

TO BE PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY (PART-I, SECTION-1)

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF COMMERCE

PUBLIC NOTICE No.01(RE-2013)/ 2009-2014

NEW DELHI, DATED THE 18th April, 2013

In exercise of powers conferred under Paragraph 2.4 of the Foreign Trade Policy, 2009-14, the Director General of Foreign Trade hereby notifies Chapter 5 of the Handbook of Procedures (Volume I). This shall come into force from 18th April, 2013.

The text of Chapter 5 pertaining to Export Promotion Capital Goods (EPCG) Scheme of Handbook of Procedure (Volume I) is annexed (13 pages).

Effect of this Public Notice: The revised edition of Chapter 5 pertaining to Export Promotion Capital Goods (EPCG) Scheme of the Hand Book of Procedure (Volume I) after harmonizing the two variants of the existing scheme shall replace the existing Procedure with immediate effect.

(Anup K. Pujari)
Director General of Foreign Trade
E-mail: dgft@nic.in

(Issued from F. No. 18/03/AM-14/P-5)

Annexure

CHAPTER 5

EXPORT PROMOTION CAPITAL GOODS (EPCG) SCHEME

- 5.1 Policy** Policy relating to Zero Duty EPCG Scheme is given in Chapter 5 of FTP.
- 5.2** An application for grant of an authorization should be made to

Application Form	RA concerned in ANF 5A along with documents prescribed therein.
5.2A EPCG Authorization for Annual Requirement	<p>The Authorization for Annual Requirement will be issued subject to the following conditions in addition to other terms and conditions governing the EPCG scheme:-</p> <p>(a) Authorizations shall be issued with a specific duty saved amount and corresponding export obligation. The applicant would be required to indicate export products proposed to be exported under the authorization.</p> <p>(b) The authorization holder shall also be required to submit a Nexus Certificate from an independent Chartered Engineer (CEC) in Appendix 32A, to the Customs authorities at the time of clearance of imported capital goods. A copy of the CEC shall be submitted to the concerned Regional Authority alongwith copy of the bill of entry, within 30 days from the date of import of the Capital Goods.</p>
5.3 Nexus Certification	<p>(a) RA concerned shall, on the basis of nexus certificate from an Independent Chartered Engineer (CEC) submitted by the applicant in Appendix 32A, issue EPCG authorization. Reasonable wastage, if any, anticipated at the time of installation of capital goods will also be certified by the Chartered Engineer in the nexus certificate and the same would be mentioned in the condition sheet of the EPCG authorization at the time of issue.</p> <p>(b) RA shall thereafter forward a copy of the EPCG authorization to the concerned Jurisdictional Central Excise Authority. The wastage so permitted at the time of issuance of authorization would be allowed to be sold on payment of applicable duty on sale of scrap/ waste.</p>

5.3.1

(a) Authorization holder shall produce to the concerned RA a certificate from the Jurisdictional Central Excise Authority, confirming installation of Capital Goods at factory/ premises of authorization holder or his supporting manufacturer(s) /vendor(s) within six months from date of completion of import.

(b) In the case of import of spares, the installation certificate shall be submitted by the Authorization holder within a period of three years from the date of import.

(c) However, in case of units not registered with Central Excise Authorities, the Authorization holder shall produce to the concerned RA, a certificate from an independent Chartered Engineer confirming the said installation of Capital goods/spares.

5.3.2

EPCG authorization shall be issued with a single port of registration mentioned in paragraph 4.19 of HBP Vol. I for imports. However, exports can be made from any port specified in paragraph 4.19.

5.3.3

(a) An applicant may also apply for import of spares, tools, spare refractories and catalyst as are required for installation and maintenance of Capital Goods. Application shall contain list of plant/ machinery installed in factory/ premises of applicant for which spares, tools, spare refractories and catalyst are required, duly certified by Chartered Engineer or Jurisdictional Central Excise Authorities. In such cases EPCG authorization shall not specify list of spares but shall indicate:

(i) Name of plant /machinery for which spares are required.

(ii) Value of duty saved allowed under the authorization.

(iii) Description of product to be exported with value of

export obligation as per FTP.

(b) Further, at time of final redemption of export obligation, authorization holder shall submit certificate from Independent Chartered Engineer confirming use of spares, tools, spare refractories and catalyst so imported in the installed capital goods on the basis of stock & consumption register maintained by authorization holder.

(c) Separate Authorisation shall be issued in case application is filed under Para 5.2A of FTP.

5.4 EPCG Scheme for conversion of EOU/Relocated SEZ Units to DTA Unit An EOU/ a relocated SEZ unit, while converting to a DTA Unit, may apply for an EPCG authorization in ANF alongwith documents prescribed therein. 'No Objection Certificate' should be produced from concerned Development Commissioner.

5.5 Indigenous Sourcing of Capital Goods (a) EPCG authorization holder intending to source capital goods indigenously shall request to RA for invalidating EPCG authorization for direct import / Issuance of ARO.
(b) This request can be made either alongwith application or after issuance of EPCG authorization.

(c) Applicant shall give the name and address of the source person of the capital goods.

5.5.1 RA concerned will issue such invalidation letter/ARO, in duplicate.

5.5.2 Indigenous manufacturer intending to supply capital goods to EPCG authorization holder may apply to RA in ANF for

issuance of Advance authorization for import of inputs including components required for manufacture of capital goods to be supplied to EPCG authorization holder.

**5.6
Sourcing of
domestic Capital
Goods on lease
basis**

An EPCG authorization holder may, source capital goods from a domestic leasing company. In such cases, the Bill of Entry of imported capital goods or commercial invoice of indigenous capital goods, shall be signed jointly by EPCG authorization holder and leasing company. However, EPCG authorization holder shall alone be fully responsible for fulfilment of export obligation.

**5.7
Conditions for
fulfilment of
Export
Obligation**

In addition to conditions mentioned in paragraph 5.5 of FTP, following conditions shall also be applicable for fulfilment of export obligation:

5.7.1

(a) EPCG authorization holder shall export either directly or through third party(ies). If a merchant exporter is EPCG authorization holder, name of supporting manufacturer shall also be indicated on shipping bills.

(b) At the time of export, EPCG authorization number and date shall be endorsed on shipping bills which are proposed to be presented towards discharge of export obligation.

5.7.2

Export proceeds shall be realized in freely convertible currency except for deemed exports. Exports to SEZ units /Supplies to developers/ Co-developers, irrespective of currency of realization would also be counted for discharge of Export Obligation.

5.7.3

Supplies made to Oil and Gas sector also may be counted towards discharge of export obligation against an EPCG authorization provided it has been issued on or before 31.03.2000 and no benefit under paragraph 5.5 of FTP has

31.03.2000 and no benefit under paragraph 8.3 of FTP has been claimed on such supplies.

- 5.7.4** While calculating Average Export Obligation, following types of exports even if made in the preceding 3 years will not be taken into account:
- (i) Exports to such country as may have been notified by DGFT for this purpose from time to time;
 - (ii) Exports being counted for fulfilling specific EO in respect of EPCG Authorizations within valid EO Period (whether original or extended).
- 5.7.5** Export under EPCG scheme shall also be entitled for benefits under Chapter 4 of FTP.
- 5.7.6** (a) In case of export of goods relating to:
- (i) Handicraft,
 - (ii) Handlooms,
 - (iii) Cottage & Tiny sector,
 - (iv) Agriculture,
 - (v) Aqua-culture (including Fisheries), Pisciculture,
 - (vi) Animal husbandry,
 - (vii) Floriculture & Horticulture,
 - (viii) Poultry

(viii) Jute, and

(ix) Viticulture,

(x) Sericulture,

(xi) Carpets,

(xii) Coir, and

(xiii) Jute

the EPCG authorization holders shall not be required to maintain average level of exports.

(b) However, this exemption from maintenance of average level of exports shall not be allowed for import of fishing trawlers, boats, ships and other similar items.

(c) Goods, excepting tools imported under EPCG scheme by sectors specified in sub-para (a) above, shall not be allowed to be transferred for a period of five years from date of imports even in cases where export obligation has been fulfilled. However, transfer of capital goods to group companies, within five years from the date of import would be permitted after fulfilment of EO, under intimation to RA and jurisdictional Central Excise Authority.

5.8

EO blocks

The Authorization holder under the EPCG scheme shall fulfill the export obligation over the specified period in the following proportions:

Period from the date of issue of Authorization	Minimum export obligation to be fulfilled
Block of 1 st to 4 th year	50%

Block of 5 th and 6 th year	50%
---	-----

- 5.8.1** However, the EO of a particular block of year may be set off by the excess exports made in the preceding block year. The Authorization holder would intimate the regional authority on the fulfilment of the export obligation, as well as average exports, within three months of completion of the block, by secured electronic filing using digital signatures.
- 5.8.2** Where EO of the first block is not fulfilled in terms of the above proportions, (except in such cases where the EO prescribed for first block is extended by the Regional Authority subject to payment of composition fee of 2% on duty saved amount equal to unfulfilled portion of EO), such Authorization holder shall, within 3 months from the expiry of the block, pay duties of customs (alongwith applicable interest as notified by DOR) proportionate to duty saved amount on unfulfilled EO.
- 5.8.3**
- (a) EPCG authorizations issued upto 31.03.2000 shall be governed by provisions laid down in paragraph 6.11 in HBP Vol.1 (RE-99). Notwithstanding the same in HBP Vol. 1 (RE-99), authorization holder shall not have to surrender special Import licence in case of value wise shortfall.
 - (b) Authorizations issued from 1st April, 2000 upto 31st March, 2002 shall be governed by provisions of Chapter 6 of HBP Vol. 1 (RE-01) as amended from time to time.
 - (c) Authorizations issued from 1st April, 2002 upto 31st August, 2004 shall be governed by provisions of para 5.8 of HBP Vol. 1 (RE-02) as amended from time to time.
 - (d) Authorizations issued from 1st September, 2004 upto

17th April, 2013 shall be governed by provisions of para 5.8 of HBP Vol. 1 (RE-12) as amended till 17.04.2013.

**5.9
Monitoring of
Export
Obligation**

Authorization holder shall submit to RA concerned by 30th April of every year, report on fulfilment of export obligation. RA concerned may issue partial EO fulfilment certificate, provided export performance is proportionately adequate to fulfilment of export obligation.

**5.10
Automatic
Reduction/
Enhancement
upto 10% of CIF
value and
prorata
Reduction/
Enhancement in
export
obligation**

(a) If authorization issued has actually been utilized for import of a value in excess, upto 10% of CIF value /duty saved amount of authorization, authorization shall be deemed to have been enhanced by that proportion. Customs shall automatically allow clearance of goods in excess, upto 10% of authorization value/duty saved amount, without endorsement by concerned RA.

(b) In such case, authorization holder shall furnish additional fee to cover excess imports effected, in terms of CIF value/duty saved amount, to RA concerned, within one month of excess imports taking place. Export obligation shall automatically stand enhanced proportionately.

(c) In case of utilization being more than 10%, concerned RA as per their financial powers, may endorse as per extant provisions. Authorization holder shall furnish additional BG/LUT to the customs authority.

5.10.1

Similarly, if EPCG authorization holder has utilized authorization less than the value earmarked in authorization,

his export obligation shall stand reduced on pro-rata basis with reference to actual utilization of authorization.

**5.11
Extension of
Export
Obligation
Period**

(a) In respect of EPCG authorizations (other than zero duty EPCG) issued upto 17.4.2013, concerned RA, may consider one or more requests for grant of extension in export obligation period, on payment of composition fee equal to 2% of proportionate duty saved amount on unfulfilled export obligation or an enhancement in export obligation imposed to the extent of 10% of total export obligation imposed under authorization, as the case may be, at the choice of exporter, for each year of extension sought. Such first extension in EO period can be for a maximum period of 2 years.

(b) Extension in EO period beyond two years' period available above, may be considered, for a further extension upto 2 years with a condition that 50% of duty payable in proportion to the unfulfilled export obligation is paid by authorization holder to Custom authorities before an endorsement of extension is made on EPCG authorization by RA concerned. In such cases, no composition fee is to be paid or additional EO is to be imposed as prescribed in the Para above. In case the firm is still not able to complete the export obligation, duty already deposited will be deducted from total duty plus interest to be paid for EO default.

(c) However, for zero duty EPCG Authorizations only one extension of 2 years in export obligation period may be considered by concerned RA, on payment of composition fee equal to 2% of proportionate duty saved amount on unfulfilled export obligation or an enhancement in export obligation imposed to the extent of 10% of total export obligation imposed under authorization, as the case may be, at the choice of the exporter.

(d) Request for extension in EO Period shall be made to RA within 30 days from the date of expiry of original EO Period.

(e) Extension in export obligation period shall also be subject to such terms and conditions as may be prescribed by competent authority.

- 5.11.1** (a) The firm /company, while applying for registration with BIFR/Rehabilitation Department of State Government, shall also intimate DGFT with regard to relief sought for EPCG authorization, if any within 30 days of receipt of application by agency concerned.
- (b) DGFT, thereafter, shall take up the matter with agency concerned to safeguard government interest on account of default in fulfilment of export obligation imposed on EPCG authorization obtained by such firm/companies.
- (c) DGFT may consider request for grant of extension in EOP upto 9 years, or as per rehabilitation package prepared by operating agency and approved by BIFR board/ state authority.
- 5.11.2** (a) To provide relief to exporters of those sectors where total exports in that sector/product group has declined by more than 5% as compared to the previous year, average export obligation for the year may be reduced proportionate to reduction in exports of that particular sector/product group during the relevant year as against the preceding year. However, in case export decline is continuous over consecutive years, the base year for calculation of eligibility and calculation of reduction in average export obligation will be taken as the year after which the exports have shown continuous decline.
- (b) The sectors /product groups for which this relaxation is to be allowed shall be conveyed by the DGFT to all the RAs within seven months of the end of the previous financial year, and the RAs shall re-fix the annual average EO for previous year accordingly, for exporters in that sector / product group.
- 5.11.3** Whenever a ban/restriction is imposed on export of any product, export obligation period in respect of EPCG
Automatic EO

extension in the event of ban on export product

authorizations already issued prior to imposition of ban on such export products, would stand automatically extended for a period equivalent to duration of such ban, without any composition fee and exporter would not be required to maintain average E.O. as well for the ban period.

**5.12
Export
Obligation
Shortfall**

RA concerned may condone shortfall upto 5% in export obligation (specific EO) arising out of duty saved amount.

**5.13
Redemption**

(a) Authorization holder shall furnish application in ANF 5B with documents prescribed therein as a proof of EO fulfilment.

(b) On being satisfied, RA concerned shall issue a certificate of discharge of export obligation to the EPCG authorization holder and forward a copy to customs authorities with whom BG/LUT has been executed.

(c) RA shall ensure disposal of such applications within 30 days. Shortcomings, if any, shall be pointed out in one go. All correspondence, thereafter, shall relate to these deficiencies only. Fresh correspondence, if necessary, shall be within 15 days. Once documents are complete, EO will be discharged within 30 days of receipt of complete documents /information.

(d) Process of issue of final discharge certificate/ rejection shall be completed within a period of 90 days from date of receipt of initial request. Applications that remain outstanding beyond a period of 90 days shall be reported to DGFT alongwith reasons thereof, immediately thereafter.

**5.14
Regularization
of Bonafide
Default**

In case, EPCG authorization holder fails to fulfil prescribed export obligation, he shall pay Customs Duty along with applicable interest as prescribed by Customs authority. Such

Default	facilities can also be availed by EPCG authorization holder to exit at his option. The authorization holder will have the option to furnish valid duty credit scrips, issued under Chapter 3 of FTP, for payment of the customs duty component.
5.15 Maintenance of Records	Every EPCG authorization holder shall maintain, for a period of 3 years from date of redemption, a true and proper account of exports/ supplies made and services rendered towards fulfilment of export obligation.
5.16 Re-Export of Capital Goods Imported under EPCG Scheme	Capital Goods imported under EPCG scheme, which are found defective or unfit for use, may be re-exported back to foreign supplier within three years from the date of payment of duty on importation thereof, with permission of RA /Customs Authority. Consequently, EO would be re-fixed.
5.16.1 Replacement of Capital Goods	Capital Goods imported and found defective or otherwise unfit for use may be exported, and Capital Goods in replacement thereof be imported under EPCG scheme. In such cases, while allowing export, the Customs shall credit the duty benefit availed which can be debited again at the time of import of such replaced Capital Goods.
5.17 Penal Action	In case of failure to fulfill export obligation or any other condition of authorization, authorization holder shall be liable for action under FT (D&R) Act, 1992, Orders and Rules made thereunder, provisions of FTP and Customs Act, 1962.
5.18 Clubbing of EPCG authorization	Clubbing of two or more EPCG authorizations issued w.e.f 18.04.2013 to the same authorization holder would be permitted.
5.18.1	An application for clubbing can be made to RA concerned in ANF5D. Clubbing shall not be permitted in case authorizations are issued by different RAs.
5.18.2	Total export obligation would be re-fixed taking into account

total of duty saved.

- 5.18.3** On Clubbing, authorizations for all purpose shall be deemed to be a single EPCG authorization. Export obligation period for clubbed authorization shall be reckoned from first authorization issue-date.
- 5.18.4** Average export obligation for clubbed authorizations would be highest of average export obligations endorsed on individual authorizations so clubbed.
- 5.18.5** No clubbing would be permitted after expiry of EOP.
- 5.18.6** The aforesaid provisions for Clubbing of EPCG Authorizations shall be applicable for authorizations issued on or after 18.04.2013. However, EPCG authorizations issued prior to 1.4.2007 shall be governed by provisions contained in Chapter 5 of HBP Vol.1 (RE-2006). The EPCG Authorizations issued between 01.04.2007 and 17.04.2013 shall be governed by provisions contained in Chapter 5 of HBP v1 (RE-2012).
- 5.19**
Technological Upgradation of Capital Goods
- 5.20**
Import of Refurbished / Reconditioned Spares and Tools
- (a) Import of refurbished / reconditioned spares must have a residual life not less than 80% of life of original spare, which would be certified by EPCG authorization holder.
- (b) The tools imported under EPCG Scheme may be transferred to any of units or group companies of applicant.
- 5.21** Revalidation of authorization issued under EPCG scheme shall not be allowed.
- 5.22** (a) Exporters can exercise this option by filing an

**Post Export
EPCG Duty
Credit Scrip(s)**

application in ANF5A with the concerned RA, selecting an option for this Scheme.

- (b) For importing Capital Goods, all applicable duties shall be paid in cash by the exporter.
- (c) RA shall issue an Authorization specifying
 - (i) "Not for imports" on the body of the Authorization;
 - (ii) Average EO, if any;
 - (iii) Specific EO @ 85% of the applicable specific EO, computed as if the imports were to take the benefit of duty exemption; and,
 - (iv) EOP, which shall commence from the Authorization issue date.
- (d) Exporter can file request, in ANF5B, for issuance of Duty Credit Scrip(s) in proportion to the EO completed within the specified EOP. Only for first such application proof of actual duty payments on Capital Goods (including proof of duty CENVATed or otherwise), nexus and installation certificate(s) of Capital Goods shall be submitted alongwith proof of fulfilment of EO. Subsequently, only proof of fulfilment of EO additionally completed vis-à-vis specific EO fixed (as in c(iii) above) may be submitted, unless there has been any changes in documents / proofs submitted earlier.
- (e) RA shall issue freely transferable duty credit scrip(s) equivalent to proportionate EO fulfilled.
- (f) The computation of freely transferable Duty Credit Scrip(s) will be based on basic customs duty amount paid.
- (g) Where the exporter has obtained EPCG authorisation under Para 5.22 (c) of HBP v1, declaring that he shall not avail CENVAT Credit, the Export Obligation

shall be fixed with reference to the basic customs duty paid. In such cases Duty Credit Scrip will be issued based on the certificate from Central Excise regarding non-availment of CENVAT credit. Such certificate from central excise regarding non-availing of CENVAT credit will not be required where the unit is not registered with central excise.

(h) All provisions of the existing EPCG Scheme shall apply insofar as they are not inconsistent with this scheme.

(i) The CG imported under para 5.11 of FTP shall not be disposed of till the date of last export for offsetting EO against such CG.

(j) In case of re-export of CG found defective or unfit for use as per the provisions of para 5.16 of HBPv1 if the exporter claims drawback on such re-export there would be no remission of duty under para 5.11 of FTP

**5.23
Green
Technology
Products**

(a) The Export Products covered under Para 5.10 of FTP are:

- (i) Equipment for Solar Energy decentralized and grid connected products,
- (ii) Bio-Mass Gassifier,
- (iii) Bio-Mass/Waste Boiler,
- (iv) Vapour Absorption Chillers,
- (v) Waste Heat Boiler,
- (vi) Waste Heat Recovery Units,
- (vii) Unfired Heat Recovery Steam Generators,
- (viii) Wind Turbine,
- (ix) Solar Collector and Parts thereof,
- (x) Water Treatment Plants,
- (xi) Wind Mill, Wind Mill Turbine / Engine,
- (xii) Other Generating Sets - Wind powered,
- (xiii) Electrically Operated Vehicles – Motor Cars,
- (xiv) Electrically Operated Vehicles - Lorries and Trucks,
- (xv) Electrically Operated Vehicles - Motor

- (xv) Electrically Operated vehicles – Motor Cycles/Mopeds, and
- (xvi) Solar Cells.

(b) Application shall be filed in ANF5A.
