

India: Review of Policy on Foreign Technology Collaborations

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The Indian Government has recently reviewed the monetary limits imposed on royalties for technology transferred or licensed. Following that review it is now proposed to only have reporting of royalties post-repatriation so that the Indian Government can monitor the level of royalties being repatriated by Indian entities. However, no formal notification of the new rules has been issued by the Government as yet.

At the moment a non-resident can derive a lumpsum fee of up to USD 2 million and royalties of 5% for domestic sales and 8% for exports in respect of the technology transferred or licensed to an Indian entity. For trademark licensing, the royalty levels are 1% for domestic sales and 2% for exports. No prior approval of the Government is required (the "automatic" route). However, if the trademark licensor is providing technology as well, then the trade mark royalties are included within the royalty limits of 5% and/or 8% for technology transfer.

The Indian Government also proposes to remove the limit placed on the duration of royalty payments. This will remove the restriction of 7 years on the ability to

remit royalty payments, unless the Indian Government granted an extension to that period.