

ONLINE CHAT • GLOBAL BUSINESS OPPORTUNITIES • TRADEWINDS

KnowledgeGentia Consultants

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# FIEO NEWS

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President, FIEO (right) and President, KCCI signing Memorandum of Understanding (MoU)

**03** India Expo,  
Karachi

**07** FIEO President  
Meets The Press

**11** Meeting With  
MSME





# Chat

## ON LEGAL ISSUES

Every Tuesday, other than holidays, from 4:00 pm to 5:00 pm Ms Aparna Jain, Partner & Advocate, KnowledgeGentia Consultants, for FIEO, will be available on the chat section of the Federation's website to clarify your queries/issues on Corporate Legal Affairs, Arbitration, International Agreement, Technology Transfer, Patents, Trade Marks, Brand Management, Copyright and related topics. She is B.Com (Hons.), C.S., LLB, LLM (University Warwick, UK).

**Q: I am a UK citizen and I want to start a consultancy firm in India as a proprietorship concern? Are there any mandatory / statutory requirements?**

Although, under Indian law, a proprietorship concern has no separate legal entity other than the proprietor himself/herself, you need to substantiate the existence of the firm by either of the following documents / registrations:

- i. Lease/rent agreement in the name of the firm specifying the kind of activities;
- ii. Service Tax registration.

**Q: I am a foreigner intending to collaborate with an Indian to do business in India. Can I be a director of the company which is to be incorporated in India for the said business?**

As per Section 253 of the Companies Act, 1956 any individual can be a director whether Indian or foreigner. However, the registration of director identification number is mandatory.

**Q: I have a well established brand in Italy, an Indian company has approached me for its franchise in India. How do I still control the brand and can I demand royalty?**

At the outset, you should register the brand in India under your own

name. The brand protection through trademark registration is a geographical protection. During the negotiation with the Indian company, you should ensure the clause for royalty as the Indian company would be using your brand for selling the products/goods. The agreement should be a limited and non-exclusive agreement.

**Q: What should be the most essential precautions and clauses for international agreements?**

At the time of executing international agreements, the details and diligence of the party on the aspects of its legal entity, persons responsible for decision making. The agreement should at least have the following clauses:

- i. Due constitution of the parties with complete addresses for communication
- ii. Terms and conditions of agreement, supply of goods, services, etc
- iii. Payment clause - advance payment specifying the dates, bank a/c's etc.
- iv. Arbitration clause - seat of arbitration preferably India and language - English
- v. Notice period for termination.

**Q: I visited a technology exhibition in Singapore. I want to buy the same exclusively for India,**

**what is the initial diligence which I should undertake?**

At the outset, you should check whether there is any patent, design or copyright protection or registration over the technology and in which countries it has IPR protection. Thereafter, you should do a background check on the credentials of the company and who is the actual owner of the technology. Pursuant to the same, the decision should be made as to whether you intend to take an exclusivity in India or a Non Exclusive License. Also, the parameters of pricing, mode of payment, whether royalty or one time agreement, are important. ■

### Attention Members !!!

Are you receiving communication from FIEO on a regular basis? If not, update your correct e-mail address with FIEO's Regional Office today. Also, include the following e-mail addresses on your mailing safelist to ensure that you receive all email communication from FIEO:

banking@fieomail.org  
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