

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

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE

PUBLIC NOTICE NO. 5 (RE: 2010)/2009-2014
NEW DELHI: DATED: 23/08/2010

Subject: Modification of ANF5A, ANF5B, Appendix 26 and Appendix 26A in Handbook of Procedures Vol. I (RE:2010)

In exercise of the powers conferred under Paragraph 2.4 of the Foreign Trade Policy, 2009-14 (RE:2010) and Paragraph 1.1 of the Handbook of Procedures (Vol.1), the Director General of Foreign Trade hereby notifies ANF5A, ANF5B, Appendix 26 and Appendix 26A in Handbook of Procedures (Volume I) as contained in Annexure - I, II, III and IV to this Public Notice. This shall come into force from 23rd August, 2010.

2. This issues in Public interest.

Sd/-
(P.K. Chaudhery)
Director General of Foreign Trade and
ex-officio Additional Secretary to the Government of India

(Issued from F.No. 01/36/218/89/AM09/EPCG.I)

Annexure - I

ANF 5A

APPLICATION FORM FOR EPCG / ANNUAL EPCG AUTHORISATION (UNDER ZERO DUTY / 3% DUTY)

Please see guidelines given at the end before filing the application

1. Applicant Details
i. Name
ii. IEC No
iii. Address

2. Type of Exporter (please tick)

2. Type of Exporter (please tick)

- i. Merchant Exporter
- ii. Manufacturer Exporter
- iii. Service Provider
- iv. Others(please specify)
- v. Merchant cum Manufacturer

3. RCMC Details

- i. RCMC Number
- ii. Date of Issue and valid upto
- iii. Issuing Authority
- iv. Products for which registered

4. Industrial Registration Details

- i. SSI / IEM/LOI or IL Registration Number
- ii. Date of Issue
- iii. Issuing Authority
- iv. Products for which registered

5. Service Tax Registration Details (In case of Service providers registered with Service Tax authorities)

- i. Service Tax Registration Number
- ii. Issuing Authority
- iii. Services for which registered

6. Status House Details

- i. EH/SEH/TH/STH/PTH
- ii. Certificate Number
- iii. Date of Issue and valid upto
- iv. Issuing Authority

7. Excise Details (For those registered with Central Excise Authority)

- i. Excise Registration Number
- ii. Date of Issue / Issuing Authority

8. Application Fee Details

- Amount (Rs)
- Electronic Fund Transfer No.

9. Sector Classification of Capital Goods sought to be imported under the Scheme (Please tick)

- i. Industrial sector
- ii. Agricultural sector
- iii. Service sector

10. Products to be exported/services to be rendered.**ITC (HS) CODE****11. Whether imports to be made are under Technological Upgradation Scheme Yes / No****If Yes, give following details:**

Sr No	EPCG Authorisation	EPCG Authorisation	CIF Value / duty saved	E.O. fixed in freely convertible	Percentage of F O fulfilled	Expiry date of E.O. period
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Authorisation No	Authorisation Date	Duty saved	freely convertible currency	E.O. number	period

12. Details of exports of same/similar product/services made in the preceding 3 licensing years (excluding exports against all pending EPCG Authorizations)

Sl. No.	Financial Year	Total FOB Value of exports/ services rendered for the same/similar product /service(Rs in Crores)
1	2	3
1.		
2.		
3.		
Total		
Average export performance		

13. Details of pending EPCG Authorizations already obtained.

S.No	Authorisation No and Date	RA which issued Authorisation	CIF/ Duty Saved Value (Rs)	EO fixed on duty saved amount (in freely convertible currency)/INR	Specific EO fulfilled on duty saved amount (Rs)	Annual Average EO Fixed (Rs.)	Average EO due till last financial year (Rs)	Average EO fulfilled till last financial year (Rs)	Expiry Date of EO period

14. Details of Freely Importable Capital Goods applied for import(Not Applicable for Annual EPCG Authorization)

S No	Description of the items of import	ITC(HS) Code	Nature of Capital Goods sought to be imported +	Quantity	Primary Use of Capital Goods sought to be imported ++

15. Details of Restricted Capital Goods applied for import

S No	Description of the items of import	ITC(HS) Code	Nature of Capital Goods sought to be imported +	Primary Use of Capital Goods sought to be imported ++

Technical Specifications/ Model No. etc	Quantity	CIF Value in freely convertible currency

+ - whether Capital Goods / Spares / Tools /Jigs / Fixtures / Dies / Moulds /spare Refractories / Catalyst/-

++ - whether used for Pre Production activity/ Production activity/ Post Production activity/ For rendering Services

(From amongst col.14 and 15 above please fill up whichever is applicable. In case applicant desires to import both restricted and freely importable capital goods appropriate information should be given in both the cols.)

16. Details of Duty Saved

Total effective Customs duty on items to be imported/deemed to be imported (in %) +	Duty to be levied under the Scheme (in %)	Duty Saved (in %)	CIF Value of imports/deemed imports (in Rs)	Duty saved (in Rs)
1	2	3 = 1 - 2	4	5 = 3 * 4 / 100

Note:

- i. + In case of indigenous sourcing of CG, duty saved is to be calculated on notional Customs duties saved on FOR value of capital goods as per para 5.7 A of FTP.
- ii. In case of EPCG Authorisation for Projects as per para 5.1B of Policy, the basic customs duty would be 7.5%. Wherever, CVD is paid in cash and not subsequently Cenvated, CVD would not be taken for computation of net duty saved.

17. Details of Export Obligation and Average Export Obligation to be imposed:

Total duty saved (Rs.) as per column no.5 at S.No.15.	Export Obligation (as a multiple of duty saved) to be imposed				Average Export Obligation to be imposed		Export obligation period to be imposed (in years)	
	6 times ++		8 times		(Rs.)		8 years	12 years +++
	(Rs.)	(USD)	(Rs.)	(USD)			(indicate specifically)	

++ In case of SSI units and technological upgradation scheme.

+++ i. In case of agro units and units in cottage and tiny sector.

ii. In respect of EPCG licences with a duty saved of Rs.100 crore or more.

18. Port of Registration (for the purpose of imports):**19. Address of the factory/premises of the applicant where the capital goods to be imported are proposed to be installed****20. In case the proposed CG sought to be imported are to be used by the supporting manufacturer, please furnish**

i. Name of the supporting manufacturer
ii. Address of the supporting manufacturer
iii. SSI/LOI/IL regn. no. and date
iv. Products endorsed on SSI/IL/IEM
v. Excise Registration No. And issuing authority. (if applicable) :-

DECLARATION/UNDERTAKING

- I / We hereby declare that the particulars and the statements made in this application are true and correct to the best of my/our knowledge and belief and nothing has been concealed or held there from and if found incorrect or false will render me/us liable for any penal action or other consequences as may be prescribed in law or otherwise warranted.
- I / We undertake to abide by the provisions of the Foreign Trade (Development and Regulation) Act, 1992, the Rules and Orders framed there under, the Foreign Trade Policy, the Handbook of Procedures and the ITC(HS) Classification of Export & Import Items.
- I / We hereby certify that none of the Proprietor / Partner(s) / Director(s) / Karta / Trustee of the firm / company, as the case may be, is/are a Proprietor / Partner(s) / Director(s) / Karta / Trustee in any other firm / Company which has come to the adverse notice of DGFT.
- I / We hereby certify that neither the Registered Office/Head Office of the firm/company nor any of its Branch Office(s) / Unit(s) / Division(s) has been declared a defaulter and has otherwise been made ineligible for undertaking import / export under any of the provisions of the Policy.
- 4A. I/We hereby certify that our applicant firm/company is NOT currently availing any benefits under Technology Upgradation Fund Scheme (TUFS), administered by Ministry of Textiles, Government of India. (Applicable to zero duty EPCG scheme only)
- 4B. I/We hereby certify that our applicant firm/company has NOT availed and shall not avail the benefit of Status Holder Incentive Scheme under Para 3.17 of FTP in the current year. (Applicable to zero duty EPCG scheme only)
- I / We hereby declare that I/we have perused the list of SCOMET items as contained in the Appendix 3 to the Schedule 2 of the ITC (HS) Classifications of Export-Import Items, 2009-14 and that the item(s) exported / proposed to be exported does not fall within this list and that I/ We agree to abide by the provisions of the Policy for export of SCOMET items contained in the Foreign Trade Policy, Schedule 2 of ITC (HS) and the Handbook of Procedures (Vol.1), irrespective of the scheme under which the item is exported / proposed to be exported.
- I / We declare that no export proceeds are outstanding beyond the prescribed period as laid down by the RBI, or such extended period for which RBI permission has been obtained.
- I / We hereby declare that the capital goods/spares sought for import in the application are actually required for use at pre production/production/post production stages for the export product(s) or for rendering services for fulfilment of export obligation.
- I / We hereby declare that in respect of goods for which nexus is not established at a later date, I / We shall pay to the Government Customs duty saved together with 15% interest on such imported goods which are found having no relation with product exported or service rendered.
- I / We hereby declare that in case of import of refurbished/reconditioned spares, the refurbished/reconditioned spares have a residual life which is not less than 80% of the life of the original spares.

9. I / We hereby declare that in case of import of refurbished/reconditioned spares, the refurbished/reconditioned spares have a residual life which is not less than 80% of the life of the original spares.
10. I / We hereby declare that I / We do not come under the purview of Service Tax and therefore are not registered with the Service Tax Cell of the jurisdictional Central Excise Authorities. (in case of Service Providers who are not covered under service tax)
11. I / We hereby declare that I/We shall not exceed the SSI investment limit in plant and machinery after making imports under the EPCG Authorisation. (applicable in cases of imports made by SSI sector)
12. I / We hereby declare that the import of capital goods shall be used for building and operating shopping malls/super markets having a minimum covered area of 1000 sq meters. (Applicable in case of imports made by Retail sector).
13. I / We hereby declare that I/We have not made imports under the Technological Upgradation Scheme previously before any Licensing authority and the present imports of Capital Goods to be made under this Scheme (for which this application is made) are more than 10% of the my/our present investment in the plant and machinery. (applicable in case of imports under EPCG Technological Upgradation Scheme).
- 13A. I / we undertake to submit a self certified copy of 'Drug Manufacturing Licence' in case of export of Pharmaceutical Product(s) within a period of three years from the date of issue of EPCG Authorization failing which the Bank Guarantee / Legal undertaking executed / furnished at the time of clearance of Capital Goods with Customs authorities / Regional Authorities of DGFT, as the case may be, is liable to be forfeited / invoked and I / We would be liable to pay Customs Duty saved amount together with applicable interest thereon from the date of first import till the date of final payment.
14. I hereby certify that I am authorised to verify and sign this declaration as per Paragraph 9.9 of the Policy.

(Note: Strike out the clause which is not applicable.)

Signature of the Applicant
Name
Designation
Official Address
Telephone
Residential Address
Email Address

Place
Date

GUIDELINES FOR APPLICANTS

1. Two copies of the application must be submitted unless otherwise mentioned.
2. Each individual page of the application has to be signed by the applicant.
3. In case CG sought to be imported is under restricted category, a copy of this application shall be sent to EFC at DGFT HQRS also. (In such cases no separate application fee shall be required to be submitted while sending the copy of the application to Hqrs. EFC). Upon clearance by EFC, EPCG Authorisation shall be issued by RA and will bear an endorsement that EFC has approved issue of EPCG Authorisation for restricted CG.
4. Application must be accompanied by documents as per details given below:
 1. Bank Receipt / Demand Draft / EFT details evidencing payment of application fee in terms of Appendix 21B.
 2. Self certified copy of IEM/SSI Registration Number in case of products or a self certified copy of Service Tax Registration in case of Service Providers.

(In case of Service Providers, who are not registered with Service Tax authorities and a declaration in this regard has been submitted as a part of the application (declaration no.10) , service tax registration is not required to be submitted. In such cases RCMC from EPC concerned will suffice).
5. Certificate from a Chartered Engineer in the format given in Appendix 32A certifying:
 - a. the end use/nexus of machinery sought for import under EPCG Scheme in the pre production/production/post production activity of the exported goods/services (explaining the end use of machinery in detail); and/or
 - b. the essentiality of spare parts sought for import and its required quantity for existing machinery manufacturing the goods to be exported/ machinery sought for import; and/or
 - c. complete usage of equipments/goods sought for import under the EPCG Scheme for supply of service to overseas customers/ service consumers of any other country in India to earn free foreign exchange/supply of service in India relating to export paid in free foreign exchange.
6. Statement of exports made/services rendered by the applicant firm during the preceding three licensing years duly certified by a Chartered Accountant / Cost and Works Accountant in the format given in ANF 5A.
 - a. In case of import of spares for existing plant and machinery, a list of plant/machinery imported and already installed in the factory/premises of the applicant firm/supporting manufacturer for which the spares are required, duly certified by a Chartered Engineer or jurisdictional Central Excise authority
 - b. In case of EPCG applications made by EOU/SEZ units, a self certified copy of the 'No Objection Certificate' from the Development Commissioner concerned showing the details of the capital goods imported/indigenously procured by the applicant firm, its value at the time of import/sourcing and the depreciated value for the purpose of assessment of duty under the Scheme is to be submitted.
7. Copy of previous EPCG Authorisation (in case application is made under EPCG Technological Upgradation Scheme).
- 7A. In case of imports under zero duty EPCG scheme for textile sector, the applicants would be required to submit a certificate from the office of Textile Commissioner, Government of India to the effect that the firm/company is not currently availing any benefit under the Technology Upgradation Fund Scheme (TUFS), administered by Ministry of Textiles, Government of India.

In case of import of restricted capital goods under ITC(HS) a self certified copy of the recommendation letter by the Sponsoring authority.(To be enclosed in case the same has already been obtained)

ANF 5B

Statement of Export for Redemption of EPCG/ Annual EPCG Authorization

1. Applicant Details
Name & address

2. EPCG Authorisation Number & date	Actual duty saved amount
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3. Export obligation period (EOP)
i. Original date
ii. Extended EOP date
iii. Actual EO Completion date:

4. Installation certificate No. & Date

5. Export Product Details:
i. Same / similar product name & ITC(HS) code.
ii. Alternate Product name & ITC(HS) code.

6. Export Obligation (EO) imposed		EO as per actual duty saved amount/ Average EO	
In Indian Rs.	In US\$	In Indian Rs.	In US\$

+ In case of alternate product export of average EO of alternate product should be given.

7. Details of physical exports/deemed exports made/services rendered for maintaining specific EO of Authorization for which this redemption is sought									
S No	Products Exported/ Supplied/Services rendered ITC(HS) Code.	Shipping Bill/ Voucher/Invoice/ CT 3 / ARE 3/ Lorry Receipt/ Railway Receipt Details +		FOB / FOR value(in FFE) ++					
		No	Date	Direct exports	Third Party exports	Deemed Exports	By Group Company	Other R&D Services / Royalty	Total
	Same Product/Services ----- Alternative Product / Services								

+ not to be filled in by hotel industry

++ Only Exports/ Supplies made/ capable of being made/ services rendered out of capital goods imported under the Authorisation for discharge of export obligation imposed on the Authorisation and export proceeds realized to be included.

8. We further declare that we have made exports as under for maintenance of Average export obligation (other than that mentioned in 7 above) Exports.
(As per suggestion)

As per suggestion

FINANCIAL YEAR	TOTAL VALUE OF EXPORTS (OTHER THAN EXPORTS UNDER SPECIFIC EO) INR	DETAILS OF SHIPPING BILLS FOR FULFILLMENT OF AVERAGE EXPORT OBLIGATION.

* This column does not include exports covered under Sr. No.7 above.

* this column does not include exports rendered for maintaining specific EO of other EPCG authorizations.

DECLARATION/UNDERTAKING

1. I/We hereby declare that the particulars and the statements made in this application are true and correct to the best of my/our knowledge and belief and nothing has been concealed or held there from and if found incorrect or false will render me/us liable for any penal action or other consequences as may be prescribed in law or otherwise warranted.

2. I/ We hereby declare that I/we have perused the list of SCOMET items as contained in the Appendix 3 to the Schedule 2 of the ITC (HS) Classifications of Export-Import Items, 2009-14 and that the item(s) exported / proposed to be exported does not fall within this list and that I/ We agree to abide by the provisions of the Policy for export of SCOMET items contained in the Foreign Trade Policy, Schedule 2 of ITC (HS) and the Handbook of Procedures (Vol.1), irrespective of the scheme under which the item is exported / proposed to be exported (the underlined portion will be deleted in case an application for export license for SCOMET item is being filed).

3. I/We hereby declare that exports counted towards Specific Export Obligation against this licence have not been claimed /counted for fulfillment of annual average export performance / specific export obligation against other EPCG Authorization.

4. I hereby certify that I am authorized to verify and sign this declaration as per Paragraph 9.9 of the Policy.

Signature of the Applicant

Place

Name

Date

Designation

Official Address

Telephone

Residential Address

Email Address

5. It is certified that all physical exports made as shown in item Nos. 7 & 8 above are in freely convertible currency and payment of the same has been realized*.

Signature with Seal of the Chartered Accountant

* In case of 'Service Provider' submission of self attested copies of Foreign Inward Remittance Certificate (FIRC) / Bank Certificate alongwith ANF5B shall be mandatory.

Note: Realization of export proceeds shall not be insisted, if the Reserve Bank of India (RBI) writes off the requirement of realization of export proceeds on merits and the exporter also produces a certificate from the Foreign Mission of India about the fact of non recovery of export proceeds from the buyer. However this would not include self write off cases.

GUIDELINES FOR APPLICANTS

1. Appendix 26A duly signed by Chartered Accountant must be submitted.

2. Each individual page of the application has to be signed by the applicant.

3. Application must be accompanied by documents as per above details.

APPENDIX 26**CERTIFICATE OF CHARTERED ACCOUNTANT COST AND WORKS ACCOUNTANT/
COMPANY SECRETARY (FOR ISSUE OF EPCG/ANNUAL EPCG AUTHORIZATION)**

I/We hereby confirm that I/We have examined the prescribed registers and also the relevant records of M/s..... and hereby certify that:

I. The following documents/ records have been furnished by the applicant firm/company and have been examined and verified by me/us namely: -

(a) For deemed exports:

- (i) Copy of ARO/Back to back inland letter of Credit of Advance Authorisation for intermediate Supplies or Supply invoices or CT3/ARE3 duly certified by the Bond Office of EOU concerned showing that supplies have been received.
- (ii) Evidence of having received the payment through normal banking channel in the form given in Appendix-22B or a self certified copy of payment certificate issued by the Project Authority concerned in the form given in Appendix-22C.

(b) For export of goods:

- (i) Export Order/Contract,
- (ii) Shipping Bills,
- (iii) Bill of Lading (and/or Airways Bills/PP Receipts),
- (iv) Customs/Bank attested invoices,
- (v) Bank Certificate of exports and realization,
- (vi) GR declaration etc, and
- (vii) Connected books of accounts

(c) For export of services:

- (i) Bank Certificate of direct foreign exchange earning,
- (ii) GR declaration,
- (iii) Forward Inward Remittance Certificates (FIRCs),
- (iv) Certificate from international credit card companies,
- (v) C.A. certificate for the indirect sources, (In respect of indirect forex earnings duly certified by Chartered Accountant such as amount received from Travel agents/Tour Operators, Foreign Airlines for stay of Crew and Catering, UN organizations and Diplomatic Missions and Encashment Certificate from authorized dealers and others in terms of DGFT Policy circular no.60/97-2002 dated 24.12.1998).
- (vi) Certified statements from the Banker/Chartered Accountant of Foreign Exchange Earnings and connected books of accounts.

II. The relevant accounting and financial register(s) as prescribed under different Acts and Rules made thereunder have been maintained and authenticated under my/our seal and signature.

III. The information given by the applicant firm/company in the 'Aayaat Niryaat Form' including details on

- (a.) imports/exports made and services rendered,
- (b.) foreign exchange earnings/ realization (both from direct and indirect sources)
- (c.) third party exports
- (d.) deemed exports

Is in agreement with the Foreign Trade Policy 2009-14 and the rules and procedures made there under, the relevant register and records and the books of accounts maintained by M/s..... and their subsidiaries and is also true and correct.

IV. Neither I, nor any of my/our partners is a partner, director, or an employee of the above-named entity, its Group companies or its associated concerns.

V. I/We fully understand that any statement made in this certificate, if proved incorrect or false, will render me/us liable to face any penal action or other consequences as may be prescribed in law or otherwise warranted.

VI. Details of export of same/similar products made during the Preceding 3 years as in Column 12 of ANF 5A:

Financial Year	FOB Value	
1.	US\$	Rs.
2.	US\$	Rs.
3.	US\$	Rs.

(Signature and Stamp/ Seal of the Signatory)

(Chartered Accountant/ Cost & Works Accountant/Company Secretary)

Name of the Signatory:

Place:

Address:

Date:

Membership No:

If any of the documents of record mentioned in serial number (I) have not been maintained/ furnished, examined or verified, they may please be specified below:-

1.

2.

Note: Each page of this annexure is to be signed by the Chartered Accountant with his registration number.

Annexure – IV

APPENDIX 26 A

CERTIFICATE OF CHARTERED ACCOUNTANT/
COST AND WORKS ACCOUNTANT/COMPANY SECRETARY
(FOR REDEMPTION EPCG/ ANNUAL EPCG AUTHORIZATION)

I/We hereby confirm that I/We have examined the prescribed registers and also the relevant records of M/s.....in respect authorisation No..... dated..... and hereby certify that:

I. The following documents/ records have been furnished by the applicant firm/company and have been examined and verified by me/us namely: -

(a) For deemed exports:

- (i) Copy of ARO/Back to back inland letter of Credit of Advance Authorisation for intermediate Supplies or Supply invoices or CT3/ARE3 duly certified by the Bond Office of EOU concerned showing that supplies have been received.
- (ii) Evidence of having received the payment through normal banking channel in the form given in Appendix-22B or a self certified copy of payment certificate issued by the Project Authority concerned in the form given in Appendix-22C.

(b) For export of goods:

- (i) Export Order/Contract,
- (ii) Shipping Bills,
- (iii) Bill of Lading (and/or Airways Bills/PP Receipts),
- (iv) Customs/Bank attested invoices,
- (v) Bank Certificate of exports and realization,
- (vi) GR declaration etc, and
- (vii) connected books of accounts

(c) For export of services:

- (i) Bank Certificate of direct foreign exchange earning,
- (ii) GR declaration,
- (iii) Forward Inward Remittance Certificates (FIRCs),
- (iv) Certificate from international credit card companies,
- (v) C.A. certificate for the indirect sources, (In respect of indirect forex earnings duly certified by Chartered Accountant such as amount received from Travel agents/Tour Operators, Foreign Airlines for stay of Crew and Catering, UN organizations and Diplomatic Missions and Encashment Certificate from authorized dealers and others in terms of DGFT Policy circular no.60/97-2002 dated 24.12.1998).
- (vi) Certified statements from the Banker/Chartered Accountant of Foreign Exchange earnings and connected books of accounts.

II. The relevant accounting and financial register(s) as prescribed under different Acts and Rules made there under have been maintained and authenticated under my/our seal and signature.

III. I/We hereby certify that the Shipping Bills containing the relevant EPCG Authorization Number and Date have been verified, in respect of specific export obligation. The Shipping Bill which do not contain EPCG Authorization Number and Date have been verified as per Policy Circular No. 7/2002 dated 11.07.2002(Copy of original documents submitted by the firm are enclosed).

IV. Neither I, nor any of my/our partners is a partner, director, or an employee of the above-named entity, its Group companies or its associated concerns;

V. I/We fully understand that any statement made in this certificate, if proved incorrect or false, will render me/us liable to face any penal action or other consequences as may be prescribed in law or otherwise warranted.

(Signature and Stamp/ Seal of the Signatory)
(Chartered Accountant/ Cost & Works Accountant)

Place: _____ Name of the Signatory: _____
Date: _____ Address: _____
Membership No: _____

If any of the documents of record mentioned in serial number (i) have not been maintained/ furnished, examined or verified, they may please be specified below:-

- 1.
- 2.

Note: Each page of this annexure is to be signed by the Chartered Accountant/CWA/CS with his registration number.

