

**Reforming Supply of Industrial Land in India:  
Policy Note**

*FINAL REPORT*

PREPARED UNDER WORLD BANK TECHNICAL ASSISTANCE TO  
DEPARTMENT OF INDUSTRIAL POLICY AND PROMOTION, GOVERNMENT OF INDIA

June 2010

## **ACKNOWLEDGEMENTS**

This study was prepared as part of a non-lending technical assistance initiative for private sector development at the request of the Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industry, Government of India for assistance from the World Bank following the launch of the report “India’s Investment Climate: Voices of Indian Business” (2009) which identified access to land as one of the key investment climate constraints in India. The World Bank Group team guiding this work comprised John F. Speakman, Dhruva Purkayastha and Suhail Kassim.

Sri Kumar Tadimalla, Paramita Dasgupta and Jayanta Roy provided highly valued inputs into the initial Terms of Reference and the study launch. Andrew Stone (MNSFP), John Page (DECVP) and Xiaolun Sun (CICIG) provided helpful peer review comments on the final draft. Deloitte & Touche Consulting India Private Limited was selected to carry out this study, based on Terms of Reference developed jointly by the World Bank and DIPP. During the preparation of this study, several missions comprising World Bank staff and the consultants visited the sample States of West Bengal, Andhra Pradesh, Gujarat and Haryana and held discussions with various stakeholders in these States. The study was funded by the World Bank’s South Asia Finance and Private Sector Development Unit.

We would like to express our thanks to all the participating State Governments and other stakeholders for their cooperation and support.

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## **Reforming Supply of Industrial Land in India: Policy Note**

1. *This note summarizes the key findings of the attached consultant report.* India is still primarily a rural, agrarian economy in which land use and land rights are an emotional issue. Prior to 1990 the presumption was that only residual land (non agricultural) would be made available for industrial use and because the state was the principal industrial investor the state would acquire any land needed. After 1990 the expectation was that private investors would act to acquire industrial land but a set of policy and institutional problems have left both investors and landholders unhappy and have impeded industrial development. These constraints are made more complex because the federal system allocates some public actions and regulatory functions to the central government and some to the states. This report documents the nature of the policy and institutional constraints to industrial land acquisition by the private sector and recommends policy changes to address them

2. *Land acquisition for and by the private sector industry has historically been associated with problems in India.* The debate on whether the Government should exercise its powers to acquire land for the private sector continues. This is in spite of the Government's attempt to legitimize the practice of acquiring land on behalf of a company deemed to be engaged in any industry or work for a public purpose through an amendment to the central Land Acquisition Act in 1962. In recent years, the intensity of protests from "project affected persons" (PAPs) has been on the rise and there have been several instances where industrial projects have been hampered, and in certain cases cancelled, through inordinate delays. In addition, there is pending bill on amendment to Land Acquisition Act, which in effect restricts the ability of the Government to acquire land for private sector industry. Against this backdrop, the study was initiated to identify the key issues related to acquisition, purchase and availability of industrial land in India. The broad objectives were to:

- Identify issues related to availability of land for industry and those pertaining to purchase of land by private sector and/or purchase/acquisition of land by Government for private sector industrial investments
- Examine the related constraints that impede the functioning of an effective land market in the country and recommend possible solutions to address such constraints
- Suggest alternatives for making suitable land available to private sector industrial investors with necessary social and environmental safeguards.

To achieve the objectives of the study mentioned above, detailed secondary analysis backed up by primary interactions in four sample States of Andhra Pradesh, Gujarat, Haryana and West Bengal were

carried out. The four States were chosen for this study largely from the perception they carry on their ability to provide land for industry. While Gujarat and Andhra Pradesh are considered to be successful, Haryana has been somewhat successful while West Bengal has not been successful. Collectively the States represent multifaceted issues with regards to availability and supply of land which mirror most issues that are prevalent across the country. The key deterrents identified through analysis and interactions, along with some of the innovative practices being employed in the sample States, have been highlighted in this note.<sup>1</sup>

3. *The Government's past efforts to address land supply have created a political economy which is not supportive of state interventions.* The historical context is as follows:

- i. 1947 – 1990: Post independence in 1947, the mainstay of the Indian economy was agriculture. However, during the 1950s, the Government adopted the policy to promote heavy industrialization primarily under the aegis of the public sector. It was at this time that the process of large scale land acquisition using the Land Acquisition Act (LAA) 1894 was initiated for development purposes like creation of dams, power plants, steel and engineering plants. Land was acquired both from rich landlords and small farmers, often for a token compensation so as to make public sector ventures financially viable. While the Government did not face too much resistance from the landlords, small farmers and landowners were dissatisfied about the price they were paid, and they resisted. The Government was often forced to use the principle of eminent domain for such land acquisitions. This led to a long-standing uneasy relationship between Government and small landowners on the issue of land acquisition using the central Land Acquisition Act. It is important to note that during the first few decades after independence, land acquired by the State was not always for the public sector. A landmark judgment passed by the Supreme Court in 1962 prompted the Government to amend the central Land Acquisition Act (Land Acquisition (Amendment) Act, 1962) to state that land could be acquired on behalf industry or for a public purpose.<sup>2</sup> Although the Government was successful in retaining its authority to acquire land for private sector via this amendment, it did raise questions on the desirability of State intervention for land acquisition. In the run up to the 1990s, these largely unanswered questions resulted in many instances of protests from project affected persons (PAPs) who had to part with their

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<sup>1</sup> This study does not investigate the construction sector including property developers, residential and commercial developments. Special Economic Zones (SEZs) have also been excluded from the purview of the current study. This was beyond the scope of the terms of reference requested by the Government. The construction sector and SEZs could be the subject of follow-on research.

<sup>2</sup> G.S. Kainth (2009), 'Special Economic Zones: A Grey Area of Land Acquisition', 11 January, available at <http://www.coolavenues.com/know/gm/gursharan-wconomic-1.php>

land and felt that the acquisition process had jeopardized their livelihoods. In some cases, the opposition from PAPs even led to cancellation of projects.<sup>3</sup>

- ii. 1990 – Present: Since the abolition of the licensing system in the 1990s, States also started to compete with each other to attract investments from the private sector. Availability and supply of land was perceived to be a key enabler to attract private sector investment, and States started to exercise their eminent domain powers to acquire land from private parties. The exercise carried out by the States did not receive a favorable response from sections of the general public and led to unrest and protests in many States like West Bengal, Orissa, Maharashtra and Haryana. At about the same time, the Government too tried to address the unanswered questions surrounding the land acquisition process through the Land Acquisition (Amendment) Bill, 2007. The Bill, which is awaiting approval of the Parliament, attempts to redefine ‘public purpose’ in a more specific manner with regards to land acquisition for private sector and this may constrain the supply of industrial land even further.

4. ***Problematic land acquisition for industry can lead to significant loss of investment and job creation.*** The World Bank report “India’s Investment Climate: Voices of Indian Business” (2009) reveals that access to land is a problem across states and sectors, including for organized and unorganized manufacturing firms. Up to 20% of surveyed retail firms rated access to land as a major or severe obstacle, making this the fourth ranked investment climate constraint among 18 parameters. Also, 40% of retail firms that tried to acquire land or buildings in the year prior to the survey, failed to do so; the majority attributed this failure to the impossibility of obtaining land in the desired zone, while other stated reasons included the Government’s unwillingness to sell land, and an excessively long time to obtain required zoning approvals. The survey also found that, because of the lengthy and complex land transfer process, informal payments to get transactions completed were considerable, estimated at 8% of total costs. A survey from Karnataka estimates that the computerization of land records saved Rs 800 million in bribes and Rs 66 million in waiting time. Problematic land acquisition has potential downstream implications on land registration as well: India takes 44 days to register property and ranks 93 among 183 economies in the “Doing Business 2010” report.

5. ***Why cannot industrial investors buy the land they need when and where they want it?*** There are structural barriers to efficient private markets (fragmentation, price discovery, the hold out problem); and policy and regulatory barriers (land use restrictions, ceilings, high transactions costs). Specifically,

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<sup>3</sup> Examples include National Hydro Electric Power Corporation’s project in Bihar (Koel Karo) in 1981 and Bharat Aluminium Company’s (BALCO) project in Orissa.

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the reasons why land availability is a problem includes: (i) mismatch between demand and supply, (ii) fragmented land holdings, (iii) regulatory and policy restrictions, (iv) dysfunctional pricing regime and (v) weak informational and institutional mechanisms. This is elaborated in greater detail below:

- i. Mismatch between demand and supply: The supply of land is limited by its nature: for India as a whole, the proportion of land that is suitable for industry (i.e. classified under the categories ‘not available for cultivation’ or ‘fallow lands’) to the total reported area of land is around 23%. Further, the land made available for industry by the government is often outside urban areas, while industrialists typically want land in urban or peri-urban settings. Land located in urban areas is also often constrained by existing regulations like pollution control requirements which prohibit setting up of projects in specific industry sectors, and expanding cities do not allow for land to be earmarked for industrial use.
- ii. Fragmented land holdings: Land use patterns and fragmentation of holdings is a key issue. The proportion of land that is available for industry (i.e. not suitable for cultivation) is around 23% in the country. The problem of low availability of land suitable for industry is accentuated by the ever increasing pressure on land due to increase in population. A case in point is West Bengal which has high population density (903 per sq.km, which is 3 times higher than the national average as per the 2001 census) and has only 20% land suitable for industrial use if one considers non-agricultural land. Many States in India are also severely disadvantaged due to the small land holding patterns (65% and 95% of all private land is in the form of marginal and small holdings in Haryana and West Bengal respectively) which often emerge as a key deterrent in purchasing contiguous land for industrial projects.
- iii. Regulatory and policy restrictions: The existing regulatory and policy regime governing land acquisition and purchase in the country has led to coordination failures and needs to be reviewed. India lacks an independent regulatory body that can prescribe a uniform valuation methodology for land. Restrictions such as conversion of land from agricultural to non-agricultural use, land ceiling norms, and high transaction costs in the form of stamp duties pose a challenge to the functioning of an efficient land market. An analysis of existing practices in the sample States reveal some interesting policy level changes. For example, Andhra Pradesh has promulgated the Agricultural Land Act (conversion for non-agricultural purposes) in 2006 to facilitate the process of enacting a change in the end use for land. Gujarat, on the other hand, has tried to promote the concept of incentive zoning via the Special Investment Region Act. The Act attempts to scientifically develop investment regions to cater to future demands from industry and puts in place an institutional mechanism to remove silos between the stakeholders within the Government.

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- iv. Dysfunctional pricing regime: There is no standardization with regard to valuation methodology for land. Market prices are distorted for various reasons such as stamp duties, lack of clear land titles, and improper payments involved in land transactions. The absence of such a methodology and a lack of functioning markets have resulted in two unhappy sets of stakeholders. Land owners feel aggrieved as they feel that they are not adequately compensated while private investors, especially the small and medium ones, struggle to buy land at prices beyond what their businesses can sustain. Gujarat is attempting a novel approach of employing ‘Jantri Rates’ model that, unlike conventional techniques, values land according to its end use. It functions on the premise that a parcel of land will be used for a specific purpose as determined by predefined parameters like zoning suitability.
  - v. Weak informational and institutional mechanisms: One of the key issues that impact the functioning of an efficient land market pertains to lack of information sharing practices and weak institutional mechanisms. Currently there is no provision which allows the private investor to access ready information on availability of land that could be utilized for industrial purposes. Weak institutional mechanisms exist in the country largely due to the silos and lack of integration between the Government bodies that handle land records. There have been some initiatives to mitigate the institutional bottlenecks in the sample States. For example, Gujarat and Haryana have put together committees to decide Government intervention in land acquisition. For valuation of Government land, Gujarat has two committees, one at the State level and the other at the district level.
6. *In view of the above issues, the private sector prefers to acquire land through an increasingly reluctant Government.* In India, the prevalent modes for acquiring land for the private investor are essentially limited to three options. The private promoter may either acquire land by:
- i. Option 1: *Exercising the market route i.e. directly negotiating with the land owners*: This option refers to the market route where the concept of ‘willing-seller – willing-buyer’ ensures that the transaction is voluntary and there are little or no chances of dissatisfaction among the land owners. Despite this, Option 1 has not proven to be the preferred option for private sector investors for three reasons: (i) fragmented holdings makes it logistically difficult and could lead to hold-out problems, (ii) unclear titles which could result in litigation, and (iii) informal payments which often need to be made, and which influence the cost of the land.
  - ii. Option 2: *Requesting the Government to allot land in industrial estates*: This option is increasingly being exercised by small and medium scale investors, for whom the requirement

for land ranges between 10 – 100 acres (0.04 – 0.4 sq.km). For investors requiring large parcels of land, the choice is often between Options 1 and 3.

- iii. **Option 3: Leveraging Government's eminent domain powers under the Land Acquisition Act to acquire land from its citizens on behalf of the investor:** This option essentially implies that the state is acquiring land (“compulsory takings”) for a specific private investor, and the land so obtained is free from all encumbrances and is ready for industrial use. The third option continues to remain the most preferred for large industries, while SMEs usually seek land in industrial estates, largely due to the apprehensions of the private sector with regard to issues like hold-out problems, unclear titles and subsequent litigations, and the absence of a framework for private purchase of land which ensures transparency in land availability and pricing. It however needs to be noted that, in view of various disputes on land prices, compensation and resettlement, States are increasingly becoming averse to adopting this route. Findings from discussion with select State Governments reveal that, while States have started to appreciate the need to develop land banks, there is currently no overarching strategy to develop the same. Andhra Pradesh and Gujarat have made some progress though by identifying land that is available and acquiring them for future use by industry through some innovative approaches. For example, Andhra Pradesh has initiated the ‘Bhu-Bharati’ program to guarantee land titles, while Gujarat is attempting to map all available land parcels for industry via the State Wide Atlas initiative and make this information public.

7. *Economically successful States in India tend to have been better at solving these problems.*

Several such examples have been provided in the text above. Some of the States surveyed are making attempts to resolve issues such as reduction of stamp duties, rationalization/abolishing of land ceiling acts, addressing the rights of land users other than land owners, improving valuation methodologies, making information available on supply of land, and reducing the use of Land Acquisition Act to those cases which have very specific reasons.

8. *Nevertheless these efforts are sub-optimal and point to the need for specific policy reforms to resolve this market failure.*

Owing to the increasing realization of the issues and subsequent measures employed by Governments, both at the State and Central levels, it is envisaged that the efficacy of private land markets will improve in the future. However, this is expected to be a gradual process and the dependence of industry on Government for industrial land is likely to continue in the foreseeable future. Against this backdrop, the recommendations have been classified into three categories:

- i. Streamlining relevant policy and institutional mechanisms within Government

- ii. Facilitating development of industrial land markets
- iii. Creating land banks for industrial use

The interventions listed in the first category could possibly be considered for implementation in the near term, whereas the timeframe for the second and third category is likely to be longer.

9. *The detailed proposed recommendations and next steps are as follows:*

**i. Streamlining relevant policy and institutional mechanisms within Government**

a. Policy interventions - LA Act

The definition of “public purpose” under The Land Acquisition (Amendment) Bill, 2007, as it stands currently, limits its applicability to situations “*where the land has already been purchased to the extent of seventy per cent but the remaining thirty per cent is yet to be acquired.*” Given the problems associated with private purchase like fragmented land holdings, inadequate information on land availability and pricing, hold out related issues etc., documented experience suggests that it may be difficult for most projects to undertake private purchases of land, especially for projects which have large land requirements, thereby preventing the Government from stepping in to acquire land.

It is therefore proposed that the definition of “public purpose” in the LA (Amendment) Bill, 2007, be modified in a manner so as to enable Government intervention in acquiring land for industry (mainly for setting up an industrial park and in some specific cases for stand-alone industrial projects) in cases where necessary approvals have been obtained through an appropriate institutional framework like an Empowered Committee of the State or Central Government duly constituted for this purpose.

To address the sensitive issue of compensation being paid for the land to be acquired, it is proposed that the LA Act incorporate the high level principles to be followed for valuing the land. This, it may be noted is in line with the proposal made in the LA (Amendment) Bill, 2007, as part of which a new section 11(B) has been incorporated which specifies the different benchmark values to be considered for determining the compensation to be paid for the land being acquired in different situations. The said section also specifically mentions that the proposed end use of land being acquired, which is usually the single

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largest factor and which contributes to the appreciation of land value and consequent mismatch of expectations, should also be considered as part of the valuation process.

b. Policy and institutional interventions at the State Government level

Based on the findings, the recommended policy and institutional interventions at the State level include:

1. Defining, through appropriate legislation, the underlying principles for Government role in acquiring land for industrial projects in terms of a) type and location of eligible project(s), b) threshold land requirements, c) any pre-requisites like minimum employment generation and investment requirements, d) ownership requirements, together with the underlying institutional mechanisms and processes for approval and monitoring. The proposed legislation would need alignment with relevant State level policies for development of industrial areas / parks, special investment regions etc.
2. Streamlining and simplifying existing State-level legislations like the Land Reforms Act, Town and Country Planning Act, Land Ceiling Act, Tenancy and Agricultural Lands Laws Act, which impact the sale and use of agricultural land for non-agricultural purposes. Given the fact that multiple departments currently govern and administer these legislations, it is proposed that a committee with representation from key departments like land revenue, urban development, agriculture etc is formed to conduct a onetime exercise of identifying opportunities for streamlining State level legislations. The committee could then meet on a periodic basis to review the impact of such streamlining and ascertain whether further changes are required.  
In addition to combining individual legislations wherever possible to arrive at an agreed minimum set of legislations, it is recommended that specific restrictive provisions like a) prohibition of sale of ceiling surplus agricultural land, b) redistributed land where the sharecropper voluntarily surrenders his rights and c) urban land ceiling be removed to facilitate development of efficient land markets.
3. Notifying (in the form of State specific rules for corresponding Acts) and putting in place appropriate institutional mechanisms and processes within Government for a) approval of acquisition of land under LA Act, b) monitoring the process of acquisition of land including determining the compensation to be paid and c)

conversion of end use post acquisition. The institutional framework should ensure i) participation of all relevant departments and functions within Government and ii) having representation at the State headquarters as well as lower levels of administration as required. The proposed framework should also specify the minimum pre-requisites and boundary conditions for decision making in terms of eligibility criteria, documentation requirements and time lines. Individual States may also explore the requirement for a specific legislation for conversion of end use of agricultural land.

4. Enacting appropriate legislation for spatial planning, land acquisition, development and management of industrial parks / clusters, as required. Such legislations can be used to facilitate development of industrial zones in a planned and focused manner by nominating nodal agencies for planning, development and management, thereby removing institutional silos within Government.
5. Bringing in legislation for guaranteeing land titles as this would be a key enabler for development of private land markets. While some States have already taken the initial steps in this regard, there are a number of essential pre-requisites which need to be addressed prior to implementation like undertaking physical surveys of land, creation and maintaining title records, electronic registration of transactions and updating of land records etc.

It should be noted that the interventions proposed in (1), (2) and (3) above rank relatively higher in order of priority and it is recommended that they are considered for implementation over the near term.

## **ii. Facilitating development of industrial land markets**

The proposed interventions under this category include:

1. Implementing initiatives for digitization of maps and land records including capture of relevant spatial and other data like relative location, size, end use, ownership etc. Development of an online geographic information system enabled database for listing the available land parcels for different types of end use across the State.
2. Adopting well established methodologies / frameworks to arrive at benchmark land prices for different regions as well as specific localities within these regions. The

methodologies/frameworks are expected to make information on land prices available transparently. This should promote the practice of current market transactions being used to determine the price rather than the practice of regulating prices.

3. Aligning stamp duties on land transactions with normative levels in line with market practices.

Since the interventions outlined in (1) and (2) above are likely to be time consuming, it is proposed that the process be prioritized for specific regions identified for development of industrial clusters. These should in fact constitute a part of the overall strategy for developing land banks which would need to address issues related to development of supporting infrastructure and utilities.

### **iii. Creating land banks for industrial use**

The Government has land at its disposal which could be used for industry.<sup>4</sup> However, the country currently lacks a well laid out long-term strategy that could be leveraged to develop industrial land banks at the State level.

It is thus recommended that detailed guidelines for creating industrial land banks be formulated at the Central Government level which is then disseminated to the States. [Annex 1](#) shows the key components that may be considered for inclusion in the guidelines.

The strategy should also include a provision to use land locked up in closed and sick industries. This recommendation is being made in light of the Companies Bill, 2009, which proposes to expedite the winding-up process by making critical activities time-bound.

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<sup>4</sup> This land could be substantial in area terms. For example, Gujarat, as per estimates of the Industrial Extension Bureau, has legacy land of 360 mn sq m. Further, Gujarat Industrial Development Corporation (GIDC) has purchased and/or acquired another 299 mn sq m. So far, GIDC has developed 180 industrial estates on the land available with it. It proposes to acquire another 500 mn sq m in the future to accommodate an additional 60 industrial estates. Gujarat has ambitious plans to assemble around 1600 mn sq m of land in the form of industrial estates and Special Investment Regions by the year 2020.

The land banks could be created to cater primarily to demands for land from private investors needing standalone large tracts of land to promote large industrial projects. The demands from small and medium enterprises typically having land requirements of less than 100 acres (0.4 mn sq m) could largely be met through plots available within industrial parks and estates.

## Annex 1: Recommended Guidelines for creating Industrial Land Banks

Component	To-Do Item
Governance	<ul style="list-style-type: none"> <li>• Develop an institutional framework to designate responsibility to a particular official for oversight of the land bank</li> </ul>
Identification of land	<ul style="list-style-type: none"> <li>• Develop an inventory of land that could be put into industrial use</li> <li>• Land selected for inclusion into the industrial land bank should be a function of market need. Basic criteria for determining the same needs to be framed and could include parameters like:               <ul style="list-style-type: none"> <li>○ Nature of land</li> <li>○ Contiguity</li> <li>○ Available infrastructure in the vicinity</li> <li>○ Land locked in sick units without productive use</li> </ul> </li> </ul>
Acquisition and/or purchase of land	<ul style="list-style-type: none"> <li>• Develop criteria (keeping in mind the strategic vision to promote industrialization) to define parameters for selecting land for acquisition and/or purchase</li> </ul>
Management of land parcels	<ul style="list-style-type: none"> <li>• Develop a profiled grouping of land available. The categories could be:               <ul style="list-style-type: none"> <li>○ Agricultural land</li> <li>○ Waste and fallow<sup>5</sup> land</li> <li>○ Forest</li> <li>○ Environmentally sensitive land (forests)</li> </ul> </li> <li>• Make information related to the categories available in the public domain</li> </ul>
Disbursal of land from the land bank	<ul style="list-style-type: none"> <li>• Establish terms and conditions for transfers of land</li> <li>• Establish priorities in line with existing economic development policy</li> </ul>
Funding	<ul style="list-style-type: none"> <li>• Formulate a budget to identify operational costs as well as capital costs and revenues</li> </ul>

<sup>5</sup> Fallow land is typically characterized by inactivity; such land is mostly left unseeded during growing season.