



# going global

## INDIA

### A Paperwork Journey to India

**The visa nuts and bolts of sending employees there to work.**

By Jake Kulju

**B**usiness is going well. So well, in fact, that you are thinking of expanding overseas to India. You send an employee there on business-visitor status to meet with some key people. You may even go yourself. After a few years of solid growth, you decide to send an employee to live and work there for a year or more. Things are looking up—until you get a call from the U.S. Embassy in India: Your employee is being deported and fined for working without a proper visa.

A scenario like this is entirely possible—and entirely preventable. Noncompliance with Indian immigration laws could lead to penalties, fines, deportation, and barred entry. By taking the steps necessary to attain work visas, working in India can be business as usual.

#### Be Prepared

“A lot of Americans don’t realize that Indian immigration rules aren’t as easy as they think,” explains Laura Danielson, the immigration department chair at Fredrikson & Byron, P. A., a Minneapolis-based law firm. “The novice



**Laura Danielson,**  
immigration department  
chair, Fredrikson  
& Byron, P. A.



doing business in another country that needs a permit often has no idea that it could take weeks or even months to get that documentation in order.” She recommends starting the visa application process for business travel at least six months in advance of departure.

In some ways, the process is being streamlined. Since October 2007, the Indian Embassy in Washington, D.C., and the Consulates General of India in Chicago, New York, San Francisco, and Houston have outsourced the Indian visa collection and delivery processes to a third party called Trivisa. Applications made in person are generally processed the same day, and applications made via mail take about five to seven working days to process.

But Poorvi Chothani explains that while visa applicants file through the U.S.-based Indian consulate and visa collection service, the entry, stay, movements, and departure of foreign nationals in India are regulated by various Indian acts and rules.

Chothani, owner of LawQuest, a law firm in Mumbai, is the business contact who assists Danielson’s clients with immigration issues. In a paper Chothani presented at the International Bar Association conference on immigration last year, she said that most foreign nationals visiting India on a visa that permits a stay of more than 180 days must register with the Foreigners’ Regional Registration Office. Within 14 days of arrival, visitors must appear in person with their relevant documents at the specific registration office that has jurisdiction over the place where they intend to stay.

“There are two types of visa categories relevant to business in India: business and employment,” Chothani says. “Business visas are generally granted to individuals exploring opportunities or setting up business ventures in India, in

## IN BRIEF

### Mosaic Company is expanding its business in Canada

in response to an increased demand for potash, an agricultural fertilizer used worldwide. Mosaic’s Saskatchewan location has the largest deposits of potash in the world. The company expects its annual potash capacity will increase by about 5.1 million metric tons. Plymouth-based Mosaic is a miner, processor, and distributor of potash.



### Compass Airlines, a subsidiary of Northwest Airlines, is now flying nonstop between Detroit and Monterrey, Mexico—an important business destination named Latin America’s best city in which to do business by Fortune magazine.

In early April, Compass was awarded the route from the U. S. Department of Transportation, and received a Foreign Air Carrier Permit from Mexico’s civil aviation authority. Compass Airlines, which has been in service for about a year, began operating the daily flights in May.

—Andrea Wagenknecht



which a foreign company or an individual has a stake. Business visas are issued with a validity of six months or one year with multiple entries depending on whether it is a first-time application or not.

“Employment visas are issued to individuals to work in India,” she continues. “It should be noted that an employment visa is given only for jobs that require very high levels of skills and expertise. Employment visas are initially issued for a one-year stay.”

### **Change Is In the Air**

Danielson says that complying with Indian immigration laws can be like shooting at a moving target—things are in perpetual flux. “You can get information from the experts for that moment in time, but things are fairly constantly changing and developing in India regarding the legal system and immigration laws,” she says.

“Some immigration laws require that a foreign worker be employed in a business entity

that properly qualifies as an affiliate or branch office of the U.S. parent company,” Danielson adds. “This means that even before taking a look at the credentials of the employees being sent abroad, there may be key considerations as to the business structure.”

She points out that India does not have a long history of people going there to do business. Now that interest is increasing, there are new rules that are subject to change.

“That’s why [Fredrikson & Byron] doesn’t do the visa work in India,” Danielson says. “[Chothani] is set up to remain on top of the most current immigration laws and regulations.”

Chothani says there are four types of business structures acceptable in India: sole proprietorship, partnership firms, private companies, and public companies. “The foreign company can open a branch, project, or liaison office in India,” Chothani says. “An individual can obtain an employment visa to work at any of these entities.”



The best way to ensure a successful Indian immigration experience is to start the process sooner rather than later. “Make sure you or your employees have basic things prepared, like medical documents, updated physicals, et cetera,” Danielson

says. She also recommends working with visa acquisition companies such as G3 Visas. G3’s Web site lists 12 business visa options for India along with prices.

“The underlying concern of immigration is that a country doesn’t want people to come in and harm their work force,” Danielson says. “On the other hand, they want to bring in investment money and capital along with people who have the higher sort of skills as managers and executives and technical

people to facilitate improving the economic return.” **TCB**

*Jake Kulju is a freelance writer based in St. Paul.*