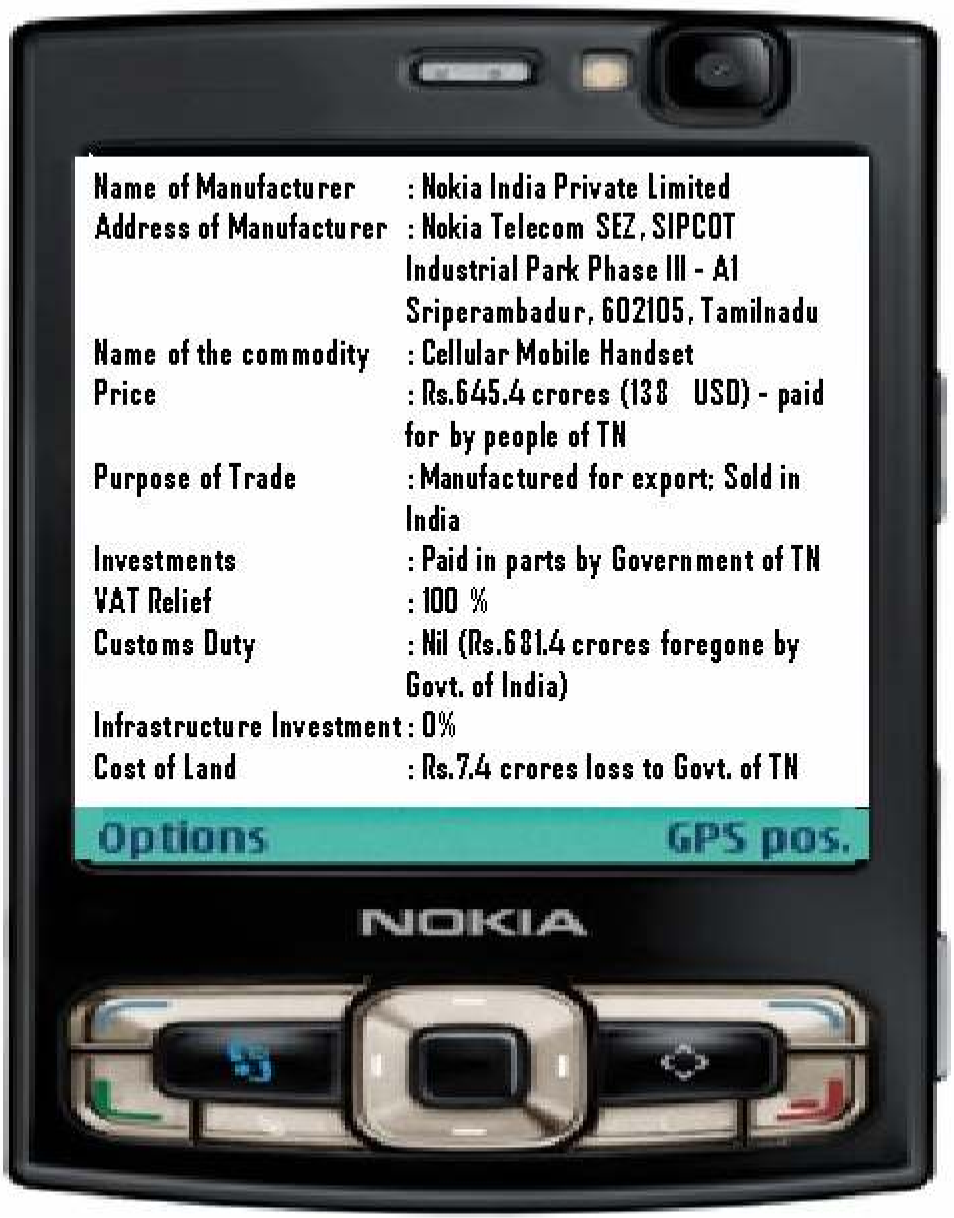
The Public Price of Success

The costs of the Nokia Telecom SEZ in Chennai for the government and workers



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Abstract

The Nokia Special Economic Zone in the Suburb of south Indian city of Chennai has been celebrated as one of the main cases which prove that the Special Economic Zone policies have been successful. Nokia has been praised for providing investment, creating employment, building infrastructure, and for its export of mobile phones. As a trendsetter the company has also been seen as contributing to why other major telecom manufacturers like Motorola and Flextronics also came to Chennai. This report aims to show that the impressive private profits of Nokia come at a high price for the public. The special agreement between Nokia and the Tamil Nadu government signed in 2005 ensures that the government will refund VAT on domestic sales to the value of Nokia's investments in infrastructure. This means it is actually the state government which is paying for the company's infrastructure. Further, the employment generated number a few thousand which is good but the low salaries, the frequent use of contract labour and the imposition of public utility status to prevent strikes, make jobs seem more exploitative than beneficial. Finally, it is found that Nokia sells its phones mainly within India but still manages to get these counted towards export. The conclusion is that if the Nokia SEZ is a success, then it certainly comes at a high price for the public and for the exclusive benefit of a private company.

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Abbreviations and glossary

CAG	Comptroller Auditor General, central government auditing body
CST	Central Sales Tax
DTA	Domestic Tariff Area, the Indian market other than SEZs
MoU	Memorandum of Understanding, an agreement usually signed between a state government and a company for investment purposes
Rs	Rupees
RTI	Right to Information
SEZ	Special Economic Zone
SIPCOT	State Industries Promotion Corporation of Tamil Nadu
VAT	Value Added Tax

Conversion rate:

1 Indian Rupee is at present about 0.02 US Dollar/ US $1@ Rs 47

The Nokia SEZ, a success story?

Nokia became the first major foreign investment coming specifically for the benefits offered in Special Economic Zones by signing an agreement on 6th April 2005 with the Tamil Nadu government. Despite being a product of an earlier time period before the SEZ amendment of May 2005 when few if any investors were interested in SEZs, Nokia has nevertheless been hailed repeatedly as the success case of the zone policies. Ministry of Commerce Secretary GK Pillai has been the main supporter of the SEZ policy all along and Nokia has been one of his most frequently cited cases of why SEZs are good. At a seminar in Delhi the secretary explained this by saying that "by 2004, the private companies like Mahindra World City and Nokia wanted to invest in SEZs as they had intimation that formulation of legislation was in process. There were around 17 SEZ proposals when the Act was notified on 10th Feb 2006, of them 7 SEZs were government and 10 private. The Act, acted like a catalyst for the investments to come in for SEZs. From less than Rs. 3,000 crore [629 million USD] between 1965 and 2004, the investments have raised to Rs.65,000-Rs. 70,000 crore [13.6 – 14.7 billion USD] at present."[1]

According to Pillai, the Nokia SEZ shows that the SEZ policies are attracting companies that do manufacturing for exports: "The Apache zone and Sriperumbudur electronics zone with Nokia are major successes. Nokia exports 50% of phones made."[2] The speed of processing Nokia's application and allowing for construction activity is unprecedented in India and a matter of pride for the Ministry. "Nokia took 26.5 weeks from application to start of production. They go and say this can happen in India."[3] Further, employment is being created and this not only for local people. "65% of workers for Nokia are from Bihar since Tamil Nadu has so much economic activity that no one wants to do the work."[4] Former Union Minister of Commerce Kamal Nath had a more hands on approach to SEZs and Nokia by saying "Look, the zones are working, they are functioning. They are doing well. Crores of investment are coming in, thanks to the competition amongst the different states in the country. Go and see well-functioning SEZs like Nokia, Mahindra and others."[5]

Nokia President Pekka Ala-Pietilä declared in a more neutrally worded press release when signing the agreement with the Tamil Nadu government, that the company chose Tamil Nadu because of the "availability of skilled labour, friendly business environment, support from the state government, good logistics connections and overall cost-efficiency."[6] But at a seminar presentation the company was taking credit for the establishment of the entire electronics cluster by saying that "Nokia has been the engine of investment train to Chennai" and the "driver for infrastructure improvements".[7]

The establishment, expansion and profitability of Nokia have thus been frequently used as evidence that SEZs are possible tools to attract multinational technology companies, generate foreign investment and create local jobs in manufacturing. The fact that seven of Nokia's suppliers are now operating within the Nokia Telecom SEZ, and a sizeable cluster of electronic manufacturers including Motorola and Flextronics, the manufacturer of Sony-Ericsson phones, have started production in the vicinity of the Nokia SEZ, have been used to further prove this success.

But the question is what benefits do these SEZs actually offer to the greater society? The SEZ Act was passed with the main objectives being to (i) generate additional economic activity, (ii) promote exports of goods and services, (iii) promote investment from domestic and foreign sources, (iv) create employment opportunities and, (v) develop infrastructure facilities.[8] Already in 2005 doubts were raised whether the Nokia SEZ would achieve some of these objectives.[9] It was alleged that Nokia would get major tax and other benefits from SEZs; receive additional tax benefits from the Tamil Nadu government;

1 Presentation at Panos South Asia-Kalpavriksh Media Dialogues, 26 February 2008
2 Presentation made at book launch on 14 February 2008 at the KLN Prasad Auditorium, FAPCCI, Red Hills, Hyderabad
3 Ibid.
4 Ibid.
5 Shrivastava (2008)
6 Nokia home page, (April 6 2005), *Nokia selects Chennai for manufacturing mobile devices in India*, www.nokia.com
7 Presentation at India Telecom 2006 by Jukka Lehtela, Nokia Director India Operations, 15.12.2006, http://www.ficci.com/media-room/speeches-presentations/2006/dec/presentation/session3/JukkaLehtelaNokia.pdf
8 As listed in the SEZ Act 2005.
9 Oskarsson (2005)

have exploitative labour regulations which would prevent workers from going on strike and; mainly sell to the Indian market and not for exports as is the supposed purpose of SEZs. In 2005 it was possible for the government and Nokia to deny that any special incentives or other benefits existed other than those offered via the SEZ Act. But with the help of the Right to Information Act it is time to shed the secrecy surrounding investment deals and take account of what the Nokia deal actually means for the economy of Tamil Nadu, and as one of the main claimed success stories of Special Economic Zones.

This report starts with a brief description of the difficulties of obtaining the information about SEZ operations in Tamil Nadu. The Nokia 'success story' is then taken to account on the additional tax benefits offered by the Tamil Nadu government and how these have been extended to the other units operating in the zone. The following chapters discuss the provision of infrastructure paid for by the public, the working conditions in the SEZ, and whether the export objective is being achieved.

The difficulties of accessing SEZ information

This report uses official documents obtained via right to information requests, appeals and court cases over a period of more than three years to take account of what the Nokia SEZ actually means beyond the press statements of foreign investment for economic growth. Although information is supposedly available these days studies like the present one comes with certain risks. One of the authors was indicted by the Tamil Nadu Industry Department for asking too many questions and a case is still ongoing in the Madras High Court. The cause for the indictment was asking the following questions:

- List of all approved SEZs in Tamil Nadu, with the following details for each SEZ name of the proposals and date of approval
- List of all pending SEZs in Tamil Nadu with details thereof and
- List of expression of interest from promoters for setting up of Special Economic Zones in Tamil Nadu with details.

In addition a request to inspect the available files at the industry department was made.[10]

Once the above information request had been made in 2006 the appeal process was a lengthy one with several hearings at the Tamil Nadu Information Commission towards the end of 2007. In the end the commissioner chose to allow the request and also made some strong remarks on the lack of transparency of the industry department. "The Commission […] comes to the conclusion that there is an organized resistance and reluctance on the part of the public authority to make the information available as the information pertains to the Special Economic Zones of Tamil Nadu being established on which there has been considerable amount of cross-tape opinion. However, under the Right to Information Act, the fact that an issue is controversial or that there are valid differences of opinion acceptable or unacceptable from different point of view is totally irrelevant consideration by this Act subject to the restraints provided for under Sections 8 and 9."[11]

The department was ordered to hand over the information but instead launched a court case to prevent any information to be shared and also indicted the information commissioner in the case. The motivation for filing a case was that "the emotional coercion exercised, by the Chief Information Commissioner declaring that arrest warrant will be issued if the above documents are not produced […] are all serious criminal intimidation […]."[12]

Further RTI requests have been made at various state and central government departments over the years as our search for information has been met with the slowest of responses and virtually no clarifications on how to interpret complex bureaucratic texts and contradictory legal acts. During the process we have come to realise that the central government, like us, did not know what agreements had been made between the state government and Nokia.[13] With this in mind we believe the material presented in this report will be useful not only to better inform the SEZ debate but also to inform the government itself.

10 The original right to information request was sent to the Tamil Nadu government Industry department in December 2006.
11 Tamil Nadu Information Commission hearing Dated 4th October 2007 at Chennai
12 Affidavit by the PIO of the industry department
13 During our file inspection at the Development Commissioner based at the Madras SEZ in Chennai and in charge of the administration of the Nokia SEZ no copies of the MoUs or other state-specific material was found.

Nokia tax benefits: SEZ incentives plus additional Tamil Nadu government offers

The first MoU between the Tamil Nadu government and Nokia was signed on 6 April 2005. It was at the time known from newspaper reports that other states had also been interested in attracting Nokia. One Tamil Nadu official was quoted as saying "it was a tough contest involving Maharashtra, Haryana and Tamil Nadu. Because of the swift responses from Chennai and the special package that was offered, Nokia opted to settle for Tamil Nadu."[14]

The first part of the 6 April 2005 MoU formalises the setup of a private SEZ by Nokia on the outskirts of Chennai in Sriperumbudur on land already acquired by SIPCOT (State Industries Promotion Corporation of Tamil Nadu) and comes with all the perks the national SEZ policy has to offer. In addition the Tamil Nadu government has, as reported in the news, offered extra fiscal incentives, control over the labour force (see Employment chapter on p. 11), made available land at a concessional rate (see Infrastructure chapter on p. 10), and promised the company to help get bureaucratic clearances in the central government. While the main part of the MoU is quite brief the details of these state offers are spelled out in the appendix referred to as the "Schedule" under the headings "Infrastructure support" and "Support package".

A second MoU which contains amendments of certain sections of the original was signed between the parties the same year on 18th July. According to the 18th July MoU the price of land was cut in half and Nokia was assured that "no other state/municipal levies would be applicable on purchases/sales made by units within SEZ". Added is also a clarification that Nokia will develop its own infrastructure within the confines of the zone without the help offered by the state government.

The benefits of the national SEZ package are well known and have been analysed in some detail in many publications and will therefore only be analysed briefly here. A few anomalies exist which prevents public insight into what the policies actually mean in a case like Nokia's. E.g. it is very difficult to find out what the benefits in numbers are including simple things like sales or turnover from the mobile phone factory since these are classified as secret commercial information. Another cause of confusion are the ever-changing rules and government orders at the national and state levels supposed to guide SEZ implementation. These continue to be full of contradictory statements with the effect of also confusing the companies supposed to be the beneficiaries, who often do not seem to know what they will actually receive.[15]

Another factor which has not been highlighted much so far is the possibility for a large company like Nokia to get both concessions on the creation of infrastructure as the developer of the zone and the benefits of a unit during operations. Developer benefits mean no customs on imported construction materials like steel or cement (rates at 16%) and no service tax on services performed in the SEZ including construction related ones. Unit benefits include income tax, service tax and excise tax exemptions. In the case of the Nokia SEZ it was additionally possible to extend the developer benefits to all the companies of the zone by registering a special society, the "Nokia Telecom SEZ Society", under the Tamil Nadu Registered Societies Act. This allowed all the units to become co-developers with Nokia and get the infrastructure incentives.

VAT reimbursement for sales within India

Since SEZs are meant for export promotion, it could be seen as a bit surprising to see the main tax incentive offered by the Tamil Nadu government being to reimburse Nokia for VAT (Valued Added Tax). VAT is only a cost to the company when it sells within India since export products are not going to attract this tax. This indicates that already from the start the company planned to sell a significant amount of its phones in the Indian market. Normally, companies are able to recover VAT on the materials and services they buy when they sell goods or services directly to

14 The Hindu, (April 8 2005), *A breakthrough for Tamil Nadu in hardware segment* http://www.hindu.com/2005/04/08/stories/2005040806090100.htm (Accessed 21 April 2009)

15 There is e.g. no clarity on how to calculate the exemptions for services, and the SEZ Act is contradicting the customs act on how to declare exported goods. Assocham seminar 'Resolving policy and tax issues', Chennai 22 December 2008.

end-users. A company charges VAT on sales and deducts whatever it had paid for inputs meaning this is a tax only on the added value. But supplies to a SEZ do not attract VAT in the first place since it is zero-rated according to the Tamil Nadu VAT Act 2006[16] when the seller is in the state (outside sellers will have to charge VAT and then get reimbursed). This means that if Nokia planned to sell its mobile phones within India it would have to bear the full VAT cost. In the MoU the Tamil Nadu government offers to bear the cost of VAT on behalf of Nokia.[17]

Although VAT has been implemented across India in recent years, different state governments have the right to set their own rates.[18] Most states have the rate of 4% on mobile phones but in West Bengal it is 12.5%. There are two cases to be considered for the reimbursement of VAT/Sales Tax. The first is when Nokia sells mobile phones within Tamil Nadu. The Tamil Nadu government will in this case receive the VAT money from the vendor of the phone and reimburse it back to Nokia. This results in a loss of income for the state but at least no expenditure.[19] The second MoU 18th July on page 7 reads:

> *All sales from the SEZ to DTA shall attract applicable Local Sales Tax (LST) and Central Sales Tax (CST), as the case may be. However, the LST (including Surcharge, re-sale tax, turnover tax etc.) and CST so paid will be refunded to Nokia by the State Government. A suitable mechanism would be worked out to enable Nokia to get the refund every month without any loss of time. Such output LST and CST will be refunded to Nokia for a period of 10 years from the date of commercial production.*[20]

The second case of VAT reimbursement concerns sales by Nokia in a state other than Tamil Nadu. Here the phones will also attract VAT which will be collected by the respective state government from the vendors, but it is the Tamil Nadu government which reimburses Nokia. The expenditure becomes a cost for the government to be paid in competition with e.g. education and health. The principle is very different when the government offers to pay taxes on behalf of the company compared to other SEZ tax incentives which are merely a loss of income when a certain tax or duty has been waived. In this case the MoU says (p.7 of MoU 18th July):

> *Sales from the SEZ to the DTA will be liable for VAT and CST. Such VAT and CST will be refunded to Nokia by the State Government in terms of the mutually agreed mechanism for the residual period (10 years minus period for which waiver availed in the pre-VAT scenario).*

If 4% of VAT is to be reimbursed the sum would quickly become very large given Nokia's position as market dominant in India. Sales in 2007-08 were Rs 3,578 crore (751 million USD) meaning that VAT of Rs. 143 crore (30 million USD) would have been paid by the Tamil Nadu government to Nokia. It is not known how much of Nokia's sales are in Tamil Nadu compared to the entire country but if we assume it is about 6% as proportionate to the total population of India, Rs. 134 crore (24 million USD) becomes the public price paid for the privilege of having Nokia in Tamil Nadu during this particular year.[21]

The MoU does however have a cap on the amount the government will pay Nokia:

> *Total availment of such concessions shall not cumulatively exceed the investment made by Nokia in eligible fixed assets*[22] *within 3 years of signing of MOU. The cap can be enhanced to the extent of additional investments made by Nokia within 5 years of signing the MOU.*[23]

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16 Before VAT was introduced in Tamil Nadu, sales tax was not charged on sales to SEZs since such sales were considered as export (MoU 6th April).

17 When the MoU was signed Tamil Nadu had yet to implement VAT. At this time the offer was to reimburse sales tax or VAT depending on where in India the sales were taking place.

18 Tamil Nadu introduced VAT only in 2007.

19 Other than in the hypothetical case where the reimbursement is paid to Nokia before money actually reaches the government from the merchant which would result in a loss of interest.

20 The MoU only mentions sales tax reimbursement since Tamil Nadu had yet to introduce VAT. The principle would be the same once VAT was introduced.

21 94% of Rs. 143 crore. The actual reimbursement seems to be via a SIPCOT Investment Promotion Subsidy which is equal to the size of the VAT amount.

22 This cap strangely only seems to apply to the local sales tax reimbursement and not VAT as stated in both the 6th April and the 18th July MoUs. It therefore remains unknown whether there is at all a cap on the VAT reimbursements or not.

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In 2005 Nokia had promised to invest Rs. 675 crore (then 150 million USD) of which Rs. 300 crore (75 million USD) were in fixed eligible assets, but subsequent rounds of investment have increased this.[24] An added investment in 2008 of 75 million USD is assumed to be eligible for additional VAT concessions to the original 150 million USD.[25]

In effect the Tamil Nadu government has offered Nokia to pay for its investments and allow sales in the world's fastest growing mobile phone market, while the complete tax incentives have prevented the state from ever recovering the expenses. Is this a case of attracting investors by paying for their investments? Nokia is not a unique case in wanting to sell domestically from a SEZ and get the VAT paid by the government. Sanmina-SCI International has signed an agreement with the Tamil Nadu government giving it 7 years of VAT and CST reimbursement with a limit to the size of its investment similarly to Nokia.[26] And mega projects above Rs. 4,000 crores of investment (800 million USD) can get 21 years of VAT refund up to 115% of the investment under the new Tamil Nadu integrated auto policy.[27] Even before SEZs became popular among policymakers the Tamil Nadu government had been offering multinationals to pay for their sales tax to the point of making the investments loss-making even in long-term as was the case with the Ford motors investment (Oman 2000).

A wide range of other state taxes will also be exempted according to the MoU including Works Contract Tax, Lease Tax and Entry Tax. There is also a capital subsidy for mega projects under the New Industrial Policy 2003 which was offered to Nokia since any investment of "Rs. 200 crores [42 million USD] and above would be eligible for a subsidy of Rs. 100 lakhs [210,000 USD] and exemption from electricity tax for the first five years of commercial production."[28] A closer look at the industrial policy itself gives scope for even further benefits to Nokia since "location in a Government promoted Industrial Park will entitle new units to 150% of the […] standard capital subsidy" (Government of Tamil Nadu 2003:6). The Nokia SEZ is located on land belonging to the state government owned SIPCOT Sriperumbudur Industrial Park.

Additional benefits through government neglect: No duty paid on phones sold domestically

Another remarkable feature of the Nokia SEZ incentives package, highlighted by the Comptroller Auditor General's (CAG) audit in 2008, is the lack of implementation even in those cases when there is a tax or duty which a company operating from a SEZ actually are supposed to pay. When most of Nokia's initial sales for 2005 and 2006 were not internationally but in the Indian market duty on imported items should have been charged according to customs regulations. This was pointed out in an audit report:

> *Audit scrutiny of records of Nokia India Pvt. Ltd., a unit in Madras SEZ, revealed that the unit cleared mobile phones with a value of Rs. 4,855.69 crore[29] in 2005-06 and 2006-07 in DTA at 'nil' rate of duty. Duty of Rs. 681.38 crore[30] (Rs. 86.76[31] crore in 2005-06 and Rs. 594.62[32] crore in 2006-07) foregone on the inputs used in the manufacture of these mobile phones could not be recovered in the absence of enabling provisions (CAG report 2008:109).*

Contradictory to this the development commissioner in charge of the Nokia SEZ stated that a smaller sum of Rs. 208 crore (43.8 million USD) in "customs and other duties" had been paid by Nokia including Nokia-Siemens Networks from 2005 to December 2008.[33] It is allowed to sell from SEZs to the Indian market but this has to be done by paying customs duty equivalent to import.[34] The law says duty should

24 The Financial Express, (7 Apr 2005), *Chennai to host Nokia plant* http://www.financialexpress.com/news/chennai-to-host-nokia-plant/129642/0 (Accessed 1/6 2009)
25 CNBC-TV18 Moneycontrol, (7 Dec 2007), *Nokia India to invest $75 mn to expand Chennai plant*, http://www.moneycontrol.com/india/news/business/nokia-india-to-invest-75-mn-to-expand-chennai-plant/17/15/316244, (Accessed 1/6 2009)
26 Tamil Nadu Government order No. 176, 3 July 2007, http://www.tnvat.gov.in/English/GOsNotification/GO176_030707.pdf).
27 The Hindu Business Line, Mar 08 2007, *New mega integrated auto policy in TN*, http://www.thehindubusinessline.com/2007/03/08/stories/2007030803192100.htm
28 p.12 of the Schedule of MoU 6th April 2005.
29 1.02 billion USD
30 143 million USD
31 18.2 million USD
32 124.8 million USD
33 Right to information response from the MEPZ development commissioner dated 2/2/ 2009.
34 http://taxonline.net.in/STPI%20and%20SEZ/chap009.htm

be recovered but the hands of customs officers have been tied when the rules have not been framed for how the payback should be done (Upadhyaya 2008). Nokia is but one of many cases across the country where duty could not be collected. A total of Rs. 1,724 crore (346 million USD) had not been possible to collect from 370 SEZ companies assessed in the same CAG report. Is the government not interested in recovering the money?

Extending the benefits to the other companies in the Nokia SEZ and beyond

The Nokia SEZ is mainly an assembly unit of earlier manufactured components from abroad, most likely mainly from China. Its consent of operations detail that it is approved for manufacture from base PCB level, which means pre-manufactured, imported components will be mounted on boards, assembled in cases, tested and packaged in the plant. This high-tech, but also polluting, part of manufacturing does not take place in India.[35] Already from the start Nokia's intention was to have a number of its closest suppliers operating within the SEZ. The MoU it signed with the Tamil Nadu government contained a clause to extend its benefits to suppliers as long as they invested at least Rs. 300 crore (60 million USD) within three years of the Nokia investment.[36] Perlos, Aspocomp, Salcomp (all Finnish companies), Laird (United States), Jabil (United States), Foxconn (Taiwan), and Wintek (Taiwan). These companies provide various parts for the phones like chargers, plastic and metal parts for mobile phones, antennas, PCB's, LCD screens and keymats. They are all operating within the SEZ and are covered by the same general incentives under the SEZ act but also presumably the additional incentives described above including VAT payback and a curbed labour force.[37] As already mentioned above the SEZ developer benefits were provided to all the SEZ units via the registered society "the Nokia Telecom SEZ society".

The follow on effect of other mobile phone and electronics industry in Tamil Nadu is claimed as another proof of its claimed success but MoUs examined indicate these have also received similar concessions costing the state government significant amounts. Sony-Ericsson mobile phones are now manufactured by Flextronics in the SIPCOT SEZ, and Motorola has its own SEZ operations in the same area of Sriperumbudur. Nokia-Siemens Networks is also operating from the SIPCOT SEZ.

Private infrastructure development via public expenditure

SEZs are supposed to be vehicles for creating so called world class infrastructure in enclosed areas which will enable companies to compete in the world market. As we have already seen it is the Tamil Nadu government which is paying for Nokia's plant investments through the offer to reimburse VAT to the value of investments. But before this can happen land needs to be acquired and basic infrastructure developed. Nokia does not pay for these either, or when the company does pay, as in the case of land, it is a heavily subsidised price.

Land for the SEZ was allotted to Nokia from SIPCOT Industrial Park,[38] Phase III, plot A1 at Sriperumbudur on the outskirts of Chennai. This land had earlier been acquired through a government order in February 1997.[39] In the first MoU signed in April 2005 Nokia was supposed to pay Rs. 8 lakh (16,800 USD) per acre as a lease charge on 99 year leasehold tenure. Somehow the sum got renegotiated down to Rs. 4.5 lakh (9,400 USD) per acre in the second MoU of July 2005 for a total of Rs. 94,891,500 (1.99 million USD) for 210.87 acres (85 hectares) of land.[40] A report from the Comptroller Auditor General specified

35 Note to consider the grant of approval to Nokia as a unit in the SIPCOT industrial complex, 12/8 2005; Minutes of the Nodal Officer's Screening Committee Meeting 20/5 2005

36 Page 12 of MoU 6th April 2005

37 This point has not been possible to prove yet in the individual cases as the MoUs are not available.

38 The SIPCOT Industrial Park at Sriperumbudur, Kancheepuram District is over a total extent of 2,469 acres. In Phase-I, Saint Gobain set up a float glass project on 181.51 acres of land. Later, companies like Asian Paints, Carborandum Universal, Praxair, etc. also setup units in this park. In Phase-II, electronic hardware manufacturers like Flextronics, Foxconn and Motorola established their units. In Phase-III, Nokia has established its SEZ (SIPCOT Annual Report 2006-07).

39 Deed of Lease entered into on 19 July 2005 between Nokia and SIPCOT

40 How either of these prices were arrived at is not known since the price mentioned on SIPCOT's website is at present Rs. 60 lakh (126,000 USD) per acre and must have been significantly higher than Rs. 8 lakh (16,800 USD) in 2005. SIPCOT Sriperumbudur, http://www.sipcot.com/Industrial_complex_sriper.htm (Accessed 21 Apr 2009)

how the actual acquisition cost for the government had been between Rs. 4 and Rs. 14 lakh (8,400 to 29,400 USD) per acre plus an additional 30% to the previous land owners who went to court for better compensation. This resulted in a loss of Rs. 7.4 crore (1.5 million USD) for SIPCOT. The same report also stated how the lease of land to the Flextronics SEZ resulted in a loss to the state government of Rs. 12.50 crore (2.6 million USD) (Comptroller Auditor General of India, 2007).

Apart from the lower land price, the second MoU also removed the need for Nokia to pay stamp duty on the land which was earlier set to 4% of land value or Rs. 38 lakh (79,800 USD). Written by hand in the lease deed is the added statement regarding the lease rent for Nokia:

> *The Lessee shall have to pay the annual lease rent of Rs. one per year for 98 years and Rs. 2 for the 99th years and the same has been paid in advance in consideration of occasion of the lease deed (Page 4 of lease deed).*

The land for Nokia was thus heavily subsidised but the company is nevertheless free to make a profit by subletting the land and charging a higher price if it so desires:

> *Nokia shall have the right to assign its leasehold rights to the allotted […] with the prior consent of the SIPCOT, which consent shall not be unreasonably withheld. Upon such assignment, Nokia shall be entitled to the entire consideration paid by third party to whom the assignment is contemplated save and except 50% of the difference of between SIPCOT's prevailing allotment rate (in respect of the allotted land) and the value paid by Nokia as consideration for grant of the land, as on the date of such assignment.*[41]

At the time when Nokia got control over the 210 acres of land for its SEZ, public money had also been invested by SIPCOT to develop certain infrastructure at the industrial park even though this land was termed as "undeveloped land". A water supply pipeline had been laid, electrical lines had been drawn but had to be redrawn to suit the requirements of the SEZ, and roads had been built to the site.[42] The costs of these activities are not known but these findings point to how the SEZ policy which was meant to lead to private infrastructure investment in this case has only lead to public investment. The only part actually paid for by the company seems to be the operating costs.

Generating employment or providing a low cost, "disciplined" labour force?

The politically sensitive issue of reduced labour rights has been completely left out of the national SEZ Act for the states to implement. The two main issues for industrialists have been the right to hire and fire labour at will and reducing the right of the workforce to strike. Across India the first issue has generally been settled by allowing contract labour to work in the SEZs, while the second can be done by including all sorts of manufacturing and IT operations under "public utility"[43] and thereby preventing, or making it extremely tedious and difficult for workers to go on strike.

Employment generation is supposed to be one of the main benefits of the Nokia SEZ. Frequent news articles have over the years given new figures on the increasing number of people employed and the projections for the future. Nokia initially promised a relatively modest number of employees, 1,200, but later scaled this up as the production increased to at present about 8,000 including those employed by contracting agencies. Out of this workforce, 70% are reported to be women hired between age 19 and 22.[44] The SEZ may have grown beyond expectations in terms of employment creation from what was expected but a few thousand workers remain quite insignificant even if one looks at only the city of Chennai with a population of almost 10 million people. The success of Nokia seems rather to have been its ability in sales where a limited number of workers can produce a large number of phones. In 2007-08 the company reported that it only employed

41 Annexure to July MoU

42 Lease deed between SIPCOT and Nokia 19th July 2005.

43 A public utility was originally meant to be public services like water or transportation which are too important for its employees to be allowed to go on strike since it would affect the general public in very immediate and negative ways. As governments have become more and more pro-business all sorts of activities including mobile phone manufacturing has been designated a public utility.

44 2008. "Nokia to double its workforce at SEZ." Business Standard, May 13 http://www.business-standard.com/india/news/nokia-to-double-its-workforce-at-sez/37393/on (Accessed May 22, 2009).
2008. "Dream Factories." India Today, June 10 http://www.intoday.in/index.php?id=2534&option=com_content&task=view&sectionid=7&secid=37 (Accessed May 22, 2009).

4,548 people when sales had increased to Rs. 3,578 crore (751 million USD).[45]

When the number of people employed by Nokia is found to be relatively limited, the quality of these jobs including working conditions and salary become extra important to actually be able to say whether successful employment generation has taken place. But information on actual working conditions is very limited due to the nature of the zone as a sealed off entity, limiting this discussion mainly to what the contents of the MoUs and Tamil Nadu state laws say.

The Contract labour (Regulation and Abolition) Act, 1970 is a central government act originally put in place to limit the use of contract labour in manufacturing. The Tamil Nadu government has weakened its provisions in favour of companies[46] on a number of occasions but to date contract labour remains banned in manufacturing.[47] Contract labour has been found to be prevalent according to official documents, in all non-manufacturing forms of work in the Nokia SEZ, with 2,893 contract labourers hired on 30/7/ 2008 according to an inspection report from the Inspectorate of Factories. Thus, in the Nokia SEZ, it seems like staff has come to be contract labour whenever possible including warehouse staff, security personnel, drivers, cleaners etc. Interesting to note is also how many of the contract labour suppliers are themselves multinationals (See Table 1 below).[48] Similarly, not much official information is available of the number of contract workers hired by the Nokia vendors located inside the Nokia Telecom SEZ. But local labour groups have reported presence of contract workers, mostly women, in manufacturing units of Nokia vendors like Salcomp.[49]

Once you have contract labour in your plant strikes become almost impossible since any contract worker can be immediately fired. But for workers who are regular employees the possibility of strikes has been a cause for concern for investors and governments. In some states all SEZs have been declared as public utilities by the state governments, e.g. Andhra Pradesh, Madhya Pradesh, Maharashtra, West Bengal, Karnataka and Uttar Pradesh.[50]

In Tamil Nadu, the SEZ policy 2003 stated that "labour laws / rules will be examined and steps taken to simplify the same." Further it promised that "all industrial units in the SEZs will be declared as 'Public Utility Service' under the provisions of the Industrial Disputes Act, 1947." But once the final SEZ act was passed in 2005 these clauses had been removed.[51] Instead the clause has been hidden from public view in the special agreements signed with companies. For Nokia it is in the MoU dated 6 April 2005 in the "Infrastructure Support" section under the heading "Labour", where it is promised that

> *"[t]he State shall declare the SEZ Site to be a 'Public Utility' to curb labour indiscipline."*[52]

The text does not offer any explanation on why there is a need to "curb labour", or what

Table 1: Multinational contract labour suppliers to Nokia

Labour 'supplier'	Number of employees	Type of operations
Adecco[1] Flexi One Workforce Solutions Ltd.	250	Warehouse operators
Sodexho Pass Services (India) Private Limited	125	Catering
Group 4 Securicor under the name "G4S Security Services (India) Private Limited"	175	Security
UPS Supply Chain Solutions under the name "UPS SCS India Private Limited"	100	Warehouse Management
Maclellan under the name "Maclellan Integrated Services India Private Limited"	110	Facilities Management

Source: Inspection note of the department of Inspectorate of Factories, Tamil Nadu government, dated 30/7/2008

1 *Adecco's slogan is "Better life - Better work". It certainly does not seem to point to any better life for the people they have employed.*

45 According to TN government Labour department's "Labour Inspection report form 2A".

46 IT companies are allowed to use self-certification to declare they do not use contract labour putting the actual implementation of the act in serious doubt. (Tamil Nadu Labour & Employment Department, GO No. 1138 dated 30/8 2004)

47 World Bank (2004) comments on contract labour in Tamil Nadu as follows: "The State government has abolished contract labour in categories of employment where the nature of work is necessary or incidental for the carrying on of the establishment, perennial in nature, ordinarily done through regular workmen, and it is sufficient to employ whole time workmen. Furthermore, the abolition of contract labor gives an employee the right to be regularized in service. Thus contract labor cannot be used for process, operations and work that is of perennial nature to an establishment, which includes actual production of the factory's outputs. Whether non-core activities such as packaging, cleaning or catering may be 'perennial' is open to legal interpretation." The extent of implementation of these Contract Labour regulations is not known.

48 Department of Inspectorate of Factories, Registration certificate regarding contract labour 30-07-08

49 Interview trade union representative Chennai

50 http://taxonline.net.in/STPI%20and%20SEZ/chap001.htm

51 Tamil Nadu SEZ Special Provision Act 2005

52 p.10 of MoU signed April 6 2 005

the actual meaning of public utility is. These are presumably considered as understood by the signatories of the agreement.[53]

Another labour 'incentive' is the

> *[d]elegation of all powers under the industrial and labour regulations to Development Commissioner*

This firmly puts labour issues in the hands of the person in charge of promoting business and must be seen as another pro-company clause. In the case of the Nokia SEZ the Development Commissioner works in the older Madras Special Economic Zone in Chennai but has jurisdiction also over the other SEZs in the city.

The conclusion is that the labour force in the Nokia SEZ is as controlled by frequent use of contract labour and the imposition of public utility status as in any of the more overtly anti-labour states where the legislation was added to state SEZ acts.

The final examined aspect of employment is if this multinational at least provides a decent salary. For this we do not have any government records and will have to rely on Nokia's own statement on the salary its employees receive (the estimate is however in line with what other independent sources claim is the salary for Nokia workers). As a multinational profit-maker for decades and global mobile phone sales leader, the company pays its Chennai workers barely more than the minimum wage according to its own statement (See below).

Box 1: Nokia statement on the salary received by its employees.

Employees are paid well above the minimum wage at the Chenna i factory. Salaries vary from Rs 5400* [115 USD] for experienced operators, around 70% higher than the minimum wage, to around Rs 3400 [72 USD] for apprentices - more than three times the suggested apprentice minimum wage.

Employees are also eligible for Production Incentive, which is paid every quarter and short term bonus which is paid half yearly.

In addition to salaries and additional performance related pay, a number of other benefits are provided to employees including…

- free transportation up to 60 KMs from the factory
- Women employees are transported to their home doors when working during late evening hours
- Canteen food is subsidised at 80% of the actual cost.
- All operators and trainee operators are covered under the Employees State Insurance (ESI). ESI Hospitals look after all medical needs of the operators free of cost if the employee is covered under ESI. In line with the regulations for this scheme Nokia contributes 4.75% of the wages paid and employees contribute 1.75% of their wages.

** Assumed to be monthly wage in Indian rupees. Source: Official Nokia communication (undated), thanks to Mirjam Leuze for sharing this. Newspaper articles also support this wage. See for example: "Nokia to double its workforce at SEZ." Business Standard, May 13 2008. "Dream Factories." India Today, June 10 2008.*

The minimum wage for the electronics industry in Tamil Nadu is Rs. 108 per day which on a monthly basis of 25 working days becomes Rs. 2,700 (54 USD).[54] This wage is about the same as what any person doing manual labour would earn and not at all related to the better opportunities a multinational company should be able to offer. Nor can this wage be said to be related to the needs of a person living in a city like Chennai where costs of rent and food has been escalating rapidly in recent years. As a point of reference Nokia paid on average 44,624 Euro, or Rs. 2.9 million, in wages and salaries per employee during 2008.[55] This average salary works out to about 45 times what the workers in Chennai receive. Even adjusted to the different purchasing power of India compared to Finland the global average employee has a salary more than 10 times[56] than that of the Chennai workers indicating that there is an enormous gap between the different employees of the global Nokia family.

The conclusion on employment is that the number of people employed in the Nokia SEZ

53 The Industrial Disputes act briefly states that workers at a public utility will first have to give notice of the intention to strike several weeks in advance. Once this has been done attempts will be made to reach conciliation between workers and management under government mediation. During the time of conciliation and 1 week after no strikes will be allowed under severe punishment.

54 http://www.paycheck.in/main/officialminimumwages/tamil-nadu

55 Numbers taken from the Nokia Annual Accounts 2008. Based on 5,615 million Euro spent on wages and salaries in 2008 and 125,829 people employed by the Nokia Group at the end of 2008. http://media.corporate-ir.net/media_files/irol/10/107224/reports/Nokia_in_2008.pdf

56 India PPP dollar rate was 14.67 in 2005 when the real exchange rate was 44.10. For Finland the corresponding rates were 0.98 PPP with real exchange rate being 0.80. This gives a PPP-adjusted Nokia Chennai wage of 4,417 USD per year and an average Nokia global wage of 45,535 USD per year. The global wage is 10.3 times higher. Certainly there will be differences in skills and productivity between different employees at the company but the difference would have been even greater if Nokia's contributions to pension funds and social security internationally had also been included. Another interesting point is that Nokia internationally has Finland as its main base with 23,320 employees in 2008, but second came India with 15,562 employees followed by 14,505 in China. World Bank (2008) *2005 International Comparison Program Global Results: Summary Table,* http://siteresources.worldbank.org/ICPINT/Resources/icp-final-tables.pdf (Accessed 30/5 2009)

is not significant enough to really claim this is a success. And the poor salary and reduced labour rights decidedly goes in favour of the company rather than the workers. The public pays again and this time with cheap labour for Nokia's mobile phones.

A case of domestic export?

The common story is how Nokia is one of the SEZ export successes with plenty of media coverage claiming that "the Sriperumbudur facility of Nokia is [...] a major export centre. It exports about 50 per cent of its production to about 60 countries in South East Asia, West Asia, Australia and New Zealand while the rest of the production is sold in India."[57] But from the use of VAT reimbursement and the loss on account of a failure to impose duty on domestic sales we already know that Nokia sells a large share of its phones within India. Is it possible to sell in the domestic market and still be an export success?

Though export promotion remains a stated goal of SEZs actual export targets have been removed. What remains is the calculation of Net Foreign Exchange (NFE). The NFE needs to be positive for a SEZ unit after five years of operations in order for it to continue receiving central government benefits under the SEZ Act. NFE is essentially the value of export minus cost of import including payments in foreign currency. But export can be both physical export and certain sales within India.

We asked the Development Commissioner in charge of the Nokia SEZ in a RTI application if it was true that Nokia sold some of its goods within India and whether this still counted towards the company's export earnings.[58] The response was brief but distinct saying "Yes. As per SEZ SEZ Rule 53(A)-l, supply of such items in DTA is to be counted towards exports."[59] This sub-rule allows "Supply of Information Technology Agreement items and notified zero duty telecom or electronic items, namely, Color Display Tubes for monitors and Deflection components for colour monitors or any other items as may be notified by the Central Government" to be counted as foreign exchange earners. This seems to mean that with the inclusion of telecom items in foreign exchange earnings, Nokia can sell its products anywhere, in India and abroad, and still count as a Net Foreign Exchange earner. With this kind of exemption in place for mobile phones the question instead becomes how Nokia can be anything but 100% foreign exchange earner if sales domestically as well as real export outside of the physical borders of India count?

The CAG (2008) reported that out of a total export of Rs. 7,149 crore (1.5 billion USD) made by 22 examined SEZ units the actual export content was only Rs. 1,999 crore (419.6 million USD), or 28 per cent of the total. But the Ministry of Commerce shows major increases between 25 and 50% growth per year.[60] The most current data from the ministry claims a 418% export growth from 2003-04 to Dec 2008.[61] The difference lies in how the SEZ policy meant to promote export and earn foreign exchange did not set requirements for actual physical export (Upadhyaya 2008). This has allowed 'deemed exports' which are in effect sales within India to still count as export. The Comptroller Auditor has already realised that there is no restriction on 'deemed exports' being counted as actual exports. In one survey it was found that 22 SEZ units had achieved the required positive foreign exchange demand with actual export earnings only at 28 per cent and the remaining 72 per cent coming from domestic sales. The conclusion is that "SEZ units had been achieving the prescribed (positive) NFE [Note: foreign exchange earning] mainly through domestic sales defeating one of the sub-objectives of the scheme, which was to augment exports" (CAG 2008:105).

The total value of 'export' by the Nokia Telecom SEZ since 2005 is Rs. 30,598 crore (6.42 billion USD) with goods sold within India given as Rs. 16,485 crore (3.46 billion USD).[62] We have not been able to clarify what is the actual physical export and what is just deemed export. Nobody seems to have the data on actual export achievements and yet the message is broadcasted

57 G Balachandar, (8 March 2009) *Nokia to strengthen vendor base, tap rural India*, Global Supply Chain Council, http://www.supply-chain.cn/en/art/2766/
58 Letters sent 2/2 and 24/2 2009
59 Letter from the Development Commissioner dated 2/2/2009
60 The only data available on the website is for 2006-07 and older. Department of Commerce Annual Report 2007, http://commerce.nic.in/publications/anualreport_chapter7.asp
61 Department of Commerce Press Release, (3 Feb 2008), http://commerce.nic.in/pressrelease/pressrelease_detail.asp?id=2377
62 Letter from the Development Commissioner dated 2/2/2009

in media that Nokia is a great export success. To put these figures in perspective data available on the Ministry of Commerce's Export-Import data bank website[63] show that Indian exports of mobile phones jumped more than three times to the previous year in 2006-07 to Rs. 386 crore (77 million USD) or 1.3 million phones. But during the same year, 2006-07, India imported 47 million phones to a value of Rs. 14,181 crore (2.84 billion dollars).[64]

Summing up the price paid by the public

The public costs for the Nokia SEZ are of two kinds; the first is the direct expenditure by the Tamil Nadu government when among other things creating infrastructure and reimbursing Nokia's VAT payments; the second is the loss of income if normal taxes would have applied. Of the known direct costs for the public the VAT reimbursements dominate. Together with the subsidised land the Tamil Nadu government has paid Rs. 1020.4 crore (216 million USD) (See Box 2). Indications are that the loss of revenue is much bigger than the direct costs, see Box 3 for some estimates.

Box 3: Indirect costs from tax and other incentives.

Loss of revenue
The loss of revenue for tax and custom incentives are larger than the direct payments but also more speculative since it could be argued that the company would not have established the plant had it not been for the tax breaks it received.

Income tax and other waived central and state taxes
Enough detail is not available to calculate tax losses but a very rough estimate is attempted here. If even for example 20% of turnover was taxed then more than Rs 2,000 crore would have been added to government funds (based on the assumption of a Nokia turnover of Rs 3,578 crore (751 million USD) crore per year for the last three years). Similarly the entire Nokia Telecom SEZ including all the companies of the zone has had "export"[b] of Rs 30,598.5[c] crore since 2005. A 20% tax on this turnover would result in more than Rs 6,000 crore (1.26 billion USD) for government budgets.

Customs
Rs 681.38 crore (143 million USD) foregone on domestic sales by Nokia in two years, 2005-06 and 2006-07. Not known for 2007-08 and 2008-09 but likely to be larger given the increased production. At the same time it was reported that Nokia (including Nokia-Siemens Networks) had paid a smaller sum of custom and duties of Rs 207.97 crore[d] (43.7 million USD).

b) As with Nokia it is not known what sales are made internationally compared to domestically for the other companies in the Telecom SEZ.
c) & d) Right to information response from the MEPZ development commissioner dated 2/2/ 2009.

Box 2: Direct costs for the public.

Costs for the public

VAT
If VAT has been reimbursed fully to the value of investments:[a]

Rs 300 crore (75 million USD in 2005) reimbursed for the first investment

additional investment of 75 million USD in 2008 (Rs 338 crore)

Land

Rs 7.4 crore (1.5 million USD) loss for the land for SIPCOT

Wages

The company's workers are paid very low salaries which could be seen as another subsidy to the company. There is however no 'fair wage' which could be used to calculate this wage subsidy.

Infrastructure, power and water

Costs not known*

Total

The total public cost becomes Rs 645.4 crore (138 million USD).

a) Information is not available on the extent of fixed investment compared to other forms for the purpose of reimbursement.

** Refer Box 4*

63 http://commerce.nic.in/eidb/default.asp
64 Ministry of Commerce, Export-Import Data Bank Commodity Wise Data, Code: 85252017 – Cellular Telephones, http://commerce.nic.in/eidb/default.asp, (Accessed 24 April 2009)

Box 4: On a platter - incentives to Nokia at whose cost?

In its bid to attract Nokia, Tamil Nadu government offered the company various incentives. While one does not disagree that for any industrial activity basic facilities like power, water, roads etc are essential, the question remains why should State make pubic expenditure to provide such facilities to mobile giants like Nokia, and what does it gain or how does it benefit the people on whose behalf such MoUs are signed and expenditures made?

A few incentives provided to Nokia in the April 2005 MoU that stand out are:

Power:
"uninterrupted power supply and the state agrees to exempt Nokia from power cuts, peak load restrictions, power holidays and similar restrictions."

"In case the power requirement reach 50 MVA, the state, through TNEB, proposes to build a 230 KVA substation at its own cost. The land for the same would also be provided by the state and such land shall not in any manner, encroach on the SEZ Site."

"Nokia shall have the liberty to unrestricted generation, transmission and distribution of capitive power within the SEZ, without having to pay any electricity duty or cess…."

"The State shall grant permission to Nokia for setting up of a 5 MVA capitive power plant for SEZ site…"; "Nokia will be free to fix the tariff for consumers…."; The State will by way of a grant subsidise 50% of the capital cost incurred in the setting up of such captive power plant for the entire SEZ site."

Road connectivity and Public transport:
The State government had agreed to construct roads connecting National Highway 4 to Nokia SEZ site at its own cost. It also agreed to "provide adequate public transport from the neighbouring towns/cities to and from the SEZ site." Including rerouting of the "existing public transport…."

Conclusion

This report has attempted to take the Nokia SEZ to account on the criteria most often cited to prove it is a success. It is already well-known through many critiques of the SEZ Act that the extensive tax incentives prevent any direct share of the profits at least in the short term. In the case of the Nokia SEZ we find that this argument is strengthened in the light of the additional tax benefits given by the state government, especially the VAT reimbursement.

To reiterate, the main objectives of SEZs according to the national SEZ Act are to (i) generate additional economic activity, (ii) promote exports of goods and services, (iii) promote investment from domestic and foreign sources, (iv) create employment opportunities and (v) develop infrastructure facilities.[65] Our findings show that the Nokia zone like other SEZs are mainly for the Indian market taking away the argument of export promotion, and there are even openings in existing laws which allow domestic sales of mobile phones to count towards export (objective ii). The Nokia SEZ and other electronics manufacturing has lead to investments in Chennai to set up the plants (objective iii). But every rupee invested in fixed assets by Nokia is paid back by the Tamil Nadu government via its offer to reimburse VAT leaving only the operational costs to be covered by the company. In effect the government is paying for the company's infrastructure investment and we have every reason to believe this type of agreement is standard for Tamil Nadu (to achieve objective ii the state government paid for objective v). The poor pay of the workers and removed labour protection laws make the employment creation argument very weak. And the right of Nokia to "curb labour indiscipline" is outright offensive and not suitable for a democratic country (objective iv).

In sum, for the benefits given to Nokia, very little reciprocity exist in benefits for India. We can only congratulate Nokia on getting an amazing host of concessions and freebies to enter what is now the world's fastest growing market for mobile phones. Its profitability is certain to be significant although actual data on the mobile phone business in India are not available. But to think that the success of a private company based in Finland has anything to do with the development of India seems very far fetched. Put in a different way, of what use is increased economic activity (objective i), if the benefits of this activity only goes to one company?

After this list of failures for the Nokia SEZ 'success case' to live up to even the objectives set out any future potential public benefits seem very far-fetched. The only possibility seems to be at least 10 years into the future if the public investment and the removed workers' rights outlined in this report, pays off and results in long-term and much improved employment opportunities, as well as a chance for the state itself to recover its expenditures. At the moment we simply do not know what will happen in about 10 years time when the SEZ incentives start to expire. One possibility is that the companies will get extensions on their tax breaks and other benefits similarly to what IT companies in Software Technology Parks were receiving for many years. Another possibility is for the companies to take their machinery and move to some new country/region which offers similar or even greater concessions, again similar to IT companies moving from STPI incentives to even greater SEZ ones. The third option is for the Indian governments at the centre and the states to jointly refuse to give more incentives to the companies and force them to share their wealth with the greater society and especially those employed. Whether this last option will work out is at present a very uncertain gamble especially given the history of extended incentives for IT companies. For now we will have to remain unimpressed by the supposed success of the Nokia SEZ specifically, and the idea of Special Economic Zones. The public price of the SEZ success is much too high.

65 As listed in the SEZ Act 2005.

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