CHAPTER 5

Export Promotion Capital Goods (EPCG) Scheme

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5.01 Policy

Policy relating to EPCG Scheme is given in Chapter 5 of FTP

5.02 Application Form

An application for grant of an authorisation may be made by Registered Office or Head Office or a Branch Office or Manufacturing Unit of an eligible exporter to RA concerned in ANF 5A along with documents prescribed therein.

5.03 Nexus Certification

(a) RA concerned shall, on the basis of nexus certificate from an independent Chartered Engineer (CEC) submitted by the applicant in Appendix 5A, issue EPCG authorisation. For issuance of such certificate, the Chartered Engineer shall act only in the domain of his/her competence. In case of fabrication, reasonable wastage, if any, anticipated at the time of installation of capital goods shall be certified by the Chartered Engineer in the nexus certificate and the same would be mentioned in the condition sheet of the EPCG authorisation at the time of issue. The wastage so permitted at the time of issuance of authorisation would be allowed to be sold as scrap/waste on payment of applicable duty by the authorisation holder.

(b) An application for amendment in the list of import item(s) including addition(s)/deletion(s), if any, may be filed with RA concerned provided the authorisation is valid for import. The applicant would give justification for seeking such amendment(s) along with fresh nexus certificate from an independent Chartered Engineer.

(c) An application for amendment in the list of export item(s) including addition(s)/deletion(s) if any, may be filed with RA concerned provided the Export Obligation period of the authorisation is valid and the CG has nexus with export product. The applicant would give justification for seeking such amendment(s) along with fresh nexus certificate from an independent Chartered Engineer.

5.04 Certificate of Installation of Capital Goods

(a) Authorisation holder shall produce, within six months from date of completion of import, to the concerned RA, a certificate from the jurisdictional Customs authority or an independent Chartered Engineer, at

the option of the authorisation holder, confirming installation of capital goods at factory/premises of authorisation holder or his supporting manufacturer(s). The RA may allow one time extension of the said period for producing the certificate by a maximum period of 12 months with a composition fee of Rs. 5000/-. Where the authorisation holder opts for independent Chartered Engineer's certificate, he shall send a copy of the certificate to the jurisdictional Customs Authority for intimation/record. The authorisation holder shall be permitted to shift capital goods during the entire export obligation period to other units mentioned in the IEC and RCMC of the authorisation holder subject to production of fresh installation certificate to the RA concerned within six months of the shifting.

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

5.05 Port of Registration

EPCG Authorisation shall be issued with a single port of registration as per paragraph 4.35 of HBP, for imports. However, exports can be made from any port specified in paragraph 4.35 of HBP.

5.06 Import of spares, tools, refractories and catalysts

(a) Applications for procurement of capital goods covered under sub-paragraphs (a) (iii) and (iv) of paragraph 5.01 of FTP shall contain a list of plant/machinery installed in factory/premises of the applicant for which such capital goods are required, duly certified by independent Chartered Engineer or jurisdictional Customs Authorities.

(b) In case of import of spares, EPCG authorisation 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 authorisation.

(iii) Description of product to be exported and value of export obligation.

(c) Authorisation holder shall maintain a register of stock & utilisation of capital goods covered under sub-paragraphs (a)(iii) and (iv) of paragraph 5.01 of FTP imported under the scheme and at the time of application for EODC, authorisation holder shall submit certificate from independent Chartered Engineer confirming their use in the installed capital goods on the basis of such register.

5.07 Conversion of EOU/Relocated SEZ Units to DTA Unit under EPCG Scheme

(a) An EOU/a relocated SEZ unit, while converting to a DTA Unit, may apply for an EPCG authorisation along with documents prescribed. 'No Objection Certificate' should be produced from the concerned Development Commissioner.

(b) The export obligation period for a unit which converts from EOU/SEZ Scheme to EPCG Scheme would be the same as is available to a direct EPCG Authorisation holder as per paragraph 5.01 of FTP.

(c) If a standalone EOU / SEZ unit wishes to de-bond from EOU to EPCG Scheme, there shall be no requirement for maintenance of average export obligation and the unit shall be required to maintain only specific export obligation equivalent to six times of the proportionate duty saved amount of the depreciated value of capital goods for which the Authorisation has been obtained.

(d) In case one unit of a firm / company opts to de-bond from EOU to EPCG Scheme, while other unit(s) are DTA units, then the average export obligation in respect of the authorisations issued to the firm / company (other than de-bonding unit) shall remain unchanged and the average EO, after de-bonding of the unit, shall be fixed by excluding the exports made by the de-bonded unit from the total exports of the firm/ company, which runs concurrently for all the units of the firm/ company. In such a case, specific EO equivalent to six times of the proportionate duty saved amount on the depreciated value of the Capital Goods would be imposed on the de-bonding unit shifting to the EPCG Scheme.

5.08 Procurement from SEZ

(a) If the request is made along with the application for authorisation for procurement of new Capital goods from SEZs, the RA may issue a "Certificate of supplies from SEZ", containing the details for the requested items after making the import item "Invalid for direct imports". The "Certificate of supplies from SEZ" shall contain the following details:

(i) Name, Address and GSTIN of SEZ unit;

(ii) GSTIN & Address of recipient unit of EPCG authorisation holder where capital goods would be installed;

(iii) Name, description including specifications, where applicable, and quantity of items; and

(iv) Individual value of items to be procured.

(b) The said “Certificate of supplies from SEZ" shall be marked in quadruplicate with a copy each to the authorisation holder, SEZ supplier unit, designated officer at SEZ and the relevant port customs authorities. The above certificate shall be issued as an online amendment to the authorisation and has to be transmitted.

(c) In cases where the request for issue of "Certificate of supplies from SEZ" is made in due course, it shall be accompanied with an authorisation utilization status issued by the relevant Customs authorities mentioned on the authorisation for the RA to verify the actual utilization of authorisation at the time of application. The certificate may be issued to the extent of quantity available as per utilization status. In case the request for "Certificate of supplies from SEZ" is made along with the application for authorisation, the same procedure shall apply.

5.09 Sourcing of Capital Goods Manufactured Indigenously

(a) EPCG authorisation holder intending to source capital goods manufactured indigenously shall make a request to the RA for issuance of Invalidation Letter or Advance Release Order (ARO).

(b) Deemed export benefits as given in paragraph 7.03 of FTP shall be available.

(c) This request can be made either along with application or during the validity period of EPCG Authorisation.

(d) Applicant shall give the name and address of the manufacturer(s) of capital goods.

(e) RA concerned will issue the invalidation letter/ARO, in quadruplicate.

(f) Validity period of invalidation letter/ARO shall be co-terminous with the validity period of EPCG authorisation.

5.10 Conditions for fulfillment of Export Obligation

In addition to conditions in paragraph 5.04 of FTP, the following conditions shall also be applicable for fulfillment of export obligation:

(a) Name of the supporting manufacturer as well as the exporter shall be indicated on export documents.

(b) In case the Authorisation holder wants to export through a third party, export documents viz., shipping bills/Bill of exports etc. shall indicate name of both authorisation holder and supporting manufacturer, if any, along with EPCG authorisation number. Shipping bill/Bill of Export, GST invoice and e-BRC/ export realisation from RBI’s EDPMS should be in the name of third party exporter. The goods exported through third party should be manufactured by the EPCG authorisation holder or the supporting

manufacturer where the capital goods imported under the authorisation have been installed. The goods manufactured by the authorisation holder shall be exported as it is by the ultimate exporter (third party exporter) without further processing. Proceeds realised through normal banking channel from third party exporter's account to the authorisation holder's account on account of such exports shall only be counted towards fulfillment of export obligation.

(c) Disclaimer certificate from third party that they shall not use such proceeds towards EO fulfillment of any EPCG authorisation (s) obtained by them.

(d) The EPCG authorisation holder shall submit the following additional documents for discharge of EO through third party exporter(s):

(i) Proof of having dispatched the goods from authorisation holder's factory premises to the ultimate exporter/port of export viz.

(a) ARE 1 certificate issued by Central Excise/Tax invoice for export prescribed under the GST rules with due authentication by the Customs verifying the exports along with the shipping bill number, date and EPCG authorisation number, or

(b) Invoice duly incorporating the relevant EPCG authorisation number & date at the time of dispatch in case the unit is not registered with Central Excise/GST.

(ii) Lorry Receipt (LR) /Logistical evidence for transportation of goods from the premises of the authorisation holder to the third party exporter/Port of export.

(iii) An undertaking from the third party exporter on a stamp paper, declaring that the products exported for fulfillment of EO by them on behalf of the license holder as per details given in the statement of exports, were manufactured by the license holder.

(iv) Financial evidence for having received proceeds through normal banking channel from third party exporter's account to the authorisation holder's account on account of such exports towards such third party supplies.

(v) Disclaimer certificate from third party exporter that they shall not use such proceeds towards EO fulfillment of any EPCG authorisation(s) obtained by them.

5.11 Realization of Export proceeds

Export proceeds shall be realized in freely convertible currency or in Indian Rupees as per para 2.53 of FTP, except for Deemed Exports supplies under Chapter-7 of FTP. Exports to SEZ units/Supplies to developers/co-developers irrespective of currency of realization would also be counted for discharge of Export Obligation. Realization in case of supplies to SEZ units shall be from foreign currency account of the SEZ unit.

5.12 Calculation of Average Export Obligation

While calculating Average Export Obligation, exports counted/being counted for fulfilling specific EO against EPCG Authorisations within valid EO Period (whether original or extended) that have been made in the preceding 3 years will not be taken into account.

5.13 Block-wise Fulfillment of EO

(a) The Authorisation holder under the EPCG scheme shall, while maintaining the average export obligation, fulfill the specific export obligation over the prescribed block period in the following proportions:

Period from the date of issue of Authorisation	Minimum export obligation to be fulfilled
Block of 1st to 4th year	50%
Block of 5th and 6th year	Balance EO

(b) The Authorisation 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.

(c) Request for extension of Export Obligation period of first block shall be submitted within 6 months from the date of expiry of first block EO period along with composition fee of 2% on duty saved amount proportionate to unfulfilled portion of EO pertaining to the block. RA may consider the request for extension of block wise EO period, received after 6 months, but within 6 years from date of issue of authorisation, with a late fee of Rs. 10,000/- per authorisation. Application made beyond 6 years, for extension of block-wise EO period for regularization purpose, shall also be considered by RA concerned, with an additional late fee of Rs. 5,000/- for each year per authorisation. This late fee is in addition to the composition

fee that may be payable on account of shortfall in export obligation. Where EO of the first block is not fulfilled in terms of para (a) above, except in cases where the EO prescribed for first block is extended by the RA, the Authorisation holder shall, within 6 months from the expiry of the block, pay duties of customs (along with applicable interest as notified by DOR) proportionate to duty saved amount on total unfulfilled EO of the first block.

(d) (i) Authorisations issued from 1st April, 2002 upto 31st August, 2004 shall be governed by provisions of paragraph 5.8 of HBP Vol.1 (RE-02) as amended from time to time.

(ii) Authorisations issued from 1st September, 2004 upto 17th April, 2013 shall be governed by provisions of paragraph 5.8 of HBP Vol.1 (RE-12) as amended till 17.04.2013.

(iii) Authorisations issued from 18th April, 2013 till issue of Notification of FTP 2015-20 shall be governed by provisions of paragraph 5.8 of HBP Vol. 1 as amended vide PN No. 1 dated 18.04.2013.

(iv) Authorisations issued from 1st April, 2015 till 4th December, 2017 shall be governed by provisions of paragraph 5.14 of HBP as amended vide PN No. 1 dated 01.04.2015.

(v) Authorisations issued from 5th December, 2017 till 31st March 2023 shall be governed by provisions of paragraph 5.14 of HBP as amended vide PN No. 43 dated 05.12.2017.

5.14 Annual reporting of EO fulfilment

Authorisation holder shall submit to RA concerned by 30th June of every year, a report on fulfilment of export obligation through online. Such report shall contain a statement with details such as Shipping bill/GST invoice number, date of export/supply, description of product exported/supplied/service rendered and FOB/FOR value of export/supply for both specific as well as average export obligation. Any delay in filing such annual report shall be regularised on payment of a late fee of Rs. 5000/- per year for each authorisation.

5.15 Automatic Reduction/Enhancement upto 10% Duty saved amount and pro rata Reduction/Enhancement in export obligation

If authorisation issued has been utilized for import of goods:-

(a) In excess of duty saved amount indicated on the authorisation by not more than 10%, the authorisation shall be deemed to have been enhanced by

that proportion. Customs shall automatically allow clearance of such goods without endorsement by RA concerned. The authorisation holder shall furnish additional fee to cover excess imports effected, in terms of duty saved amount, to RA concerned, at the time of application for EODC. Export obligation shall automatically stand enhanced proportionately.

(b) In excess of duty saved amount indicated on the authorisation by more than 10%, the RA concerned, as per its delegated powers, may allow enhancement in duty saved amount of the EPCG authorisation. The Authorisation holder shall furnish additional BG/LUT to the Customs Authority.

(c) Less than the duty saved amount indicated on the authorisation, the export obligation shall stand reduced on pro-rata basis with reference to actual utilization of the authorisation.

5.16 Extension in Export Obligation Period

(a) Extension in Export Obligation Period of EPCG authorisation issued prior to Notification of Foreign Trade Policy 2023 shall be governed by relevant provisions of HBP applicable on the date of issue of authorisation.

(b) In case of extension of Export obligation period beyond 6 years, two extensions, from date of expiry, of one year each may be considered by RA concerned, on payment of composition fee equal to 2% of proportionate duty saved amount on unfulfilled export obligation for each year of extension. However, minimum composition fee shall be Rs.10,000/-.

(c) Request for extension in EO Period shall be made to RA concerned within 6 months from the date of expiry of original EO Period. However, RA may consider the request for extension received after 6 months, but within the extendable validity of EO period, with a late fee of Rs. 10,000/-. The request for extension for regularisation purpose, from 6th to 8th year, may also be considered after expiry of EO period on payment of late fee of Rs. 15,000/-. This fee is in addition to the composition fee that may be payable on account of shortfall in export obligation. However, EO extension, beyond 8 years from date of issue of authorisation, shall not be allowed by RA under this provision.

(d) Notwithstanding sub-para (a) above, sub-paras (b) and (c) above shall also be applicable for authorisations issued under FTP (2015-20).

5.17 Relief in Average Export Obligation

(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.

5.18 Maintenance of Annual Average Export Obligation

The excess exports done towards the average export obligation fulfilment of an EPCG authorisation during a year can be used to offset any shortfall in the Average EO done in other year(s) of the EO period or the block period as the case may be provided Average EO imposed is maintained on an overall basis, within the block period or the EO period as applicable.

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

Whenever a ban/restriction is imposed on export of any product, export obligation period in respect of EPCG authorisations 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. Authorisation holder would not be required to maintain average EO as well for the ban period.

5.20 Export Obligation Discharge Certificate (EODC)

(a) Authorisation holder shall apply for online EODC in ANF 5B with documents prescribed therein as a proof of EO fulfillment.

(b) On being satisfied, RA concerned shall issue EODC to the EPCG authorisation holder and an online copy will be forwarded to ICEGATE through API message exchange for further action by Jurisdictional Customs Authorities with whom BG/LUT has been executed.

(c) RA shall process such applications ordinarily within 30 days. Shortcomings, if any, shall be pointed out normally in one go. Once documents are complete in all respects, export obligation shall be discharged within 30 days of receipt of complete documents /information.

5.21 Regularization of bonafide default and exit from EPCG scheme

(a) Authorisation holder shall have the option to surrender the unutilised

authorisation at any point of time. In such cases no penalty or fees shall be levied.

(b) In case, EPCG authorisation holder fails to fulfill prescribed export obligation, he shall pay customs duty/taxes/cess in proportion of shortfall in export obligation along with applicable interest as prescribed by Customs Authority. Such facility can also be availed by EPCG authorisation holder to exit at his option.

(c) In case of domestic sourcing of capital goods through invalidation letter/ARO, the duties, taxes and cess payable shall be with reference to the notional Customs duties/taxes/cess saved on the FOR value of capital goods (including spares, jigs, fixtures, dies and moulds).

(e) Authorisation holder can also provisionally pay duty and interest suo-moto on the basis of self/own calculation as per the procedure specified in paragraph 4.50 of HBP.

5.22 Maintenance of Records

Every EPCG authorisation holder shall maintain, for a period of 2 years from date of redemption, a true and proper account of exports/ supplies made and services rendered towards fulfillment of export obligation.

5.23 Re-Export / Repair/Replacement of Capital Goods Imported under EPCG Scheme

(a) Capital Goods imported under EPCG scheme, which are found defective or unfit for use, may be re-exported to foreign supplier within three years from the date of clearance by Customs of such goods, with permission of RA/Customs Authority. Consequently, EO would be re-fixed.

(b) Capital Goods imported and found defective or otherwise unfit for use may be exported, within two years from the date of clearance by Customs of such goods, with permission of RA / Customs Authority 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.

(c) Capital Goods imported under EPCG scheme, may be re-exported for repairs abroad within three years from the date of clearance by Customs of such goods, with permission of RA / Customs Authority. The duty component on the expenditure incurred on the repairs as well as the insurance and the freight, both ways shall be taken into account for re-fixation of the EO.

5.24 Penal Action

In case of failure to fulfil export obligation or any other condition of

authorisation, authorisation holder shall be liable for action under FT (D&R) Act, 1992, as amended, Orders and Rules made thereunder, provisions of FTP/HBP, Customs Act, 1962, as amended from time to time or any other law in force.

5.25 Clubbing of EPCG authorisations

(a) Clubbing of two or more EPCG authorisations issued to the same authorisation holder would be permitted.

(b) An application for clubbing can be made to RA concerned in ANF 5C. Clubbing shall only be permitted in case export products endorsed on the authorisations are same/similar and if authorisations are issued by the same RA.

(c) Total export obligation would be re-fixed taking into account total of duty saved amount of the clubbed authorisations.

(d) On Clubbing, authorisations for all purpose shall be deemed to be a single EPCG authorisation. Export obligation period for clubbed authorisations shall be reckoned from first authorisation issue date.

(e) Average export obligation for clubbed authorisations would be highest of average export obligations endorsed on individual authorisations so clubbed.

(f) Clubbing would be permitted during valid EOP including extended period, if any. However, clubbing in case of all authorisations where EO period is over may be allowed for regularisation purposes provided they have been issued under same policy period.

(g) In case of clubbing of EPCG authorisations where EO can be fulfilled by export of alternate product(s)/service(s), the proportion of alternate product(s)/service(s) for EO fulfillment/ regularization will be restricted to the lowest of the percentage of alternate product(s)/service(s) allowed in the clubbed authorisations.

(h) EPCG authorisations issued prior to 01.04.2007 shall be governed by provisions contained in Chapter 5 of HBP Vol.1 (RE-2006).The EPCG Authorisations issued between 01.04.2007 and 17.04.2013 shall be governed by provisions contained in Chapter 5 of HBP Vol.1 (RE-2012, as amended). The EPCG Authorisations issued from 18.04.2013 till the issue of notification of HBP 2015-20 shall be governed by provisions contained in Public Notice No.1 dated 18.04.2013. The EPCG Authorisations issued between notification of HBP 2015-20 till the notification of HBP 2015-20 (RE-2017) shall be governed by provisions contained in HBP 2015-20. The EPCG Authorisations issued between notification of HBP 2015-20 (RE-2017) till the notification of HBP 2023 shall be governed by provisions contained in HBP 2015-20 (RE-2017).

5.26 Green Technology Products

The Export Products covered under Paragraph 5.10 of FTP which provides for reduced export obligation of 75% for green technology products are :

(i) Solar Energy Generating Systems and parts/Equipments thereof,

(ii) Wind Energy Generating Systems and parts/equipment thereof,

(iii) LED lights of various kind,

(iv) Vapour Absorption Chillers,

(v) Waste Heat Boiler,

(vi) Waste Heat Recovery Units,

(vii) Unfired Heat Recovery Steam Generators,

(viii) Water Treatment Plants,

(ix) Battery Electric Vehicles (BEV) [other than Hybrid Electric Vehicles (HEVs) and Plug-in Hybrid Electric Vehicle (PHEV)] of all types,

(x) Vertical Farming equipment,

(xi) Wastewater Treatment and Recycling,

(xii) Rainwater harvesting system and rainwater filters, and

(xiii) Green Hydrogen.