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THE YEAR IN REVIEW
AN ANNUAL PUBLICATION OF THE ABA/SECTION OF INTERNATIONAL LAW

International Procurement

KRISTINA DAHMANN AND KIRK MARKER*

This article reviews international law developments in the field of international procurement in 2017.

I. Brazil's Ongoing Struggle with Corruption in Public Procurement

A. INTRODUCTION: THE MANÉ GARRINCHA STADIUM

The effects of one of South America's more recent struggles with corruption still linger. The Taguatinga Administrative Centre (Administrative Centre) sits just west of Brasilia, Brazil, in the Federal District—an urban area designed to provide a plot plan for the expansion of public infrastructure. The Administrative Centre has the benefit of alleviating traffic from Brasilia and boosting the growth of nearby towns such as Samambaia, which has space, but little business development.¹ Today, the Administrative Centre consists of a sixteen-building complex and the Mané Garrincha Stadium.²

The sixteen-building complex has remained vacant since construction was completed last year by a group of construction companies including the now-infamous Construtora Norberto Odebrecht S.A. (Odebrecht).³ The procurement contracts that the Brazilian government awarded to the construction companies in 2009 allow for incentive payments through 2022.⁴

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1. See Mario Osava, *White Elephants and the Urban Challenges of Brasilia*, INTER PRESS SERV. (Nov. 21, 2017), <http://www.ipsnews.net/2017/11/white-elephants-urban-challenges-brasilia/>.

2. *Id.*

3. *See id.*

4. *See id.*

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The Mané Garrincha Stadium was extensively renovated ahead of the 2014 World Cup.⁵ The cost of the renovation, capped at \$900 million, was three times the original budget and made the Mané Garrincha Stadium the second-most expensive stadium in the world.⁶ Today, the stadium is scarcely used.⁷ When used, it is barely filled; not even 2,000 fans fill the 72,788-seat stadium on average.⁸ Instead of spectators' cars, thousands of buses use the parking lot as a waiting station between transportation routes to cart workers to-and-from dormitory cities.⁹

B. ODEBRECHT AND THE RISE OF OPERATION CAR WASH

Odebrecht—a Brazil-based construction company—has been tied-up in scandals involving foreign governments across Latin America.¹⁰ Its involvement in the Administrative Centre is no exception. Of late, Odebrecht has played a prominent role in the corruption that has plagued Brazilian politics. In 2017, several executives of Odebrecht entered into plea agreements and testified that Odebrecht was a major contributor of illicit campaign funds.¹¹ Others at Odebrecht have detailed “hundreds of millions of dollars in under-the-table contributions to Brazilian politicians.”¹² In the midst of the country's economic crisis and political turmoil, several politicians are seeking amnesty in the hopes of avoiding prison.¹³

Odebrecht is a giant both in terms of its connections across Latin America and in the reach of its corrupt influences.¹⁴ An Odebrecht official told Brazilian prosecutors last year that the company had paid \$29 million in bribes to Peruvian officials over a decade as part of a massive graft scheme across South America and parts of Africa.¹⁵ In Ecuador, the country's Vice President will face trial in an alleged corruption plot involving the Brazilian construction giant.¹⁶ Panama recently determined that it will not allow

5. *Rio 2016: This Year's Olympic Venues*, THE TELEGRAPH (July 29, 2016), <http://www.telegraph.co.uk/olympics/2016/07/29/rio-2016-this-years-olympic-venues2/mane-garrincha-stadium/>.

6. *Id.*

7. See Osava, *supra* note 1 (Note that all monetary figures are in U.S. dollars.).

8. *Id.*

9. See Rio 2016: This Year's Olympic Venues, *supra* note 5 (stadium 4 of 39).

10. See *id.*

11. See Simon Romero, *Brazil's Leaders See Way Out of Scandal: Amnesty*, N.Y. TIMES (Mar. 15, 2017), <https://www.nytimes.com/2017/03/15/world/americas/brazil-congress-amnesty.html>.

12. *Id.*

13. See *id.*

14. See Nicholas Casey & Andrea Zarate, *Corruption Scandals With Brazilian Roots Cascade Across Latin America*, N.Y. TIMES (Feb. 13, 2017), <https://www.nytimes.com/2017/02/13/world/americas/peru-colombia-venezuela-brazil-odebrecht-scandal.html>.

15. *Peru's Kuczynski Denies Allegations of Odebrecht Links*, REUTERS (Nov. 15, 2017), <https://www.reuters.com/article/us-peru-politics/perus-kuczynski-denies-allegations-of-odebrecht-links-idUSKBN1DF32A>.

16. *Ecuador VP to Face Trial in Odebrecht Corruption Case*, ASSOCIATED PRESS (Nov. 14, 2017), <http://www.foxnews.com/world/2017/11/14/ecuador-vp-to-face-trial-in-odebrecht-corruption->

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Odebrecht to participate in public bids after the company admitted to bribing local officials.¹⁷

A cleanup has started in Brazil as well. A judge recently sentenced Marcelo Odebrecht, a former chief executive of Odebrecht and grandson of the company's founder, to a lengthy prison term because he paid roughly \$35 million in bribes to officials at Petróleo Brasileiro S.A., or Petrobras, a partly state-owned company.¹⁸ This crackdown was part of a broader societal rejection of corruption in Brazilian political and economic life. As commentators have stated, “[t]he network of Brazilians exposing, prosecuting and sentencing the corrupt politicians swimming in this mar de lama, or sea of mud, embodies [this societal pushback].”¹⁹ But this “effort would benefit from legal reforms that make it easier to fight corruption.”²⁰

Part of the cleanup began even before the completion of the Administrative Centre. In 2014, Brazil invoked the use of its Criminal Code when it launched an investigation affectionately known as Operation Car Wash.²¹ Operation Car Wash is a massive criminal investigation into money laundering schemes suspected of moving billions.²² The investigation initially targeted “construction companies [accused of] colluding with employees of the state-owned oil company Petrobras to win inflated contracts.”²³ It has expanded exponentially into other areas of the government, including the award of procurement contracts for stadium construction for the 2014 World Cup.²⁴

While the campaign is ongoing, it has already ensnared prominent Brazilian officials such as Brazil's current president Michel Temer,²⁵ and

case.html; Nicholas Casey, *Ecuador's Vice President Is Jailed in Bribery Investigation*, N.Y. TIMES (Oct. 3, 2017), <https://www.nytimes.com/2017/10/03/world/americas/jorge-glas-ecuador.html> (discussing the ongoing events).

17. *Panama to Cancel Odebrecht Contract Amid Corruption Scandal*, REUTERS (Dec. 29, 2016), <https://www.reuters.com/article/us-panama-corruption/panama-to-cancel-odebrecht-contract-amid-corruption-scandal-idUSKBN14H072>.

18. See Vinod Sreeharsha, *Brazilian Businessman Gets Stiff Sentence in Petrobras Scandal*, N.Y. TIMES (Mar. 8, 2016), <https://www.nytimes.com/2016/03/09/world/americas/brazilian-businessman-gets-stiff-sentence-in-petrobras-scandal.html>.

19. Paul F. Lagunes & Susan Rose-Ackerman, *Why Brazil is Winning Its Fight Against Corruption*, THE CONVERSATION (Feb. 2, 2017), <http://theconversation.com/why-brazil-is-winning-its-fight-against-corruption-71968>.

20. *Id.*

21. See Brian Nicholson, *Brazil's 'Operation Car Wash'*, INT'L BAR ASS'N (Apr. 8, 2015), <https://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=7960b146-65c4-4fc2-bb6a-c6fbb434cd16>.

22. See *id.*; see also Jonathan Watts, *Operation Car Wash: Is this the Biggest Corruption Scandal in History?*, THE GUARDIAN (June 1, 2017), <https://www.theguardian.com/world/2017/jun/01/brazil-operation-car-wash-is-this-the-biggest-corruption-scandal-in-history>.

23. Lagunes & Rose-Ackerman, *supra* note 19.

24. *See id.*

25. See Euan McKirdy & Flora Charner, *Brazilian President Michel Temer, Accused of Bribery, Says He Will Not Resign*, CNN (May 19, 2017), <http://www.cnn.com/2017/05/18/americas/brazil-temer-bribery-allegations/index.html>.

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former president, Luiz Inácio Lula da Silva, (also known as “Lulu”) who was sentenced to almost ten years in prison.²⁶ There are hundreds of other corruption cases pending that reflect the success of Operation Car Wash.²⁷

It is against this backdrop that the discussion turns to and analyzes some of the legal frameworks that make up this investigation and their role in public procurement.

C. AN ALTERNATIVE APPROACH: U.S. ANTI-BRIBERY AND ANTI-CORRUPTION LAWS

Inconsistent implementation of anti-corruption laws hinders the effectiveness of national procurement systems and can severely impact the economic and political health of a nation. Compared to the relatively weak anti-corruption laws that Brazil had in place prior to the launch of Operation Car Wash, the United States’ Foreign Corrupt Practices Act of 1977 (FCPA) provides a strong deterrent to corruption that occurs overseas, including in Brazil.²⁸ The FCPA was enacted for the purpose of prohibiting bribery and other corrupt acts between foreign governmental officials and U.S. entities.²⁹ Specifically, the FCPA promulgated anti-bribery provisions that prohibit offering to pay, paying, or promising to pay money or anything of value to a foreign official in order to secure an improper advantage or retain business.³⁰ The FCPA also includes accounting provisions that require corporations to keep records accurately reflecting procurement transactions, as well as implementing and maintaining internal accounting controls.³¹

The FCPA was amended in 1998 to uphold the requirements of the Organization for Economic Co-operation and Development’s (OECD) Anti-Bribery Convention.³² The OECD is an organization that, *inter alia*, publishes joint recommendations and resolutions for implementation of

26. See *The Conviction of Lula and the Future of Brazil’s Political Purge*, ECONOMIST (July 15, 2017), <https://www.economist.com/news/americas/21725050-why-lava-jato-corruption-investigations-must-continue-conviction-lula-and-future>.

27. See Lagunes & Rose-Ackerman, *supra* note 19; see also Jonathan Watts, *Brazil Supreme Court Justice Overseeing Vast Corruption Case Dies in Plane Crash*, THE GUARDIAN (Jan. 19, 2017), <https://www.theguardian.com/world/2017/jan/19/brazil-supreme-court-corruption-case-teori-zavascki-dies-plane-crash> (The investigation has not gone on without incident. In January 2017, the well-respected Minister of the Supreme Federal Court of Brazil (Supreme Court), Teori Zavascki, suspiciously died in a plane crash, while he was overseeing the investigation.).

28. See generally 15 U.S.C. § 78dd-1 (West 2018).

29. See generally *id.*

30. See *id.*

31. See *id.* § 78m.

32. Criminal Division of the U.S. Department of Justice & Enforcement Division of the Securities and Exchange Commission, *A Resource Guide to the U.S. Foreign Corrupt Practices Act*, SEC.GOV, 4 (Nov. 14, 2012) <https://www.sec.gov/spotlight/fcpa/fcpa-resource-guide.pdf> [hereinafter FCPA Guidance].

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anti-bribery laws in international business transactions.³³ The FCPA amendment provides for corporate criminal penalties.³⁴ Corporate criminal liability uses agency principles to impute the criminal acts and the corrupt intent of an agent to the corporation.³⁵ Importantly, corporate liability is a key aspect in successfully deterring corruption because without the corporate hook, a business could illegally influence politicians without any repercussion.³⁶

Penalties for a corporation's violation of the FCPA depend on whether the violation was an anti-bribery provision or an accounting provision, but generally include: dissolution, temporary and permanent prohibition from entering into contracts with the government (i.e., suspension and debarment from government contracting), and significant fines.³⁷ Penalties for the individual's violation of the FCPA include imprisonment and fines.³⁸

D. INTERNATIONAL ANTI-BRIBERY AND ANTI-CORRUPTION LAWS

The United States is not alone. Other countries recognize the importance of preventing governmental corruption as well as its potential impact on procurement systems. For example, Canada, Chile, Germany, France, Italy, Switzerland, and the United Kingdom have all enacted anti-bribery and corruption laws and regulations with national and transnational effects.³⁹ Indeed, all of these countries are members of the OECD.⁴⁰ Notably absent from this list is Brazil.⁴¹

Another South American country, Chile, has codified foreign anti-corruption laws that import similar rules to the FCPA.⁴² In Chile, it is a criminal offense to

offer, promise or give economic or other benefit to a foreign public official . . . in order for the foreign public official to act or refrain from

33. See generally *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, OECD.ORG, <http://www.oecd.org/corruption/oecdanti-briberyconvention.htm> (last visited Mar. 16, 2018).

34. FCPA Guidance, *supra* note 32.

35. See *id.* at 14, 27 (“General principles of corporate liability apply to the FCPA”); see also Charles Doyle, *Corporate Criminal Liability: An Overview of Federal Law*, CONG. RES. SERV., 3–4 (Oct. 30, 2013), <https://fas.org/sgp/crs/misc/R43293.pdf>.

36. See *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, OECD, art. 3 (Nov. 21, 1997), www.oecd.org/daf/anti-bribery/ConvCombatBribery_ENG.pdf [hereinafter OECD Convention].

37. See FCPA Guidance, *supra* note 32, at 44, 69–70; see also 15 U.S.C. § 78ff (West 2018).

38. See 15 U.S.C. § 78ff.

39. See *Anti-Corruption Sites*, JUSTICE.GOV, <https://www.justice.gov/criminal-fraud/anti-corruption-sites> (last visited Mar. 16, 2018).

40. See *List of OECD Member Countries*, OECD.ORG, <http://www.oecd.org/about/members-andpartners/list-oecd-member-countries.htm> (last visited Mar. 16, 2018).

41. See *id.*

42. See generally Cód. PEN., art. 248–51.

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acting, for the purpose of obtaining . . . any business or unfair advantage in the course of international business transactions.⁴³

Potential penalties include imprisonment for both domestic and foreign bribery, judicial dissolution, and significant fines.⁴⁴

More importantly, Chile also embraces corporate criminal liability for such corruption.⁴⁵ Chile adopted its legislation that criminalizes corporate bribery of domestic and foreign officials from the OECD Anti-Bribery Convention.⁴⁶ Interestingly, in Chile, the criminal liability is not based on agency principles, but rather on a breach of duty: the entity's duty to implement or fulfill its obligation to prevent the illegal act.⁴⁷ Chile is one of the least-corrupt countries in South America.⁴⁸

E. ANTI-BRIBERY AND ANTI-CORRUPTION DEVELOPMENTS IN
 BRAZIL

Brazil has made strides in the past few years towards meeting its goal of curbing bribery and related corruption. In 2013, Brazil passed its current anti-corruption law, known as the Clean Companies Act,⁴⁹ which imposes civil and administrative liability on legal entities for bribery of local and foreign government.⁵⁰ While the law was passed in 2013, the President did not sign the official decree implementing the law until March 18, 2015.⁵¹ The main thrust of the law is to hold companies responsible for the corrupt acts of their employees.⁵² The law implements many provisions similar to the FCPA but with three key differences. First, the law only provides jurisdiction over legal entities.⁵³ Second, the law prohibits both foreign and

43. See *id.* at art. 251; Leon Larrain & Sebastian Doren, *Anti-Corruption in Chile*, GLOBAL COMPLIANCE NEWS, <https://globalcompliancenews.com/anti-corruption/handbook/anti-corruption-in-chile/> (last visited Mar. 16, 2018).

44. See *supra* note 32, at 248-51; see also Larrain & Sebastian, *supra* note 43.

45. See Law No. 20.393 art. 1, Diciembre 12, 2009, DIARIO OFICIAL [D.O.] (Chile).

46. See OECD Convention, *supra* note 36, at art. 3; see also Matteson Ellis, *Anti-Corruption Laws in Chile: Three Things Companies Should Know*, FCPAMÉRICAS (Dec. 19, 2013), <http://fcpamericas.com/english/anti-corruption-compliance/anti-corruption-laws-chile-companies/#>.

47. *Anti-Corruption Laws in Chile: Three Things Companies Should Know*, *supra* note 46; Law No. 20.393, *supra* note 25, at art. 3.

48. See *Corruption Perceptions Index 2016*, TRANSPARENCY INT'L, https://www.transparency.org/news/feature/corruption_perceptions_index_2016#table (last visited Mar. 16, 2018).

49. See Brazilian Clean Company Act, GAN BUS. ANTI-CORRUPTION PORTAL (Nov. 2015), <http://www.business-anti-corruption.com/anti-corruption-legislation/brazil>; see also Lei No. 12.846, de 1 de Agosto de 2013, COL. LEIS REP. FED. BRASIL, 2013 (Braz.).

50. Brazilian Clean Company Act, *supra* note 49; Lei No. 12.846, *supra* note 49, at art. 1.

51. See Decreto No. 8.420, de 1 de Agosto de 2013, DIÁRIO OFICIAL DA UNIÃO [D.O.U.] de 8.3.2015 (Braz.).

52. See Brazil Corruption Report, GAN BUS. ANTI-CORRUPTION PORTAL, <https://www.business-anti-corruption.com/country-profiles/brazil> (last visited Mar. 16, 2018).

53. Lei No. 12.846, *supra* note 49, at art. 1 (Individuals are subject to liability under the Criminal Code, such as Código Penal 2.848, and other Brazilian laws such as Public Tender Law and Improbability Law.).

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local bribery, unlike the FCPA, which only bars “foreign” bribery.⁵⁴ Third, the law imposes strict liability and does not require a scienter element, such as the requirement under the FCPA that the bribery be effectuated with intent.⁵⁵

While Brazil is not a member to the OECD, Brazil ratified the OECD Anti-Bribery Convention,⁵⁶ with limitations. Significantly, Brazil’s anti-bribery law does not impose criminal liability on legal entities like the corresponding U.S. and Chilean laws.⁵⁷ Rather, the only means of enforcement under Brazilian law are administrative and judicial (or civil).⁵⁸

Nonetheless, the penalties can be relatively harsh. Administratively, fines can range from 0.1 percent to 20 percent of the entity’s annual gross revenue, and may even include a public reprimand.⁵⁹ Judicially, the courts can impose partial suspensions, confiscation of assets, and potentially force compulsory dissolution of the legal entity.⁶⁰ The law also allows the Public Administration to enter into leniency agreements with legal entities that commit illegal acts under the Public Procurement Law.⁶¹

Enforcement of Brazil’s Clean Companies Act is in its infancy and arguably underutilized.⁶² Instead, Brazil’s Criminal Code is available to penalize public officials and those that bribe them.⁶³ The drawback is that the Criminal Code is only applicable to individuals, not companies, and does not have the same force against bribery of foreign officials as the Clean Companies Act.⁶⁴

In theory, the Clean Companies Act encourages investigations of corporations, which may lead to evidence of wrongdoing by employees and prosecution under the Criminal Code. The two laws have to work in tandem for this to be effective. Unfortunately, there was significant political uncertainty in the past year as a result of the ongoing Operation Car Wash. Although the anti-corruption campaign is positive, it has resulted in setbacks with the implementation of the Clean Companies Act.

54. *See id.*

55. *See id.*, at art. 2.

56. *See Members and Partners*, OECD.ORG, <http://www.oecd.org/about/membersandpartners/> (last visited Mar. 16, 2018); *see also* FCPA Guidance, *supra* note 32, at 7.

57. *See generally* Lei No. 12.846, *supra* note 49.

58. *Id.* at art. 1.

59. *See id.*, at art. 6.

60. *See id.*, at art. 19.

61. *See id.*, at art. 17, 23 (As applicable under the terms of Lei No. 8.666, art. 87–88, de 21 de Junho de 1993, COL. LEIS REP. FED. BRASIL (Braz.)).

62. *See Brazil: Follow-Up to the Phase 3 Report & Recommendations*, OECD, 4 (Feb. 2017), <https://www.oecd.org/corruption/anti-bribery/Brazil-Phase-3-Written-Follow-Up-Report-ENG.pdf>.

63. *See* Decreto-Lei No. 2.848, de 7 de Dezembro de 1940, CÓDIGO PENAL [C.P.] art. 316–17, 332–33 (Braz.).

64. *See* Shin Jae Kim et al., *Brazil*, in ANTI-CORRUPTION REGULATION 2017 34, 36, 38–39 (Homer E. Moyer Jr et al. eds., 2017), <http://www.nortonrosefulbright.com/files/gtdt-anti-corruption-regulation-2017-147977.pdf>.

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F. BRAZIL'S RECENT ANTI-CORRUPTION LEGISLATIVE SETBACKS

In March 2016, a reform statute known as “10 Measures Against Corruption” was presented to the Brazilian Chamber of Deputies, Brazil’s lower legislative house.⁶⁵ The proposed bill received overwhelming public support.⁶⁶ The purpose of the initiative was to assist the Brazilian Federal Prosecution Service’s new anti-corruption campaigns.⁶⁷ One feature of the bill is to provide government funds for the anti-corruption campaigns in order to encourage public awareness and whistleblowing.⁶⁸

Under the Criminal Code, public officials can escape liability when specific acts of corruption are not proven, yet the official’s financial gains are obviously incompatible with a civic servant’s income.⁶⁹ This bill will criminalize unlawful enrichment by public officials, thereby shoring-up that limitation of the Criminal Code.⁷⁰

By the time the bill was passed in November 2016, the Chamber had altered it to the extent that the originating Task Force threatened to pull support.⁷¹ The provision that would criminalize a public official for unlawful enrichment was removed.⁷² But instead, the Chamber added a provision for criminalizing a judge or prosecutor for abuse of power.⁷³ One of the major proponents of these changes was Eduardo Cunha, the head of the Chamber who was later imprisoned under the tribunals of the late Minister Teori Zavascki.⁷⁴

In the end, the Supreme Court determined that legislative procedures were not properly followed and thus, returned the legislation for a second vote.⁷⁵ The failure to pass the reform bill in 2016 and reintroduction to the legislature in 2017, coupled with the massive expansion of Operation Car Wash, reflects the tumultuous state of Brazil’s political system. This situation will continue to affect Brazilian procurement.⁷⁶

65. See Carlos Ayres, *Ten Measures Proposed by the Brazilian Federal Prosecution Service to Fight Corruption (Part I)*, FCPAMÉRICAS (Apr. 26, 2016), <http://fcpamericas.com/english/brazil/ten-measures-proposed-brazilian-federal-prosecution-service-fight-corruption-part-i/>.

66. See *id.*; see also *Brazil’s “10 Measures Against Corruption”: Chamber of Deputies Approves Changes to Lava Jato Task Force Approval*, FCPAMÉRICAS (Dec. 29, 2016), <http://fcpamericas.com/english/anti-corruption-compliance/brazils-10-measures-corruption-chamber-deputies-approves-lava-jato-task-force-proposal/#> [hereinafter 10 Measures] (The initiative garnered many supporters, receiving over 2,028,263 signatures.).

67. See Ayres, *supra* note 65.

68. See *id.*

69. See *id.*

70. See *id.*

71. See 10 Measures, *supra* note 66.

72. See *id.*

73. See *id.*

74. See Watts, *supra* note 27.

75. See 10 Measures, *supra* note 66.

76. As of this writing, the bill has not been re-introduced to the legislature.

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G. IMPACT ON BRAZILIAN PROCUREMENT

Unlike the foreign anti-corruption laws in the U.S. and Chile, Brazil's Clean Companies Act is in a state of flux due to the recent political and economic turmoil. It can be argued that the increase in reports and investigations of corruption are positively attributable to the effectiveness of Brazilian anti-corruption laws.⁷⁷ In other words, implementation has uncovered illegal acts that would otherwise have continued without notice. Alternatively, it can be argued that the rampant corruption is a product of an underlying leniency in, or lack of, enforcement. Regardless of which theory is correct, the investigations and political pushback in the legislature have certainly undermined confidence in Brazil's procurement system.⁷⁸ Because public procurement often presents an opportunity for bribery, bid rigging, and other corrupt acts, anti-corruption efforts targeting the procurement sector are especially important for protecting public funds and instilling confidence in government. In this way, the stability and effectiveness of a country's corrupt practices law is important to attracting cross-border business.

In the wake of these issues, companies hoping to do business in Brazil must heed caution and ensure that sound compliance policies are in place. Importantly, proper internal controls will provide transparency if there is an investigation into the company's dealings with procurement officials.⁷⁹ Equally important is establishment of channels of communication to encourage and protect an employee's good faith whistleblowing concerning a real and perceived corrupt act.⁸⁰

Regarding the future of the Administrative Centre, the Mané Garrincha Stadium could be turned into a cultural-sports complex including a museum, library, shopping center, movie theaters, and conference rooms— all related to sports. Additionally, regarding any ongoing relationship with Odebrecht and the ongoing contract, Brazil may very likely cancel the contract in light of the illegalities that have plagued the project.

Looking further ahead, it will behoove the corrupt politician-chaser and possible next international scandal reporter to look ahead to the 2022 FIFA World Cup. Indeed, the initial bid for that World Cup was mired in scandal.⁸¹ That was only the beginning.⁸² Qatar has been accused of instituting abusive labor practices. Only recently did the country enter into

77. See *Anti-Corruption Progress in Latin America: Reasons for Optimism*, FCPAMÉRICAS (Sept. 18, 2017), <http://fcpamericas.com/english/anti-corruption-compliance/anti-corruption-progress-latin-america-reasons-optimism/>.

78. See Lagunes & Rose-Ackerman, *supra* note 19.

79. See *Brazil Compliance Guide*, GAN BUS. ANTI-CORRUPTION PORTAL, <https://www.business-anti-corruption.com/compliance-quick-guides/brazil> (last visited Mar. 16, 2018).

80. See *id.*

81. See David Conn, *Michael Garcia's Fifa Report Eases Russia and Qatar World Cup Fears*, THE GUARDIAN (June 27, 2017), <https://www.theguardian.com/football/2017/jun/27/fifa-secret-report-world-cup-2022-leaked>.

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an agreement to curb the practices.⁸³ The government will be using foreign police officers to staff events given the whirlwind of geopolitical issues that surround the region and the competition. Also, Qatar has a history of institutionalizing patronage networks, particularly in public procurement.⁸⁴ Keep an eye on Qatar's international procurement during the development and infrastructure procurement phase of the upcoming 2022 World Cup.

82. See Vivek Chaudhary, *Five Years to Qatar 2022 - Five Issues to be Resolved Before the World Cup*, ESPN (Nov. 21, 2017), <http://www.espnfc.com/fifa-world-cup/4/blog/post/3278248/five-years-to-qatar-2022-five-issues-to-be-resolved-before-the-world-cup>.

83. See David Conn, *Qatar World Cup Workers' Rights to Improve with End of Kafala System, Claims Union*, THE GUARDIAN (Oct. 25, 2017), <https://www.theguardian.com/football/2017/oct/25/qatar-world-cup-workers-rights-kafala-system>; see also Jonathan Liew, *World Cup 2022: Qatar's Workers Are Not Workers, They Are Slaves, and They Are Building Mausoleums, Not Stadiums*, THE INDEPENDENT (Oct. 3, 2017), <http://www.independent.co.uk/sport/football/international/world-cup-2022-qatars-workers-slaves-building-mausoleums-stadiums-modern-slavery-kafala-a7980816.html>.

84. See Qatar Corruption Report GAN BUS. ANTI-CORRUPTION PORTAL, <http://www.business-anti-corruption.com/country-profiles/qatar> (last visited Mar. 16, 2018).

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