

中華民國七十四年六月三日修正發布

外國事業商標授權處理準則

經濟部投資業務處印行
中華民國七十六年二月

76. 2. 1,000本

外國事業商標授權處理準則

中華民國七十四年六月三日經濟部經（七四）商字第 二二六八五號令修正發布

第一條 外國事業申請商標授權及其權利金之給付，依本準則處理之。

第二條 外國事業依外國人投資條例申請核准在我國境內投資設立事業，其投資額佔該投資事業總資本額百分之二十以上，其在我國註冊之商標，所使用之商品如屬投資產品範圍以內者，經中央標準局（以下簡稱標準局）核准後，得授權該投資事業使用。

第三條 外國事業雖未依外國人投資條例申請核准在我國境內投資設立事業，惟其母公司或所屬之子公司符合本準則第二條所規定之情形者，該外國事業在我國註冊之商標，經標準局核准後，得授權其母公司或所屬之子公司所投資之我國事業使用於投資範圍以內之產品。

第四條 依技術合作條例核准之技術合作案件，外國事業在我國註冊之商標，得經標準局核准授權我國合作人使用，授權使用之產品係指技術合作之產品，授權期間以技術合作期間為限，技術合作期滿後，如欲繼續商標授權者，得依第五條申請。

第五條 外國事業在我國註冊之商標如其所使用之產品，品質確實優良，具有國際市場，且該商標之專用權人能監督支配我國事業生產同類商品保持與該商標商品相同品質者，經標準局核准後，得授權我國廠商使用。

第六條 以公司名稱之全名作為商標者，不得申請商標授權。

第七條 商標授權有效期間，如原經據以核准之條件，自始未符合或嗣後變更未符合規定時，標準局應依職權或受理舉發撤銷原核准之商標授權。

第八條 商標授權及其權利金之給付，經依本準則核准者，標準局得發給證明書。

第九條 有關商標授權及其權利金之給付，由標準局依有關文件審核之。但必要時得邀請有關單位會商。

第十條 依本準則核准之商標授權及其權利金之給付，如有涉及免稅與結匯事項，應依各該主管機關之規定辦理。

第十一條 本準則自發布日施行。

**CRITERIA FOR THE HANDLING OF
LICENSING OF TRADEMARKS
OWNED BY FOREIGN ENTERPRISES**

NOTE

In case of any discrepancy between the English version and the Chinese text of this Criteria, the Chinese text shall govern.

Translation courtesy of

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**CRITERIA FOR THE HANDLING OF
LICENSING OF TRADEMARKS
OWNED BY FOREIGN ENTERPRISES**

**(Amended as of June 3, 1985,
by the Ministry of Economic Affairs)**

Article 1.

Licensing of trademarks owned by foreign enterprises and payment of royalty thereof shall be handled in accordance with this Criteria.

Article 2.

Where a foreign enterprise has obtained approval under the Statute for Investment by Foreign Nationals to make investment in the territory of the Republic of China and the amount of the investment is 20% or more of the capital of the invested enterprise, provided that the product is within the scope of invested product of the invested enterprise, the trademark registered in the Republic of China by the foreign enterprise may be used by the invested enterprise on such product by way of license after approval by the National Bureau of Standards (hereinafter referred to as NBS).

Article 3.

Where a foreign enterprise has not yet make investment in the territory of the Republic of China under the statute for investment by foreign nationals, but its parent or subsidiary company has qualified the conditions under Article 2 of this Criteria, the trademark registered in the Republic of China by the foreign enterprise may be used by the enterprise invested by such parent or subsidiary company by way of license after approval by the NBS, provided that the product using the trademark is within the scope of invested product of the invested enterprise.

Article 4.

Where a foreign enterprise has obtained approval for a technical cooperation under the Statute for Technical Cooperation, the trademark registered in the R.O.C. owned by the foreign enterprise may be used by the Chinese partner on the product manufactured under the technical cooperation by way of license after approval by the NBS. The term of license shall endure only for the validity of the technical cooperation, but may be renewed in accordance with Article 5 hereinbelow.

Article 5.

Where the goods using a trademark which has registered in the R.O.C. by a foreign enterprise are of excellent quality and having international market, the trademark may be licensed to Chinese manufacturer(s) for use after approval by the NBS, provided that goods manufacture is under the supervision and control of the foreign enterprise so that the goods manufactured by the licenses remains of the same quality as goods manufactured by the foreign enterprise.

Article 6.

A trademark consisting of the full name of a company may not be applied for licensing of trademark.

Article 7.

When it is discovered within the valid license period that the basis for approval of license was primarily non-conforming to requirement, or has become non-conforming as a result of subsequent changes, the NBS may, as an officio act or upon complaint, revoke the approval for trademark license.

Article 8.

Where trademark license and payment of royalty thereof have been approved under this Criteria, the NBS may issue a certificate of approval.

Article 9.

With regard to trademark license and payment of royalty thereof, the NBS shall review the application against the relevant documents, provided, however that, the NBS may if necessary invite the relevant authorities for consultation.

Article 10.

In case of the arise of any matters involving tax exemption or foreign exchanges remittance of the trademark licensing and payment of royalty, such matters shall be handled in accordance with the relevant regulations of the respective competent authority.

Article 11.

This Criteria shall become effective from the date of promulgation.