XVII Immigration

The General Law of Population (the Law) establishes both the rights and obligations of foreigners, and the various degrees of immigration status permitting foreigners to enter Mexico for the purposes described therein (such as to carry out business and remunerative activities). Such status, rights, and obligations, are specified in individual authorizations granted by the Ministry of the Interior. The Law establishes the following three general groupings: non-immigrant, immigrant, and permanent resident.

A. Non-Immigrant

Foreigners may enter the country temporarily within the following categories:

1. Tourists - Foreigners entering the country for entertainment, health, artistic, cultural, or sporting activities, without receiving remuneration, who will be granted a permit for a non-renewable period of up to six months.

2. Travelers in transit - Foreigners entering the country in transit to another country who will be granted a permit for a non-renewable period of up to thirty days.

3. Visitors - This is the most common category for foreigners entering the country for business meetings, market studies, to carry out any technical or management activities for Mexican companies, or to attend corporate shareholders or board of directors meetings, among others. Such visitors will be granted a permit for up to one year, renewable four times, for a total potential time period of five years. The permit shall specify the place and activities to be carried out by the foreigner. When a remunerated activity is performed for a Mexican entity, the Mexican entity will be jointly responsible for any sanctions imposed for violations of the terms of the permit.

This category includes investors and businessmen, scientists or technicians, professional, confidential employees, and retirees as defined in the Regulations to the Law. Certain requirements have to be complied with. For example, businessmen are required to deliver documentation evidencing the activities to be performed, and their economic solvency. In other cases, they must substantiate their technical or professional capabilities.

4. Religious Ministers or Members of Religious Associations - To perform the religious duties inherent to any religion and to carry out social services, foreigners in this category must register with the Ministry of the Interior, and prove their qualifications as minister or member of the religious association, under the terms of the Religious Associations Law.

5. Political asylum - At the discretion of the Ministry of the Interior, this authorization is granted to foreigners to protect their lives or liberty from political persecution. Such grantees will be allowed to remain in the country for the duration of the threat of persecution.

6. Refugees - A refugee is a foreigner who is granted entry into the country to protect his life, security, or liberty when he has been threatened by general violence, foreign aggression, internal conflicts or a massive violation of human rights. Refugees will be allowed to remain in the country while such conditions continue to exist.

7. Students - Foreigners entering the country to study in official or private educational institutions. To obtain authorization, students must prove economic solvency and adequate accreditation. They will be granted a permit for up to one year, renewable for as long as they remain students in Mexico.

8. Distinguished visitors - Prominent individuals at the discretion of the Ministry, who will be granted entry for up to six months.

9. Local visitors - Foreigners visiting maritime ports and border cities will be granted permits for a period not to exceed three days.

10. Provisional visitors - Foreigners landing in international airports, without the required immigration documentation, may be allowed up to thirty days to obtain proper documentation; such foreigners must make a deposit or obtain a bond to guarantee their return to their country of origin.

11. Correspondents - Foreigners engaged in the activity of journalism, either to report a special event, or to temporarily carry out journalistic activities. Correspondents will be granted up to a one-year stay, with extensions as long are they continue performing their journalistic activities.

In 1990, the Interior Ministry, in collaboration with the Ministry of Foreign Relations, issued Joint Instructions authorizing the Mexican Foreign Service (embassies and consulates) to issue non-immigrant immigration permits, without prior authorization from the Interior Ministry, for citizens of most countries, in the following cases: tourists, travelers in transit, and visitors (including business people, technicians, retirees and members of boards of directors) and students.

Foreigners entering the country with immigrant or non-immigrant status are required to register at the Domestic Foreigners Registry within 30 days of the date of entry. Also, notice of any change in their immigration status or characteristics (such as a change of address) shall be given to the Registry within 30 days of such change. Fines are levied for late notifications. Examples of foreigners entering with non-immigrant status include religious ministers or members of religious associations, refugees, students, political asylum grantees, scientific visitors, technicians and confidential employees,

All visitors entering Mexico as non-immigrants under the following visa categories: tourist, temporary business visitor, board member, and traveler in transit, will be subject to an immigration documentation fee of about US$20.00.

If visitors enter Mexico under the aforementioned categories, they will be issued the combined immigration form through the Mexican Consulates, airlines, travel agency, and immigration personnel at the ports of entry, according to the activities they will conduct while visiting Mexico

The payment of the immigration documentation fees may be made with form SHCP-5, at any bank branch. Sometimes, airlines will absorb the cost of the visa fee and issue the visa application at the time the airline ticket is purchased.

B. Immigrant

Immigrants are foreigners authorized to enter the country with the purpose of establishing permanent residency. Immigrants will be allowed to remain in the country upon satisfying various requisites, and will be granted an immigrant *(inmigrante)* permit for up to one year, annually renewable for up to five years, provided they comply with the proper requisites established by the Ministry of the Interior. Upon completion of the five-year period, the foreigner will be granted permanent resident *(inmigrado)* status. Immigrants staying out of the country more than 18 months, in a continuous or non-continuous manner, during the five year annually renewable period, will not be granted the permanent resident status until a new five-year period has elapsed thereafter. When such absences total more than 2 years, foreigners will lose their immigrant status. Immigrant categories include the following:

1. Retirees - Foreigners over 50 years of age engaging in non-remunerative activities, but receiving funds from abroad, such as interest or any other fixed income coming from abroad, provided they can prove the receipt of a monthly income equivalent to 400 times the daily minimum wage in force in the Federal District (approximately US$l ,600.00), and an additional monthly income of 200 times the daily minimum wage (approximately US$800.00), per family dependent who accompanies them. However, there are restrictions regarding residence in certain cities of Mexico where there are already a high number of foreign residents.

2. Investors - Foreigners entering the country to invest their capital in industry, commerce, or services. The minimum investment shall be equivalent to 40,000 times the daily minimum wage in force for the Federal District (approximately US$160,000.00).

3. Professionals - Foreigners entering the country to exercise a profession. Educational requirements must be fulfilled and revalidated by the Mexican authorities to exercise the corresponding profession.

4. Scientists - Foreigners who enter Mexico to perform scientific training or educational

activities. The Ministry of the Interior may require that foreigners entering Mexico under this category be invited by an institution active in the are a of specialization of the foreigner, and that the foreigner work in the institution to instruct Mexicans through conferences, courses, lectures, or other methods.

5. Confidential employees - Foreigners entering the country to perform activities as sole administrators, or any other managerial positions at the discretion of the Ministry of the Interior, in a business established in Mexico.

6. Technicians - Foreigners entering Mexico to render technical assistance and services for resident companies. The Ministry of the Interior may require that foreigners entering Mexico under this category be invited to conduct instructive conferences, courses, or lectures, just as in the case of scientists described in point 4 above.

7. Relatives - Dependent spouses or blood relatives, provided they are minors, full-time students in Mexico, or handicapped children, of an immigrant or permanent resident.

Family members of permanent residents may obtain authorization from the Interior Ministry to engage in other activities.

Children and siblings of immigrants, permanent residents, or Mexican citizens, may only be admitted into Mexico under this category if they are minors, unless they are students, or can demonstrate an incapacity to work.

If the marriage ends or the foreigner does not comply with the obligations imposed by civil law, such as alimony, the foreigner may lose this immigration status, unless the foreigner already has permanent resident status. Immigration authorities, at their discretion, may confirm the foreigner's current residency status, or authorize a change of immigration classification

8.Artists and sportsmen - At the Minístry's discretion.

9.Assimilated - Foreigners assimilated to the Mexican milieu, having a Mexican spouse or child, and not included in any of the above categories.

C. Permanent resident

Immigrants residing in the country for five years may acquire permanent resident status *(inmigrado)* if they have complied with the respective legal immigration provisions. Permanent resident status must be requested within six months following expiration of the fourth renewa1 of their immigrant status.

Under the permanent residency classification *(inmigrado),* the foreigner's periods of permitted absences from Mexico become more liberal, and the foreigner may leave and enter the country freely. If, however, the permanent resident foreigner remains outside Mexico for more than three consecutive years, or for more than five years in a 10-year period, the foreigner will lose permanent residency status. The 10-year periods are computed from the date the foreigner becomes a permanent resident.

D. General comments

Foreigners entering the country as non-immigrants may import a vehicle during the term of their status, as long as they are in compliance with certain requisites, such as periodic renewals, and posting bonds. Immigrants may not import a vehicle, except for immigrants in the retiree *(rentista)* classification. Non-immigrants and immigrants may import household belongings with certain restrictions. To obtain immigrant status, some of the various requirements include possession of a valid passport, demonstration of economic solvency, presentation of a certificate from the police authorities in the last place of residency indicating that the party did not commit any criminal violations, payment of fees, and a personal appearance before the granting authority.

The Labor Law may be applicable to foreigners entering under the various categories referred to above (generally see Section XVI, and for Tax Law applicability, see Section XV).

E. Temporary entry of visitors and members of a board through the "FMVC"

The FMVC immigration form went into effect on August 15, 1995, in order to facilitate foreigners entering Mexico as Visitors or as Members of a Board covered by categories listed below. However, the FMVC has been replaced by a combined form that also includes tourists and travelers in transit. The combined form is available at the consular offices of Mexico, airlines, travel agencies, and with immigration staff at the ports and the points of entry to the country, and is valid for a maximum period of thirty (30) days, in any of the following modalities:

1. Business Visitor - Foreigner who intends to realize any business activity related with trading or signing of commercial agreements, or the search for alternatives to invest in the country.
2. Members of Board - Foreigners entering the country to attend meetings or board of directors meetings of enterprises which are legally established in Mexico.
3. Technicians - Foreigners entering the country to render specialized services as previously stipulated. Members of this category also include those entering for the transfer of technology, patents and trademarks, transfer of machinery and equipment, technical qualifying of staff agreements, or any other similar activity related to the production process of any enterprise, which is legally established in the country.
4. Transfer of Staff - Those parties who are employed by an enterprise and who discharge management or executive duties, or who which assist with specialized knowledge in said enterprise, or in one of its subsidiaries or affiliates which are legally established in Mexico

Citizens from the following countries are eligible applicants under the above categories:

Argentina	Holland	Portugal
Australia	Hungary	San Marino
Austria	Iceland	Singapore
Belgium	Ireland	Slovak Republie
Bermuda	Israel	Slovenia
Brazil	Italy	South Afriea
Czeeh Republie	Japan	South Korea
Chile	Lieehtenstein	Spain
Denmark	Luxembourg	Sweden
Finland	Monaeo	Switzerland
Franee	New Zealand	United Kingdom
Germany	Norway	Uruguay
Greece	Poland	

The combined form must be completed by the interested party, who must be prepared to demonstrate the following at the Mexican point of entry or at a Mexican consular office abroad:

a) Proof of citizenship.

b) Mexican immigration policy grants this status to residents of the United States and Canada; U.S.. and Canadian citizens are covered under NAFTA categories. (See G. below.)

c) Letter issued by the interested enterprise, association, Mexican or foreign chamber, accredited bi-national, foreign or Mexican councils, which should describe the applicant's proposed activities and qualifications, express the necessity of the applicant's presence in Mexico to carry out the activity, and evidence economic payment sufficient to cover his stay in the country.

d) In the event of "transfer of staff," the foreigner must present a letter in Spanish issued by the enterprise, its subsidiary, or affiliate, stating that the applicant is an employee,

and that the corresponding payment of salary for the activities and services of the foreigner will be paid by the enterprise.

A foreigner entering the country as "technician," "business visitor," or "transfer of staff", who desires to extend his stay in the country for a term exceeding thirty (30) days, must appear at the nearest office of the National Immigration Institute, and apply for an FM3 as a Non-immigrant visitor with authorization to perform said activities in the country, for a period not to exceed a year.

F. Temporary entry

of business persons under NAFTA

Chapter XVI of NAFTA states the general principles under which a NAFTA Party may authorize temporary entrance of businesspersons of another NAFTA Party, without the need for an employment permit

The term businessperson under NAFTA includes the following categories: business visitor, traders-investors, intra-company transferees, and professionals.

1. Business visitors - Performing activities related to, among others, research and design, agriculture, manufacturing and production, marketing, sales, distribution, after-sales services, and general services. (See NAFTA Chapter XVI for detailed description).

2. Traders-investors:

a) Traders - Of goods or services, principally among NAFTA Parties.

b) Investors - Establishing, developing, administering, or providing advice or key technical services to the operation of an investment.

3. Intra-company transferee - Businesspersons employed by an enterprise to render services to that enterprise, or a subsidiary or affiliate thereof, to fulfill management or executive functions, or functions involving specialized knowledge

4. Professionals - Businesspersons seeking to professionally perform a business activity in one of several permitted areas. The exercise of a profession is permitted only after compliance with the educational revalidation requirements established in Article Five of the Mexican Constitution and other related regulations, including NAFTA measures.

Business persons entering as professionals are expressly prohibited from performing any activity that involves a professional practice, without previously obtaining a professional license from the Ministry of Education.

All the above authorizations shall be temporary, and therefore, visitors shall be classified as non-immigrants. NAFTA creates the "FMN", a special immigration document, currently included in a combined immigration form covering tourists, travelers in transit, and non-immigrant businesspersons. The form also covers the FMVC category mentioned in E. above, which is issued by the consular offices, or at the airlines, to businesspersons crossing the border to develop in Mexico, a non-remunerative activity for a maximum of 30 days. Upon expiration, a businessperson shall apply for an FM3 as a non-immigrant businessperson performing non-profitable activities. The pro visions of NAFTA in Chapter:XX shall govern dispute resolution when authorization for temporary entry is denied as a pattern of practice, and all other administrative remedies have been exhausted.

G. Naturalization

The granting of nationality status to foreigners is exercised in a very selective manner. The requirements include five years residency with immigrant status, which could be reduced to two years under certain circumstances. The granting of nationality is exercised in a discretional manner, and often depends on economic, business and social considerations.

Persons with relationships to Mexican nationals, as defined in the Law, could be granted nationality without fulfilling certain requisites such as residency. Along with Mexico's entrance into various multilateral and regional organizations, considerations are being made

regarding liberalization of policies toward naturalization.

The new Nationality Law became effective on March, 1998, and waives the traditional one nationality principle. It now grants permanent nationality to Mexicans by birth.

Such nationality is granted to Mexican-born individuals under the norm of *jus soli* (place of birth regardless of the parents' citizenship) or *jus Sanguine* (if one of the parents is Mexican-born or naturalized). In both cases, this right may only be transferred to the first generation.

Dual citizenship, accepted as a corollary of permanent citizenship pursuant to the above reform principal, only benefits Mexican-born citizens. Subsequently, several ancillary laws were modified in order to avoid dual-citizenship conflicts. For instance, public governmental positions and functions may be held only by Mexican-born citizens who have not acquired any other nationality. For which reason, such citizens shall comply with the provisions of Constitutional article 32, by stating the waivers specified in articles 15, 16, and 17 of the Nationality Law.

When the Naturalization Law went into effect (March, 1998) the Legal Department of the Foreign Relations Ministry prepared new forms according to the various assumptions foreseen by said Nationality Law, specifying the requirements to be fulfilled in each of the cases stated hereunder:

1. Application for Mexican nationality by birth. Form DNN2.

2. Application for Mexican naturalization through standard procedure. Form DNN3. Minimum residence: 5 years.

3. Application for Mexican naturalization by Privilege. Form DNN3. Minimum residence: 2 years; for

a) Children of a Mexican-born national.

b) Parent(s) of Mexican-born children.

c) Native of a Latin American country or Spain or Portugal.

d) Having rendered distinguished services or made significant cultural, scientific, technical, artistic, sports, or corporate contributions to Mexico.

4. Application for Mexican naturalization by marriage. Form DNN3. Minimum residence: 2 years and having lived by mutual consent with the Mexican spouse.

5. Application for Mexican naturalization through parental rights and duties. Minimum residence: 1 year for adopted and minor children up to second-degree lineage, subjected to the Mexican adoptive parents' rights and duties. Should parents not take this step, the adopted children may take it during the year following their majority (18 years),

Mexican-born individuals, who waived their Mexican nationality and wish to recover it, shall submit a written request to the Foreign Relations Ministry, or to the respective Mexican embassies or consulates, after this Law goes into effect. To this end, they must submit full evidence of their identity, and fill in form DNN2.

In cases of naturalization, the applicant must prove by examination, his knowledge of Spanish, Mexican history, and his integration into the Mexican culture.