumstances and relax the hire and fire policies within SEZs.

✿ Companies should be allowed to employ contractual labour under the guidance of SEZ authority appointed by the Government (may be after paying a predetermined compensation above the minimum pay regulations).

✿ Indian currency should also be allowed to free float within a range i.e. it is not allowed to appreciate/depreciate beyond a certain range or tied up to a basket of currencies as done by China.

✿ India should strive for better business ties with Singapore and US, and should avail major economic benefits available to the companies from ASEAN region.

- ✿ Provide subsidies and reduce taxes for the manufacturing companies in SEZs rather than software companies already enjoying competitive advantage.
- ✿ Duties imposed on the sale of goods to the DTA from SEZ should be reduced or should get away within case of goods which are imported.
- ✿ Government should include the development of SEZs in its 5-year plan. It may be a public-private partnership initiative like Build-Operate-Transfer (BOT) model.

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