

CHAPTER 5

EXPORT PROMOTION CAPITAL GOODS (EPCG) SCHEME

Policy	5.1	Policy relating to zero duty EPCG scheme and concessional 3% duty EPCG Scheme are given in Chapter 5 of FTP.
Exclusions under Zero Duty EPCG Scheme	5.1A	<p>Zero duty EPCG Scheme under para 5.1 of FTP shall not be available for import of capital goods relating to export of products covered under following chapters/headings of ITC(HS) classification:</p> <p>Chapters 1 to 24, 25 to 27, 31, 40, 43, 44, 45 , 47 to 49, 68 to 70, 71, 81 (metals in primary and intermediate forms only), 89, 93, 97, 98</p> <p>ITC(HS) 7201 to 7212, 7218 to 7220, 7224 to 7226, 7401 to 7406, 7501 to 7504, 7601 to 7603, 7801, 7802, 7901 to 7903, 8001, 8002 and 8401. However, zero duty EPCG Scheme will be available for handicraft exports under Chapters 5, 44, 68, 97.</p> <p>Imports under zero duty scheme shall also not be available for units who are currently availing any benefits under Technology Upgradation Fund Scheme (TUFS) administered by Ministry of Textiles, Government of India. Zero duty EPCG scheme shall also not be available to applicants, who avail in that year, the benefit of Status Holder Incentive Scheme under Paragraph 3.16 of FTP.</p> <p>All other provisions pertaining to the concessional 3% EPCG scheme under this Chapter, to the extent they are not inconsistent with the above provisions of zero duty EPCG scheme, shall be applicable to the zero duty scheme also.</p>
<i>Application Form</i>	5.2	An application for grant of an authorization may be made to RA concerned in ANF 5A along with documents prescribed therein.
	5.3	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. 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.

- 5.3.1 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.

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.

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 HBPv1 for imports. However, exports can be made from any port specified in paragraph 4.19.

- 5.3.3 (i) 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:-

- (a) Name of plant /machinery for which spares are required.
- (b) Value of duty saved allowed under the authorization.
- (c) Description of product to be exported with value of export obligation as per FTP.

		(ii) 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.
<i>EPCG Scheme to resultant DTA Unit from conversion of EOU/ Relocated SEZ Units</i>	5.4	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.
<i>Indigenous Sourcing of Capital goods</i>	5.5	EPCG authorization holder intending to source capital goods indigenously, either alongwith application or after issuance of EPCG authorization, shall request to RA for invalidation of EPCG authorization for direct import/ issue of ARO , alongwith name and address of 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.
<i>Leasing of Capital Goods</i>	5.6	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 fulfillment of export obligation.
<i>Conditions for fulfillment of Export Obligation</i>	5.7	In addition to conditions mentioned in paragraph 5.5 of FTP following conditions shall also be applicable for fulfillment of export obligation.
	5.7.1	EPCG authorization holder shall export either directly or through third party (s). If a merchant exporter is EPCG authorization holder, name of supporting manufacturer shall also be indicated on shipping bills. At the time of export, EPCG authorization No. 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 discharges of export obligation against an EPCG authorization provided it has been issued on or before 31.03.2000 and no benefit under paragraph 8.3.of FTP has been claimed on such supplies.
- 5.7.4 Exports made to former USSR, or to such countries as notified by DGFT, shall not be counted for fixing average level of exports.
- Additional Export Obligation (over and above indicated average) for all previous EPCG Licenses, which have not been redeemed, will be indicated separately. Exports made against EPCG authorizations, which have not been redeemed, shall not be added up for calculating the average export performance for the purpose of subsequent EPCG authorization.
- 5.7.5 Export under EPCG scheme shall also be entitled for benefits under Chapter 4 of FTP.
- 5.7.6 In case of export of goods relating to handicraft, handlooms, cottage, tiny sector, agriculture, aqua-culture (including fisheries), animal husbandry, floriculture, horticulture, pisciculture, viticulture, poultry and sericulture, the EPCG authorization holders shall not be required to maintain average level of exports. 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.
- Goods, excepting tools imported under EPCG scheme by such sectors, 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. Transfer of capital goods to group companies, within five years from the date of import would however be permitted after fulfillment of EO, under intimation to RA and jurisdictional Central Excise Authority.
- 5.8 The Authorization holder under the EPCG scheme shall fulfill the export obligation over the specified period in the following proportions:

For Zero Duty EPCG Scheme

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%

For concessional 3% duty EPCG Scheme

Period from the date of issue of Authorization	Minimum export obligation to be fulfilled
Block of 1 st to 6 th year	50%
Block of 7 th and 8 th year	50%

- 5.8.1 In respect of Authorizations, on which the value of duty saved is Rs.100 crore or more, the export obligation shall be fulfilled over a period of 12 years (not applicable to zero duty EPCG scheme) in the following proportion:-

Period from the date of issue of Authorization	Minimum export obligation to be fulfilled
Block of 1 st to 10 th year	50%
Block of 11 th and 12 th year	50%

- 5.8.2 However, the export obligation 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 fulfillment of the export obligation, as well as average exports, within three months of completion of the block, by secured electronic filing using digital signatures.
- 5.8.3 Where export obligation of any particular block of years is not fulfilled in terms of the above proportions, except in such cases where the export obligation prescribed for a particular block of years 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 of years, pay duties of customs (alongwith applicable interest as notified by DoR) of an amount equal to that proportion of the duty leviable

on the goods which bears the same proportion as the unfulfilled portion of the export obligation bears to the total export obligation.

5.8.4 EPCG authorizations issued upto 31.03.2000 shall be governed by provisions laid down in paragraph 6.11 in HBP v1 (RE-99). Notwithstanding the same in HBPv1 (RE-99), authorization holder shall not have to surrender special Import licence in case of value wise shortfall.

Authorizations issued from 1st April, 2000 upto 31st March, 2002 shall be governed by provisions of Chapter 6 of HBPv1 (RE-01) as amended from time to time.

Authorizations issued from 1st April, 2002 upto 31st August, 2004 shall be governed by provisions of para 5.8 of HBP v1 (RE-02) as amended from time to time.

***Monitoring of
Export Obligation***

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

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

5.10 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

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.

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 prorata basis with reference to actual utilization of authorization.

***Extension of Export
Obligation Period***

5.11 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.

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.

However for zero duty EPCG scheme only one extension of 2 years in export obligation period shall be available, subject to conditions mentioned above.

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

5.11.1 The firm /company, which is 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.

DGFT, thereafter, shall take up the matter with agency concerned to safeguard government interest on account of default in fulfillment of export obligation imposed on EPCG authorization obtained by such firm/companies.

DGFT may consider such application for grant of period of extension upto 12 years, or as per rehabilitation package prepared by operating agency and approved by BIFR board/ state authority.

5.11.2 To provide relief to exporters of those sectors where total exports in that sector/product group has declined by more than 5% 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.

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.

Automatic EO extension in the event of ban on export product 5.11.3

Whenever a ban/restriction is imposed on export of any product, export obligation period in respect of EPCG authorizations already issued prior to imposition of ban of such export products, would stand automatically extended for a period equivalent to the duration of ban, without any composition fee and exporter would not be required to maintain average E.O. as well for the ban period.

Export Obligation Shortfall 5.12

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

Redemption 5.13

As evidence of fulfillment of export obligation, authorization holder shall furnish application in ANF 5 B with documents prescribed therein.

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

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.

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.

<i>Regularization of Bonafide Default</i>	5.14	In case, EPCG authorization holder fails to fulfill prescribed export obligation, he shall pay duties of Customs plus interest as prescribed by Customs authority. Such 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 & DEPB, for payment of the customs duty component.
<i>Maintenance of Records</i>	5.15	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 fulfillment of export obligation.
<i>Re-Export of Capital Goods Imported under EPCG Scheme</i>	5.16	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 refixed.
<i>Replacement of Capital Goods</i>	5.16.1	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.
<i>Penal Action</i>	5.17	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 there under, provisions of FTP and Customs Act, 1962.
<i>Clubbing of EPCG authorization</i>	5.18	Clubbing of two or more EPCG authorizations of same authorization holder would be permitted.
	5.18.1	An application for clubbing can be made only to RA concerned in ANF 5D. Clubbing shall not be permitted in case authorizations are issued by different RAs.
	5.18.2	Total export obligation would be refixed taking into account total of duty saved or total of CIF value of imports.
	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. However, in cases where clubbed CIF /duty saved value exceeds Rs.100 crore, no corresponding benefit of increase in export obligation period shall be admissible.

	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 1.4.2007. However, EPCG authorizations issued prior to 1.4.2007 shall be governed by provisions contained in Chapter 5 of HBP v1 (RE-2006).
<i>Refixation of Export Obligation upon conversion from CIF based to duty based EO</i>	5.19	<p>(a) EPCG authorization holder can apply for refixation of export obligation as given in para 5.5 (i) of FTP in ANF 5C.</p> <p>(b) For all EPCG authorizations, authorization holder should have fulfilled mandated (original or amended) block wise export obligation, till previous block to application date. In all such cases, refixed export obligation would be computed as under:</p> <p style="padding-left: 40px;">(% export obligation unfulfilled) x (8) x (duty saved on authorization issue-date)</p> <p>(c) There would be no change in average export obligation fixed or export obligation period of original authorization.</p>
<i>Technological Upgradation of Capital Goods</i>	5.20	Application for technological upgradation of the capital goods would be made in ANF 5A.
<i>Import of Refurnished/ Reconditioned Spares and Tools</i>	5.21	<p>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.</p> <p>The tools imported under EPCG Scheme may be transferred to any of units or group companies of applicant.</p>
	5.22	Revalidation of authorizations issued under EPCG scheme shall not be allowed.