Brazil’s Articles of Impeachment
Implications to Operation Car Wash and the Economy

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Operation Car Wash - 2014

1st Phase
- 1st Phase
- Petrobras arrest
- Petrobras + Health Ministry
- Petrobras

3rd Phase
- 3rd Phase
- "Dolce Vitta"
- "Casablanca"
- Alberto arrested

5th Phase
- Petrobras + Health Ministry
- "Bidone 2"
- "bidone"
- Alberto plea bargain

6th Phase
- 6th Phase
- "Bidone 3"
- "Bidone 3"
- Alberto plea bargain

7th Phase
- "Doomsday"
- Petrobras
- Petrobras Financial Statements
- Congressional Committee Report
- Elections
- Dilma Rousseff re-elected

March 17
- February 17
- March 20
- April 11
- June 11
- July 1
- August 22
- October
- November 14
- December

- Alberto
- Costa
- arrested
- again
- arrested again
2014 Elections Winning Ticket

President Rousseff
PT

Vice-President Temer
PMDB
Speaker of the House

Eduardo Cunha
PMDB
Impeachment Proceeding

Impeachment request submitted to the Speaker of the House

Dismissed

Defense

Report

Vote

President suspended

Judgment at Senate

Approved

Rejected

Impeachment Dismissed

Accepts the proceeding

Election of Reporting Committee

Not guilty

Returns

Guilty

Removed and loses rights
Impeachment Proceeding

Vote at the House of Representatives
512 representatives

171 Votes
2/3
342 Votes
Impeachment Proceeding

Vote at Senate
81 Senators

27 Votes

2/3
54 Votes
Impeachment Proceeding

- Impeachment Request Submitted
- TCU rejects Rousseff’s accountability for 2014
- Impeachment Request Submitted
- Updated Request submitted
- PT decides to vote against Cunha in Ethics Proceeding
- Opinion in favor of impeachment by House legal department
- Mandamus filed and denied by STF
- Impeachment request officially submitted to the floor of the House
- Vice-president Temer’s letter to President Rousseff
- Impeachment Request Accepted
- STF suspends proceeding
- Original Date for appointment of committee members
- Election of committee members 272 v 199
- Ethics Committee considers requesting cautionary removal of Cunha
- Pro-government Leader of PMDB removed
- TCU denies appeal
- Reporter of Cunha’s case removed
Supreme Court Decisions

• Appropriate procedures for entire impeachment process
  – Appointment of Committee Members
  – Can the votes be secret?

• Currently, proceeding is suspended until a decision by STF
  – Decision scheduled for December 16

• Decisions on status of Eduardo Cunha
Has Operation Car Wash Lost Relevance?

• No. It still attracts attention and enforcement authorities have been acting in the past few months in stealth

• A number of companies have been negotiating leniency agreements

• While CPI-Petro is finished, a number of authorities are still in the case, including against some of the main actors of the Impeachment proceeding
Operation Car Wash - Current Status in Brazil

• Investigations and criminal proceedings being conducted at the Supreme Federal Court against sitting members of Congress and Ministers of State

• Investigations and criminal proceedings being conducted at the Federal Court in Curitiba against other individuals

• Proceedings against companies for cartel violations at CADE – Brazilian Antitrust Authority

• Proceedings against companies for corruption before the CGU – 29 proceedings

• Improbity lawsuits against individuals and companies

• Congressional Investigations Committee – CPI Petro
Operation Car Wash - Current Status in the US

• US Department of Justice and Securities and Exchange Commission
  • Petrobras has publicly disclosed that it is under investigation by the DOJ and the SEC, as have a variety of companies that did business with Petrobras
  • The DOJ is also providing formal and informal assistance to Brazil
  • Patrick Stokes, the Chief of the DOJ’s FCPA Unit, reportedly personally visited Brazil to meet with prosecutors
  • DOJ is also assisting Brazil in tracing the proceeds of bribery

• US Private Securities Claims
  • Petrobras and Braskem have both been sued in class actions and opt-outs for securities fraud
  • Judge Rakoff has set the claims against Petrobras for trial in September 2016
Operation Car Wash – Status Globally

• Global operation
  • Reportedly, around $30 million has been frozen in accounts held by Petrobras executives and Petrobras’ counterparties’ executives

• Netherlands:
  • Reached $240 million settlement with SBM Offshore

• Switzerland:
  • Swiss authorities are cooperating with Brazil and the US to trace money across the international banking system
  • Swiss authorities reportedly are providing Brazil with evidence of clandestine bank accounts, including accounts held by Congressman Eduardo Cunha
Operation Car Wash – Implications for Enforcement

• Multi-polar enforcement is the new reality
  • Companies caught up in the Petrobras investigation face scrutiny in multiple countries (Brazil, Netherlands, Switzerland, US)

• “Home” jurisdictions increasingly focused on foreign bribery
  • US: Continued enforcement of FCPA
  • Netherlands: $240 million settlement with SBM Offshore
  • Brazil: CGU recently announced initiative to monitor Brazilian firms’ conduct outside of Brazil
  • UK: Successfully enforced UK Bribery Act
Impacts to the Economy

• Operation Car Wash and Political Crisis have dominated the agenda in 2015

• Impeachment has shifted the focus from fiscal adjustments (approval of taxes and reduction of budget)

• Markets reacted favorably the day after impeachment
  – Moody’s indicated possible downgrade
Thank You

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