

**FORM FC (RBI)**

(Paragraph 10B.2)

**[To be filed with the Regional Office of RBI in connection with issue of shares under the 'Automatic Route of RBI' availing of the general permission]**

- (i) Please carefully fill in all items; put "N.A." wherever not applicable.
  - (ii) Please indicate only NIC Code No. and description in items VII & VIII.
  - (iii) Please note to obtain separate permission wherever approval for technology transfer is required, by lodging application in Form FT(RBI) with the Regional Office of RBI.
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**I. Nature of activity (Please carefully tick the appropriate box)**

**For Foreign Investment only**

- 1. **not exceeding 51%** for manufacture of products in Annexure III industries.
  - 2. **not exceeding 51%** for Hotel/Tourism Related Industries as per Annexure III.
  - 3. **not exceeding 51%** for Services Sector in Annexure III.
  - 4. **not exceeding 51%** in Trading Companies primarily engaged in Exports.
  - 5. **not exceeding 50%** in Mining Sector in Annexure III.
  - 6. **not exceeding 74%** for Manufacture of Products in Annexure III.
  - 7. **not exceeding 74%** for Services Sector in Annexure III.
  - 8. **upto 100%** for industries/items included in Part 'D' of Annexure III.
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(c) In case of applicant being in Medium / Large Sector

- |  |                                 |                                |
|--|---------------------------------|--------------------------------|
| (1) Whether the products indicated at items <b>VII / VIII</b> are reserved for SSI | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| (2) Whether all / any of such products require Industrial License                  | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |

**IV. If the Joint Venture company is an existing Indian Company, please furnish the following:**

**(A) Capital Structure of the existing Indian Company**

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

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

(i) Foreign holding	<b>Equity</b>	<b>Percentage</b>
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	<b>Preference</b>	<b>Percentage</b>
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
(ii) NRIs / OCBs predominantly owned by NRIs		
(a) Repatriable	<b>Equity</b>	<b>Percentage</b>
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	<b>Preference</b>	<b>Percentage</b>
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
(b) Non-repatriable	<b>Equity</b>	<b>Percentage</b>
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	<b>Preference</b>	<b>Percentage</b>
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

	<b>Equity</b>	<b>Percentage</b>
(iii) Resident holding	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

	<b>Preference</b>	<b>Percentage</b>
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

(iv) Total (i) to (iii)

Equity	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
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Preference	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
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**(C) Whether RBI approval obtained for B(i) & (ii)**

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

**V (A) Proposed capital structure of the Indian company, in case revision of existing capital structure is contemplated, or if a new company is to be set up.**

	<b>Equity Capital (Rupees)</b>	<b>Preference Capital (Rupees)</b>
(i) Authorised	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

(ii) Subscribed	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
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(iii) Paid-up	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
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(iv) Face Value of share	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
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**(B) Pattern of share holding in proposed paid-up Capital (Amount in Rupees).**

	<b>Equity</b>	<b>Percentage</b>
(i) Foreign holding	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

	<b>Preference</b>	<b>Percentage</b>
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

(ii) NRIs / OCBs predominantly owned by NRIs

	<b>Equity</b>	<b>Percentage</b>
(a) Repatriable	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

	<b>Preference</b>	<b>Percentage</b>
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

	<b>Equity</b>	<b>Percentage</b>
(b) Non-repatriable	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	<b>Preference</b>	<b>Percentage</b>
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	<b>Equity</b>	<b>Percentage</b>
(iii) Resident holding	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
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	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
(iv) Total (i) to (iii)		
Equity	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
Preference	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	

**VI. Details of foreign investment**

a) Permission is sought for issue of ----- equity shares of Rs. ----- each at par/ at a premium of Rs. ----- per share, resulting in a foreign exchange inflow for Rupees -----.

b) **Financial Collaborator**

Name/Address/Country	No. of shares to be issued	Percentage in the paid-up capital
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

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

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

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

**IX. In case the proposal is not in connection with manufacture of any products, 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 Services Sector including Mining Services**

<u>NIC Code</u>	<u>Description of Activities</u>
_____	_____
_____	_____
_____	_____

iii) **In the case of Trading Companies primarily engaged in exports,**  
**Description of Products for Export Trading**

\_\_\_\_\_

( Note : Existing Trading Companies should enclose a copy of the certificate of Registration from the Director General of Foreign Trade as a Trading / Star Trading House etc. In respect of new projects, they should get the status of Trading / Star Trading House etc. before remitting Dividend to the foreign investor. )



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

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(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 RI under Automatic route, may be furnished. (Supplementary sheets may be attached, if necessary)

**XII. Expected date of commencement of commercial production / activity.**

Date	Month	Year								
<table border="1" style="width: 100%; height: 20px; border-collapse: collapse;"> <tr> <td style="width: 50%;"></td><td style="width: 50%;"></td> </tr> </table>			<table border="1" style="width: 100%; height: 20px; border-collapse: collapse;"> <tr> <td style="width: 50%;"></td><td style="width: 50%;"></td> </tr> </table>			<table border="1" style="width: 100%; height: 20px; border-collapse: collapse;"> <tr> <td style="width: 25%;"></td><td style="width: 25%;"></td><td style="width: 25%;"></td><td style="width: 25%;"></td> </tr> </table>				

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

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**XIV. 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  
INVESTMENT 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.)*

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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. Consequent upon issue of Press Note No. 2 (1997 Series) dated 17th January 1997 by Ministry of Industry, the ambit of Automatic Approval by RBI was further expanded by addition of new items to the Annexure III List published earlier with the Press Note No. 10 (1992 Series) dated 24th June 1992 issued by the Ministry of Industry.

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

**I. Foreign Investment will be Approved :**

**A.** Not exceeding 51% of the equity in the projects for the manufacture of products in Annexure III industries indicated in the Press Note dated 24th June 1992 as well as those included under "Part B" to Press Note dated 17th January 1997. The application should contain the exact description of the products/items as well as the relevant code numbers as published in the Press Notes.

**B.** Not exceeding 51% in Hotel/Tourism Related Industries as per Annexure III. Hotels will include restaurants/beach resorts and other tourist complexes providing accommodation and/or catering and food facilities for tourists. The term "**Tourism Related Industries**" will include the following:

- i) Travel/tour operating/tourist transport operating agencies
- ii) Units providing facilities for cultural, adventure and wildlife experience to tourists.
- iii) Surface/air/water transport facilities for tourists.
- iv) Leisure, entertainment, amusement, sports and health units for tourists.
- v) Convention/Seminar units and organisations in connection with tourism.

The joint venture company requiring permission for foreign investment should run such hotel or be engaged in tourism related activities mentioned above.

**C.** Not exceeding 51% for Services Sector indicated in Part B - Annexure III of Press Note dated 17th January 1997. Care should be taken to indicate the exact services offered indicating the relevant NIC code number.

**D.** Not exceeding 51% in Trading Companies primarily engaged in Exports. It may be noted that the applicant company should get registered as a Trading/Star Trading House etc. in due course with Ministry of Commerce. The company will be permitted to remit dividend to foreign investor only after getting such registration.

**E.** Not exceeding **50%** in Mining Sector indicated in Part A - Annexure III of Press Note dated 17th January 1997. A careful reading of the Government Press Note will show that the Mining activity as a whole has not been covered; but only certain types of Mining activity. Care should be taken to apply only for such descriptions indicated in Part A, also furnishing the relevant NIC code.

**F.** Not exceeding **74%** in certain areas. For the first time, a new window of foreign investment approval under the Automatic Route of RBI upto 74% has been introduced. Approval will be available in respect of either manufacture of certain products or for offering certain services as indicated in Part C - Annexure III of Press Note dated 17th January 1997. Accordingly applicants should take care to properly indicate in the application against relevant column, as to whether the project is for manufacture of a product or under services sector, furnishing the relevant NIC code.

## **II. #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. 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.

## **III. Raising of Foreign Equity in an existing Indian Company**

Raising of foreign equity in existing Indian Companies will be allowed subject to fulfilling the following eligibility criteria.

i) The existing companies are predominantly engaged in Annexure III activities or if the existing companies are not in Annexure III activities, but embark upon expansion programme predominantly in Annexure III activities and foreign equity raised by expanding the capital base, is utilised for such expansion.

ii) In the existing Trading companies already registered as Trading House/Star Trading House etc.

**Any application for raising foreign equity in the existing Indian companies, should be accompanied by the following documents:**

- a) A copy of the Board Resolution in connection with such allotment of shares to foreign investor.
- b) A copy of Special Resolution under Section 81(1A) of the Companies Act, wherever applicable, in connection with such preferential allotment.
- c) In the case of listed companies, a certificate from the statutory auditor of the company working out the price for the issue according to SEBI guidelines.

**or**

In the case of unlisted companies etc., an work-sheet giving calculations for fair value of the share (as per erstwhile CCI guidelines) and certified by an independent Chartered Accountant.

d) In the case of application from existing Trading companies, copy of certificate of registration from the Ministry of Commerce for the status of a Trading/Star Trading House etc.

**IV. Procedure for getting Approval**

All applications for permission under the Automatic Route of RBI should be submitted in **seven copies** in the prescribed **revised form FC(RBI)**, to the Chief General Manager, Exchange Control Department, Central Office, [Foreign Investment & Technology Transfer (FITT) Section], Reserve Bank of India, Mumbai 400 001.

**CARE**

*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/FIPB as the case may be).**

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 proposals. So also units located in Export Promotion Zones (EPZ) should approach concerned Development Commissioner of the EPZ.

ii) Normally, industries in Small Scale Sector are permitted foreign investment upto 24% only. Should they apply for more than this limit, besides complying with the relevant guidelines prescribed for that sector, the units will have to forego the facilities available to SSI Unit.

iii) Dividends can be remitted freely through an Authorised Dealer (AD) except in the case of industries covered under 22 items relating to Consumer Goods vide Ministry of Industry Press Note No.12 dated 26th June, 1992, stipulating "Dividend Balancing" condition.

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.

vii) Entrepreneurs may note that Annexure III items eligible for Automatic Approval, published with the Press Note dated 24th June 1992 by the Ministry of Industry, have been assigned code numbers according to ITC-HS coding system. However, the expanded list of industries/items eligible for Automatic Approval by RBI vide Press note dated 17th January, 1997 issued by Ministry of Industry (for foreign equity upto 50%, 51% and 74% as the case may be) have been assigned code numbers under NIC coding system. Till a reconciliation of ITC and NIC code is done, the relevant code number and system should be indicated in the application.

viii) For any clarifications/further guidance regarding Automatic Approval by RBI, entrepreneurs may approach

General Manager, Exchange Control Department, Reserve Bank of India  
Central Office, FITT Section, New Central Office Building(11th Floor)  
Sahid Bhagat Singh Road, Mumbai 400 001.

Information will also be available at the Exchange Control Department (FITT Cell) of the Regional Offices of RBI. Further, any general information on foreign collaboration, the entrepreneurs may also contact SIA, Ministry of Industry, Department of Industrial Policy & Promotion, Udyog Bhavan, New Delhi 110 011 or The India Investment Centre, Lodhi Road, New Delhi.

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# As the work relating to grant of approval for technology transfer has been delegated to the Regional Offices of Reserve Bank, any application for Foreign Technology Transfer only is to be submitted to the concerned Regional Office with effect from 21st April 1997 in the new Form FT (RBI) prescribed for this purpose.

**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.

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