

GOVERNMENT OF INDIA

MINISTRY OF TEXTILES

New Delhi,

dated 12th November, 99

NOTIFICATION No1/129/99 Exports-I

Subject: YARN, Fabrics & Made-upS Export ENTITLEMENT (Quota) POLICY FOR 2000-2004 - in respect of countries where such exports are covered by restraints under the provisions of the Agreement on Textiles and Clothing.

1. Introduction

Pursuant to the provisions contained in Item No. 8 of Appendix I, schedule 2 of ITC(HS) Classification of Export and Import published under the Export and Import Policy (1997-2002) in respect of exports of Yarn, Fabric and Made-up items to the USA, Canada and the European Union, the Policy for allotment of entitlements, (hereinafter referred to as the Allotment Policy) for the years 2000 to 2004 shall be as hereinafter detailed.

2. Administration

i) Unless otherwise directed, the Executive Director, the Cotton Textiles Export Promotion Council (TEXPROCIL) shall allocate entitlements of all Yarn, Fabric and Made-up items, except for EU categories 3/3a and 23, allotments and certification of which will be made by the Executive Director, Synthetic & Rayon Textiles Export Promotion Council (SRTEPC) and except for CANADA Category 31(a) for which allotment will be made by Executive Director, Wool & Woollen Export Promotion Council (W&WEPC). These Executive Directors will be referred to as 'Quota Administering Authorities' for the respective country/categories.

ii) For the purpose of the above, the 'Quota Administering Authorities' shall mean and include such other officials who are duly authorised to exercise the necessary powers, functions and responsibilities or who are delegated with necessary powers, functions and responsibilities.

iii) The 'Quota Administering Authorities', notwithstanding any delegation effected by them, shall be accountable to the Ministry of Textiles for implementation of the Allotment Policy.

iv) The Ministry of Textiles shall be the final authority regarding the interpretation of any of the provisions of this notification. The Ministry of Textiles may also issue such guidelines as it deems fit from time to time, regarding agencies of administration, their functions and responsibilities and may reallocate part or whole of the functions and responsibilities to such authorities as it deems fit.

- i. Export entitlements will be allotted only to exporters registered with the competent Registering Authorities as per the Export Import Policy prevailing from time to time.

3. **Base year**

The phrase "Base Year" for an allotment year, wherever appearing in the Notification shall mean the calendar year preceding the year immediately before that allotment year. For example, for the allotment year 2000, the base year shall be 1998.

4. **Systems of Allotment**

(i) Quantities for export in each allotment year shall be allocated according to the following systems at rates indicated against each of them for Yarn, Fabrics & Made-ups (including Handloom Made-ups).

<i>System of allotment</i>	<i>Percentage of annual level</i>
<i>I. YARN :</i>	
<i>(i) Past Performance Entitlement (PPE) system</i>	55%

<i>(ii) Manufacturer Exporters Entitlement (MEE) system</i>	15%
<i>(iii) Ready Goods Entitlement (RGE) system</i>	30%
II. FABRICS (other than for categories 3,3a/EU, 31a and 32a/Canada):	
<i>(i) Past Performance Entitlement (PPE) system</i>	55%
<i>(ii) Manufacturer Exporters Entitlement (MEE) system</i>	15%
<i>(iii) Powerloom Exporters' Entitlement (PEE) system</i>	15%
<i>(iv) Ready Goods Entitlement (RGE) system</i>	15%
III. FABRICS {for EU/category 3, 3a; Canada category 31a and 32/a}:	
<i>(i) Past Performance Entitlement (PPE) system</i>	55%
<i>(ii) Manufacturer Exporters Entitlement (MEE) system</i>	15%
<i>(iii) Ready Goods Entitlement (RGE) system</i>	30%
IV. MADE-UPS (Handlooms) (under quantitative restraint in USA):	
<i>(i) Past Performance Entitlement (PPE) system</i>	55%
<i>(ii) Ready Goods Entitlement (RGE) system</i>	45%
V. MADE-UPS (Mill-made/powerlooms):	
<i>(i) Past Performance Entitlement (PPE) system</i>	55%
<i>(ii) Manufacturer Exporters Entitlement (MEE) system</i>	15%
<i>(iii) Powerloom Exporters' Entitlement (PEE) system</i>	15%
<i>(iv) Ready Goods Entitlement (RGE) system</i>	15%

- i. Apart from the above, quantities that become available from time to time on account of surrenders, flexibilities or otherwise shall also be allocated under the RGE System.
- ii. The Ministry of Textiles reserves the right to allocate entitlements in variation with the above, in case it is considered so desirable in view of changes in demand patterns or other relevant factors.

5. Past Performance Entitlement (PPE) System

Applications and Computation

- i. The quantities earmarked for allotment in this system shall be made available on 1st January and for this purpose, applications shall be invited by the Quota Administering Authorities during the previous year.
- ii. The 'Quota Administering Authority' concerned will compute PPE.
- iii. Available levels will be allotted pro-rata on the value of exports during the base year by the applicants in each country-category. Allotments, however, will be restricted to the average annual export performance of India in the country-category during the base year.

Allotment, Utilisation and Transferability

- iv. PPE will be allotted in two parts, each consisting of 50% of the allotment. The first part will be valid from the date of allotment till 31st May and the second part will be valid till 30th September.
- v. In case of PPE valid till 31st May, the transfers shall be allowed till the last date but the original quota holder or the transferee will get the endorsement on the certification of shipment in respect of the entitlement by 31st May. The certification will be valid for shipment upto 20th June of the quota year. Unutilised quotas (non-certified or non-shipped) shall lapse.
- vi. In case of PPE valid till 30th September, the transfers are allowed till 20th September and the quota holders or transferee can get the extension till 31st December on payment of BG/EMD at the rates given below, subject to the condition that the extension sought is for a specific buyer. One time change of buyer can be allowed by the Quota Administering Authority without changing other conditions applicable.

Product group Amount

Yarn to the EU/USA Rs.5 per kg.

Fabric and made-up items to the EU Rs.10 per kg.

Fabric and made-up items to the USA/Canada Rs.2 per Sq. Mtr. or Rs.2 per dozen,

or Rs. 2 per kg. as the case may be.

Any other item 5% of FOB value

- vii. The applications for such extension shall be submitted, complete in all respects, before the expiry of the initial validity of the entitlement or within a grace period of three working days.
- viii. The transferred PPE will be known as PPT.
- ix. Shipments against PPT shall be counted as exports by the transferee.
- x. Transfer of PPT is not allowed.

-

6. Manufacturer Exporters' Entitlement (MEE) System

Applications and Computation

- i. Allotment under this system shall be made to Manufacturer-Exporters' who have undertaken substantial modernisation and upgradation of technology in their plant and machinery during the base period. Such plant and machinery shall meet the eligibility criterion of the Technological Upgradation Fund Scheme currently in force.
- ii. Allotments under this system shall be only for the export of goods manufactured in the modernised and upgraded production unit.
- iii. The allottees shall, at the time of certification of shipments, submit an affidavit that the goods being exported have been manufactured in their production units so modernised/upgraded.
- iv. For the year 2000, the base period will be four years i.e., from 1.7.95 to 30.6.99. However, from the allotment year 2001, the base period will be three years. For example, the base period for year 2001 will be 1.7.1997 to 30.6.2000, base period for year 2002 will be 1.7.1998 to 30.6.2001 and so on. In case of year 2000, the applications will be invited as per guidelines to be issued separately.
- v. Applications for MEE will be received by ED, TEXPROCIL upto 30th September of the previous year. An application under this system shall be accompanied by a demand draft for Rs. 500/- drawn in favour of ED, TEXPROCIL. The other terms and conditions of the application will be

determined by the Textile Commissioner in consultation with ED, TEXPROCIL and after getting approval from the Ministry of Textiles.

- vi. Available quantities under the MEE will be distributed by the 'Quota Administering Authority' concerned on the basis of the production capacity of eligible applicants. Each eligible applicant may opt for a maximum of five categories for the above allotment.

Allotment, Utilisation and Transferability

- vii. MEE should be allotted in two parts, each consisting of 50% of the allotment. The first part will be valid from the date of allotment till the 31st May and second part will be valid till 30th September.
- viii. In case of MEE valid till 31st May, the quota holder shall get the endorsement on the certification of shipment in respect of the entitlement by 31st May. The certification will be valid for shipment upto 20th June of the quota year. Unutilised quotas (non-certified or non-shipped) shall lapse.
- ix. In case of MEE valid till 30th September, the quota holders can get the extension till 31st December on payment of BG/EMD at the rates and subject to other conditions mentioned in 5(vi), mutatis-mutandis.
- x. The applications for such extension shall be submitted, complete in all respects, before the expiry of the initial validity of the entitlement or within a grace period of three working days.
 - i. MEE shall NOT be transferable.

7. Powerloom Exporters' Entitlement (PEE) System.

The Textile Commissioner will separately notify detailed guidelines and norms of eligibility for allotments under the PEE System after obtaining approval from the Ministry of Textiles.

8. Ready Goods Entitlement (RGE) System

Release Schedule

- i. Entitlement under the RGE System will be opened four times in the year. 40% of such entitlement will be released on the 10th of January, 30% on the 10th of April, 20% on the 10th of July and 10% on the 10th of October.
- ii. In addition to the quantities under this system, those that become available by way of surrenders, flexibilities or otherwise, may be released at any time, after giving adequate notice to the trade by the Quota Administering Authority concerned with the approval of the Ministry of Textiles.

Applications

- iii. Quantities shall be allotted against applications and on a day when available quantities are oversubscribed, eligibility shall be decided on the basis of unit value realisation among the applications received on that day.

Validity of allotments

- iv. Allotments will be valid for 50 days from the date of allotment. No extension will be granted.

System of allotment

- v. Allotments under the RGE system would be subject to EMD/BG @ 5% of FOB value of the quantity involved.
- vi. The Textile Commissioner may fix the maximum quantity, that can be applied for by an applicant for each country-category under this system per day in consultation with the Quota Administering Authority concerned.

Transferability

- vii. RGE allotments will NOT be transferable.

Reservation for Handlooms

- viii. Under US category 363 a quantity of 1 lac pieces of terry towels would be reserved for handlooms. The Ministry may also reserve quantities for handlooms under any other applicable country/category.

7. Validity of Certification

- i. Validity of certification under the RGE System will be for a period of 50 days from the date of allotment unless otherwise specified.
- ii. Validity of PPE/MEE/PPT will be 50 days from the date of endorsement of the shipping bill or till the expiry of the entitlement certificate, whichever is earlier.
- iii. Notwithstanding the averments in para 8(iv) above, the Textile Commissioner may grant extension of validity period upto three working days in individual cases if he is satisfied that the exporter concerned could not export within the period due to circumstances beyond his control.

10. Slow-moving items

i) An item shall be notified as slow-moving, if, during the base year the utilisation has been less than 75% of the annual level for that year. The Quota Administering Authority shall notify the items that are slow moving, latest by 1st December of the previous year.

- i. Notwithstanding anything else contained in any of the provisions of this notification, for slow-moving items, EMD/BG would be charged @ 1% of FOB value for shipment under the Ready Goods Entitlement System.
- ii. The quantitative ceiling stipulated for the RGE system vide 8(vi) above shall not be enforced.
- iii. This relaxation may, however, be withdrawn without advance notice.

11. Provisions regarding submission and forfeiture of Earnest Money Deposit/Bank Guarantee/Post Dated Cheque

- i. EMD shall ordinarily be furnished by way of Demand Draft, FDR unilaterally encashable by the Quota Administering Authority or Bank Guarantee. However, Post Dated Cheques will also be accepted as EMD in systems other than RGE, subject to the conditions stipulated below:
 - a. Post Dated Cheques will be accepted as EMD, in systems other than RGE, for extension of entitlements subject to the condition that if the cheque is dishonoured on deposit for any reason, the quantities extended against such cheques would be debited to any future entitlements of the concerned exporter concerned and he will not be allotted any further entitlements until the amount covered by the forfeiture is remitted by way of Demand Draft. This

will be besides any other legal or other remedy which the Quota Administering Authority may decide to take.

- b. The Post Dated Cheques should be dated 1st June of the year following the year of allotment and should be valid for presentation during a period of 6 months from that date.
- c. The stipulations relating to release/forfeiture of the Post Dated Cheques would be the same as applicable to the other forms of EMD/BG.
 - i. The EMD/BG/Post Dated Cheque of an exporter who exports 90% or more of the entitlement would be released in full. However, in the case of slow moving items, this percentage will be 75% or more.
 - ii. The 'Quota Administering Authority' shall forfeit the EMD/BG in case utilisation is 75% or more but less than 90% in case of fast moving items and 50% or more but less than 75% in case of slow-moving items proportionate to the shortfall in utilisation.
 - iii. If utilisation is less than the above, i.e. less than 75% in case of fast moving items and 50% in case of slow moving items, the EMD/BG/Post Dated Cheque shall be forfeited in full.
 - iv. For the above purpose, utilisation shall be compiled on the basis of individual entitlements or on the basis of each System separately or on the request of the exporter for his performance in all systems (except RGE System) clubbed together.
 - v. A show cause notice shall be issued before forfeiture.
 - vi. The quota administering authority should despatch the order of forfeiture of BG/EMD/PDC etc., by registered post with acknowledgement due card or preferably through speed post. Evidence of despatch of an order through the means specified above as also of acknowledgement/receipt thereof or otherwise should be kept on the file concerned.
 - vii. All forfeited EMD/BG/Post Dated Cheques shall be deposited into a Public Deposit Account of the Government in such manner as Government directs from time to time.
 - viii. The Quota Administering Authority, for ensuring the recovery of the amount of forfeiture may temporarily debar the exporter from obtaining entitlements and participating in the Export Entitlement Distribution Scheme for a specified period.

12. Guidelines for obtaining release of held-up consignments

- a. When a shipment effected in an unrestrained category is reclassified by the importing country into a restrained category or when a shipment effected in a restrained category is reclassified by the importing country into another restrained category, Export Certificates / Visas will be issued in the reclassified category after the exporter surrenders the quantity involved in the reclassified category. For this purpose, the exporter can surrender the quantity from own entitlements in systems other than RGE

or by obtaining the quantity by transfer. If the case is to be cleared after 20th September, when transfers are not permissible, and an exporter does not have own entitlements to surrender, an undertaking to surrender the requisite quantity by the 31st January from the succeeding year's entitlement (own or transferred) shall be taken from such an exporter. Such an undertaking should be backed by BG/EMD to the extent of 50% of the value of the quantity calculated at the rates mentioned in para 5(vi). Once the quantity is surrendered, the BG/EMD may be released. If the quantity is not surrendered as per the undertaking, the BG/EMD may be forfeited. In such cases, PPE allotments in any country-category to the exporter for the succeeding year may be allotted, only after the requisite quantity is so surrendered.

- b. If unallocated balance is available in the reclassified categories from the quantities released by the Quota Administering Authority in RGE system, the Export Certificate / visas for the held up consignment will be issued after debiting such balance and the exporter will not be required to surrender any quantity.
- c. The stipulations of (a) and (b) above will also apply to cases where a change of buyer is required for a shipment that had been effected under the RGE system or under the PPE/MEE system after obtaining extension beyond 30th September and to cases where a change of importing country is required.
- d. Where a shipment exported in a restrained category reclassified into another restrained category as above, the entitlement used for sending the shipment from the country may be returned to the exporter, subject to the following conditions :
 - i. The exporter returns the Original Export Certificate / Visa to the Quota Administering Authority concerned.
 - ii. The Entitlement Certificate which had been debited at the time of export, remains valid for the concerned quantity when the add-back is requested.
- a. In the case of items exported as handloom garments exempted from restraints or as "India Items", which are reclassified by the importing countries as restrained items, Visas / Export Certificates will be issued by the Quota Administering Authority after obtaining the approval of the Ministry of Textiles.

13. Clearance by Customs

- i) **Products under restraint** : Shipments will be allowed by Customs authorities at the ports of shipment after verifying the certification of export entitlement on the

original and duplicate of shipping bills for individual consignments issued by the Quota Administering Authority concerned or any other appropriate agency designated for this purpose.

ii) **Handloom Products** : Insofar as export of all handloom fabric/made-up items corresponding to restrained items are concerned, shipments will be permitted by the Customs on the basis of Inspection endorsement by the Textiles Committee in para-2 of the combination form.

iii) **Made-up items falling under "India Item"**: In respect of "India Items" which are traditional folklore handicraft textile products of India, shipments will be permitted by the Customs for export to the USA, the EU, Canada on the basis of appropriate certificates issued by the office of the Development Commissioner (Handicrafts).

14. Export Certificate, Certificate of Origin & Visa

The following certification required under the relevant Bilateral Arrangements will be issued by the Quota Administering Authority concerned or any other body duly authorised in this behalf:-

i) **USA:** Visa for all yarn, fabric (except Handloom) and made-ups (including Handloom) consignments of commercial value will be issued by TEXPROCIL.

ii) **E.U :** (a) Export Certificate and Certificate of Origin for all restrained items of yarn, fabrics and made-ups except Catg.3/3(a) and Catg. 23 will be issued by ED, TEXPROCIL (b) Export Certificate and Certificate of Origin for EU categories 3/3(a) & 23 will be issued by ED, SRTEPC. (c) Certificate of Origin for all non-restrained items will be issued by the Quota Administering Authority concerned.

iii) **Canada:** Export Certificates for Fabric {except Catg. 31(a)} and Made-up items, which are subject to restraint, except for consignments valued at less than Canadian dollars 500/- will be issued by ED, TEXPROCIL. Export Certificate for Catg. 31(a) will be issued by ED, WVEPC.

15. Handloom Exempt Certificate

In the case of export of all handloom fabric/made-up items corresponding to restrained items for Canada, all handloom fabrics and made-up items for the EU and the USA the Textile Committee will issue the Certificate as prescribed in the respective Bilateral Arrangements for such products.

16. Appeal against forfeiture of EMD/BG/Post Dated Cheque

- i. Any exporter aggrieved by the order of forfeiture of EMD/BG by the quota administering authority may file an appeal to the 1st appellate authority, i.e., the Textile Commissioner within 45 days of the despatch of the order of the quota administering authority. This appeal shall be made in triplicate, accompanied by a demand draft for Rs. 500/-, drawn in favour of the Textile Commissioner and payable at Mumbai.
- ii. The appellant may make a separate application for stay of the order of the quota administering authority if he so desires.
- iii. The Textile Commissioner will decide the issue of stay, as early as possible.
- iv. A Decision on the appeal will also be taken as early as possible, preferably within two months. A reasonable opportunity for personal hearing, if requested by the appellant, shall be given to him. The final order will be despatched through registered post (with acknowledge due card) or preferably through speed post and the evidence of despatch thereof by the said means, as also of acknowledgement/receipt thereof or otherwise shall be placed on the file concerned.
- v. In the case of appeals which have been filed after the due date, the Textile Commissioner shall first decide as to whether such delay is to be condoned or not. The Textile Commissioner shall pass speaking order in such cases.
- vi. For the above purposes, the Textile Commissioner shall mean and include such other officer (not below the rank of Director) to whom the Textile Commissioner expressly or otherwise delegates the necessary responsibilities.
- vii. If an exporter is not satisfied with the decision of the Textile Commissioner in the matter of a stay application or an appeal, he may prefer an appeal against such decision within 45 days of the despatch of the order of the 1st appellate authority to the 2nd appellate authority for a decision thereon.
- viii. The 2nd appellate committee for these purposes will comprise the following:
 - (a) Joint Secretary (Exports), MOT, GOI Chairman

(b) An officer of the Ministry of Law & Justice, GOI Member

(not below the rank of Dy. Secy. to the GOI)

(c) An officer of the DGFT, MOC, GOI Member

(Not below the rank of Dy. Secy to the GOI)

(d) Dy. Secretary/Director (Exports), MOT, GOI Member-Secretary

The quorum of the this committee will consist of its Chairman and 2 members.

- ix. Any appeal before the 2nd appellate authority shall be addressed to its Member-Secretary in a set of five copies, accompanied by a demand draft for Rs. 500/-, drawn in favour of the Ministry of Textiles, GOI and payable at Delhi.
- x. If matter of the appeal also pertains to a stay and is of an urgent nature, the Chairman of the committee may grant the stay by recording reason(s) in writing.
- xi. The 2nd appellate authority shall also decide the case at the earliest, preferably within three months.

17. Procedure to deal with Quota malpractices by exporters

- i. The Committees called the Enforcement Committees are constituted with the following composition:-

1. Textile Commissioner, MOT, GOI Chairman
2. Quota Administering Authority Member
3. An officer of the Ministry of Law & Justice, GOI Member

(not below the rank of Dy. Secy. to the GOI)

4. Chairman of the agency concerned Member
(TEXPROCIL, SRTEPC and WVEPC, as the case may be)

5) An Officer of the Agency concerned Member-Secretary

(To be nominated by Quota Administering

Authority in consultation with the Chairman

of the Enforcement Committee)

(ii) The Chairman and two members will constitute the quorum.

i. The Enforcement Committees will deal with cases involving the use of any one of the following, in connection with obtaining, extending, utilising or proving the utilisation of quotas :-

a) Any fraudulent activity

b) Any misrepresentation of facts

c) Any falsification of documents or forgery

d) Submission of post-dated cheques for extension of entitlements which are dishonoured on presentation to his bank.

(iv) The Enforcement Committees will also deal with cases relating to exporters who are found to have exported or who have completed the formalities to export any item, which contains any dyes, chemicals, pigments or other material whose handling is specifically banned by the competent authority of the Government.

(v) In cases where the Committee finds the exporters guilty of fraud or other irregularities, which are violative of any of the above provisions, after examining his explanation and giving a personal hearing, the exporter may be debarred from obtaining entitlements and participating in the Export Entitlement Distribution Scheme for a specified period.

i. In serious cases, the exporter may be temporarily debarred by the Quota Administering Authority before personal hearing, pending the completion of the procedures and finalisation of a decision by the Committee.

ii. The Enforcement Appellate Committee with the following composition will hear appeals against the decisions of the Enforcement Committees:

i) Joint Secretary (Exports), MOT, GOI Chairman

ii) An officer of the Ministry of Law & Justice, GOI Member

(Not below the rank of Dy. Secretary to the GOI)

- i. An officer of the O/o the DGFT, MOC, GOI Member

(Not below the rank of Dy. Secretary to the GOI)

iv) Dy. Secretary/Director (Exports), MOT, GOI Member-Secretary.

- i. The quorum of the Enforcement Appellate Committee will consist of the Chairman and 2 members. The Chairman of the Enforcement Appellate Committee will, however, have the power to grant stay on the orders passed by the Enforcement Committee, after giving reasons recorded in writing.
- ii. Any appeal filed before the Enforcement Appellate Committee will be presented in five sets of papers accompanied by a demand draft for Rs.500/-, drawn in the favour of the Ministry of Textiles, GOI.
- iii. The Enforcement Appellate Committee may review and amend, modify or quash the orders of the Enforcement Committees on appeal from an aggrieved exporter or by initiating the action suo-moto.

18. Supervisory role of the Textile Commissioner

The Textile Commissioner shall exercise general supervision over the matters relating to implementation of this Policy. In case, any deviation is noticed by the Textile Commissioner, it shall be promptly reported to the Ministry of Textiles seeking directions thereon.

19. Coordination Committee

A Coordination Committee consisting of Textile Commissioner, the representatives of EPCs (AEPC, TEXPROCIL, SRTEPC and WVEPC) including the Quota Administering Authorities, ED, HEPC, DC(HC) and Dy. Secretary/Director (Exports) will meet under the chairmanship of the Joint Secretary (Exports) once in three months to review the operation of the policy. The Committee will send a report to the Ministry for taking appropriate actions on any changes desired in the Policy.

20. Right of the Government to make amendment

Government reserves the right to make amendments to and of the foregoing provisions in the public interest, without giving prior notice.

(N.RAMAKRISHNAN)

JOINT SECRETARY TO THE GOVERNMENT OF
INDIA