



DEVELOPMENT OF AIRPORT INFRASTRUCTURE IN INDIA WITH THE ESTABLISHMENT OF AIRPORT-BASED SEZs: THE NEED

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Introduction

Privatization of Airports in India has rapidly begun through the process of Liberalization, Privatization and Globalization (LPG), has witnessed the increased investments in the airport sector, which has led the Government to initiate the policy for the setting up of Greenfield Airports in India in April 2008. The economic reforms introduced in India also focused on developing the service sector like establishing airports, domestic or International. This has given impetus to the developing countries to integrate their economic activities at an International level, thereby increasing the inflow of FDI[1]. In general, the domestic economy will be strengthened with the implementation of effective transportation and logistical efficiency with the establishment of International and domestic and airports. This will result in increased access to the International market by domestic economic players.

In the present Globalized World, airports are increasingly functioning as core logistical and economic hubs, besides acting as mere regional gateways. Thus, the changing role and importance of airports in economic growth have led to the rise of what is popularly termed as the “Aerotropolis” or the Airport city.[2] These “Airport cities would interact in shaping the economic growth nodes where airports supplant rail, road,

and port system. This development was concentrated strongly in a select number of urban centers (like Hyderabad), causing not only a strong rural to urban divide but also a growing split between the modern and the traditional sectors”.[3] This in turn has compelled the need for securing land for the supposed infrastructural advancement of the airports and air terminals in India. The rapid proliferation and economic impacts of SEZs estimate at approximately 3000 zones[4] in 135 countries accounting for over 68 million direct jobs and over \$500 billion of direct trade-related value-added within zones.[5] The first “modern zone” was initiated in Ireland in the year 1959. Later, various nomenclatures evolved that are subsumed under the SEZ concept namely, Free Trade Zones (FTZs); Export Processing Zones (EPZs); Hybrid Export Processing Zones (EPZ), etc.

Concept of SEZ

A Special Economic Zone (SEZ) is considered to be foreign territory within a nation with special rules (deviating from regular rules) to facilitate the inflow of Foreign Direct Investment (FDI). The Special Economic Zones (SEZs) are generally allowed to implement different economic laws from the regular economic laws. As per the Ministry of Commerce and Industry, they are defined as: “specifically duty-free enclave which shall

be deemed to be foreign territory for trade operations and duties and tariffs.” Therefore, in the SEZ, the economic and other laws found to be implemented differently from the rest of the country to boost up free-trade market¹. Usually, the goal of an SEZ is to increase foreign direct investment by attracting foreign investors, more particularly the multinational corporations (MNC).² Thus, Special Economic Zones are said to have been established to have a separate tailor-made provision which are needed to encourage the foreign investors to compare to the traditional setup. Mergers and Acquisitions, much like legitimate arrangements, other than customs, follow the typical fair treatment of law as in different domains of the nation.³

The recognized highlight of the SEZ is to increase infrastructural framework to facilitate maximum exports with the support of public and private partnership entities. All the imports/exports operations of the SEZ units will have to be a Net Foreign Exchange earner but they are not subjected to any pre-determined value addition or minimum export performance requirements. For setting up a SEZ, there is no necessity to obtain environment impact assessment. Under Section 36 of the SEZ Act, the authority may constitute a fund known as Authority Fund with the instructions to maintain regular accounts and relevant reports and records, which are to be audited by the Comptroller and Auditor-General of India.

¹ Ram Krishna Ranjan, *Special Economic Zones: Are They Good for the Country?*, CCS Working Paper No. 156(2006) Available at- https://ccs.in/internship_papers/2006/Special%20Economic%20Zones%20-%20Ram%20Krishna%20Ranjan.pdf

² Special Economic Zone, WIKIPEDIA FOUNDATION, Available at https://en.wikipedia.org/wiki/Special_economic_zone

³ *Ibid*

Objects of SEZs

The main objects in establishing SEZs in India are to⁴; (i) Increase Foreign Direct Investment (FDI), (ii) generate additional economic activity; (iii) promote exports of goods and services; (iv) encourage investment from domestic and foreign sources; (v) create employment opportunities and (vi) develop the infrastructure facilities.

Therefore, it is an area where the existing labor and economic laws are minimally applied (including tax relaxations to promote economic development to attract foreign direct investment.) So, SEZs are not only intended to attract offshore companies to set up their business in India without any cumbersome process to get a license, but it also intended to provide incentives to the domestic companies to improve their export business with the help of the new foreign partners without much investment. Moreover, the free trade zones attract big players who want to set up a business without any hassles of getting licenses and the process involved in getting it. Most of the allotment is done through a single-window system and which is a highly transparent and fair process.⁵ The main object for establishment of SEZs will help in developing the villages nearby, with the creation of a large scale of employment to the people of that area, apart from producing the export quality of goods and services, which in turn helps the Indian economy.⁶

⁴ Special Economic Zones in India: <http://www.sezindia.nic.in/HTMLS/about.htm>. (visited on 24-5-2020).

⁵ Neeraj Mishra, *Sez (Special Economic Zone) – An Overview, Challenges And Future*, LEARNING TO LIVE [\(https://neerajmishra.wordpress.com/2008/07/26/sez-special-economic-zone-an-overview-challenges-and-future/\)](https://neerajmishra.wordpress.com/2008/07/26/sez-special-economic-zone-an-overview-challenges-and-future/) (last visited on 04 May 2020).

⁶ *Ibid*.

Economic Benefits of SEZs

The creation of SEZs will reap economic benefits which are static and dynamic. The static benefits include direct employment creation and income generation; export growth and export diversification; foreign exchange earnings; foreign direct investments and government revenues. The dynamic benefits include; indirect employment creation; up-gradation of skills; female employment; transfer of technology; demonstration effect arising from the application of best practices and finally regional development.

SEZs- The Law and Policy

The SEZs in India are the result of the modern industrial policy emphasizing on free trade policies with minimum regulations to allow the industries to respond quickly with flexibility to react to the market forces. The Preamble of the Indian Constitutional set outs social equality as a goal, it is, thus, expected that whatever policy or measure being taken by the State must ensure the advancement of the cause of social justice. The policy of SEZ also comes under the same footing and it should also strive for the goals set out in the preamble.

Taking the Chinese concept of SEZ, the Indian Government after due deliberations introduced the concept of SEZ within the EXIM Policy (1999-2000) by permitting to establish SEZs in India⁷ and it was followed by enacting a new Special Economic Zone Act 2005⁸ and the same was notified on February 9, 2006, by the Commerce Ministry. Subsequently, the rules were incorporated and came into effect from February 10, 2006.

⁷ Poshitra near Veraval Coast (Gujarat) and the other Nedundgerry (Tamilnadu)

⁸ THE SPECIAL ECONOMIC ZONES ACT, 2005. (ACT 28 OF 2005)

Nonetheless, the proposals for establishing SEZs in India had already begun much earlier and approximately not less than 61 SEZs were approved by November 2005.

The Special Economic Zones Act 2005 was to increase exports, generate employment and create outstanding infrastructure (like that of HIAL, Hyderabad, and BIAL Bangalore) apart from the main aim of attracting FDI.⁹ These said objectives intended to be achieved by providing fiscal exemptions, uninterrupted power supply, and easy access to International finance through Offshore Banking Units (OBU) to SEZ units and the developers of the SEZs. It may be relevant to mention here that the Reserve Bank of India (RBI) while announcing the OBU scheme earlier in 2002 had visualized that they would become virtual foreign branches of Indian banks and would get exempted from normal banking regulations. These OBU's were conjointly required to provide finance at International rates to SEZ units and developers by sourcing foreign currency funds externally also as dealt in exchange and follow all the norms applicable to overseas branches of Indian banks, besides obtaining tax exemptions under Section 80 of the Act.

Thus, SEZs in India are, as discussed earlier, a separate entity and the applicable economic laws are different in comparison with other parts of India.¹⁰ In this regard it is rightly observed by *Dezan Shira*

⁹ Rose Bridger, *Airport Linked Special Economic Zones, Aerotropolis Projects and The Race to the Bottom-*

Paper for Global Tax Justice at a Crossroads conference, City University, London July 6, 217

¹⁰ Dhivya Krishna, *Special Economic Zones In India VAKIL* (April 7, 2020) <https://vakilsearch.com/advice/special-economic-zones-in-india/April 7, 2020> (visited on 10-05-2020)

Associates on incentives for setting up of SEZ in India, that ¹¹

- i. There would be duty-free facilities given to the company on import and domestic procurement of goods for the development operations and maintenance of the company;
- ii. Income Tax exemption is 100 % for the initial five years, thereafter 50 % for further next five years. (Service Tax, Central Sales Tax, Customs, and Excise duties)
- iii. State sales tax and other levies introduced by the respective States
- iv. On export profit, if reinvested in the business for a further 5 years again at about 50 % is allowed. Even some states are exempting electricity duty on the sale of electricity;
- v. Easy approvals and clearances to set up the business in the SEZ through a single window.
- vi. The Goods and Services Tax (GST) is also exempted and even no tax also will be levied under the Integrated Goods and Service Tax (IGST) Act, 2017¹². Customs officers posted in the SEZs are also intended to provide facilities to expedite the trade processes.

It is pertinent to note that the exports from India seem to have been increased substantially due to the rise in sourcing and manufacturing platforms, since the introduction of the SEZ policy. Thus, it is said that India has been benefited in attracting the number of foreign firms operating in India and outside.¹³

¹¹ Dezan Shira Associates, India's Special-Economic Zones- A primer, <https://www.india-briefing.com/news/guide-indias-special-economic-zones-9162.html/> (last visited on 24 May 2020).

¹² Act No 13 of 2017

¹³ Dezan Shira & Associates, *India's Special-Economic Zones- A primer*, INDIA BRIEFING (APRIL 7, 2020) [https://www.india-briefing.com/news/guide-indias-special-](https://www.india-briefing.com/news/guide-indias-special-economic-zones-9162.html/)

Defining Airport

An 'airport' is defined as "a location where aircraft which has fixed-wing aircraft, helicopters and blimps take off and land. Aircraft may be stored or maintained at an airport. An airport consists of at least one surface such as a runway for a plane to take off and land, or helipad, or water for takeoffs and landings, and often includes buildings such as control towers, hangars, and terminal buildings".¹⁴ Section 2 (b) of The Airports Authority of India Act, 1994 defines an airport as: "airport means a landing and taking off area for aircraft, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in Clause (2) of Section 2 of the Aircraft act, 1934."

Airport and aerodrome are synonymous with each other. The airport is a defined area on land or water (including any building, installation, and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft. Hence, an airport includes the functional domain (like the landside, terminal complex and airside); airport operations (based on the regulations of the ICAO, national legislations and Standards and Recommended Practices (SARPs); includes Passenger Terminal Operations (passenger and baggage processing); Baggage Handling (includes carriage of baggage to check-in point, a check-I procedure including weighing and tagging, screening, etc.).

However, a new concept of 'Aerotropolis' has emerged in the recent past, where the

[economic-zones-9162.html/](https://www.india-briefing.com/news/guide-indias-special-economic-zones-9162.html/) (last visited on 22 May 2020).

¹⁴ *Airship*, WIKIPEDIA FOUNDATION. Available at <http://en.wikipedia.org/wiki/Airship> (visited on 15-06-2020)

domain of aviation has become an enterprise of global economic life, leading to the growth and importance. The increasing numbers of aviation-oriented firms and commercial service providers cluster around airports, the Aerotropolis is becoming a major urban destination where air travelers and locals alike work, shop, meet, exchange knowledge, conduct business, eat, sleep, and re-entertained often without going more than 15 minutes from the airport.¹⁵ Not only the emphasis which is made on consumers; but Aerotropolis encompasses aviation-dependent businesses and the commercial facilities that support them and the multitude of air travelers who pass through the airport annually.¹⁶

SEZ – A Focus on Airports

Despite the failure of Export Processing Zones, (EPZs) Murasoli Maran, an Indian politician and an important leader of the Dravida Munnetra Kazhagam party, after visiting China in the year 2000 introduced the SEZ policy very same year considering the need to enhance foreign investment and promote exports from the country. The aim of the establishment of Airport-based Special Economic Zones (SEZs) is primarily intended to develop a duty-free region nearer to an airport for starting the industries. The Airport-based SEZs with relaxed tax laws would attract further private players and increase the revenue generation capacity for the airports. It

¹⁵ Chohan, Usman W., The Concept of the Aerotropolis: A Review (June 30, 2019). CASS Working Papers on Economics and National Affairs, EC006UC, Available at SSRN: <https://ssrn.com/abstract=3412543> or <http://dx.doi.org/10.2139/ssrn.3412543>

¹⁶ Stephen J. Appold, "Airport Cities in U.S. Metropolitan Context," Working Paper, (March 7, 2013) and Stephen J. Appold, 2013, "The Impact of Airports on U.S. Urban Employment Distribution," Working Paper, (14 March. 2013).

further carries out the economic growth of the company or organization in a more efficient way. Moreover, the relaxed import tariffs also further help the Import dependent and Export driven industries to flourish with minimum efforts and expenditure at competitive prices. However, this results in the creation of SEZ which further led to land acquisition in India.

To setup Airport-based, SEZs large extent of land is needed and thus SEZ and land acquisition are interlinked. Land Acquisition and SEZs in India have been expedited as the Government of India has encouraged the establishment of Airport-based SEZs in the country inspired by China. To encourage the establishment of SEZs in the country, the Government of India provided exemptions like relaxing the income tax, service tax, sales tax and customs duty to boost up industrial development of a country. According to the policy of the Government of India, an SEZ in the country should be established on at least one thousand hectares or more of land. So most of the land acquired as of now to establish the said SEZs was agricultural lands only and thus more farmers have been affected in India. Across India, the total land area acquired is about 150,000 hectares, and this amount of land is capable of producing about one million tons of agricultural produce. Even there are various other allied issues in land acquisition, such as rehabilitation, resettlement and providing adequate compensation to the landowner to be addressed properly.

SEZ – A Focus on Aerotropolis

The International concept of SEZs has had led to the emergence of a new dynamic approach in the aviation sector known as Aerotropolis. The centerpiece of global economic life and its importance to socio-economic activity is based on the domain

of aviation which is growing by leaps and bounds which is why the concept of “*Aerotropolis*”, as urban design centered around an aviation hub. This concept has renewed attention. Kasarda, an American academic and airport business consultant, argues that airports would have the same impact on urban development in the 21st century like that of seaports had in the 18th century, railroads in the 19th century and highways in this 20th century. Aerotropolis have become powerful engines of local economic development, attracting aviation linked businesses of all types to their environs.

Aerotropolis includes time-sensitive manufacturing and distribution facilities, such as aerospace, biopharma, electronics, and e-commerce; hotel, entertainment, retail, convention, trade and exhibition complexes, etc. Hence, an Aerotropolis is a metropolitan sub-region where the infrastructure and economy are centered on an airport that serves as a multimodal “airport city” of the commercial core. It is similar in form to a traditional metropolis, which contains a central city commercial core and commuter-linked suburbs. However, some of the factors influencing the Aerotropolis are connectivity, smart infrastructure- Well designed and technologically efficient (smart) infrastructure will advance the function of the Aerotropolis, in terms of the ability to manage its complexity as well as reduces its long-term costs. For the manufacturing component of the Aerotropolis particularly for logistics and just-in-time (JIT) manufacturing smart infrastructure will help keep a high rate of production and transportation, SEZ, e-commerce and distribution; Flexible Technologies; Intermodal Freight Hub; Office parks and office corridors; exhibition and conference centers; hotels, entertainment, and retail clusters; medical and wellness cluster; and residential areas.

The Aerotropolis projects are linked with the emerging new airport economic zones. They are themselves an airport surrounded by commercial and/or industrial development which were termed as also ‘acropolis; ‘airport city’ or ‘aero city’. They include hotels, shopping malls, entertainment, and cultural venues on land around the airport. These Aerotropolis include manufacturing, industrial and assembly plants along with distribution and logistics complexes which are integrated with the airport’s cargo facilities. The airport growth is purely dependent upon the style of the designed development of Aerotropolis.

The expansion of the airport and the growth of industrial and commercial development are established by its symbolic relationship. All these Aerotropolis projects share an economic model that underpins expansion and economic viability based on the airport-centric spatial configuration. As in India airports and their infrastructure was under-equipped to accommodate speedy growth, the Civil Aviation Ministry introduced the two-fold process: firstly, introducing public-private partnerships method to modernize and expand existing major airports and build new airports. Secondly, adopting the Aerotropolis models (airport city model) of development where all commercial development activities such as constructing the hotels and other commercial business entities within the airport city to increase their non-aeronautical revenues, and further boost passenger and cargo flow.

It is pertinent to note that the GMR Group under the public-private partnership modernizes and expanded Delhi International Airport (under the consortium name Delhi International Airport Limited [DIAL]). The same GMR

group also developed the world-class Greenfield airport at Hyderabad (Hyderabad International Airport Limited (HIAL)), which opened in March 2008. These two airports capture India's 21st-century approach to airport city and Aerotropolis development.

The GMR Aerospace and Industrial Park provides an industrial infrastructure with all facilities so that companies can directly utilize the facilities for their business and no need to waste their time for the creation of infrastructures. The advantage of GMR Aerospace and Industrial Park is that it offers the flexibility of choosing land within the Special Economic Zone (SEZ) for businesses looking to serve foreign. Maharashtra Airport Development Co. Ltd is developing a similar one at Nagpur airport. Cochin International Airport Ltd (CIAL) is planning to set up an airport-based Special Economic Zone (SEZ) with an estimated cost of Rs5,000 crore on 300 acres of land.

“Enhanced security is regulated to the aerospace and industrial park within the parameters of a complete airport ecosystem like availability of the hotel, reliable and affordable transport, emergency services, security, etc.”¹⁷ at Rajiv Gandhi International Airport premises. There are many advantages to creating an aerospace and industrial cluster in the region, viz.,¹⁸ runway access; ready-to-use infrastructure; benefits of Special Economic Zone (SEZ), and the Free Trade Zone (FTZ); the significant presence of aerospace companies, etc.

¹⁷ Dr. Sarkar, *Aerotropolis: A look at India*, AIRPORT REVIEW (April 12, 2016) Available at <https://www.internationalairportreview.com/article/22678/aerotropolis-5-a-look-at-india/> (May 2020).

¹⁸ *Ibid.*

Legal Issues and Concerns

The advent of liberalization, privatization, and Globalization has had led to economic development under the guise of international competition where large tracts of land are required for the same. The airports generally require a large tract of land. However, focusing the airports in India, the age-old airports were established only to cater to the needs of affluent people. But today the use of airports by a common man has become a necessity on account of changing Global scenarios in the area of trade and traffic. This had led to the congestion at the existing airports to use runways, but it also depends on the altitude, wind-speed, and aircraft speed to cater to the present requirement of huge air traffic.

Secondly, the emergence of Greenfield airports also has led to the problems in the acquisition of land for establishing Maintenance, Repair, and Overhauling (MRO) facility at the airports. These things have not left with any legal issues whether legal, social, environmental, economic, and political issues emerge like; the conflict of socialistic ideas; a rethinking in the adoption of SEZ (because SEZ is driven by a Developer i.e. a private person).

Thirdly, the “Rehabilitation” process can be envisaged as that would reverse the risks of resettlement. Cernea¹⁹ suggests “*a risk and reconstruction model of rehabilitation that would be marked by a series of transitions from landlessness to land-based resettlement; joblessness to re-employment; food insecurity to safe nutrition; homelessness to house reconstruction; increased morbidity and*

¹⁹ M Cernea. *The Risks And Reconstruction Model For Resettling Displaced Populations*. World Development, 25(10): 1569-1589. (1997)

mortality to improved health and wellbeing, and social disarticulation and deprivation of common property resources to community reconstruction and social inclusion". Rehabilitation is possible where proper development is envisaged. Thus, resettlement has to be planned as an integral part of the total development project. It means rehabilitation is an outcome of resettlement that is perceived not merely as a physical relocation or restoration of incomes but as the overall development of the displaced.²⁰

Fourthly; In the process of 'Resettlement', the Government generally focuses on the physical relocation of the displaced rather than the economic and social development of the displaced, which has been intensified the impoverishment risk of the resettlers.²¹ This has been attracting criticism on the effectiveness of resettlement and rehabilitation programs, as they lose their source of livelihood and living standards. Moreover, the loss of livelihood and disruption of agricultural activity can adversely affect household food security, leading to under-nourishment.²² As Cerneamaply notes, "forced displacement tears apart the existing fabric, leading to socio-cultural disarticulation".²³ Further, he also observes that the key economic risks to affected people are only due to the loss of livelihood and fixed income sources which

they had earlier to the displacement. Therefore, the loss of economic resources of the displaced people results from the breakdown of complex livelihood systems which they were placed before the displacement would lead to the temporary or permanent, often irreversible, the decline in their living standards which lead to marginalization.

Conclusion

New and many times functionally 'unconventional' economic zones linked to the extended transactions of Airport by and large bring in what can be understood as short-term certainties of massive Government expenditure in general on infrastructure and lucrative contracts for construction firms in particular. Here, tax breaks will directly benefit investors, industrial park tenants, and tourists putting up with the luxury beach-front resorts, etc. In this context, the Airport-linked economic zones come to accelerate by providing geographically defined areas where deregulation and tax breaks-- to serve the interests of business at large-- are maximized²⁴.

The economic zones/Aerotropolis must be viewed within the context of a broader economic justice by addressing the concerns of tax breaks for aviation set to benefit investors, particularly the almost universal tax exemption of aviation fuel for international flights. The allocation of land assets to airports for the generation of non-aeronautical revenue is yet another form of subsidy. Major 'Aerotropolis' schemes are among the mega projects being pursued by the Governments and, as with the airport-linked economic zones, may incorporate, or be a key component

²⁰ Shaik Nazim Ahmed Shafi, (2013) *Airports Privatization in India, Law and Policy Issues* (1st Edition), ASIA LAW HOUSE (2013).

²¹ *Displacement, Resettlement, Rehabilitation, Reparation and Development*, working paper of the World Commission on Dams. (March 2000).

Available at <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.112.9372&rep=rep1&type=pdf>

²² Rema Rangarajan, *India falls to 102 in hunger index, 8 ranks below Pakistan*, THE TIMES OF INDIA (OCT 19, 2019).

http://timesofindia.indiatimes.com/articleshow/71606116.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

²³ *Supra Note 34*.

²⁴ Paper for Global Tax Justice at a Crossroads conference, City University, London (July 6, 2017).

of, an integrated complex of such mega projects.

There is no denying the fact that 'land acquisition' for airport-linked economic zones and Aerotropolis projects frequently entails 'displacement' of people and their rights in the land. Thus, there is a dire need to streamline the process of land acquisition to ensure that the damage is minimal.

However, a few suggestions may be noted:

- i. The entitlement of land for the land is one of the key elements that need to be offered to all people displaced, in addition to this other facility like housing, employment, training must be compulsorily be provided by the promoter.
- ii. Where land is sought to benefit private developers, the compulsory land acquisition should be avoided as far as possible. The process of acquisition in such scenarios should perhaps be made voluntary. Communities must be given a say in approving projects that arise around their area of residence.
- iii. An authority like the Auditor General of Displacement and Rehabilitation must keep a check on the present condition of displaced people after 5 to 10 years after the displacement.
- iv. Affected families must be given homestead land titles and houses, additionally roads, hygiene, education facilities, community halls, safe drinking water, and irrigation facilities at all resettlement sites.