

Legislation does not refer to specified terms for other types of agreements. Hitherto, however, INPI has limited to 5 years the initial payments period specified in all service agreements. In some cases this period may be extended. In other cases the period permitted may be less than 5 years, depending on the rate at which the technology can be absorbed.

A licensing agreement normally should cover only products that the Brazilian licensee will manufacture in the near future; additional agreements should be signed when and as it becomes necessary to cover new products. Where the licensee is a branch of a parent company, or a Brazilian subsidiary, 50 per cent of the ordinary shares of which are owned by foreign share holders, royalty remittances on patents or trademarks are not permitted.

Central bank regulations set out the range of royalties and fees within each industry, totalling from 5% down to 1% of the net sales value of the product. Agreements should define which of the partners is liable for Brazilian income tax. Remittances of fees are liable to Brazilian withholding tax.

1 - Specialized Technical Services agreements (consultancy)

- a) These agreements are for the specific purpose of planning, programming and preparing studies and projects as well as the provision of specialized services.
- b) Prior scrutiny of the agreement by INPI is not necessary where the service is concerned with inspection of plant or the installation of imported equipment.
- c) Where urgent technical services are rendered individually by foreign technicians and the total amount does not exceed US \$35,000 a formal agreement may be dispensed with and approval given on the basis of the invoice.
- d) The agreement may principally include:
 - i) the drafting of directive plans, feasibility studies and management organization studies;
 - ii) the drafting plans, projects, programs and technical supervision of all types of engineering studies;
 - iii) the installation of a plant.
- e) Services provided for foreign companies by foreign technicians, for a fixed term, must be of a level unattainable in Brazil. The need to contract abroad may be referred to national entities or trade associations. Wherever possible, the services of a foreign technician must be contracted through a national engineering/consulting company. Brazilian