

## CHAPTER-5

### EXPORT PROMOTION CAPITAL GOODS SCHEME

- Policy** 5.1 The Policy relating to Export Promotion Capital Goods (EPCG) Scheme is given in Chapter 5 of the Policy.
- Application Form** 5.2 An application for the grant of a licence may be made to the licensing authority concerned in the form given in Appendix-9 alongwith documents prescribed therein.
- Consideration of Applications** 5.3 The applicant may apply for EPCG licence to the competent authority on the basis of self declaration subject to final fixation of nexus by Hqrs. EPCG Committee as per the financial power given in the table below. The applicant shall give an undertaking that in case the Hqrs EPCG Committee disallows the Capital Goods including Jigs, fixtures, dies, moulds and spares, the license holder shall pay Customs duty together with 15% interest on such goods.

CIF Value	Competent Authority
Upto Rs. 50 Crore.	Regional Licensing Authority concerned
Above Rs. 50 Crore	Headquarters EPCG Committee

- 5.3.1 The regional licensing authority, after issuance of the license, shall forward a copy of the application along with a copy of the license to the Hqrs. EPCG Committee for its approval within 7 days of the issuance of the license except in such cases where the nexus norms have already been communicated by the Headquarters in any case or the same is already established on the basis of the EPCG licences, issued in the past by the Regional Licensing Authority.
- 5.3.2 Hqrs. EPCG Committee shall finalise the nexus within six months from the date of issuance of licence failing which the nexus as applied for shall be treated as final. However, where the application for fixation of nexus is rejected on account of non furnishing of documents/ information, the licence holder shall be liable to pay Customs duty together with 15% interest on such goods.
- EOU/EPZ/SEZ Units under EPCG Scheme** 5.4 An EOU/ EPZ/SEZ unit may apply for an EPCG licence in terms of paragraph 6.20(d) of the Policy. Such application shall be made in the form given in Appendix-9 alongwith the documents prescribed therein. In addition, the applicant shall also furnish a copy of the `No Objection Certificate` from the Development Commissioner showing the details of the capital goods imported/indigenously procured by the applicant, its value at the time of import/sourcing and the depreciated value for the purpose of assessment of duty under the scheme.

Such cases shall not be required to be forwarded to Headquarters EPCG Committee. The concerned licensing authority shall issue EPCG licences based on the "No Objection Certificate" produced from the concerned Development Commissioner.

**Indigenous Sourcing  
Of Capital Goods**

- 5.5 The EPCG licence holder intending to source capital goods indigenously, shall make a request to the licensing authority for invalidation of the EPCG licence for direct import. The EPCG licence holder shall also give the name and address of the person from whom he intends to source the capital goods.
- 5.5.1 On receipt of such request, either at the time of issuance of licence or subsequently, the licensing authority shall make the licence invalid for direct import and issue an invalidation letter, in duplicate, to the EPCG licence holder. The licensing authority shall simultaneously grant permission to the EPCG licence holder to procure the capital goods indigenously in lieu of direct import.
- 5.5.2 The indigenous manufacturer intending to supply capital goods to the EPCG licence holder may apply to the licensing authority in the form given in Appendix-10B for the issuance of Advance licence for deemed exports for import of inputs including components required for the manufacture of capital goods to be supplied to the EPCG licence holder.

**Benefits To  
Indigenous Supplier Of  
Capital Goods**

- 5.5.3 For the purpose of claiming benefit of deemed exports, the indigenous supplier of capital goods shall furnish:
- (a) Certificate from the respective Assistant Commissioner of Customs and Central Excise Authorities having jurisdiction over the factory as evidence of having supplied/ received the manufactured capital goods and in case of service provider, a certificate from independent Chartered Engineer confirming the supplies/ receipt of the Capital Goods.
  - (b) Evidence of payments received through normal banking channel from the EPCG licence holder in the form given in Appendix- 22A .

**Leasing of Capital  
Goods**

- 5.6 An EPCG licence holder may, on the basis of firm contract between the parties, source the capital goods from a domestic leasing company in accordance with paragraph 2.25 of the Policy. In such cases, the Bill of Entry of imported capital goods or the commercial invoice of indigenously procured capital goods, as the case may be, shall be signed jointly by the EPCG licence holder and the leasing company at the time of import/local supply respectively. However, the EPCG licence holder shall alone be fully responsible for fulfillment of export obligation.

<b>Condition for fulfilment of export obligation</b>	5.7	In addition to the conditions mentioned in paragraph 5.4 of the EXIM Policy, the following conditions shall also be applicable for fulfilment of export obligation under the scheme:-
	5.7.1	The exports shall be direct exports in the name of the EPCG licence holder. However, the export through third party(s) is also allowed provided the name of the EPCG Licence holder is also indicated on the shipping bill. If a merchant exporter is the importer, the name of the supporting manufacturer shall also be indicated on the shipping bills. At the time of export, the EPCG licence No. and date shall be endorsed on the shipping bills which are proposed to be presented towards discharge of export obligation.
	5.7.2	Export proceeds shall be realised in freely convertible currency except for deemed exports under paragraph 5.7.3. However, in case of exports against irrevocable letter of credit in free foreign exchange, realisation of export proceeds need not be insisted for fulfillment of export obligation.
	5.7.3	Exports shall be physical exports. However, deemed exports as specified in paragraph 8.2 (a), (b), (d), (f), (g) & (j) of Policy shall also be counted towards fulfillment of export obligation alongwith the usual benefits available under paragraph 8.3 of the Policy
	5.7.3.1	The supplies made to the Oil and Gas sector also may be counted towards discharge of export obligation against an EPCG licence provided the licence has been issued on or before 31.3.2000 and no benefit under paragraph 8.3 of the Policy has been claimed on such supplies.
	5.7.4	Wherever average level of export obligation was fixed taking into account the exports made to former USSR or to such countries as are notified by the Directorate General of Foreign Trade under this paragraph, the average level of exports shall be reduced by excluding exports made to such countries. This waiver shall be applicable to all EPCG licences, which have not been redeemed/regularised. However, exports made against any EPCG licence, except the EPCG licences which have been redeemed, shall not be added up for calculating the average export performance for the purpose of the subsequent EPCG licence.
	5.7.5	Where the manufacturer exporter has obtained licences for the manufacture of the same export product both under EPCG and the Duty Exemption or Diamond Imprest Licence Scheme or made exports under DEPB/ DFRC/Replenishment licences, the physical exports or deemed exports for categories mentioned in paragraph 5.7.3 made under these schemes shall also be counted towards the discharge of the export obligation under EPCG scheme.
	5.7.6	In case of export of handicraft, handlooms, cottage, tiny sector, computer software, agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, viticulture, poultry, sericulture and services, the export obligation shall be determined in accordance with paragraph 5.1 of the Policy, but the licence holder shall not be required to maintain the average level of exports as specified in paragraph 5.4.3 of the Policy. However, the goods imported under EPCG scheme by such sectors shall not be allowed to be transferred for a period of five years from the date of imports even in cases where export obligation has been fulfilled.
<b>Fulfillment Of Export Obligation</b>	5.8	The licence holder under the EPCG scheme shall fulfil the export obligation over the specified period in the following proportions:

Period from the date of issue of licence	Proportion of total export obligation
Block of 1st and 2nd year	NIL
Block of 3rd and 4th year	15%
Block of 5th and 6th year	35%
Block of 7th and 8th year	50%

5.8.1 In respect of licences of Rs.100 crore or more, the export obligation shall be fulfilled over a period of 12 years in the following proportion:-

Period from the date of issue of licence	Proportion of total export obligation
Block of 1st to 5 <sup>th</sup> year	NIL
Block of 6 <sup>th</sup> to 8 <sup>th</sup> year	15%
Block of 9th and 10th year	35%
Block of 11th and 12th 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 of year.

5.8.3 Where export obligation of any particular block of year is not fulfilled in terms of the above proportions, except in such cases where the export obligation prescribed for a particular block of year is extended by the competent authority, such licence holder shall, within 3 months from the expiry of the block of years, pay duties of customs plus 15% interest 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 However, the licences issued under the scheme upto 31.3.2000 shall be governed by provisions laid down in paragraph 6.11 as given in Handbook (Vol.1) (RE-99). Notwithstanding the provisions in Handbook (Vol.1) (RE-99), the licence holder shall not have to surrender Special Import licence in case of valuweswise shortfall.

**Monitoring of Export Obligation.**

5.9 The licence holder shall produce to the concerned licensing authority a certificate by the jurisdictional central excise authorities or by an independent chartered Engineer, as the case may be, confirming installation of capital goods at the factory of the licence holder or his supporting manufacturer(s)/ vendor(s) within six months from the date of completion of imports.

	5.9.1	The licence holder shall submit to the licensing authority, report on the progress made in fulfillment of export obligation against the licence issued to him. The report shall be submitted in the form given in Appendix-9A. The periodicity of the report shall be yearwise. The licensing authority may issue partial EO fulfilment certificate to the extent of EO fulfilled in a particular year.
<b>Automatic enhancement upto 10% and prorata reduction/ enhancement in export obligation</b>	5.10	If the licence issued under the scheme has actually been utilised for import of a value in excess of 10% of the CIF value of the licence, licence shall be deemed to have been enhanced by that proportion. The Customs shall automatically allow the clearance of goods in excess of 10% of the licence value without endorsement by the licensing authority, In such cases, the licence holder shall furnish additional fee to cover the excess CIF value of imports effected subsequently. The export obligation shall automatically stand enhanced proportionately.
	5.10.1	Similarly, if the EPCG licence holder has utilised the licence less than the value earmarked in the licence, his export obligation shall stand reduced on prorata basis with reference to actual utilisation of licence.
<b>Extension of Export Obligation Period</b>	5.11	The competent authority, as mentioned in paragraph 5.3, may consider, on merits, one or more request for extension in export obligation period, including extension for year(s) or a block of year(s), for fulfillment of export obligation subject to the condition that extension of export obligation shall not exceed a total period of one /two year as per relevant Customs notifications from the date of expiry of the export obligation period. The extension in export obligation period shall be subject to such terms and conditions as may be prescribed by the competent authority. Wherever the export obligation period is extended, the licence holder shall be required to maintain average export obligation during the extended period as well.
<b>Export Obligation Shortfall</b>	5.12	The competent authority as mentioned in paragraph 5.3 may also consider condonation of shortfall upto 5% in the export obligation subject to such terms and conditions as may be prescribed by them.

<b>Redemption</b>	5.13	<p>As evidence of fulfillment of export obligation, the licence holder shall furnish the following documents;</p> <p>(a) For Physical Exports:</p> <p style="padding-left: 40px;">A consolidated statement of exports made in the form given in Appendix-9A, duly certified by a Chartered Accountant and bank evidencing exports and realisation in freely convertible currency or statements of exports in the form given in Appendix-9A for individual banks duly certified by a Chartered Accountant.</p> <p>(b) For Deemed Exports:</p> <p style="padding-left: 40px;">(i) Copy of ARO/ Back to Back Inland letter of Credit;</p> <p style="padding-left: 80px;">or</p> <p style="padding-left: 80px;">Supply invoices duly certified by the Bond Office of EOU/EPZ concerned showing that supplies have been received;</p> <p style="padding-left: 80px;">or</p> <p style="padding-left: 80px;">Invoices certified by the Project Authority concerned.</p> <p style="padding-left: 40px;">(ii) The licensee shall also furnish the evidence of having received the payment through normal banking channel in the form given in Appendix- 22A or a self certified copy of payment certificate issued by the Project authority concerned in the form given in Appendix-12A.</p> <p>(c) For Services rendered:</p> <p style="padding-left: 40px;">Consolidated statement or individual statements (bank/authorised dealer wise) of services rendered in the form given in Appendix-9B, duly certified by a Chartered Accountant and bank/authorised dealer evidencing foreign exchange earning received through normal banking channel.</p> <p>On being satisfied, the licensing authority shall issue a certificate of discharge of export obligation to the EPCG Licence holder and send a copy of the same to the customs authorities with whom BG/LUT has been executed.</p>
<b>Regularisation of Bonafide Default</b>	5.14	<p>In case, EPCG licence holder fails to fulfil the prescribed export obligation, he shall pay duties of Customs plus 15% interest per annum to the Customs authority as per paragraph 5.8/5.8.1.</p>
<b>Maintenance of Records</b>	5.15	<p>Every EPCG licence holder shall maintain, for a period of 3 years from the date of redemption, a true and proper account of the exports/supplies made and services rendered towards fulfillment of export obligation under the scheme.</p>

<b>Re-Export of Capital Goods Imported Under EPCG Scheme</b>	5.16	Capital Goods imported under the EPCG scheme, which are found defective or unfit for use, may be re-exported back to the foreign supplier within three years from the date of payment of duty on importation thereof with the permission of the Licensing/Customs Authority.
<b>Replacement of Capital Goods</b>	5.16.1	The Capital Goods imported under the scheme and found defective or otherwise unfit for use may be re-exported and Capital Goods in replacement thereof be imported under the scheme. In such cases, while allowing re-export, the Customs shall recredit the duty benefit availed which can be debited again at the time of import of such replaced Capital Goods
<b>Penal Action</b>	5.17	In case of failure to fulfil the export obligation or any other condition of the licence, the licence holder shall be liable for action under the Foreign Trade (Development & Regulation) Act, 1992, the Orders and Rules made thereunder, the provisions of the Policy and the Customs Act, 1962.