



IMMIGRATION LAW

Presented by:
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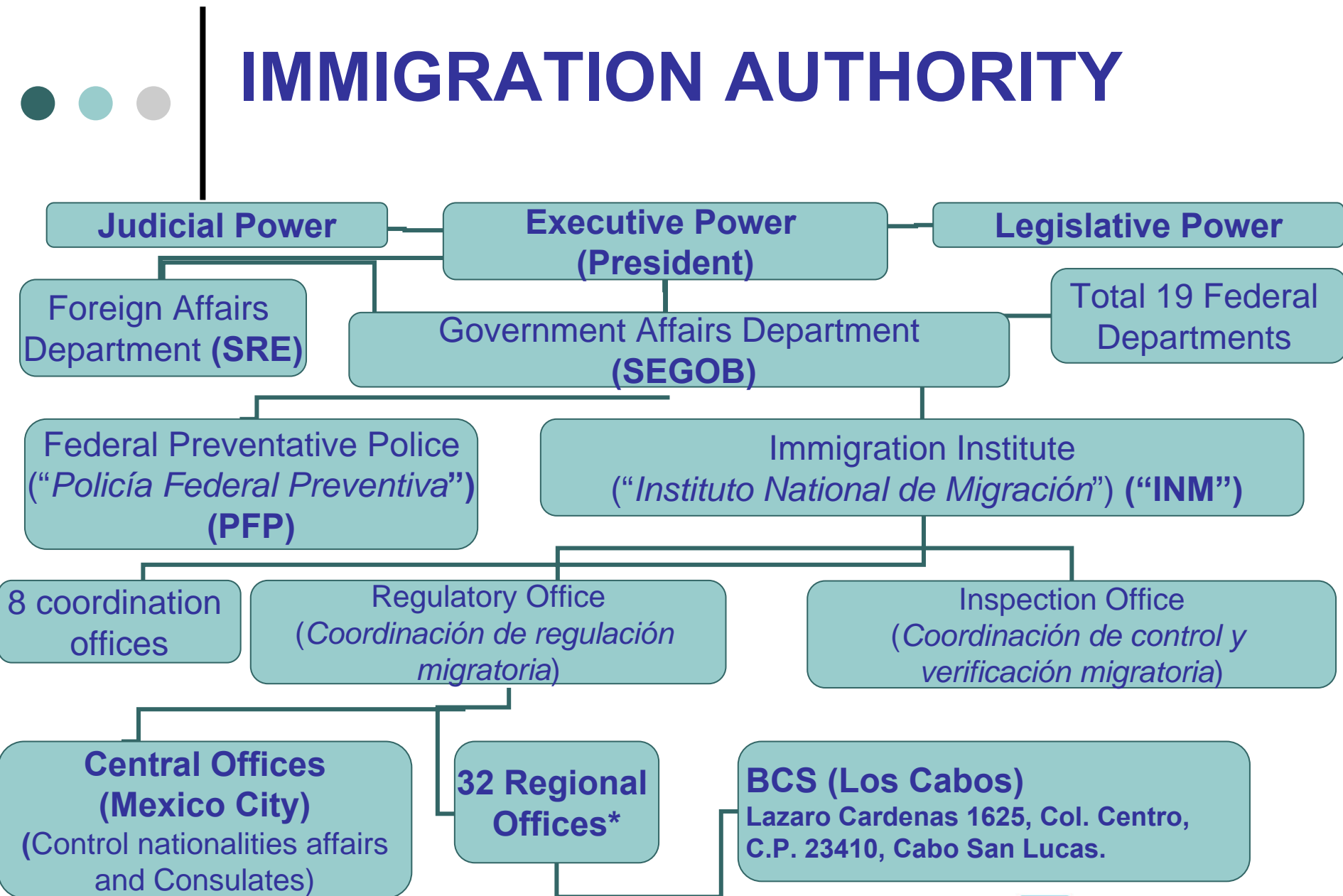
Second Annual Mexican Real Estate Market Summit
May 09-11, 2007
Los Cabos, Mexico



OVERVIEW

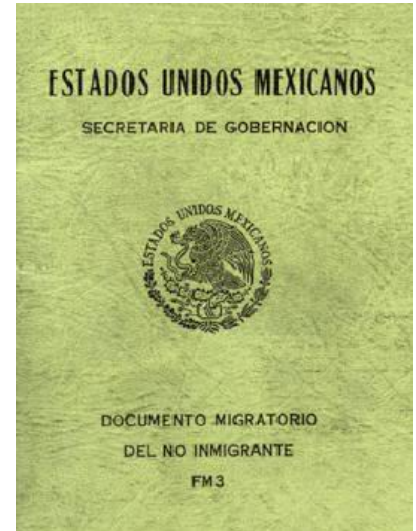
- Immigration Authority.
- Classes and characteristics for foreigners
 - Non-immigrant (FMT/FM6/FM3)
 - Immigrant (FM2)
 - Permanent Resident
- Naturalization
- Residency vs. Naturalization
- Rights and Duties of foreigners in Mexico
- What to do when facing an immigration verification
- Legal Review Process

IMMIGRATION AUTHORITY



* Specific location and info of each regional dresser can be found in <http://www.inm.gob.mx/paginas/153000.htm>

CLASSES AND CHARACTERISTICS



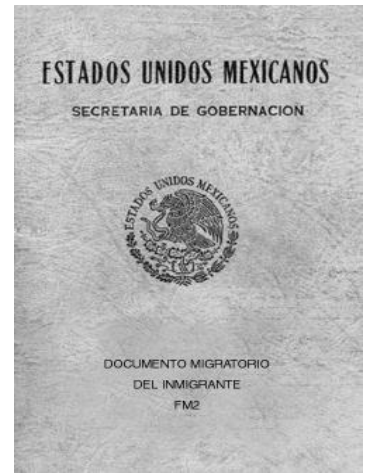
Class: Non-immigrant (“*No inmigrante*”)

- No intention to reside in Mexico (temporary)

Characteristics:

- **Tourist (FM-T):** Vacation, up to 6 months
- **Visitor (FM-3):** Perform any lawful activity, paid or not, up to 1 year with 4 extensions (total 5 years)
 - Business (FMN), work, official in a company, retired, artists.
- **Trans-immigrant (FM-6):** In transit to other Country, up to 30 days.
- **Religious (FM-3):** Religious activities
- **Asylum (FM-3):** Protection of politic beliefs
- **Refugee (FM-3):** Protection for general violence
- **VIP Visitor (FM-16):** Public figures with high international importance, up to 6 months
- **Local Visitor (FMVL):** Stop by ports or border cities, up to 3 days.
- **Provisional Visitor (FMVC):** lack of requirements to travel, up to 90 days.
- **Student (FM-3):**
- **Journalists and Human Rights watchers (FMVE).**

CLASSES AND CHARACTERISTICS



- **Class:** Immigrant (“*Inmigrante*”).
 - Applicant intends to become a resident
 - **Document:** (FM-2).
 - **Term:** Valid up to 1 year with 4 extensions (total 5 years).
- **Characteristics:**
 - *Retired:* Support yourself with money from abroad or interest from investments
 - **Company Officers:** Managers, Presidents, etc.
 - *Dependent:* of relative residing in Mexico
 - *Assimilated:* People who have assimilated into the culture or have Mexican relatives
 - *Investors*
 - *Professionals*
 - *Scientists*
 - *Technicians*
 - *Artists and Athletes*



CLASSES AND CHARACTERISTICS

- **Class:** Permanent Resident (“*Inmigrado*”).
 - Acquired residency in Mexico.
 - **Document:** FM-2 or Photo-card (“*Fotocredencial*”).
 - **Term:** Permanent.
- **Requirements:**
 - *FM-3* → FM-2 → RESIDENCY*
 - *5 continuous years with FM-2.*
 - Not be out of Mexico for more than 180 days in the 24 months immediately prior to filing for the application.
 - Good behavior.
 - Submit application within 6 months following expiration of FM-2
 - *Can get sometimes without FM-3 for 5 years



Naturalization

- **Definition:** Governmental procedure to acquire Mexican nationality “second hand” through a declaration of the “SRE”.
- **Document:** Naturalization Card (“*Carta de Naturalización*”)
- **Term:** Permanent
- **General requirements:**
 - Valid and current Passport.
 - Not out of Mexico for +180 days in 24 months immediately prior to filing.
 - FM-3 or FM-2 current for at least 180 days after application

Method	Specific requirement	Time
Residency	Live in Mexico legally and continuously with a FM-3 or a FM-2.	5 years
Mexican parent or children	<ul style="list-style-type: none"> ○ Birth certificate of applicant’s Mexican children, parents or grandparents. ○ Original Mexican Electoral ID or passport 	2 years
Mexican Spouse	<ul style="list-style-type: none"> ○ Marriage certificate of applicant’s Mexican spouse. ○ Original of the Mexican Electoral ID or passport 	2 years



Residency vs. Naturalization

Permanent Residency	Naturalization
No Mexican Nationality (Still foreigner)	Acquired Mexican Nationality. (No foreigner)
No right to vote and no Mexican passport or voter ID.	Right to vote and to a Mexican passport and voter ID.
Can stay out of Mexico up to 2 continuous years or 5 years within a 10 year period.	Can stay out of Mexico up to 5 continuous years.
No right to run for Office	Right to run for some Offices
No direct title to property in the restricted zone	Can acquire direct title to property anywhere in Mexico!
Calvo Clause applies under Foreign Investment Law.	All Mexican investments are made as a Mexican!
About 6 months process	About 1 year to process
From 5 to 10 continuous years to apply. (FM-2)	From 2 to 5 continuous years to apply. (FM-2 or FM-3)



Rights of foreigners in Mexico (Art. 33 Mexican Constitution)

- All foreigners have the same basic rights to Constitutional protection as Mexicans.
- Limitations:
 - Can be deported without Due Process!! → Art. 33 (Presidential declaration of unwelcome foreigner)
 - Freedom of speech -- limited (not politics)
 - Freedom of association -- limited (not politics)
 - Freedom to travel – limited to immigration rules
 - Limitation to acquire land or water in the Restricted Zone.



Duties of foreigners in Mexico

- Observe laws and regulations
- Keep current Immigration document.
- Notify changes of domicile and marital status
- Request authorization to change activity
- Always have on hand a copy of your FM
- Do not get involved in Mexican political affairs

● ● ● | **Special immigration procedures**

- Travel permit → immigration document in process.
- Permit to get married with a Mexican
- Permit to adopt in Mexico
- Certificate of legal stay → required for some processes like divorce or to count time lived in Mexico.
- Replacement of lost immigration document.



What to do when facing an immigration verification

- Foreigners may be subject to immigration verification (visits or inspection): any time, without a previous notice, in defined places (airports, seaports and when crossing the border) or in your house or work place. **BUT IN OBSERVANCE OF LAW.**
- **FIRST STEP. Call your attorney or a person you trust who speaks Spanish.**
- **SECOND STEP. Ask the officer(s) to prove their “capacity”**
 - Official ID issued by “INM” or “PFP” (in Spanish “Policía Federal Preventiva”).
 - Verify it is valid, that the name and picture matches the appearance of the officer performing the verification.
- **THIRD STEP. Ask the officer the reason and purpose of the verification.**
 - When verification is outside defined places → **original written order (“Oficio”)**
 - Order shall have:
 - *Who*: Name, position and original signature of officer ordering and name of officer performing the inspection;
 - *To Whom*: name of foreign person;
 - *Where*: place;
 - *When*: date (or period of time) ;
 - *Why*: reason and subject (sets the limits) as well as legal articles.



What to do when facing an immigration verification

- **FOURTH STEP. Help Officer perform inspection and report.**
 - Help is not doing everything the Officer requests.
 - Report shall have:
 - Place, date and person attending the inspection.
 - True Statement of what happened in the inspection.
 - Signature of the foreigner or the person attending the inspection.
 - Signature of 2 witnesses → foreigner appoints → If refuses, Officer can appoint them.
 - Carefully read and confirm report → if untrue do not sign it.
 - Ask officer for a copy.
- **FIFTH STEP. Results of inspection.**
 - Informative Report with no further consequences.
 - Written subpoena with foreigner's name, date, place and reason. (VERIFY)
 - Detention. Only if committing a crime. Otherwise, must have a written order. → **AMPARO**



Legal Review Process

- Discretion (“*discrecionalidad*”) ≠ Abuse of discretion (“*Arbitrio*”)
- When facing direct violation of Constitutional rights → ask protection to Federal Judicial Power “**AMPARO**”
- When facing violation of rights conferred by law:
 - 1) Complete administrative process until Resolution.
 - 2) Challenge Resolution → **REVISION PROCESS (“RECURSO DE REVISION”)** → 15 days to file → Administrative Authority → Revised Resolution.
 - 3) Challenge Revised Resolution → **NULITY PROCEEDING (“JUICIO DE NULIDAD”)** → 45 days to file → Administrative/”Judicial” Authority → Definitive Resolution.
 - 4) Challenge Definitive Resolution → **AMPARO** → 15 days to file → Judicial Authority → Final Resolution.
 - 5) Challenge Final Resolution → **REVISION PROCESS IN AMPARO** → 15 days to file → Superior Judicial Authority → Absolute Final Resolution.
 - 6) International Courts of law.



FOLLOW-UP QUESTIONS?

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