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FEATURED Q&A

Can Guatemala Really Be a Safe Third Country?



U.S. President Donald Trump on July 26 oversaw the signing of a "safe third country" agreement between the United States and Guatemala. // Photo: White House.

Q The United States and Guatemala on July 26 signed a controversial "safe third country" agreement, which will require migrants transiting the Central American country to apply for asylum there rather than continuing to the United States.

The agreement followed a Guatemalan Constitutional Court ruling that barred President Jimmy Morales' government from signing such a deal and Trump's subsequent threats to impose tariffs on Guatemala if its officials did not agree to it. What effect will the "safe third country" designation have on Guatemala and on the flows of migrants headed north? Will Guatemala be able to handle an increase in asylum seekers and keep them safe from the conditions they are fleeing? How will the conflict between the Morales government's agreement to the deal and the Constitutional Court's stand against it play out?

A Stephen McFarland, former U.S. ambassador to Guatemala:
"The agreement will have a deterrent effect on migration, but it will also create an incentive to pay smugglers to enter clandestinely rather than to present themselves to U.S. authorities on the border. One major risk of the agreement is that it will further reduce U.S. engagement of the Northern Triangle countries on the structural causes of migration—hunger, lack of gainful employment and security threats. The accord is unpopular in Guatemala; even with U.S. threats, it is unclear it will be sustainable beyond the short term. The United States could send tens of thousands of asylum seekers each year to Guatemala. Most would be from Honduras and El Salvador, but there would be some from other countries inside and outside Latin America.

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TODAY'S NEWS

POLITICAL

Dispute Over Governorship Goes to Puerto Rico's High Court

The U.S. territory's Supreme Court will decide on the legitimacy of new Governor Pedro Pierluisi's claim to the office. The commonwealth's Senate president over the weekend filed a lawsuit to strip Pierluisi of the governorship.

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ECONOMIC

Chile Sees 1.3% Growth in June Economic Activity

The South American country experienced slow expansion in its mining sector, according to the central bank.

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ECONOMIC

U.S. Imposes Total Embargo on Venezuela

The administration of U.S. President Donald Trump imposed a total economic embargo on Venezuela, escalating pressure on President Nicolás Maduro's government.

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Maduro // File Photo: Venezuelan Government.

ECONOMIC NEWS

U.S. Imposes Total Economic Embargo Against Venezuela

The administration of U.S. President Donald Trump on Monday imposed a total economic embargo against Venezuela in a significant escalation of pressure against the government of President Nicolás Maduro and countries that support him, such as Russia and China, The Wall Street Journal reported. Late on Monday, Trump signed an executive order that freezes all Venezuelan government assets subject to

The executive order cited Maduro's "continued usurpation of power" as well as "human rights abuses."

U.S. jurisdiction and prohibits transactions with the South American country's government, unless specifically exempted. It is the first such action against a government in the Western Hemisphere in more than 30 years. Other countries under such tough U.S. measures include Cuba, North Korea, Iran and Syria. The embargo threatens to sanction virtually any company or individual, foreign or American, that does business or offers support to anyone linked to the Maduro government, a senior Trump administration official said, adding that it is not designed to target the Venezuelan people, including their access to remittances, The Wall Street Journal reported. The executive order cited Maduro's "continued usurpation of power" as well as "human rights abuses, including arbitrary and unlawful arrest and detention of Venezuelan citizens, interference with freedom of expression ... and ongoing attempts to undermine Interim President Juan Guaidó and the Venezuelan National Assembly's exercise of legitimate authority in Venezuela," The New York Times reported. Several administration officials, including National Security Advisor

John Bolton and Commerce Secretary Wilbur Ross, are scheduled to participate in an international conference today in Lima to discuss the situation in Venezuela.

POLITICAL NEWS

Dispute Over Puerto Rico Governorship Goes to High Court

Puerto Rico's top court will consider whether newly sworn-in Governor Pedro Pierluisi assumed the position legally, Bloomberg News reported today. Senate President Thomas Rivera Schatz on Sunday filed a lawsuit in a San Juan court seeking to strip Pierluisi of the governorship and stop him from carrying out the functions of the office because Pierluisi had not been confirmed by the U.S. territory's Senate before being sworn in, The Wall Street Journal reported. Puerto Rico's Supreme Court ordered all sides to submit written arguments



Pierluisi // File Photo: Office of the Puerto Rico Resident Commissioner.

by this afternoon. The court hasn't said whether it will hold a hearing, and it's unclear how soon it might issue a decision. Given that the dispute over the governorship is a local constitutional issue, the court will have a final say, Bloomberg News reported. Former Governor Ricardo Rosselló, who resigned after days of massive protests demanding his ouster, nominated Pierluisi, a former Puerto Rico resident commissioner, for secretary of state in order to put him next in line to succeed him. The island's House of Representatives confirmed Pierluisi, but his nomination didn't get a vote in the Senate, which his critics say is required

NEWS BRIEFS

Chile's Economic Activity Grows 1.3 Percent in June

Chile's economic activity increased 1.3 percent in June, as compared to the same month a year earlier, due to a slow expansion of the country's key mining sector, the central bank said Monday, Reuters reported. Mining activity in June grew just 0.3 percent, while non-mining activity rose 1.4 percent, the bank said. Economic activity was below market expectations of 2.4 percent growth.

Peru's Government Eyeing Update to Mining Laws: Finance Minister

Peru is preparing legislation to update the country's mining laws that probably won't include "big changes" on taxes on mining companies, Finance Minister Carlos Oliva said Monday, Reuters reported. Oliva said the tax burden for mining companies in Peru is currently around the international average, adding that "we don't want to lose competitiveness." President Martín Vizcarra announced last week that his government would send a proposal to Congress to update the country's three-decades-old mining laws.

Canadian Solar's Cafayate Project Begins Operations in Argentina

Canadian Solar announced Monday that its Cafayate solar project in Argentina has started operating. The project is now Argentina's largest operational solar power plant, the company said in a statement. Located in Salta Province, Cafayate is expected to generate 216 gigawatt-hours of electricity annually, Canadian Solar said, adding that the project is powered by 289,000 high-efficiency modules. Under Argentina's RenovAR program, the project received a 20-year U.S. dollar indexed power purchase agreement of \$56.28 per megawatt-hour with Argentina's wholesale power administrator.

under the U.S. territory's Constitution. [Editor's note: See related [Q&A](#) in the July 31 issue of the Advisor.]

Colombia to Grant Citizenship to Venezuelan Children

Colombian President Iván Duque announced Monday that the country's government will grant citizenship to more than 24,000 children born to Venezuelan refugees, *The New York Times* reported. "Today, Colombia gives this message to the world: to those who want to use xenophobia for political goals, we take the path of fraternity," Duque said in a speech in Bogotá. The initiative will allow passports to be given to babies born in Colombia to Venezuelan parents between August 2015 and August 2021. The measure is designed



Duque // File Photo: Colombian Government.

to make it easier for the children to access health care and education and also to prevent a rise in statelessness. "My baby boy will finally have a state that will take care of him," Venezuelan migrant Katherine Fuentes, 28, told *The New York Times*. She gave birth 10 months ago in Colombia. "He will now be able to say proudly that he is from here, that the Colombian state accepted him." In recent years, some four million Venezuelans have fled their home country amid dire economic problems, including food shortages, hyperinflation and blackouts, according to the United Nations. Colombia has received the highest number of refugees—approximately 1.4 million—according to the Colombian government. The migration crisis is the largest in Latin America's history, the United Nations has said. Some countries

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Guatemala would have to expand exponentially its asylum review capacity. It is unclear how returnees to Guatemala would subsist during the adjudication process. Returnees from Honduras and El Salvador who fled due to gang or intrafamily violence would remain vulnerable to violence from their countries of origin. The backdrop is the Guatemalan Constitutional Court's role in anti-corruption prosecutions, including some against the executive branch and the private sector, and in resolving any issues in Sunday's presidential runoff. If the president asks Congress to approve the accord, that might resolve the initial dispute with the Constitutional Court."

A Andrew Arthur, resident fellow in law and policy at the Center for Immigration Studies: "Most migrants to the United States arrive as families (FMUs) or unaccompanied alien children (UACs). Of the 688,375 migrants that the Border Patrol arrested on the southwest border through June, 56.69 percent were FMUs, and 9.2 percent were UACs. Historically, most apprehended aliens were single adult males from Mexico. Almost 42 percent of the UACs apprehended through June 2019 were Salvadoran and Honduran, however, as were half the FMUs. The United States lacks the capacity to handle those migrants, most of whom face violence on

in the region, including Chile and Peru, have tightened entry requirements for Venezuelans, but Colombia has kept its borders open to Venezuelan migrants despite increased pressure on the country's social services and a rise in attacks on Venezuelans in the country. Polls in Colombia show that a majority of the country's residents support tightening restrictions on Venezuelans' entry and welfare benefits. Officials in Colombia have said that attempting to close the country's 1,400-mile border with Venezuela would only lead to an increase in human trafficking and enrich gang members and guerrillas who operate along the border, *The New York Times* reported. Colombia normally does not automatically grant citizenship to

their journey north. And most if not all failed to apply for asylum in Guatemala first. A bipartisan U.S. government report indicates that lax U.S. laws encourage many migrants to make that trip, but congressional action is stalled. The exact terms of the agreement

“Both countries will benefit.”

— Andrew Arthur

have not been released, but press reports indicate that migrants passing through Guatemala will be expected to apply for asylum there, and the U.S. government will bolster Guatemala's capacity to address their asylum claims. In actuality, however, because U.S. economic opportunities drive many of those migrants, the flow of migrants passing through will likely be slashed, so few if any will actually apply there. Guatemala will benefit from a decrease in crime, corruption and illegal smuggling (a multi-billion-dollar business), and the security of its borders will increase as the number of passing migrants falls. And, as the United States is Guatemala's largest trading partner, it will profit from the goodwill this agreement brings. Both countries will benefit."

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infants born in its territory. Ordinarily, at least one parent must be a legal resident. Human rights groups and the United Nations applauded Duque's move on Monday. "This measure represents a major advance in guaranteeing children's rights," the United Nations said in a statement. Last month, the Democrat-controlled U.S. House of Representatives approved a measure to grant temporary protected status, which would allow Venezuelans to live and work in the United States, the *Miami Herald* reported. However, the Republican-controlled Senate then began a six-week recess without passing similar legislation. [Editor's note: See related [Q&A](#) in the Feb. 8 issue of the Latin America Advisor.]

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A Risa Grais-Targow, director for Latin America at the Eurasia Group: "The controversial 'migration cooperation agreement' signed between the United States and Guatemala on July 26 is facing potential legal challenges in both countries, and thus its future remains uncertain. The deal will help stave off punitive measures by President Donald Trump that would have potentially been highly damaging to Guatemala's economy, though the travel ban and remittance tax would also likely face both legal and implementation challenges. Guatemala's Constitutional Court had previously determined that

“Guatemalan outward migration itself remains robust, and any influx of migrants, however small, would be potentially problematic.”

— Risa Grais-Targow

such a deal must be approved by Congress, but President Jimmy Morales is arguing that the agreement does not need congressional approval and seems poised to press ahead. If the deal holds, it would represent a major strain on Guatemala. The United Nations estimates that the United States received 467,163 applications over the last five years from migrants from El Salvador and Honduras. The Trump administration's calculation seems to be that Guatemala's designation as a safe third country will deter migrants from neighboring countries from leaving in the first place. Nevertheless, there will still likely be substantial inflows, which the government will struggle to accommodate. Authorities already have limited capacity to provide adequate public services, due in part to consistently low levels of revenues. Guatemalan outward migration itself remains robust, and any influx of migrants, however small, would be potentially problematic.”

A Ana Quintana, senior policy analyst for Latin America and the Western Hemisphere at The Heritage Foundation: "From the preliminary known details of the U.S.-Guatemala asylum deal, there is much cause for concern. For starters, the agreement is not actionable in Guatemala. The country's Constitutional Court requires congressional authorization, and Guatemala's Congress has expressed its disapproval. Also, Jimmy Morales will be out of office in early January 2020, and neither of the leading presidential candidates supports the agreement. Additionally, there is no evidence Guatemala even has an asylum system or border control capabilities able to deal with the magnitude of the current migration crisis. We should also be concerned with the Morales administration's questionable motivations for signing the agreement. Since Morales took office, there is little evidence to demonstrate that his administration has worked on protecting the more than one million Guatemalans affected by the drought. To the contrary, migration numbers prove otherwise. In fiscal year 2016, 23,067 family units from Guatemala were detained at the southern U.S. border. As of June in fiscal year 2019, the number increased to 167,104. We know these flows are largely due to an economic downturn and food security challenges associated with Guatemala's drought. Instead of taking actionable steps to prevent vulnerable Guatemalans from migrating, Morales' administration has been mired in serious corruption and criminal charges. The timing of the agreement, right before his departure from office, raises questions about his government's motivations.”

Editor's note: The Advisor requested commentaries for this issue from the U.S. ambassador to Guatemala, the Guatemalan ambassador to the United States and the U.S. State Department but received no responses.

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