

**Summary of Roundtable on Necessity,
feasibility and pathway for “Foreign
Brand Tax” in India**

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Innovative Thought Forum

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LIST OF PARTICIPANTS

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Alan DeSouza - Marketing and Branding Professional with over 5 decades of experience in Industry and Academia.

Anil Sharma - Resource Person, SJM; Expert on International Trade

Anil Srivastava - Consultant; Expert on IT and Technology

Arun Goyal - Director, Academy of Business Studies, New Delhi; International Expert on WTO and HSN

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Dr Pritam Banerjee - Head, Centre for WTO Studies at the IIFT, worked with the ADB and held senior leadership roles in the private sector.

Jayant Dasgupta - Former Indian Ambassador to WTO

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Prashant Trivedi - Plastics Passionate (Fellow IPI), Ex. CEO Meghmani Industries Ltd. Plastics Division

Roshan Agrawal - Founder of Siddhast Intellectual Property Innovations Pvt. Ltd., A WIPO-trained IP professional, played a key role in digitising Indian patent databases and advancing IP accessibility in India.

Dr. Shivang Swaminarayan - Expert in Homeopathy, Integrative health and wellness

Surender Chaudhary - Independent Policy Expert and Founder of Bharat Consumers First Foundation

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Background and Context

The challenges emerging from recent tariff measures imposed by the United States, commonly referred to as Trump tariffs, present unprecedented concerns for the Indian economy. Indian think tanks, along with the government, are exploring mechanisms to offset these challenges.

While the Government of India has announced simplification of the GST regime to stimulate consumption, certain organizations have called for banning American products. However, such knee-jerk reactions were unanimously viewed as inappropriate. The consensus was that India must focus on mid-term and long-term strategies that remain stable in a changing global order.

Emergence of the Foreign Brand Tax (FBT) Concept

Against this backdrop, the idea of a Foreign Brand Tax (FBT) emerged as a concept warranting serious examination. Though entirely new and not implemented anywhere globally, the proposal calls for analysis of its feasibility, advantages, and drawbacks in the current economic environment.

It was highlighted that foreign brands often extract disproportionately higher financial value from the Indian market compared to their actual investment. India was described as being in a state of “semi-digital colonization,” necessitating a pragmatic and carefully structured approach to FBT, potentially at a modest rate such as 2%.

FBT was seen as a signal that a nation of over 140 crore people cannot be taken for granted by global corporations.

WTO, TRIPS and Technology Outflows

India’s integration into the WTO framework was originally aimed at facilitating technology exchange and enhancing domestic technological competence. However, over the last decade, the outflow on technology fees, licenses, and royalties has been nearly ten times higher than earnings.

Participants emphasized the need to inform citizens that revenues from FBT could be used by the government to invest in fundamental research, while industry could leverage this to build domestic brands. Such a mechanism would simultaneously strengthen India’s economy and promote indigenous research, development, and brand-building.

Need for Pragmatism over Protectionism

Viewing FBT through traditional lenses of Swadeshi or outright bans on foreign goods was considered ineffective. The forum emphasized the importance of pragmatic, implementable solutions that can generate resources without destabilizing the economy or trade relations.

The forum resolved to draft a proposal that is implementable, politically viable, and capable of generating revenue to offset India’s losses in the current global trade environment.

Suggestions and Concerns Raised

While there was agreement on the need to take the FBT idea forward, several critical concerns were identified:

- Examination of FBT in relation to GST, particularly from a sales perspective
- Avoidance of the term “Foreign” where possible
- Legal review of GST, Income Tax, royalty remittance structures, and Double Taxation Avoidance Agreements

- Ensuring FBT does not deter Foreign Direct Investment (FDI)
- Creation of a separate royalty head for trademarks once adequate data is available
- Ensuring FBT revenues are not absorbed into general subsidies but are used to strengthen Indian brands
- Clear definition of FBT objectives—whether to promote Make in India, conserve foreign exchange, or curb malpractices
- Prospective implementation only, avoiding retrospective legislation
- Linking royalty restrictions to technology absorption timelines

If addressed, it was felt that FBT could withstand tests of MFN and national treatment principles.

Brainstorming and Strategic Churning

The discussion acknowledged that FBT is alien to existing Indian legal frameworks and must be evaluated against WTO and TRIPS obligations. Intellectual Property Rights outflows were highlighted as being severely imbalanced, with an estimated ratio of 10:1 against India.

Amendments to the Trade Marks Act and Patents Act may be required if foreign brands are to be treated distinctly. The core issue identified was the justification for differentiating foreign brands and articulating the rationale behind such differentiation.

Branding, Market Power, and Consumer Dynamics

Branding was identified as a powerful intangible asset—built in the consumer’s mind and sustained long after advertising stops. Multinational corporations were acknowledged to leverage brands to establish market monopolies.

India’s vast consumer base and purchasing power make it an attractive destination for global brands. However, the forum questioned whether FBT could realistically generate resources to counterbalance pressures arising from tariff wars and weakened multilateral institutions.

Royalties, Repatriation, and Legal Dimensions

Key issues discussed included:

- Reintroducing ceilings on royalties, which were removed post-liberalization
- Defining “foreign” in legal and operational terms
- Impact on income tax, GST, and double taxation agreements
- Repatriation of profits earned in rupees but transferred in foreign currencies
- Possibility of imposing ceilings on repatriation or per-unit sales

It was noted that such measures would invite resistance from beneficiaries of royalty income and require careful legal scrutiny.

Policy Pathways and Comparative Examples

The forum explored multiple approaches:

- Revisiting earlier FDI-linked restrictions on royalty remittance
- Differentiating brands involving technology transfer from pure trademarks
- Taxing royalties routed to tax havens
- Introducing disallowance provisions under the Income Tax Act
- Studying international precedents, including U.S. restrictions on non-resident remittances

A significant limitation identified was the lack of publicly available data on royalty remittances.

Risks, Constraints, and Economic Implications

Concerns were raised that FBT could:

- Lead to imported inflation
- Increase counterfeiting due to higher prices
- Disrupt supply chains
- Conflict with WTO's neutrality principles

The forum emphasized the need to clearly define whether FBT aims to increase revenue, protect domestic industry, improve the balance of trade, or support indigenous innovation.

Brief Takeaways

- India must prevent economic colonization by foreign brands
- The imbalance in technology and royalty outflows must be corrected
- FBT has merit but must not impede FDI
- FBT revenues should fund domestic R&D and brand-building
- Objectives of FBT must be explicitly defined
- Legal and international implications require deep examination
- Timely action is critical given the rapidly evolving global scenario

Conclusion and Way Forward

The participants agreed that there is a strong case for introducing an instrument like FBT if India is to become truly Samarth and Saksham. It was resolved to initiate drafting of a proposed Act, subject it to legal scrutiny, and subsequently engage with the Government of India.

The forum emphasized that all concerns must be handled pragmatically and strategically.

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