

# TERRUM

Briefing, analysis, opinion and insight of legal affairs in Mexico

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## **2012. The Crucial Year for Mexico.**

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“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice”

**2012** will be a year of important changes to the three different Federal Branches of Government of the Mexican State. This year is a crucial one for our country because there will be new designations to the nation's most important public federal posts due to the upcoming elections this July. All three federal branches: The Executive, the Federal Congress and Justice will have significant changes in the relevant positions. The composition of the Executive and the Federal Congress will be totally modified by the federal election that will take place in July of this year. Two ministers of the eleven that comprise the Supreme Court of Justice will be relieved because of the expiration of the original appointment of two of the ministers. This means that by the end of this year, the members of the Mexican State will be radically changed. A general explanation of the election and appointment process in each of the three federal branches of the state follows.

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## INTRODUCTION.

First of all, we must explain that according to article 40 of our Political Constitution, the United Mexican States *Estados Unidos Mexicanos*, (Mexico) which is the official name of our country, is a federal republic composed by thirty-two free and sovereign states and its capital, a Federal District in which the federal powers are located. According to the political constitution, each one of the thirty-two states has its own state authorities and each of the cities which are part of the state have their own municipal authority. Each state is governed by a governor who is the highest local authority and also has a state legislature composed of local legislators who are elected every three years. In the same way, each state has its own state judicial power. Every state has its own local constitution which regulates, among other things, the procedures and requisites to elect its own local authorities and the competence of each one. Each state organizes its local elections in which the governor, the state legislators and the municipal authorities are elected.

In accordance with our political constitution, the thirty-two states are part of the federation, organization and composition of which is regulated by the political constitution. For this purpose, there is a Supreme Power of the Federation which is composed of three different autonomous branches which are constitutionally denominated powers of the federation:

1.- The Executive Power which is headed by the President of the United Mexican States who appoints its cabinet composed of state secretaries for different federal areas (i.e.: internal affairs, defense, education, labor and social security, finance, economy, diplomatic relations, etc).

2.- The Legislative Power which is composed of a general congress integrated of two legislative chambers: *Cámara de Senadores* ( The Senate) and *Cámara de Diputados* (The Chamber of Deputies).

3.- The Judicial Power which is headed by the Supreme Court of Justice and additionally integrated with collegiate circuit courts, unitary circuit courts and district courts and the council of the judicature which is the entity that handles the supervision, appointment and internal control of all the members of the Judicial Power of the Federation, including magistrates and district judges.

As you can see, the Federal Branch is the most important area of Government in Mexico because it is in charge of the whole of Mexico in each of its specialized areas of governance.

As we explained before, 2012 will be a very relevant year because important elections will take place and there will be changes in all three Federal branches as we will explain below. For this reason, the Mexican State will experience many changes over the course of this year. We will provide a brief explanation of each of the procedures of election and/or appointment of the different Federal areas of Government in order to emphasize the importance of these changes:

## **EXECUTIVE FEDERAL POWER**

The most important Federal authority is the president of the nation. According to article 80 of the political constitution, the president is the head of the Executive Power of the Union and is elected for a one six year term. No re-election is permitted. We will have federal elections in July 2012 to elect the new president of Mexico who will replace Mr. Felipe Calderon, the current president. The elected president will take office on December 1st, 2012 in a formal ceremony before the general congress. According to our electoral system all candidates who participate in the elections must be appointed by a registered political party. No independent candidates are eligible. This rule is also applicable for the elections of the deputies and senators.<sup>1</sup> Nowadays, our political system is composed of seven political parties, but it should be noted that there are three main political parties that have the majority of the votes: (i) PAN (*Partido Acción Nacional*) which is the party that has governed the last two presidential periods since 2000 and which is a conservative democratic party. The PRI (*Partido Revolucionario Institucional*) which governed our country for around 70 years (1930 to 2000) and includes different ideologies but we could be described as being in the middle of the political spectrum. And the PRD (*Partido de la Revolución Democrática*) which is a socialist party, oriented to the left.

As we have said before, one of the most important rights that the new president will exercise is to appoint the members of the cabinet. All the cabinet secretaries are appointed by the president and therefore, the President may remove them directly. There is only one exception to this rule, which is the designation of the Federal Prosecutor of the Nation which has to be ratified by the Senate.

Finally, according to our electoral system, there is only one round in the election, and the elected President will be the one that obtains a simple majority of the votes of all the citizens<sup>2</sup>. We have a direct voting system, this means that each citizen votes for a specific candidate.

*1- This rule is in discussion in the General Congress in order to be revoked.*

*2- In the latest Presidential election that took place in 2006, Mr Felipe Calderon resulted elected as President of Mexico. Mr. Calderon obtained the 35.89% of the total effective votes. The left side candidate, Andres Manuel Lopez Obrador obtained the 35.31% of the votes.*

## **GENERAL CONGRESS.**

As we said before, The General Congress is made up of two legislative chambers: The Senate and the Chamber of Deputies. Both chambers will be reelected through the federal election in July 2012. In the case of the elections of the General Congress, the Mexican System is a mixed one: (i) Some of the legislators are elected by a direct voting system which was previously described in the case of the President's election (ii) Another group of legislators are elected through a system called proportional majority (*Mayoría Proporcional*) which considers the total amount of the votes obtained by each political party in the whole election, and according to the results each of the parties has the right to obtain a determined amount of legislators that are pre-registered from a list of candidates eligible through this formula.

The Chamber of Deputies is composed of 500 deputies. All of them are divided in electoral districts composed of predetermined number of voters which result from the division of the total number of voters between the 300 electoral districts. 300 of the 500 deputies will be elected by the direct voting system and the other 200 legislators will be elected through the proportional majority system. All of them will be elected for one three year period and no re-election is allowed.

The Senate is composed of 128 senators. All of them are divided between each of the 31 States. As in the case of the lower chamber, 96 senators will be elected by the direct voting system (3 senators per State) and the other 32 will be elected by the proportional majority system, which have different and more complex rules from the one applicable to the deputies election. All of them will be elected for one six year period and no re-election is allowed.

## **FEDERAL JUDICIAL POWER.**

In 2012, two of the eleven Ministers of the Supreme Court of Justice will be changed. This appointment is not made by an election. The choice is made by the President of Mexico and the Senate: The President proposes three candidates per position and the Senate decides from this group who will be appointed. This designation is for life, but the appointed minister will be active for the next fifteen years.

In the case of the Judicature Council, this entity is composed of seven members: One of them is the President of the Supreme Court of Justice who is also the head of the Council. Two council members are appointed by the Senate and three council members are appointed by the Federal Judiciary. This year, the council member appointed by the Senate will finish a five year term and therefore a new appointment will have to be made by the upper chamber.

As you can see, 2012 will be a year of challenges and important elections and decisions. As we said before, at the end of this year the composition of the Mexican State will be very different from the one we know today. New members, new faces and we hope that new creative ideas would be very welcome. Our country needs high level and responsible leaders to face important challenges in the years to come

**The labor amendment is essential: Javier Lozano.**

Employment trends for 2012 will go with the inertia of this year, partly because there have been no substantive changes that may decrease informality, the simulation in generating employment and attend the challenge of creating jobs for the demanding of young people. In the labor market there are 3 million people that are employed under the scheme of outsourcing, which in many cases mean simulation and lack of social security services, in addition to the growing number of trials, which are 235.000 in the Federal Board of Conciliation and Arbitration, and that would take up to 50 months. This situation will not change until is not carry out the labor reform, said the Minister of Labor and Social Welfare. *El Economista*. 06/December/11.

**Green light to the public-private partnerships.**

After two years of analysis, the Senate approved yesterday the Law of Public-Private Partnership (Ley de Asociaciones Público Privadas) in order to encourage the investment and employment. This Law will allow the federal government to partner with individuals to provide services, including those where build infrastructure is required. *El Economista*. 14/December/11.

**Mexico questions the World Organization of Commerce for China's unfair competition.**

Mexico questioned the World Organization of Commerce (OMC) regarding China's unfair competition, trusting that the OMC will take expedite measures to control China's unfair competition. It is of vital importance, and the OMC will definitely will look over the fact that when markets open up, there will not be depredatory practices or unfair competition, being that industries all over the world are being affected by this. *El Economista*. 15/December/11.

**Senate approves the Free Trade Agreement among Mexico and Peru.**

Involved in a controversy for possible sanitary and economic encumbrances for Mexico, the Senate approved by majority the Free Trade Agreement (FTA) among Mexico and Peru. The Mexican government pretends to achieve 2,700 million dollars for exportation in to that country in the next five years. *El Economista*. 15/December/11.

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