
Latin America Anti-Bribery Year-in-Review: 2021 Developments and Predictions for 2022

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I. INTRODUCTION

Although the number of publicly resolved Foreign Corrupt Practices Act (FCPA) cases in 2021 was relatively low compared to prior years, enforcement actions related to Latin America played a particularly prominent role. Many of the cases investigated and resolved by US regulators involved Latin American citizens, companies operating in Latin America, and high-profile corruption scandals arising in Latin American countries.

Continuing international cooperation between enforcement authorities made cross-border coordination on both investigations and resolutions a hallmark of anti-corruption enforcement this year, as highlighted by close work between US and Brazilian authorities. At the same time, many Latin American authorities have expanded their own anti-corruption enforcement efforts. This interconnected and energetic global enforcement environment signals sustained and aggressive forthcoming anti-corruption efforts.

This alert focuses on Latin America and summarizes key 2021 anti-bribery enforcement developments in the region, concluding with predictions for 2022. For a comprehensive review of global developments, please refer to WilmerHale's [FCPA Alert: Global Anti-Bribery Year-in-Review for 2021](#).

II. ENFORCEMENT TRENDS AND KEY INVESTIGATION-RELATED DEVELOPMENTS FROM U.S. REGULATORS

A. Continued Cross-Border Cooperation Between Enforcement Authorities

In a recent resolution, the Department of Justice (DOJ) indicated continued interest in fostering cross-border cooperation among enforcement authorities. In June, Amec Foster Wheeler (AFW) agreed to pay a criminal penalty of more than \$18 million to resolve charges stemming from the company's involvement in a bribery scheme with Brazilian officials.¹ The circumstances underlying this case were pursued not only by US prosecutors but by the UK's Serious Fraud Office and by Brazilian regulators.² AFW reached provisional settlements with both the UK and Brazilian authorities in coordination with the DOJ's resolution. In announcing the resolution, the DOJ emphasized international cooperation, referring to the DOJ's "dedication to work with [its] international partners in the global effort to hold individuals and companies accountable[.]"³

B. Notable Corporate Resolution and Continued Focus on Individual Resolutions

The most notable corporate resolution this year involving Latin America was the WPP plc case. In September 2021, WPP, the world's largest advertising group, settled anti-bribery, books and records, and internal accounting controls charges with the Securities and Exchange Commission (SEC) on a neither-admit-nor-deny basis.⁴ According to the SEC's allegations, WPP did not sufficiently ensure that its subsidiaries operating in high-risk markets, including India, China, Brazil, and Peru, implemented WPP's internal accounting controls and compliance policies. Specifically, the SEC alleged that, among other things, between 2013 and 2018, WPP's local entities engaged in schemes to facilitate improper payments to government officials, and that WPP "lacked sufficient internal accounting controls with respect to its expansive international network."⁵

The FCPA cases brought against individuals in 2021, including those in Latin America, demonstrate a continuing trend of the DOJ using money laundering charges in bribery schemes, not only directed at foreign officials who received bribe payments, but also individuals making such

¹ US Department of Justice Press Release No. 21-601: Amec Foster Wheeler Energy Limited Agrees to Pay Over \$18 Million to Resolve Charges Related to Bribery Scheme in Brazil (June 25, 2021).

² US Department of Justice Press Release No. 21-601: Amec Foster Wheeler Energy Limited Agrees to Pay Over \$18 Million to Resolve Charges Related to Bribery Scheme in Brazil (June 25, 2021).

³ US Department of Justice Press Release No. 21-601: Amec Foster Wheeler Energy Limited Agrees to Pay Over \$18 Million to Resolve Charges Related to Bribery Scheme in Brazil (June 25, 2021).

⁴ Order Instituting Cease-and-Desist Proceedings, *In the Matter of WPP plc*, Rel. No. 4257, File No. 3-20595, ¶¶ 1, 3 (Sept. 24, 2021).

⁵ Order Instituting Cease-and-Desist Proceedings, *In the Matter of WPP plc*, Rel. No. 4257, File No. 3-20595, ¶¶ 7-9, 21-22, 26-29 (Sept. 24, 2021).

payments whose conduct may have been covered by the FCPA.⁶ Some notable examples of cases involving money laundering charges include:

a) Brazil

2021 saw the sentencing of Jose Carlos Grubisich, former CEO of the Brazilian petrochemical company Braskem. Grubisich was sentenced to 20 months in prison despite the DOJ seeking a 60-month sentence for his role in diverting approximately \$250 million from Braskem into a secret slush fund that he and his co-conspirators generated through fraudulent contracts and offshore shell companies secretly controlled by Braskem.⁷ Grubisich pled guilty to one count of conspiracy to violate the anti-bribery provisions of the FCPA and one count of conspiracy to violate the books and records provision of the FCPA.⁸ However, he did not plead guilty to the money laundering offenses he was charged with.⁹ The Grubisich case shows that the DOJ might continue to pursue individuals even years after the underlying conduct occurred and the target company entered into a resolution.

b) Venezuela

Jose Luis De Jongh Atencio, a former procurement officer and manager of the Special Projects Group at Citgo Petroleum Corporation, a Petróleos de Venezuela, S.A. (PDVSA) subsidiary, pleaded guilty to one count of conspiracy to commit money laundering after accepting more than \$7 million in bribe payments.¹⁰ Carmelo Antonio Urdaneta Aqui (Urdaneta), the former legal counsel to Venezuela's Ministry of Oil and Mining, was also pled guilty to money laundering charges related to the PDVSA scandal.¹¹ Additionally, Jose Gregorio Vielma-Mora, the former governor of the Venezuelan state of Táchira, was charged with one count of conspiracy to commit money

⁶ WilmerHale, *Global Anti-Bribery Year-in-Review: 2020 Developments and Predictions for 2021*, at 58-60 (Jan. 28, 2021), <https://www.wilmerhale.com/en/insights/client-alerts/20210126-2020-global-antibribery-yearinreview>.

⁷ DOJ Response to Defendant's Sentencing Memo, *United States v. Grubisich*, No. 19-CR-00102, ¶ 1 (E.D.N.Y. Sept. 15, 2021); US Department of Justice Press Release: Former CEO of Braskem Sentenced to 20 Months in Prison for Foreign Bribery and Securities Law Violations (Oct. 12, 2021).

⁸ US Department of Justice Press Release: Former CEO of Braskem Sentenced to 20 Months in Prison for Foreign Bribery and Securities Law Violations (Oct. 12, 2021).

⁹ Change of Plea Hearing as to Jose Carlos Grubisich held on 4/15/2021, *United States v. Grubisich*, No. 19-CR-00102, ECF No. 84 (E.D.N.Y.).

¹⁰ Plea Agreement, *United States v. De Jongh-Atencio*, No. 20-CR-00305, ¶ 16 (S.D. Tex. Mar. 22, 2021); Superseding Indictment, *United States v. De Jongh-Atencio*, No. 20-CR-00305, ¶¶ 23-53 (S.D. Tex. Dec. 16, 2020). Two individuals who paid bribes to De Jongh previously pleaded guilty. Jose Manuel Gonzalez Testino (Gonzalez), a dual US-Venezuelan citizen, pleaded guilty in 2019. US Department of Justice Press Release No. 19-593: Business Executive Pleads Guilty to Foreign Bribery Charges in Connection with Venezuela Bribery Scheme (May 29, 2019); see also WilmerHale, *Global Anti-Bribery Year-in-Review: 2020 Developments and Predictions for 2021*, at 52 (Jan. 28, 2021), <https://www.wilmerhale.com/en/insights/client-alerts/20210126-2020-global-antibribery-yearinreview>.

¹¹ Plea Agreement, *United States v. Urdaneta Aqui*, No. 18-CR-20685 (S.D. Fla. July 14, 2021).

laundering and four counts of laundering monetary instruments.¹² Vielma-Mora oversaw Comercializadora de Bienes Y Servicios Del Estado Táchira, the state-owned entity that purchased food for the people in Táchira, and he allegedly received over \$17 million in bribes from his co-defendants in exchange for awarding them inflated contracts to import and distribute food and medicine in Venezuela under the state-run food distribution program Comité Local de Abastecimiento y Producción.¹³ Finally, Naman Wakil, who is alleged to have owned and controlled various companies that received funds from PDVSA and the Corporación de Abastecimiento y Servicios Agrícolas (CASA), the Venezuela state-owned and state-controlled food company, was arrested in August 2021 and charged with numerous FCPA-related offenses.¹⁴ The DOJ alleged that Wakil paid bribes to CASA and PDVSA officials to secure contracts for his companies worth approximately \$280 million, including highly inflated contracts.

c) Ecuador

In March 2021, the DOJ unsealed charges against Ecuadorian citizens John Luzuriaga Aguinaga and Jorge Chérrez Miño.¹⁵ The DOJ charged both with one count of conspiracy to commit money laundering based on underlying conduct that violated the FCPA and Ecuadorian bribery law,¹⁶ but neither was charged with any substantive FCPA violations. In a related case, Luis Alvarez Villamar, a manager at an Ecuadorian securities clearinghouse, pled guilty in July 2021 to a single count of conspiracy to commit money laundering related to bribes paid by Chérrez.¹⁷ Also, Raymond Kohut, a former manager and crude oil trader for Gunvor Group, entered into a guilty plea for money laundering in connection to \$22 million of bribes paid to Petroecuador officials in exchange for business from the state-owned oil company.¹⁸

d) Panama

In December, Luis Enrique Martinelli Linares and Ricardo Alberto Martinelli Linares, the sons of Panama's former president, both pled guilty to one count of conspiracy to commit money laundering for serving as intermediaries for \$28 million in bribe payments from the Brazilian

¹² Indictment, *United States v. Vargas et al*, 21-CR-20509 (S.D. Fla. Oct. 7, 2021).

¹³ Indictment, *United States v. Vargas et al*, 21-CR-20509, ¶¶ 1-35 (S.D. Fla. Oct. 7, 2021); US Department of Justice Press Release No. 21-1036: Five Individuals Charged with Money Laundering in Connection with Alleged Venezuela Bribery Scheme (Oct. 21, 2021).

¹⁴ Indictment, *United States v. Wakil*, No. 21-CR-20406 (S.D. Fla. July 29, 2021).

¹⁵ US Department of Justice Press Release No. 21-192: Two Men Charged in Ecuadorian Bribery and Money Laundering Scheme (Mar. 2, 2021).

¹⁶ Complaint, *United States v. Aguinaga*, No. 21-MJ-02270, ¶ 3 (S.D. Fla. Feb. 11, 2021); Complaint, *United States v. Miño*, No. 21-MJ-02326, ¶ 3 (S.D. Fla. Feb. 22, 2021).

¹⁷ Plea Agreement, *United States v. Villamar*, No. 21-CR-20308 (S.D. Fla. July 7, 2021).

¹⁸ Information, *United States v. Kohut*, No. 21-CR-00115 (E.D.N.Y. Apr. 6, 2021).

construction conglomerate Odebrecht S.A. to a Panamanian official, in exchange for business advantages in Panama.¹⁹

e) Bolivia

In May 2021, Arturo Carlos Murillo Prijic (Murillo), Sergio Rodrigo Mendez Mendizabal (Mendez), Luis Berkman, Bryan Berkman, and Philip Lichtenfeld were arrested and charged with crimes relating to their roles in a bribery scheme targeting the Bolivian government.²⁰ The DOJ alleged that Luis Berkman, Bryan Berkman, and Lichtenfeld paid at least \$582,000 in bribes to Mendez and at least \$20,000 to an unnamed Bolivian government official so that Bryan Berkman's Florida-based company would obtain and retain a contract, worth approximately \$5.6 million, to provide tear gas and other non-lethal equipment to the Bolivian Ministry of Defense.²¹ The DOJ further alleged that the Berkmans and Lichtenfeld laundered payments to Bolivian government officials through bank accounts in Florida and Bolivia.²²

In September 2021, Mendez and Luis Berkman pleaded guilty to conspiracy to commit money laundering, and Bryan Berkman and Lichtenfeld pleaded guilty to conspiracy to violate the FCPA.²³ The fact that they received bribes may explain why they pleaded guilty to money laundering charges as opposed to FCPA charges, whereas Lichtenfeld was the primary coordinator of the \$582,000 bribe to Mendez,²⁴ and Bryan Berkman and Lichtenfeld allegedly coordinated most of the wire transfers to Luis Berkman, perhaps explaining their guilty pleas to the FCPA charges.²⁵

¹⁹ US Department of Justice Press Release No. 21-1248: Panamanian Intermediary Extradited to the United States Pleads Guilty to International Bribery and Money Laundering Scheme (Dec. 14, 2021); US Department of Justice Press Release No. 21-1195: Panamanian Intermediary Pleads Guilty in Connection with International Bribery and Money Laundering Scheme (Dec. 2, 2021); Indictment, *United States v. Linares et al*, No. 21-CR-00065, ¶ 30 (E.D.N.Y. Feb. 4, 2021).

²⁰ US Department of Justice Press Release No. 21-489: Former Minister of Government of Bolivia, Owner of Florida-Based Company, and Three Others Charged in Bribery and Money Laundering Scheme (May 26, 2021).

²¹ US Department of Justice Press Release No. 21-489: Former Minister of Government of Bolivia, Owner of Florida-Based Company, and Three Others Charged in Bribery and Money Laundering Scheme (May 26, 2021); Complaint, *United States v. United States v. Berkman et al*, No. 21-MJ-06320, ¶¶ 12, 13, 20 (S.D. Fla. May 20, 2021).

²² US Department of Justice Press Release No. 21-489: Former Minister of Government of Bolivia, Owner of Florida-Based Company, and Three Others Charged in Bribery and Money Laundering Scheme (May 26, 2021); Complaint, *United States v. United States v. Berkman et al*, No. 21-MJ-06320, ¶¶ 12, 21 (S.D. Fla. May, 20, 2021).

²³ Plea Agreement, *United States v. Bryan Berkman*, No. 21-CR-60255, ¶ 2 (S.D. Fla. Sept. 29, 2021); Plea Agreement, *United States v. Lichtenfeld*, No. 21-CR-60256, ¶ 2 (S.D. Fla. Sept. 29, 2021).

²⁴ Complaint, *United States v. Berkman et al*, No. 21-MJ-06320, ¶¶ 39-52 (S.D. Fla. May 20, 2021).

²⁵ Factual Proffer, *United States v. Luis Berkman*, No. 21-CR-60258, ¶ 24 (S.D. Fla. Sept. 29, 2021).

C. Sentencing Trends

Twenty-two individuals were sentenced in FCPA-related cases in 2021. Of the twenty-two individuals, seventeen were sentenced in connection with long-running, cross-jurisdictional investigations in Latin America: PDVSA (ten individuals), Seguros Sucre (four individuals), Petroecuador (two individuals), and Braskem (one individual).

While the ten PDVSA defendants received an average sentence of twenty two months, two of the defendants avoided prison time entirely due, in part, to their cooperation with the investigation.²⁶ In comparison, Lennys Rangel, the former head of procurement for a PDVSA subsidiary company, who admitted to receiving over \$5 million in bribes, was sentenced to twenty-three months in prison.²⁷

The sentences issued in connection with the Petroecuador investigation in 2021 also highlight the importance of cooperation. Businessman Armengol Alfonso Cevallos Diaz (Cevallos) was sentenced to 35 months in prison, followed by three years of supervised release, for sending nearly \$4.4 million in bribes to Petroecuador officials and laundering money received by Petroecuador officials.²⁸ In sentencing him to 35 months in prison, the judge adjusted the sentence significantly downward from the US Sentencing Guidelines range of 108-135 months, citing numerous factors, including Cevallos's cooperation with US authorities. Similarly, another Petroecuador defendant, Ramiro Andres Luque Flores (Luque) avoided prison despite the DOJ alleging that he made at least \$3.2 million in bribe payments to Petroecuador officials in exchange for contracts for his hazardous waste removal company.²⁹ In determining Luque's sentence the judge stated that Luque was "first in the door" to cooperate with the government and that his assistance led to the prosecution of five other individuals.³⁰ Luque cooperated with the investigation by wearing a wire and provided the government with many taped conversations of the targets of the investigation.³¹

²⁶ Judgment, *United States v. Orsoni*, No. 19-CR-20725 (S.D. Fla. Apr. 21, 2021); Clara Hudson, *Former PDVSA general counsel avoids prison*, GLOBAL INVESTIGATIONS REV. (Apr. 21, 2021), <https://globalinvestigationsreview.com/just-anti-corruption/former-pdvsa-general-counsel-avoids-prison>.

²⁷ Judgment, *United States v. Rangel*, No. 19-CR-20726 (S.D. Fla. Mar. 24, 2021); Plea Agreement, *United States v. Rangel*, No. 19-CR-20726, ¶ 10 (S.D. Fla. Aug. 11, 2020).

²⁸ Judgment, *United States v. Diaz*, No. 19-CR-20284 (S.D. Fla. Jan. 28, 2021); US Department of Justice Press Release No. 21-107: Businessman Sentenced for Foreign Bribery and Money Laundering Scheme Involving PetroEcuador Officials (Jan. 28, 2021).

²⁹ Judgment, *United States v. Luque-Flores*, No. 17-CR-00537 (E.D.N.Y. May 17, 2021); Information, *United States v. Luque-Flores*, No. 17-CR-00537, ¶ 15 (E.D.N.Y. Oct. 6, 2017).

³⁰ Judgment, *United States v. Luque-Flores*, No. 17-CR-00537 (E.D.N.Y. May 17, 2021).

³¹ Richard Vanderford, *Petroecuador restitution loss a win for US prosecutors*, MLEX MARKET INSIGHT (Apr. 20, 2021), <https://mlexmarketinsight.com/news-hub/editors-picks/area-of-expertise/anti-bribery-and-corruption/petroecuador-restitution-loss-a-win-for-us-prosecutors>.

D. US Court Cases

While few US courts in 2021 issued FCPA legal opinions of note in cases involving Latin America, the court in *United States v. Rafoi-Bleuler* reiterated that jurisdiction over foreign individuals continues to be a hurdle that the DOJ needs to overcome. The court held that “[j]urisdiction over the defendant under the FCPA rests in whether the government can establish that the defendant was an ‘officer, director, employee or agent’ of a domestic concern.”³² This case illustrates the difficulty that the DOJ may face in prosecuting foreign nationals under the FCPA. As a result, the DOJ will likely devote greater effort toward establishing that foreign nationals who assist in FCPA violations are acting under the control of parties over whom its jurisdiction is not in dispute. For further details, please refer to WilmerHale’s [FCPA Alert: Global Anti-Bribery Year-in-Review for 2021](#).

III. ANTI-BRIBERY ENFORCEMENT TRENDS ACROSS LATIN AMERICA

A. Brazil

Throughout 2021 there have been some indications that Brazil has stalled in its efforts to root out corruption,³³ although other indicators suggest that enforcement efforts remain strong. In light of these developments, the Organisation for Economic Co-operation and Development (OECD) created a permanent subgroup in early 2021 to monitor anti-corruption enforcement efforts in Brazil.³⁴ Some of these indications have been judicial in nature. In April, the Supreme Court annulled former president Luiz Inácio Lula da Silva’s conviction for corruption, allowing him to run for president in 2022.³⁵ In March, a single judge on the Brazilian Court ruled that the court that originally heard President Da Silva’s case, in the southern city of Curitiba, lacked jurisdiction, and the former president should instead have been tried in the Federal Court in Brasilia.³⁶ The next

³² Memorandum and Order, *United States v. Rafoi-Bleuler*, No. 17-CR-00514, at 14 (S.D. Tex. Nov. 10, 2021), ECF No. 255.

³³ See, e.g., Luisa Leme, *LatAm in Focus: What Happened to Latin America's Anti-Corruption Push?*, AMERICAS SOCIETY (June 23, 2021), <https://www.as-coa.org/articles/latam-focus-what-happened-latin-americas-anti-corruption-push>; Geert Aalbers & Brian Winter, *One-Man Crusades Against Corruption in Latin America Aren't Working*, AMERICAS QUARTERLY (June 14, 2021), <https://americasquarterly.org/article/one-man-crusades-against-corruption-in-latin-america-arent-working>.

³⁴ Mariana Sanches, *OCDE Adota Medida Inédita Contra o Brasil Após Sinais de Retrocesso no Combate à Corrupção no País*, BBC NEWS BRASIL (Mar. 15, 2021), <https://www.bbc.com/portuguese/brasil-56406033>.

³⁵ Ricardo Brito, *Brazil's Supreme Court Confirms Decision to Annul Lula Convictions*, REUTERS (Apr. 15, 2021), <https://www.reuters.com/world/americas/brazils-supreme-court-confirms-decision-annul-lula-convictions-2021-04-15>.

³⁶ Ricardo Brito, *Brazil Judge Annuls Lula's Convictions, Opens Door to 2022 Run*, REUTERS (Mar. 8, 2021), <https://www.reuters.com/world/americas/brazil-judge-annuls-lulas-convictions-opens-door-2022-run-2021-03-08>.

month the full Supreme Court affirmed the decision, paving the way for President Da Silva to run for office again.³⁷

Further, in February 2021, after seven years in existence, the unit of prosecutors tasked with carrying out Operação Lava Jato (or “Operation Car Wash”)—the expansive investigation into corruption at Brazil’s state-owned oil company Petrobras and into money laundering more broadly—was shut down.³⁸ Despite this, Brazilian authorities were involved in several high-profile resolutions during 2021. For example, in an investigation that grew out of Operation Car Wash, South Korean shipbuilder Samsung Heavy Industries entered into a leniency agreement in February with Brazil’s Office of the Comptroller General (CGU), Office of the Attorney General (AGU), and the Federal Prosecution Service (MPF) in relation to bribes paid in connection with contracts with Petrobras.³⁹ The company agreed to pay a penalty of almost \$150 million, of which over \$130 million was returned to Petrobras as damages.⁴⁰ Samsung also agreed to improve its compliance and governance policies.⁴¹ And on October 2021, CGU and the AGU also entered into a settlement agreement with Rolls Royce, ending the final strand of the long-running investigation into the British engine maker related to bribes paid to secure contracts with Petrobras in 2004.⁴²

Brazilian authorities brought additional new enforcement actions in 2021 as well. In August, Brazil’s MPF filed criminal complaints against two executives at the Brazilian subsidiary of French engineering company Doris Group for allegedly paying bribes in connection with a \$200 million contract to build platform ships for Petrobras.⁴³ According to the complaint, the two executives funneled bribes by using a contract between Doris’s subsidiary and a consulting firm owned by an unnamed financial operator, who then transferred the funds to a Swiss bank account owned by a

³⁷ Ricardo Brito, *Brazil's Supreme Court Confirms Decision to Annul Lula Convictions*, REUTERS (Apr. 15, 2021), <https://www.reuters.com/world/americas/brazils-supreme-court-confirms-decision-annul-lula-convictions-2021-04-15>.

³⁸ Ricardo Brito & Gram Slattery, *After Seven Years, Brazil Shuts Down Car Wash Anti-Corruption Squad*, REUTERS (Feb. 3, 2021), <https://www.reuters.com/article/us-brazil-corruption/after-seven-years-brazil-shuts-down-car-wash-anti-corruption-squad-idUSKBN2A4068>.

³⁹ Jaclyn Jaeger, *Samsung Heavy Industries Settles Brazil Bribery Probe for \$150M*, COMPLIANCE WEEK (Feb. 24, 2021), <https://www.complianceweek.com/regulatory-enforcement/samsung-heavy-industries-settles-brazil-bribery-probe-for-150m/30077.article>.

⁴⁰ Jaclyn Jaeger, *Samsung Heavy Industries Settles Brazil Bribery Probe for \$150M*, COMPLIANCE WEEK (Feb. 24, 2021), <https://www.complianceweek.com/regulatory-enforcement/samsung-heavy-industries-settles-brazil-bribery-probe-for-150m/30077.article>.

⁴¹ Jaclyn Jaeger, *Samsung Heavy Industries Settles Brazil Bribery Probe for \$150M*, COMPLIANCE WEEK (Feb. 24, 2021), <https://www.complianceweek.com/regulatory-enforcement/samsung-heavy-industries-settles-brazil-bribery-probe-for-150m/30077.article>.

⁴² Sam Fry, *Rolls-Royce Settles Brazilian Bribery Case*, GLOBAL INVESTIGATIONS REV. (Oct. 27, 2021), <https://globalinvestigationsreview.com/anti-corruption/rolls-royce-settles-brazilian-bribery-case>.

⁴³ James Thomas, *Brazil Charges French Engineering Company Execs With Corruption*, GLOBAL INVESTIGATIONS REV. (Aug. 27, 2021), <https://globalinvestigationsreview.com/anti-corruption/brazil-charges-french-engineering-company-execs-corruption>.

former manager at Petrobras.⁴⁴ The complaint also alleged that the executives paid bribes to a former treasurer of Brazil's Worker's Party as part of the same scheme.⁴⁵ The financial operator and the former Petrobras manager have reportedly signed collaboration agreements with Brazilian prosecutors and have confessed to their roles in the scheme.⁴⁶

B. Mexico

Despite Mexican President Andrés Manuel López Obrador's promise when he was elected in 2018 to root out corruption in Mexico, some observers question whether progress has actually been made.⁴⁷ For example one of President Obrador's signature anti-corruption measures, a referendum aimed at ending immunity for ex-presidents, failed, with only 7% of the electorate voting for the measure—far less than the 40% needed for the referendum to be legally binding.⁴⁸ The referendum originally asked whether former presidents should be investigated for alleged corruption while they were in office, but the Supreme Court modified the language and made the actual question posed to the public less clear.⁴⁹ The referendum was widely criticized as having scant legal merit, and news reports suggested that Obrador was vague as to what he would actually do to implement the guidance from the referendum if it passed.⁵⁰

In May, it was revealed that Mexico's attorney general's office had accused a number of prominent Mexican politicians, including former president Enrique Peña Nieto, of paying bribes to various senators to secure their support for a landmark reform of the country's energy sector,⁵¹ which

⁴⁴ James Thomas, *Brazil Charges French Engineering Company Execs With Corruption*, GLOBAL INVESTIGATIONS REV. (Aug. 27, 2021), <https://globalinvestigationsreview.com/anti-corruption/brazil-charges-french-engineering-company-execs-corruption>.

⁴⁵ James Thomas, *Brazil Charges French Engineering Company Execs With Corruption*, GLOBAL INVESTIGATIONS REV. (Aug. 27, 2021), <https://globalinvestigationsreview.com/anti-corruption/brazil-charges-french-engineering-company-execs-corruption>.

⁴⁶ James Thomas, *Brazil Charges French Engineering Company Execs With Corruption*, GLOBAL INVESTIGATIONS REV. (Aug. 27, 2021), <https://globalinvestigationsreview.com/anti-corruption/brazil-charges-french-engineering-company-execs-corruption>.

⁴⁷ *59% of Mexicans Unimpressed with AMLO's Fight Against Corruption*, MEXICO DAILY NEWS (May 11, 2021), <https://mexiconewsdaily.com/news/59-of-mexicans-unimpressed-with-amlos-fight-against-corruption>.

⁴⁸ *In Mexico, AMLO's Anti-Corruption Referendum Falls Flat*, GLOBAL AMERICANS (Aug. 6, 2021), <https://theglobalamericans.org/2021/08/in-mexico-amlos-anti-corruption-referendum-falls-flat>.

⁴⁹ *Mexico Holds Referendum on Whether to Investigate Ex-Presidents*, AL JAZEERA (Aug. 1, 2021), <https://www.aljazeera.com/news/2021/8/1/mexico-holds-referendum-on-whether-to-investigate-ex-presidents>.

⁵⁰ *Mexico Holds Referendum on Whether to Investigate Ex-Presidents*, AL JAZEERA (Aug. 1, 2021), <https://www.aljazeera.com/news/2021/8/1/mexico-holds-referendum-on-whether-to-investigate-ex-presidents>.

⁵¹ Victoria Dittmar, *Mexico's Unreachable Elites Targeted by Rare Corruption Investigation*, INSIGHT CRIME (May 26, 2021), <https://insightcrime.org/news/mexico-unreachable-elites-targeted-rare-corruption-investigation>.

opened the previously state-owned sector to private investment.⁵² The money to pay for the bribes allegedly came from Brazilian construction company Odebrecht.⁵³ Pedro Nieto is the first former Mexican president to be publicly linked to the Odebrecht scandal.⁵⁴

At the same time, Mexican authorities have continued to pursue some long-running investigations. For example, Alonso Ancira, the chairman of Mexican steelmaker Altos Hornos de México (AHMSA) agreed to pay over \$216 million to settle accusations of corruption related to the 2014 sale of a fertilizer plant to the Mexican state-owned oil company PEMEX.⁵⁵ Similarly, Mexico continues to prosecute a corruption and money laundering case against Emilio Lozoya, the former CEO of PEMEX, who was extradited back to Mexico from Spain.⁵⁶ Lozoya had previously provided evidence to the Mexican government and had confessed to channeling bribes to help secure support for president Nieto's energy reform efforts.⁵⁷ Until November of 2021, he had been kept under house arrest, but he was jailed after photos of him dining out at a fancy restaurant sparked public outrage.⁵⁸

C. Colombia

Colombian authorities brought a series of enforcement actions in relation to the construction and financing of the Ruta Del Sol highway in the country. In late 2020, the Superintendency of Industry and Commerce (SIC), which enforces the country's antitrust laws, fined a consortium led by Odebrecht and including Colombian banking giant Grupo Aval over \$84 million for breaking competition laws.⁵⁹ The consortium allegedly bribed former deputy Transport Minister Gabriel

⁵² Sonia Corona, *Peña Nieto Unveils his Long-Awaited Petroleum Reform Plan*, EL PAÍS (Aug. 12, 2013), https://english.elpais.com/elpais/2013/08/12/inenglish/1376334289_264891.html.

⁵³ Victoria Dittmar, *Mexico's Unreachable Elites Targeted by Rare Corruption Investigation*, INSIGHT CRIME (May 26, 2021), <https://insightcrime.org/news/mexico-unreachable-elites-targeted-rare-corruption-investigation>.

⁵⁴ Victoria Dittmar, *Mexico's Unreachable Elites Targeted by Rare Corruption Investigation*, INSIGHT CRIME (May 26, 2021), <https://insightcrime.org/news/mexico-unreachable-elites-targeted-rare-corruption-investigation>.

⁵⁵ Adriana Barrera, *Mexican Steel Magnate Pays \$217 Mln Damages in Graft Case, Walks Free*, NASDAQ (Apr. 19, 2021), <https://www.nasdaq.com/articles/mexican-steel-magnate-pays-%24217-mln-damages-in-graft-case-walks-free-2021-04-19>.

⁵⁶ *Mexican Judge Jails Ex-Pemex Boss at Center of Corruption Case*, REUTERS (Nov. 3, 2021), <https://www.reuters.com/world/americas/mexican-judge-orders-ex-pemex-boss-lozoya-taken-into-custody-2021-11-03>.

⁵⁷ *Mexican Judge Jails Ex-Pemex Boss at Center of Corruption Case*, REUTERS (Nov. 3, 2021), <https://www.reuters.com/world/americas/mexican-judge-orders-ex-pemex-boss-lozoya-taken-into-custody-2021-11-03>.

⁵⁸ *Mexican Judge Jails Ex-Pemex Boss at Center of Corruption Case*, REUTERS (Nov. 3, 2021), <https://www.reuters.com/world/americas/mexican-judge-orders-ex-pemex-boss-lozoya-taken-into-custody-2021-11-03>.

⁵⁹ *UPDATE 1-Colombia Regulator Fines Odebrecht, Consortium Members \$84.5 Million*, REUTERS (Dec. 28, 2020), <https://www.reuters.com/article/odebrecht-colombia/update-1-colombia-regulator-fines-odebrecht-consortium-members-84-5-million-idUKL1N2J81G9>.

García in 2009 in order to secure the bid.⁶⁰ However, in March of 2021 Colombian prosecutors closed an investigation into Grupo Aval Acciones y Valores SA CEO Luis Carlos Sarmiento Gutiérrez, concluding there was no evidence linking him to the bribery scheme surrounding the Ruta Del Sol.⁶¹ The construction of the highway was cancelled in 2017 after evidence of the bribes paid to secure the contract surfaced.⁶²

D. Argentina

Argentinian businessman Lázaro Báez was sentenced to 12 years in jail for laundering the proceeds of corruption and tax fraud related to public contracts awarded during the Presidencies of Néstor Kirchner and Cristina Fernández de Kirchner, who is currently serving as the country's vice president.⁶³ The laundered money was used to pay bribes to secure government contracts for a construction company run by Báez called Austral Construcciones worth almost \$500 million.⁶⁴ The ruling itself was historic: it marked the first time that the Argentinian courts adopted a leniency agreement with a cooperating defendant, and imposed combined monetary sanctions of more than \$4.3 billion, calculated by applying a new statutory enhancement on corruption cases.⁶⁵ A case concerning some of the same underlying conduct against Vice President Kirchner and her children was dismissed in November.⁶⁶ There has been international fallout from the Báez conviction. For example, Panama has reportedly opened an investigation into Báez and the companies he controls for money laundering as well.⁶⁷

⁶⁰ Adriaan Alsema, *Colombia's Prosecution Under Fire for Absolving CEO of Corrupt Banking Giant*, COLOMBIA REPORTS (Mar. 15, 2021), <https://colombiareports.com/amp/colombias-prosecution-under-fire-for-absolving-ceo-of-corrupt-banking-giant>.

⁶¹ Atif Hussain, *Prosecutors Drop Odebrecht-Linked Probe into Grupo Aval's CEO*, S&P GLOBAL MARKET INTELLIGENCE (Mar. 12, 2021), <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/prosecutors-drop-odebrecht-linked-probe-into-grupo-aval-s-ceo-63156692>.

⁶² Atif Hussain, *Prosecutors Drop Odebrecht-Linked Probe into Grupo Aval's CEO*, S&P GLOBAL MARKET INTELLIGENCE (Mar. 12, 2021), <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/prosecutors-drop-odebrecht-linked-probe-into-grupo-aval-s-ceo-63156692>.

⁶³ *Lázaro Báez Sentenced to 12 Years in Jail for Money-Laundering*, BUENOS AIRES TIMES (Feb. 24, 2021), <https://www.batimes.com.ar/news/argentina/lazaro-baez-sentenced-to-12-years-in-jail-for-money-laundering.phtml>.

⁶⁴ *Lázaro Báez Sentenced to 12 Years in Jail for Money-Laundering*, BUENOS AIRES TIMES (Feb. 24, 2021), <https://www.batimes.com.ar/news/argentina/lazaro-baez-sentenced-to-12-years-in-jail-for-money-laundering.phtml>.

⁶⁵ Guillermo Jorge, *Argentina: A Look at the Case of Lázaro Báez - Laundering the Proceeds of Corruption and Tax Fraud*, JDSUPRA (Aug. 23, 2021), <https://www.jdsupra.com/legalnews/argentina-a-look-at-the-case-of-lzaro-08651>.

⁶⁶ *Cristina Fernández de Kirchner and her Children Cleared in Money-Laundering Case*, BUENOS AIRES TIMES (Nov. 27, 2021), <https://www.batimes.com.ar/news/argentina/vice-president-cristina-fernandez-de-kirchner-and-her-children-acquitted-in-money-laundering-case.phtml>.

⁶⁷ Hernan Capiello, *Panamá Pidió Informes a la Argentina Sobre Lázaro Báez y Cristóbal López por Lavado de Dinero*, LA NACION (Mar. 4, 2021), <https://www.lanacion.com.ar/politica/panama->

The Báez sentencing is just the latest in a string of corruption probes involving the Kirchner family. Perhaps the most well-known is the “Notebook” scandal—so called because the scheme was uncovered when a series of detailed notebooks maintained by the driver of a close advisor to the Minister of Federal Planning was leaked to an Argentinian newspaper.⁶⁸ However, while these scandals spread into multiple sectors of the Argentinian economy, they did not lead to prosecutions for corporate entities, in large part because Argentina only passed a law creating corporate liability for bribery offenses in 2018, after many of the bribes in question had already been paid.⁶⁹

E. Central America

In October, 2021, the DOJ announced the creation of a tip line to assist its Anticorruption Task Force in its enforcement efforts in El Salvador, Guatemala, and Honduras.⁷⁰ This joint effort consists of representatives from the DOJ’s FCPA Unit as well as representatives from the Kleptocracy Asset Recovery Initiative and the Narcotic and Dangerous Drug Section of the DOJ’s Criminal Division.⁷¹

On the heels of the guilty pleas of Luis Enrique Martinelli and Ricardo Alberto Martinelli, the sons of former Panamanian President Ricardo Martinelli, to money laundering charges in the United States, the Panamanian government moved to try and recoup the money they made from the scheme.⁷² The Martinelli sons were accused of laundering \$28 million in bribes paid by Brazilian construction company Odebrecht to secure government contracts while their father was president.⁷³ While former President Martinelli has not been convicted of any crimes, he reportedly remains under investigation in Panama.⁷⁴

In June President of El Salvador Nayib Bukele backed out of a 2019 cooperation agreement with the Organization of American States (OAS) to support the International Commission against

[pidio-informes-a-la-argentina-sobre-lazaro-baez-y-cristobal-lopez-por-lavado-de-dinero-nid04032021](#).

⁶⁸ Jaclyn Jaeger, *The Compliance Side of Argentina’s “Notebook” Scandal*, COMPLIANCE WEEKLY (May 15, 2019), <https://www.complianceweek.com/anti-corruption/the-compliance-side-of-argentinias-notebook-scandal/27072.article>.

⁶⁹ Jaclyn Jaeger, *The Compliance Side of Argentina’s “Notebook” Scandal*, COMPLIANCE WEEKLY (May 15, 2019), <https://www.complianceweek.com/anti-corruption/the-compliance-side-of-argentinias-notebook-scandal/27072.article>.

⁷⁰ US Department of Justice Press Release No. 21-1010: Justice Department Anticorruption Task Force Launches New Measures to Combat Corruption in Central America (Oct. 15, 2021).

⁷¹ US Department of Justice Press Release No. 21-1010: Justice Department Anticorruption Task Force Launches New Measures to Combat Corruption in Central America (Oct. 15, 2021).

⁷² “After guilty pleas, Panama wants to recoup illicit gains from Martinelli sons” REUTERS (Dec. 16, 2021), <https://www.reuters.com/world/americas/after-guilty-pleas-panama-wants-recoup-illicit-gains-martinelli-sons-2021-12-16>.

⁷³ *Id.*

⁷⁴ *Id.*

Impunity in El Salvador (CICIES), an anti-graft organization.⁷⁵ The reasons put forward by President Bukele was that OAS had decided to appoint former San Salvador Mayor Ernesto Muyschondt to the commission, even though Muyschondt has been accused of conspiracy and election fraud.⁷⁶ However, OAS was quick to point out in a press release that it had not in fact “hired” Muyschondt but had only offered him an honorary contract, and had notified the Salvadorian government about the potential appointment before it was made public, and the government did not provide any objections.⁷⁷ Muyschondt is an outspoken critic of Bukele’s.⁷⁸

F. Peru

The Odebrecht bribery scandal continues to cast a long shadow of Peru. In August the Peruvian government began corruption proceedings against Keiko Fujimori, a presidential candidate and daughter of former president Alberto Fujimori.⁷⁹ Fujimori is accused of accepting bribes from Odebrecht in part to pay for her 2011 and 2016 presidential campaigns.⁸⁰ Fujimori narrowly lost the 2021 presidential election, and had she won her pending corruption charges would have been stayed while she was in office.⁸¹ She is not the only Peruvian politician to ensnared in the Odebrecht investigation. Four former presidents—including Alan Garcia, who committed suicide in 2019 rather than be arrested—have all been accused of accepting bribes from the Brazilian construction giant.⁸² In September, a United States Magistrate Judge approved extradition of another former president, Alejandro Toledo, to Peru so that he can face corruption charges.⁸³ Toledo is accused of accepting millions of dollars’ worth of bribes from Odebrecht.⁸⁴ He was arrested in 2019, but was released to home confinements afterwards.⁸⁵

⁷⁵ “In Leaving Anti-Corruption Accord, Bukele Moves Close to Unchecked Power in El Salvador” ADVOCACY FOR HUMAN RIGHTS IN THE AMERICAS (June 14, 2021), <https://www.wola.org/2021/06/el-salvador-cicies-oas>.

⁷⁶ *Id.*

⁷⁷ Organization of American States Press Release E-059/21: Statement from the OAS General Secretariat on CICIES (June 7, 2021), https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-059/21.

⁷⁸ Alex Papadovassilakis & Seth Robbins, Coup de Grâce for El Salvador’s Anti-Corruption Commission, INSIGHT CRIME (June 7, 2021), <https://insightcrime.org/news/coup-de-grace-el-salvador-anti-corruption-commission>.

⁷⁹ “Peru kicks off corruption case against Keiko Fujimori” AL JAZEERA (Aug. 31 2021), <https://www.aljazeera.com/news/2021/8/31/peru-kicks-off-corruption-case-against-keiko-fujimori>.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ “US judge approves extradition of ex-Peruvian President Toledo” AL JAZEERA (Sept. 28 2021), <https://www.aljazeera.com/news/2021/9/28/us-judge-approves-extradition-of-ex-peruvian-president-toledo>.

⁸⁴ *Id.*

⁸⁵ *Id.*

In 2021, the OECD published a Phase 2 report on Peru.⁸⁶ Peru's Phase 2 report commended the country for the importance it places on fighting domestic corruption—including through the work of the Country's "Lava Jato Special Team" that investigates and prosecutes corruption cases stemming from bribes paid by Brazilian companies such as Odebrecht.⁸⁷ But it also noted that enforcement of existing laws remains lacking, that Peruvian companies operating abroad are at risk of engaging in bribery themselves, and that none of the recommendations put forward in the OECD's Phase 1 report had been implemented to date.⁸⁸

G. Chile

In October Chile's public prosecutor announced it was opening an investigation into the family of President Sebastián Piñera regarding the sale of a large mine.⁸⁹ The allegation underpinning the investigation came to light through the "Pandora Papers" leak, which revealed documents from a host of business leaders around the world.⁹⁰ The prosecutor said it was interested in both allegations of bribery and of tax evasion, and the leaked documents suggested that the sale of the mine was contingent on a changed regulatory environment, given concerns about the environmental harm the mine might cause.⁹¹ These allegations were enough for opposition leaders to attempt to impeach president Piñera, but Piñera was able to narrowly avoid being removed from office.⁹²

IV. CONCLUSION AND PREDICTIONS FOR 2022

As we look ahead to 2022, companies, individuals, and enforcement authorities will continue to grapple with the impact of COVID-19 for at least the early months of the year.

The US government has indicated that it will aggressively and proactively investigate FCPA concerns, increase resources aimed at FCPA enforcement, and increase coordination with other federal agencies and foreign authorities. As predicted in last year's Year-in-Review, we have observed and will likely continue to see large cross-border investigations, coordinated resolutions,

⁸⁶ OECD, *Working Group on Bribery in International Business Transactions Monitoring Schedule December 2016 - June 2026* (June 2020), <https://www.oecd.org/daf/anti-bribery/Phase-4-Evaluation-Calendar.pdf>.

⁸⁷ OECD, *Implementing the OECD Anti-Bribery Convention: Phase 2 Report: Peru*, at 5 (June 30, 2021), <https://www.oecd.org/daf/anti-bribery/peru-phase-2-report.pdf>.

⁸⁸ *Id.*

⁸⁹ "Chile prosecutors to investigate President Piñera following Pandora papers leak" REUTERS (Oct. 8, 2021), <https://www.reuters.com/world/americas/chile-prosecutors-investigate-president-pinera-following-pandora-papers-leak-2021-10-08>.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Natalia A. Ramos Miranda & Fabian Cambero, "Chile's Piñera safe after Senate votes down impeachment bid" REUTERS (Nov. 16, 2021), <https://www.reuters.com/world/americas/chile-senate-vote-pinera-impeachment-likely-lacks-votes-convict-2021-11-16>.

and a sustained focus on individual prosecutions linked to such investigations. In addition, large fines and globally coordinated resolutions will likely continue to dominate the FCPA landscape, as the DOJ has indicated in recent remarks that it will continue to encourage cooperation by crediting penalties paid to other domestic and foreign regulators.

Finally, the unique pressures that have surfaced due to COVID-19 may also result in an increase in government investigations into industries that have been significantly impacted by, or are critical in responding to, the pandemic, including the airline industry, medical and life sciences, and pharmaceutical companies. The recently released Pandora Papers could also generate additional leads for FCPA and other anti-corruption investigations.