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**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF COMMERCE**

PUBLIC NOTICE NO. 42 (RE-2003)/2002-2007 NEW DELHI:

Dated :28th January , 2004

In exercise of powers conferred under Paragraph 2.4 of the Export and Import Policy 2002-2007, the Director General of Foreign Trade hereby makes the following amendments in Handbook of Procedures (Vol. I):

1. Paragraphs 5.3, 5.3.1 & 5.3.2 pertaining to the “Consideration of EPCG applications” are amended as under.

5.3: The applicant may apply for EPCG licence wherein duty saved amount is Rs. 50 crores, to the Regional Licensing Authority along with a certificate from the independent chartered engineer on the [Performa annexed to appendix 9](#) certifying the end use of capital goods sought for import for its use at pre production, production or post production stage for the product undertaken for export obligation.

For the cases wherein duty saved amount is above Rs. 50 crores, the applicant may apply to DGFT Headquarters directly with a copy endorsed to the concerned RLA. In such cases, based on the recommendations of Headquarters EPCG Committee/ approval of competent authority the concerned RLAs will issue the EPCG licence accordingly.

5.3.1: The Licensing Authority, after issue of EPCG licence on the basis of certificate from the Independent Chartered Engineer (CEC) furnished by applicant shall forward a copy of licence along with copy of CEC to concerned Jurisdictional Central Excise Authority.

5.3.2 The licence holder (whether registered with Central Excise Authority or not) shall produce to the concerned licensing authority a certificate from the jurisdictional Central Excise authority confirming installation of capital goods at the factory of the licence holder or his supporting manufacture(s)/vendor(s) within six months from the date of completion of imports.

2. A new para 5.3.4 subtitled “Import of Spares including Refractories, Catalysts & Consumables” is added as under:

5.3.4 (i): The applicant may also apply for import of spares including refractories, catalyst and consumables under the EPCG Scheme . The application may contain list of plant/ machinery installed in the factory of applicant for which spares are required, duly certified by Jurisdictional Central Excise authorities irrespective of the fact whether the firm is registered with Central Excise or not.

In such cases EPCG licence shall not specify the list of spares but shall indicate:-

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

- (b) Value of duty saved allowed under the licence.
- (c) Description of product to be exported with value of export obligation as per the Policy.

(ii) The licensing authority, after issue of EPCG licence for spare shall forward a copy of licence to concerned Jurisdictional Central Excise Authority.

(iii) In case of import of spares for capital goods, the licence holder (whether registered with Central Excise Authority or not) shall produce the licensing authority a certificate by the jurisdictional central excise authorities confirming the inventory of spares taken in the records of the licence holder within one month of the date of completion of each import. Further at the time of final redemption of export obligation licence holder shall submit certificate from the Independent Chartered Engineer confirming the use of spares so imported in the installed capital goods on the basis of stock & consumption register maintained by licence holder.

3. At the end of paragraph 5.7.3, the following sentence is added:-

“Payment received in rupee terms for the port handling services provided by the service provider in terms of paragraph 9.47 (iv) of the Exim Policy shall also be counted for export obligation discharge under the Scheme.”

4. After para 5.7.6, new para 5.7.7 be added as under:-

5.7.7: The Export Obligation shall be fulfilled by the export of product(s)/ services originally specified in the EPCG licence which are capable of being manufactured/ produced by the use of the capital goods imported under the licence. In case, the licensee is unable to fulfill the export obligation by the products/ services mentioned above, he shall apply to the concerned licensing authority any time during the validity period (including the extended period) of export obligation giving reasons (supported by documentary evidence, if any,) for their inability to fulfill the export obligation by the products/ services originally specified in the licence along with the details of the alternate product(s) manufactured/services provided by the same firm /company or group company and intended to be exported along with documents evidencing manufacturing of such product/ service being provided by the same firm/ company or group company. He shall also furnish the details of average exports of the past three years for the alternate products/ services intended to be exported duly certified by Chartered Accountant. The licensing authority shall thereafter re-fix the average export obligation by taking into account the average exports of alternate products/ services made during the preceding three licensing years with reference to the year in which such re-fixation has been done and shall also endorse the licence for Product(s)/ services(s) to fulfill the balance export obligation. The re-fixed average export obligation shall be applicable from the financial year during which it has been done.

Notwithstanding the above, the original average Export obligation shall not be required for the remaining period provided the licensee does not want to export the original products/services in the remaining export obligation period.

The licensee can also opt for the re-fixation of the balance export obligation based on 8 times of the duty saved amount for the CIF value in proportion to the balance Export obligation under the scheme.

The aforesaid facilities shall be available for exports made on or after the date of application received for endorsement of alternate items and/ or the re-fixed export obligation subject to endorsement made on the licence subsequently irrespective of the date of issuance of licence, provided the export

obligation period including extended export obligation period is valid.

5. Paragraph 5.9 pertaining to “Monitoring of Export Obligation” stands deleted since the same has been transferred to the amended para 5.3.2.

1. After para 5.11 pertaining to the “Extension of export obligation period” a new para 5.11.1 shall be added as under:-

5.11.1: The firm/company or group company registered within the original/extended E.O. period with the BIFR or state rehabilitation Scheme for SSI unit as a sick unit or any firm/company acquiring a unit, which is under BIFR may apply for extension in export obligation period for fulfillment of export obligation to Director General of Foreign Trade.

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 licence, if any, within 30 days of receipt of the application by agency concerned. The DGFT, on receipt of intimation/notice received from the BIFR/operating agency/ Rehabilitation Department of State Government shall take up the matter with the agency concerned to safeguard government interest on account of default in fulfillment of export obligation imposed on EPCG licence obtained by such firm.

DGFT may consider such application for grant of extension in the period of export obligation upto 12 years or as per the rehabilitation package prepared by operating agency and approved by BIFR broad/state authority, on its merit.

7. A new para 5.18 pertaining to the “Clubbing of EPCG licences” is added as under:

5.18: The clubbing of two or more EPCG licences of the same licence holder would be permitted as per the provisions given herewith. The expiry period mentioned in the subparas of this para would be with reference to the export obligation period of the EPCG licence.

5.18.1: The accountability of imports and exports shall be restricted to the items mentioned in the EPCG licences to be clubbed.

5.18.2: An application for clubbing can be made only to the regional licencing authority under whose jurisdiction the licence is issued in Appendix 9-C Clubbing shall not be permitted in case the licences are issued by different RLA's. The concerned RLA would consider the request for clubbing only on the fulfillment of the following conditions:

- (a) The EPCG licences have been issued during the same licencing year,
- (b) the EPCG licences have been issued under the same Customs Notification,
- (c) the EPCG licences must be for the export of the same product(s) or same services .

5.18.3: The total export obligation for the licences so clubbed would be refixed taking into account the total duty saved or total CIF value of imports as the case may be of the clubbed licences. The export obligation period of the clubbed licence would be the same as the export obligation period of the individual licences. In case of any discrepancy in the export obligation periods of the two licences, clubbing would not be permitted.

5.18.4: On clubbing, the licences for all purposes shall be deemed to be a single EPCG licence issued under the said Customs Notification and the export obligation period for the clubbed licence shall be reckoned from the date of issuance of the first licence.

5.18.5: The average export obligation to be maintained for the clubbed licence would be the same average export obligation as was the case with the individual licences prior to clubbing.

5.18.6: No clubbing would be permitted in the case of expired EPCG licences. In case any specific (as against general extensions) export obligation extension has been given for any EPCG licence, the same licence cannot be considered for clubbing .

5.18.7: No export obligation extension would be granted to the clubbed EPCG licence since the clubbing is primarily meant for the redemption/regularisation of the individual licences on the basis of exports made within the original export obligation period of the licences.

8. A new Appendix 9 C pertaining to “Application Form for clubbing of licences under the EPCG scheme” is appended to this Public Notice.

This issues in Public Interest.

(L. MANSINGH)
DIRECTOR GENERAL OF FOREIGN TRADE

File No: 01/94/180/Public Notice/ AM04/ PC IV

Appended to Public Notice No 42 dated 28th January, 2004

APPENDIX -9 C

APPLICATION FORM FOR CLUBBING OF LICENCES UNDER THE EPCG SCHEME

Note: 1. Please see paragraph 5.18 of this Handbook.

FOR OFFICIAL USE

File No..... Date.....

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- | | | | |
|----|-----------------------------------|---|----------|
| 1. | Name and address of the applicant | : | M/s..... |
| 2. | IEC Number | : | |

3. Details of EPCG licences presented for clubbing:

S. No	EPCG Licence No	Date of Issue	Export Product(s)	Capital Goods applied for import	Port of Regd
(1)	(2)		(3)	(4)	(5)

CIF Value permitted	CIF value of imports made	Customs Duty Saved	Export obligation fixed (in US \$)	Exports actually made (In US \$)
(6)	(7)	(8)	(9)	(10)
		Total:	Total:	

4: Details of clubbed licence

10. (i) Total Duty saved or CIF : (In FFC).....
value on the imports/ : (In Rupees)
deemed imports (as per
column 7 or 8 in the table
above : (In FFC).....
: (In Rupees).....
- (ii) Total Export obligation
(as per column 9 in table
above)

DECLARATION/UNDERTAKING

I/We hereby solemnly undertake/declare that:-

- (i) I/We hereby declare that the particulars and the statements made

in this application for clubbing are true and correct to the best of my/our knowledge and belief and nothing has been concealed or held therefrom.

- (ii) I/We full understand that any information furnished in the application if proved incorrect or false will render me/us liable for any penal action or other consequences as may be prescribed in law or otherwise warranted.
- (iii) I/We further declare that the clubbing is being sought for EPCG licences issued in the same licencing year, having the same export product(s) or services, issued under the same Customs Notification and having the same port of registration.
- (iv) I/We undertake to abide by the provisions of the foreign Trade (Development and Regulation) Act, 1992, the Rules and Orders framed thereunder, the Export and Import Policy and the Handbook of Procedures.
- (v) That I/We shall be liable to penal action in accordance with the Policy/Procedure/Foreign Trade (Development & Regulation) Act, 1992 the Rules and Orders framed thereunder and the Customs Act, 1962 addition to forfeiture of Bank Guarantee or any other Bond/Guarantee given to the Customs/licensing authority, in the event of failure to fulfill the export obligation as stipulated, within the export obligation period prescribed or subsequently extended by the competent authority.
- (vi) I hereby certify that I am authorised to verify and sign this declaration as per paragraph 9.9 of the policy.

Signature of the Applicant:

Name:

Designation:

Official Address:

Place : _____

Date : _____

Residential Address :

E-mail address: _____