

(In case the proposed Joint Venture company is not in existence, please indicate the applicant as "PROMOTER")

- | | | |
|--|---------------------------------|--------------------------------|
| II. (a) Does the company fall under the category of SSI | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| (b) Whether you require license for manufacturing the products for which technology transfer is now sought | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| (c) <u>In case of applicant being in Medium / Large Sector</u> | | |
| (1) Whether the products under manufacture are reserved for SSI | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| (2) Whether all / any of such products require Industrial Licence | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |

III. (A) Capital Structure of the Indian Company

	<u>Equity Capital (Rupees)</u>	<u>Preference Capital (Rupees)</u>
(i) Authorised	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
(ii) Subscribed	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
(iii) Paid-up	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
(iv) Face Value of share	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

(B) Pattern of share holding in existing paid-up Capital (Amount in Rupees).

(i) **Foreign holding** **Equity** **Percentage**
□ □ □ □ □ □ □ □ □ □ □ □ □ □

Preference **Percentage**
 □ □ □ □ □ □ □ □ □ □ □ □ □ □

(ii) NRIs / OCBs predominantly owned by NRIs

(a) Repatriable **Equity** **Percentage**
□ □ □ □ □ □ □ □ □ □ □ □ □ □

Preference **Percentage**
□ □ □ □ □ □ □ □ □ □ □ □ □ □

(b) Non-repatriable **Equity** **Percentage**
□ □ □ □ □ □ □ □ □ □ □ □ □ □

Preference **Percentage**
□ □ □ □ □ □ □ □ □ □ □ □ □ □

(iii) Resident holding **Equity** **Percentage**
□ □ □ □ □ □ □ □ □ □ □ □ □ □

Preference **Percentage**
□ □ □ □ □ □ □ □ □ □ □ □ □ □

(iv) Total (i) to (iii)

 Equity □ □ □ □ □ □ □ □ □ □ □ □ □ □

 Preference □ □ □ □ □ □ □ □ □ □ □ □ □ □

IV. Existing activities, if any, of the Indian Company (Supplementary Sheets may be attached, if necessary)

<u>Item Code</u> (if available) <u>ITC (HS)</u>	Description
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_____	_____
_____	_____
_____	_____

NIC Code (if available)

_____	_____
_____	_____
_____	_____

V. Item(s) of manufacture proposed to be undertaken with foreign collaboration.

<u>Item Code</u> (if available) <u>ITC (HS)</u>	Description
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_____	_____
_____	_____
_____	_____

NIC Code (if available)

_____	_____
_____	_____
_____	_____

VI. In case the proposal is not in connection with manufacture of any products, but in services sector, then please furnish the appropriate information, as below.

i) In the case of Hotel/Tourism related industries, (Please tick the relevant item)
whether for setting up of a Hotel / Restaurant / Beach Resort

or

for the following tourism related industries

1. Travel/Tour/Tourist transport operating agency
2. Providing facilities for cultural, adventure and wildlife facilities for tourists
3. Surface, air and water transport facilities for tourists
4. Leisure, entertainment, amusement sports and health units for tourists
5. Convention/Seminar units and organisations

ii) **In the case of other Services Sector please indicate the activity**

NIC Code (if available)

Description of Activities

VII. Location and full address of the project.

VIII. Details in respect of Foreign Technology Transfer

(a) **Foreign Technical Collaborator**

Name/ Address/ Country

(b) **Particulars in respect of payments for Technology Transfer**

(i) If payment of royalty is involved, please indicate

Royalty	Percentage	Period-Years
On Domestic Sales		
On Exports		

Please Tick

Whether payment is
Subject to Taxes
Net of Taxes

(ii) If any lumpsum payment is involved, please indicate

Technical Know-how fees Subject to Taxes

Fees for drawing and designs Net of Taxes

Payments for use of Patents, brand names, trade marks and the like

Engineering Services Fees

Subject to Taxes
Net of Taxes

Amount of foreign Exchange required for lumpsum *	No. of Instalments
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US\$

Rupee Equivalent

* In case of requirement other than US\$, please indicate the amount in that currency as well as

its US\$ equivalent.

(c) Please indicate whether you have any subsisting technology transfer agreement in respect of the product(s)/item(s) covered by this application. In this connection, details in respect of all approvals for technology transfer obtained from SIA as also from RBI under Automatic Route, may be furnished. (Supplementary sheets may be attached, if necessary)

IX. Expected date of commencement of commercial production/activity

Date

Month

Year

X. Name and Full Address of Authorised Dealer for Foreign Exchange through whom remittance of technical know-how fees/royalty will be made.

XI. DECLARATION

I/We hereby certify that

1. The application is eligible under the Automatic Route of RBI in accordance with guidelines issued by Government as amended from time to time. The foreign collaborator does not have any previous Joint Venture or technical collaboration or trade-mark agreement in India in the same or allied field.

2. No approval for technology transfer was obtained earlier (either from Government or from RBI under Automatic Route) in respect of products/activities for which remittance for technology transfer is sought in this Application.

3. All information furnished in the application are true and correct to the best of my/our knowledge and belief.

Signature of applicant _____

Name in block letters _____

Designation of signatory _____

Place _____

Date

**NOTE FOR GUIDANCE OF ENTREPRENEURS FOR FOREIGN
AND TECHNOLOGY TRANSFER UNDER AUTOMATIC ROUTE OF RBI**
*(This note contains information for the guidance of entrepreneurs and may be
retained by them; it need not accompany the application).*

With the introduction of the New Industrial Policy on 24th July 1991, a quicker and hassle free route called the Automatic Route by RBI was opened, for approval of certain types of foreign financial/technical collaboration proposals.

The procedure for getting approvals under the said Automatic Route, together with allied information is given below:

Foreign Technology Transfer

A. General

Automatic approval will be given for payment in connection with foreign technology irrespective whether the products to be manufactured are in Annexure III or not. Such permissions will also be available in connection with foreign technology required for services sector. The payment parameters will be a lumpsum payment upto US\$ 2 million and/or 5% royalty for domestic sales and 8% for exports, subject to total payment of 8% of sales over a 10 year period from the date of agreement or 7 years from commencement of commercial production whichever is earlier. The prescribed royalty rates may be subject to or net of taxes and will be calculated according to standard conditions/procedures.

B. Hotel & Tourism related Industries

For Technology Transfer in respect of Hotel & Tourism related industries, the earlier parameters fixed in December 1991 were (i) lumpsum fee towards technical and consultancy services upto US\$ 200,000, (ii) franchising and marketing etc. fee upto 3% of the gross room sales and (iii) management fees upto 10% of the foreign exchange earnings to the foreign collaborator if the equity participation is atleast 25%. The Ministry of Industry vide their Press Note No.1 dated 21st March, 1995 have since modified the above payment limits and announced new guidelines as under:

* Technical & Consultancy Services including Fees for Architect, Design, etc. upto 3% of the capital cost of the project (less cost of land and finance).

* Franchising and marketing/publicity support fee upto 3% of net turnover (Net turnover is gross receipts less credit card charges, travel agent's commission, sales tax, statutory payments etc.)

* Management Fees (including incentive fee) upto 10% of gross operating profit.

* These revised norms are applicable provided the collaboration is proposed with companies running/managing hotel(s) with atleast 500 rooms.

However, as eligibility criteria under the revised guidelines are under examination by the Ministry of Tourism, all applications for technology transfer are being entertained as per the old guidelines.

IV. Procedure for getting Approval

All applications for permission under the Automatic Route of RBI should be submitted in **seven copies** in the prescribed **Form FT(RBI)**, to the concerned Regional Office of Exchange Control Department, Reserve Bank of India.

As per the Policy laid down by the Government, no Automatic Approval shall be granted by the RBI (either for Foreign Investment or for Technology Transfer proposals) for any item reserved for Small Scale Sector or for any item which requires Industrial Licence under the existing Policy. Accordingly the applicant shall have to necessarily state in the application to RBI whether the company proposes to manufacture any item reserved for Small Scale Sector, as also whether any Industrial Licence is required or not.

All applications seeking Automatic Approval, complete in all respects, will be disposed of within a fortnight.

Proposals which do not satisfy the parameters prescribed for automatic approval by RBI, require clearance from Government of India (SIA). Any application requiring Government approval may be lodged in form FC(SIA) or in plain paper containing complete information regarding the proposals. Applications may be addressed to SIA, Ministry of Industry, Department of Industrial Policy & Promotion, Udyog Bhavan, New Delhi - 110 011.

V. Miscellaneous Information

i) 100% Export Oriented Units (100% EOUs), situated outside Export Promotion Zones, should approach SIA in connection with their foreign collaboration/financial / and/or technical proposals. So also units located in Export Promotion Zones (EPZ) should approach concerned Development Commissioner of the EPZ.

iv) Applications for "Technology Transfer" need not be accompanied by any documents. On approval, the applicant will be advised to file necessary documents with AD/concerned Regional Office (RO) of RBI. In this connection, further enquiries pertaining to mode of remittance, payment of R & D Cess, submission of returns in form TCD etc. should be made to the concerned AD/RO of RBI.

v) Through various liberalisation measures, RBI has delegated powers to Authorised Dealers (ADs) for release of foreign exchange e.g. for hiring of foreign technicians, deputation of Indian personnel for training abroad, import of designs and drawings etc. ADs/ROs of RBI, wherever necessary, may be contacted for details in this regard.

vi) In connection with payment of "Income Tax" towards remittance of lumpsum/royalty, the applicants are free to pay a flat rate of 30% and may make a request in writing to the receiving bank branch to forward a copy of the receipted certificate regarding payment of tax direct to the AD to enable him to make necessary remittance. Alternatively, a "No Objection" certificate issued by the Income Tax Authorities in connection with payment of tax at the prescribed rate, should be produced before remittance vide Standard Condition 5(a) in this regard.

viii) For any clarifications/further guidance regarding Automatic Approval by RBI, entrepreneurs may approach the Exchange Control Department, FITT Cell, of the Regional Offices of RBI.

Further, any general information on foreign collaboration, the entrepreneurs may also approach General Manager, Exchange Control Department Central Office, FITT Section, New Central Office Bldg. (11th Floor), Sahid Bhagat Singh Road, Mumbai 400 001 or SIA, Ministry of Industry, Department of Industrial Policy & Promotion, Udyog Bhavan, New Delhi 110 011 or The India Investment Centre, Lodhi Road, New Delhi.

**STANDARD CONDITIONS ATTACHED TO APPROVALS FOR
FOREIGN INVESTMENT & TECHNOLOGY AGREEMENT**

1. The total non-resident share holding in the undertaking should not exceed the percentage(s) specified in the approval letter.

2. (a) The royalty will be calculated on the basis of the net ex-factory sale price of the product, exclusive of excise duties, minus the cost of the standard bought-out components and the landed cost of imported components, irrespective of the source of procurement, including ocean freight, insurance, custom duties, etc. The payment of royalty will be restricted to the licensed capacity plus 25% in excess thereof for such items requiring industrial licence or on such capacity as specified in the approval letter. This restriction will not apply to items not requiring industrial licence. In case of production in excess of this quantum, prior approval of Government would have to be obtained regarding the terms of payment of royalty in respect of such excess production.

(b) The royalty would not be payable beyond the period of the agreement if the orders had not been executed during the period of agreement. However, where the orders themselves took a long time to execute, then the royalty for an order booked during the period of agreement, but executed after the period of agreement, would be payable only after a Chartered Accountant certifies that the orders in fact have been firmly booked and execution began during the period of agreement, and the technical assistance was available on a continuing basis even after the period of agreement.

(c) No minimum guaranteed royalty would be allowed.

3. The lumpsum shall be paid in three instalments as detailed below, unless otherwise stipulated in the approval letter:-

First 1/3rd after the approval for collaboration proposal is obtained from the Reserve Bank of India and collaboration agreement is filed with the Authorised Dealer in Foreign Exchange.

Second 1/3rd on delivery of know-how documentation.

Third and final 1/3rd on commencement of commercial production, or four years after the proposal is approved by the Reserve Bank of India and agreement is filed with the Authorised Dealer in Foreign Exchange, whichever is earlier.

The lumpsum can be paid in more than three instalments, subject to completion of activities as specified above.

4. All remittances to the foreign collaborator shall be made as per the exchange rates prevailing on the date of remittance.

5. The applications for remittances may be made to the Authorised Dealer in Form A2 with the undernoted documents:-

(a) A "No Objection" Certificate issued by the Income-Tax authorities in the standard form or a copy of the certificate issued by the designated bank regarding the payment of tax where the tax has been paid at a flat rate of 30% to the designated bank.

(b) A certificate from the Chartered Accountant in form **TCK/TCR** (depending upon the purpose of payment).

(c) A declaration by the applicant to the effect that the proposed remittance is strictly in accordance with the terms and conditions of the collaboration approved by RBI/Government.

6. The agreement shall be subject to Indian Laws.

7. A copy of the foreign investment and technology transfer agreement signed by both the parties may be furnished to the following authorities:-

(a) Administrative Ministry/Department.

(b) Department of Scientific and Industrial Research, Technology Bhavan, New Delhi - 110 016.

(c) Concerned Regional Office of Exchange Control Department, RBI.

(d) Authorised Dealer designated to service the agreement.

8. All payments under the foreign investment and technology transfer including Rupee payments (if any) to be made in connection with engagement/deputation of foreign technical personnel such as passage fare, living expenses etc. of foreign technicians, would be liable for the levy of cess under the Research and Development Cess Act, 1986 and the Indian Company while making such payments should pay the cess prescribed under the Act.

9. A return (in duplicate) in **Form TCD** should be submitted to Regional Office of the Reserve Bank of India in the first fortnight of January each year.
