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# Brazil's "Operation Car Wash"— What to Expect Next

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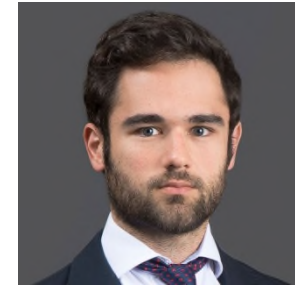
# Speakers



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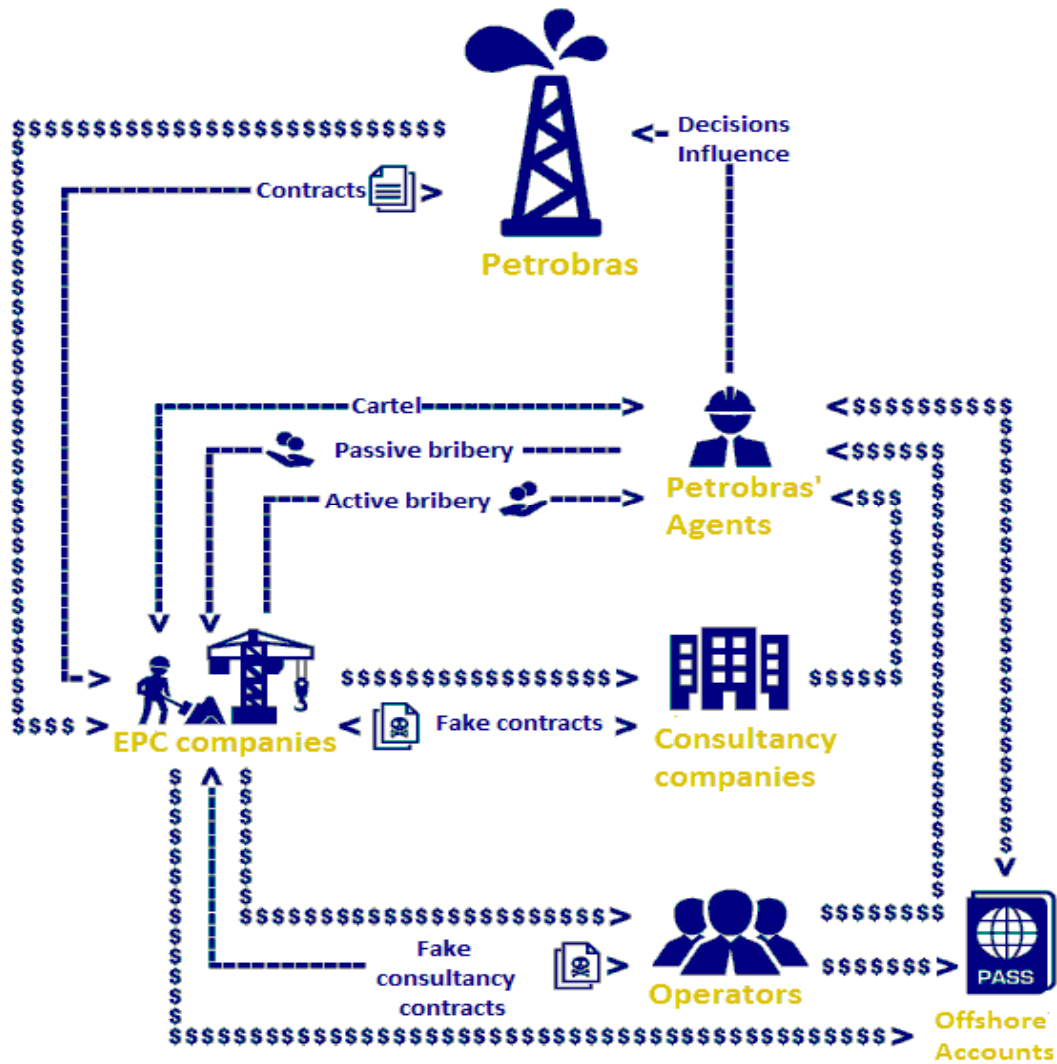


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# Operation Car Wash - Scheme



# 2014 Elections Winning Ticket

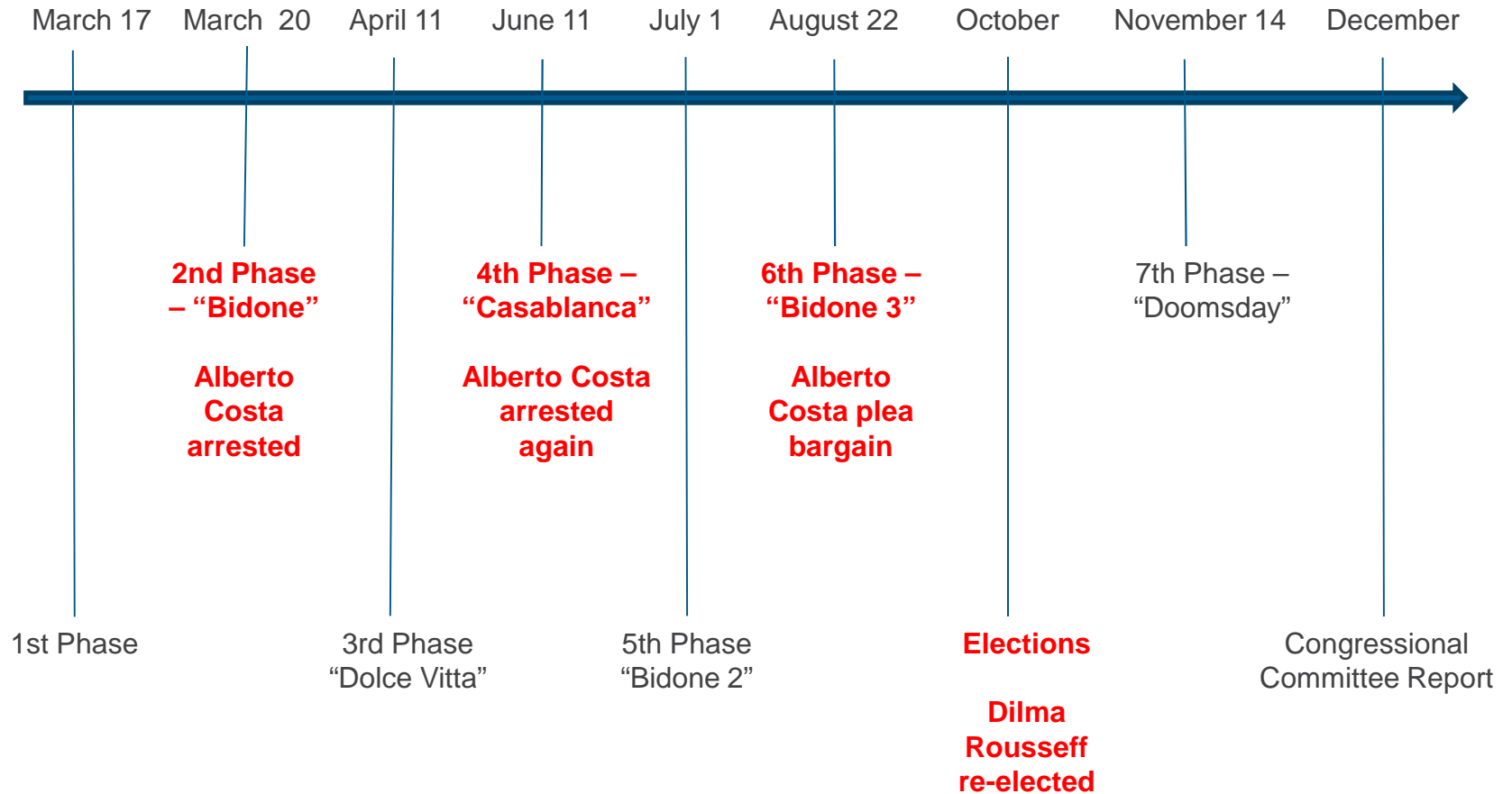


President Rousseff  
PT



Vice-President Temer  
PMDB

# Operation Car Wash - 2014

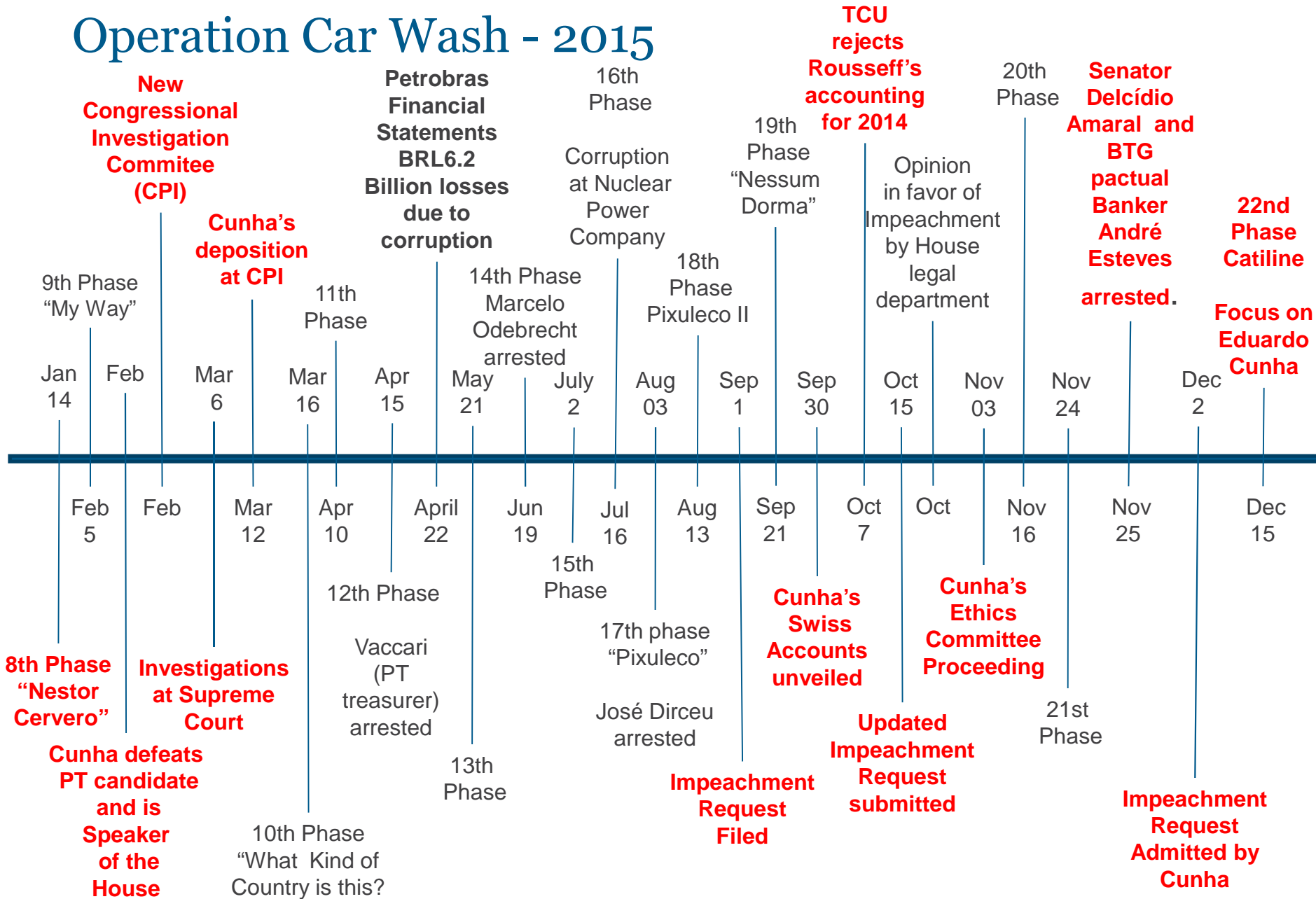


# Speaker of the House



Eduardo Cunha  
PMDB

# Operation Car Wash - 2015



# Impeachment Proceeding and Supreme Court Decisions

- Impeachment proceedings started at the House of Representatives with the government suffering a loss of 272 v 199 at a procedural vote
  - For the impeachment vote, government needs 171 Votes to avoid the commencement of the proceedings
- Proceeding is suspended by Supreme Court
- STF decision has been issued and is pending appeal
- Appeal is expected to be voted either today or tomorrow



# History

## • Delcidio Amaral under house arrest – Feb 19, 2016

- Rumors that he entered into a plea bargain had not been confirmed at the time
  - Extracts of his deposition have surfaced in March and implicate President Rouseff, Former President Lula and Minister of Justice, Eduardo Cardoso
- Official reason for release was that he no longer was a threat to the investigations
- Senator Delcidio is currently facing an ethics proceeding at the Senate and can be expelled
- Senator Delcidio decided not to return to the Senate and is on medical leave



# History

## • Delcidio plea bargain confirmed – Mar 15, 2016

- Several politicians implicated on obstruction of justice:
  - President Dilma Rousseff
  - Former President Lula
  - Minister Mercadante
  - Former Minister Antonio Palocci
- Several politicians implicated on Corruption:
  - Former presidential candidate and Senator Aécio Neves
  - Vice President Temer
- Links to Mensalão – the political scandal during the Lula administration

# History

## • 23<sup>rd</sup> phase – “Acarajé” – Feb 22, 2016

- Focused on João Santana, PT’s marketing advisor, and his wife
- Zwi Skornicki, an alleged middleman, and Odebrecht were also targets of this phase – the Federal Police investigates the payment of USD 7 million by them to João Santana
- 51 judicial warrants enforced in Rio de Janeiro, São Paulo e Bahia:
  - 38 for search and seizures
  - 2 for preventive arrest
  - 6 for temporary arrest
  - 5 detentions for questioning



# History

- 24<sup>th</sup> phase – “Alethea” – Mar 03, 2016

- Focused on the investigation on the relation between the former president Luis Inácio “Lula” da Silva and companies involved in the Petrobras corruption scheme – donations and payments for lectures
- 44 judicial warrants enforced:
  - 33 for search and seizure
  - 11 for detentions for questioning, including the former president Luiz Inácio “Lula” da Silva



# History

## • Reactions to Alethea

- Criticism by attorneys and judges of the detention of former President Lula, as he had not been previously summoned to be deposed
  - Judges are expected to be more cautious in new detentions
- Significant support of the detention by general public opinion
- PT President and former President Lula urge supporters to go to the streets
- President Roussef publicly supports Lula, criticizing the decision of Judge Moro
- President Roussef invites Lula to become a minister – this would grant him a privilege of venue and he could only be prosecuted by the Supreme Court



# History

## • Reactions to Alethea

- Race to arrest Lula
  - São Paulo public prosecutors request the indictment of President Lula and his family for hiding assets
  - Preventative arrest of Lula is requested in connection with application for indictment
  - São Paulo judge declined jurisdiction
- PMDB (party of vice-president) prohibits its members to accept appointments to the Federal Government and start procedures to leave government in 30 days
- Support for impeachment grows and President vows not to resign
- Markets react favorably to a potential end of Rouseff Government
- Massive demonstrations against former President Lula and President Rouseff last Sunday



# History

- Demonstrations



# History

- Demonstrations





# History

- Demonstrations



# History

- Demonstrations



# 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

# What to Expect Next in Brazil

- The Federal Police and the Public Prosecutor's Office are still questioning several individuals and it is not possible to be certain which executed or not a plea bargain and what was said in the full content of the depositions
- Lawsuits have already been filed against high-level executives of EPC companies, politicians and operators, and some have already been convicted
- Investigations are now very close to politicians – any new fact may have significant political impact
- Impeachment proceeding is likely going to affect investigations
- A number of companies involved have been considering and negotiating leniency agreements

# 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, such as tracing the proceeds of suspected bribery
  - Patrick Stokes, the Chief of the DOJ's FCPA Unit, reportedly personally visited Brazil to meet with prosecutors
- US Private Securities Claims
  - Petrobras has been sued in class actions and opt-outs for securities fraud
  - Judge Rakoff recently certified the class actions and authorized discovery, including discovery in Brazil via Letters Rogatory

# Operation Car Wash – Status Globally

- Global operation:
  - Reportedly, around \$30 million has been frozen in accounts held by Petrobras executives and Petrobras' counterparties' executives
  - US and Swiss authorities playing leading role on asset-tracing efforts
- Expanding operation:
  - Argentina and other Latin American countries have reportedly launched parallel investigations of Odebrecht and Petrobras

# Operation Car Wash – What to Expect Next

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

# Thank You

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