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FEATURED Q&A

Why Is Honduras Reversing Course on Economic Zones?



Honduras' Congress, pictured above, earlier this year repealed a 2013 law that had allowed for the creation of special economic zones, known as ZEDs. // File Photo: Honduran Government.

Q Honduras' Congress in April unanimously repealed a law that had allowed for the establishment of special economic areas known as Zones for Employment and Economic Development, or ZEDs. Lawmakers had passed the measure allowing for the zones' creation in 2013, and former President Juan Orlando Hernández strongly promoted them. How much did ZEDs encourage investment and create jobs in Honduras, and what will be the economic impact of the law's repeal? To what extent did the zones violate Honduras' sovereignty, as their detractors have argued, and what have been their most controversial aspects? Which sectors will be the most affected by the law's repeal, and what recourse can be sought by foreign businesses that have taken advantage of ZEDs?

A Guillermo Peña, chairman at Fundación Eléutera in San Pedro Sula, Honduras and technical secretary of ZEDE Orquídea: "Since the Honduran organized private sector did not defend the ZEDE system for a variety of reasons, it did not get the needed buy-in from the rest of the economy, and it did not become a major investment tool. Nonetheless, the construction industry and hardware stores were receiving a direct benefit from the construction processes of the ZEDEs. Even if the economic effect was limited due to the short time since operations began, a message is permeating local and foreign investment regarding the lack of respect for contracts and institutions. The weakening of contract protection has also been seen in the energy sector with a recent reform and with contracts in public-private partnerships. It is becoming a major theme of the Castro administration.

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Leaders at Summit Plan Declaration on Migration

Western Hemisphere leaders gathered this week at the Summit of the Americas in Los Angeles are planning a declaration on migration to guide them on hosting people who leave their countries to flee insecurity and find economic stability.

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Payments Firm Yapstone Expands in South America

Payments processor Yapstone, which is headquartered in San Francisco, announced that it will expand into Argentina and Brazil.

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Peru Calls for New Talks With Protesters at Mine

The government of Peruvian President Pedro Castillo called for new talks with Indigenous protesters who have been demonstrating against copper mining at the Las Bambas mine, forcing it to suspend production.

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Castillo // File Photo: Peruvian Government.

POLITICAL NEWS

Leaders at Summit Eye Declaration on Migration

Western Hemisphere leaders gathered this week at the Summit of the Americas, which is taking place in Los Angeles, are planning to issue a declaration on migration, the Associated Press reported today. Participants hope the “Los Angeles Declaration” will help guide countries that receive migrants who leave their countries in search of economic stability and who are fleeing violence and persecution at home, the wire service reported. Since 2017, the United States has been the most popular destination for asylum-seekers, and several countries in Latin America have hosted large numbers of migrants. Colombia and other nearby countries have been the destination for millions of people who have fled Venezuela. Last year, Mexico received more than 130,000 asylum applications, many of them from Haitians, triple the amount from 2020, the AP reported. Additionally, many Nicaraguans have fled to Costa Rica. “Countries are already having to do this, so rather than each country trying to sort this out and figure it out for themselves, what we’re doing is saying, ‘Let’s come together in a coherent way and construct a framework so we can all work together to make this situation more humane and more manageable,’” said Brian Nichols, the assistant U.S. secretary of state for Western Hemisphere affairs, the wire service reported. As the Summit of the Americas began on Monday, several thousand migrants set off from southern Mexico, headed toward the United States. The caravan is this year’s largest, and Mexican authorities showed no sign of attempting to halt it, the AP reported. Questions have arisen about how much can be accomplished on migration at the Summit of the Americas, the first the United States has hosted since 1994, given that Mexican President Andrés Manuel López Obrador is skipping it in protest of the Biden administration’s decision not to invite Cuba, Nicaragua and Venezuela to the gathering. Mexican

Foreign Minister Marcelo Ebrard is attending the gathering, however, and López Obrador plans to meet with U.S. President Joe Biden at the White House in July. On Tuesday, Ebrard accused the United States of having a double standard by not inviting those three countries at the same time that it engages with nondemocratic governments in Southeast Asia, Reuters reported. “The so-called democratic clause is not applied equally in all cases, but only in some, when it is convenient,” Ebrard wrote in a column published in Mexican newspaper *Excélsior*. Also on Tuesday, U.S. Vice President Kamala Harris said the Biden administration’s efforts to attract investments to Central American countries have generated \$3.2 billion in commitments from the private sector, the AP reported. “We know the American people will benefit from stable and prosperous neighbors,” Harris said at the summit. “And when we provide economic opportunity for people in Central America, we address an important driver of migration,” she added. Biden, who last year tasked Harris with addressing root causes of migration, is to arrive at the summit today. [Editor’s note: See related [Q&A](#) in the May 10 issue of the Advisor.]

ECONOMIC NEWS

Peru Urges New Talks With Protesters at Las Bambas Mine

Peruvian President Pedro Castillo’s administration on Tuesday called for a new effort at dialogue with Indigenous communities that have been protesting copper mining at the Las Bambas mine and have forced the mine to halt production for more than a month, Reuters reported. The protesters, coming from six communities surrounding MMG’s Las Bambas mine, argue that the copper mine has not honored commitments made to Indigenous communities. The mine, in the Apurímac region, is one of the world’s largest copper mines and is important to Peru’s copper industry. “We are working currently to see when

NEWS BRIEFS

Brazil’s Army Launches Search for Missing British Journalist, Researcher

Brazil’s army has launched a search in the Amazon rainforest for Dom Phillips, a British journalist and contributor to the *Financial Times* and *The Guardian*, and Bruno Pereira, a Brazilian expert on Indigenous peoples, the *Financial Times* reported Tuesday. The two men disappeared in the Javari valley on Sunday. In recent weeks, Pereira, who had formerly worked in the Brazilian government’s Indigenous affairs agency, had received threats from people involved in illicit gold mining and land grabbing in the Amazon.

Itaú Reportedly Sells Part of Stake in Broker XP

Brazilian bank Itaú Unibanco Holding has sold a portion of its stake in broker XP for approximately \$154 million, Reuters reported, citing *Brazil Journal*. Itaú reportedly sold 6.78 million shares of XP at \$22.65 apiece, 4.4 percent below Tuesday’s closing price, the business website reported. It did not report the buyer or specify the size of Itaú’s remaining stake in XP.

Mytilineos Signs 10-Year Deal to Supply Solar Power to Enel in Chile

Greece-based Mytilineos on Tuesday announced a 10-year power purchase agreement in Chile, committing to supplying as much as 1.1 terawatt-hours (TWh) of solar power through its renewables and storage development unit to Enel Generación Chile, the country’s largest utility company, *Renewables Now* reported. The Greek industrial group is backing the agreement by building 588 megawatts peak (MWp) of solar farms in Chile. Mytilineos will supply the solar power from four solar farms across Chile, one of which is already under construction.

is the best moment [for a police intervention]," Roger Pérez, an Apurímac police general, told RPP radio Tuesday. "We are in the countdown [stage], it will take place soon," he added, Reuters reported. Mercedes Aráoz, a former vice president of Peru, told the Advisor in a Jan. 10 Q&A that there are alternative solutions to the standoff at Las Bambas. These include "the construction of a train to the port of Marcona (as the previous Kuczynski government discussed)," she said. "Regardless of the ideology, community claims must be considered, but violence cannot be accepted as a mechanism for coercion," she added.

BUSINESS NEWS

Payments Processor Yapstone Expanding to Argentina, Brazil

Global payments processor Yapstone announced on Tuesday that it will expand into Argentina and Brazil in an effort to provide merchants with the tools to accelerate growth in Latin America. The expansion uses local and alternative payment methods to allow for more local and cross-border e-commerce transactions, the company said in a statement. "We're proud to continue our expansion efforts in Brazil and Argentina, with more countries to be announced later in the year," said Yapstone's CEO, Frank Mastrangelo. He added that Yapstone is confident that its "solution will deliver the highest level of functionality, reliability and transparency to merchants looking to expand into Latin America." Carlos Medeiros, a partner at SoftBank Group International, told the Dialogue's biweekly Financial Services Advisor in a Q&A published Feb. 9 that innovation in the financial services sector is welcomed "as long as it does not add systemic risk." Lourdes Casanova, the director of the Emerging Markets Institute at Cornell University, said in the same issue of the Financial Services Advisor that "new digital players are shaking the status quo and satisfying the financial needs of local citizens hungry for growth and development."

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None of the ZEDE projects violated sovereignty in their activity, but the ZEDE law does include controversial elements. Hondurans have had no trust in the national police and the judicial system, and when Congress approved the ZEDE law, Honduras had the highest levels of homicide per capita in Latin America. These were the reasons for including separate police and judicial systems for ZEDes. New modified special economic legislation is needed for the projects to be able to migrate and maintain their business models, but the needs for each project are different and might conflict in a new system if it is rigid and limited to specific industries. The ZEDE law has not yet been fully repealed; another super majority vote needs to take place after late January 2023 to eliminate the constitutional amendment that allows for the creation of ZEDes."

A **Juan Carlos Sikaffy C., former president of the Honduran Council of Private Enterprise (COHEP):** "The Honduran private sector is the largest investor and job generator in the country. For many years, the Honduran Business Council has pushed for a better business environment to increase international investment in Honduras. A sustainable enterprise guide was made and shared with the government to improve the conditions for making business and increasing not only local but also international investment in Honduras. When the ZEDes began to be discussed in the country and had strong government support, the Honduran Business Council made a very careful legal analysis of the ZEDes. The government proposed this mechanism to create special investment zones that would have a kind of independence from the country in order to encourage international investment. Once the results of the analysis were known, the council made a statement to the entire national and international private sector, warning them about the danger of investing in this type of mechanism. The ZEDes that

already existed were created without due legal process, therefore making them illegal. This would make any investment made by any company, local or foreign, lose money. The new government has repealed the law that created the ZEDE, a campaign promise

“ Many have considered that ZEDes could violate the country's sovereignty and also pose unfair competition to Honduran companies located outside the zones."

— Juan Carlos Sikaffy C.

of Xiomara Castro. Many have considered that ZEDes could violate the country's sovereignty and also pose unfair competition to Honduran companies located outside the zones. A much better bet would have been to create all the benefits that the ZEDes provide for companies working in Honduras—in other words, by improving our business climate."

A **Ryan Berg, senior fellow in the Americas Program at the Center for Strategic & International Studies:** "ZEDes are a type of special economic zone that delegates greater autonomy to zone administrators. ZEDes act as special subdivisions of Honduras, and within their borders they are free to adopt their own taxation systems and legal regimes, subject to oversight by a national committee. The latter is critical, as it enables ZEDes to borrow from, for instance, U.S., English or Japanese law, should the administrators find a particular framework more conducive to establishing a business than local Honduran law. Indeed, within the ZEDE, laws could even be drawn from a mixture of different systems. As such, the ZEDes have become home to thousands of employees and have received tens of

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millions of dollars in foreign investment. It is important to note that the April 21 vote repealed ZEDEs, but it did not rescind or dissolve them. ZEDEs continue to operate. Yet, in order to wage an inevitably messy and expensive legal battle with investors, the government of President Xiomara Castro would need to convince Hondurans that ending ZEDEs should be prioritized over creating new employment and generating economic growth. Recent Gallup polling suggests that just 3 percent of Hondurans voted for Castro's government based on eliminating ZEDEs, while 70 percent reported they'd accept a job in a ZEDE. The recent congressional vote sends a strong negative message to international investors about investment security and the Castro government's intent to honor agreements signed by previous governments, deterring future investment in Honduras—certainly in ZEDEs, but likely outside of the ZEDE framework, too."

A **Juan José Alcerro Milla, partner at Aguilar Castillo Love in Honduras:** "Since the early 1990s, when Honduras enacted its first Investment Law under Decree 80-92, the National Congress has tried to establish a legal framework destined to attract foreign investment. In subsequent years, additional legislation followed: multiple laws with tax incentives (including those in relation to renewable energy generation and tourism development); the PPP Law of 2010; a newly branded Investment Law in 2011; and a law to generate businesses and employment in 2013. All have failed significantly. Lately, year after year, foreign direct investment numbers have decreased; investors run away and prefer to remain distant. Why is this? Three main reasons: a lack of legal certainty, massive corruption and political instability. It's amid this context of a desperate need to attract investment and provide an adequate business environment that ZEDEs fit in. With the creation of these 'special economic

zones,' autonomous regions in Honduras, with the power to create with their own fiscal system, policies, regulations and courts, the government was looking for a new way to attract investors. Investment-wise, the plan showed signs of bearing fruit: three different ZEDEs were put in place (Próspera, Morazán City and Orquídea) plus nearly \$50 million invested and several hundred new jobs

“**The repeal should not affect existing ZEDEs constituted under the applicable law at the time.**”

— Juan José Alcerro Milla

were created. However, on trying to bring in investors through ZEDEs not only had the politicians miscalculated the damage already produced by erratic government policies, corrupt practices and the fragility of the legal system, they also misjudged how the public could oppose legislation that appeared not to adequately address constitutional matters related to territory and sovereignty. As a result, Congress unanimously repealed the ZEDE Law on April 21. From a legal perspective, Honduras is bound to commitments of international law. U.S. investors should be protected under CAFTA, the constitution and bilateral investment treaties. Hence, the repeal should not affect existing ZEDEs constituted under the applicable law at the time. Otherwise, the Honduran government could face significant litigation risk, and the state could face millions of dollars of liability, especially if property acquired by ZEDE investors were to be expropriated."

The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org.

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