

# United States Senate

WASHINGTON, DC 20510

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SPECIAL COMMITTEE ON AGING

September 12, 2019

The Honorable William Barr  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

Dear Attorney General Barr:

The corruption scandal involving the Brazilian construction conglomerate, Odebrecht, has shaken regional governments and alliances and led to the imprisonment of several former presidents and other high-ranking officials in those countries. In light of new information uncovered by investigative reporters, I write to respectfully encourage your department, as appropriate, to ensure that Odebrecht is complying with the terms of the company's 2016 plea agreement with the U.S. Department of Justice.

In 2016, Odebrecht pled guilty and agreed to pay a combined total penalty of at least \$2.6 billion to resolve charges with the U.S. Justice Department. A fundamental component of the plea agreement was that Odebrecht would truthfully disclose all factual information with respect to its activities and those of its subsidiary companies and affiliates. Recent reports, however, call into question whether Odebrecht has been fully transparent with the Department of Justice about its corrupt activities in Latin America.

The reporting asserts that although Odebrecht admitted to a detailed accounting of its crimes and corrupt practices, and would cooperate with prosecutors to bring the company's associates to justice, Odebrecht's admissions and subsequent actions provide an incomplete picture of their corrupt activities. As the *Miami Herald* reported, "leaked files make clear that Odebrecht's web of corruption extended to many public works projects and public figures that have not been addressed by law enforcement, raising questions about whether Odebrecht has been fully candid with authorities and about the political will of some prosecutors to pursue cases." Moreover, "the leaked records reveal hidden payments across the region that extend far beyond what has been publicly reported."

In particular, the reporting raises Odebrecht's possible corrupt activities in Cuba, noting that between 2010 and 2015, "Odebrecht made irregular payments tied to the modernization of the port of Mariel, west of Havana, and the planned expansions of two Cuban airports, for which it had secured more than \$800 million collectively from the Brazilian government."

According to the reports, now-convicted CEO, Marcelo Odebrecht, told Brazilian investigators that he did not pay bribes in Cuba. However, one *Herald* article maintains that "everything to do with his company's business foray on the communist island was irregular,

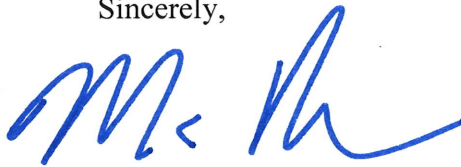
including the creative financing eventually employed by the Brazilian Development Bank BNDES to avoid having Odebrecht paid directly by the Cuban government, which might have run afoul with U.S. sanctions.”

Odebrecht’s plea agreement with your department says that if Odebrecht “commits any felony under U.S. federal law” or “provides in connection with this Agreement deliberately false, incomplete, or misleading information,” then the agreement shall be deemed as breached and the US/Brazilian/Swiss authorities have the absolute discretion to reopen and investigate with the intent of prosecuting the entirety of the operation. Furthermore, Odebrecht is required to continue its cooperation with law enforcement, including in connection with the investigations and prosecutions of individuals responsible for the criminal conduct.

Given the above information, I respectfully encourage your department to ensure Odebrecht’s full compliance with the 2016 plea agreement and U.S. law. Government corruption is counter to, and undermines the public’s confidence in and stability of, democratic institutions among our allies in the region. Conversely, such corruption only solidifies the power and authority of dictatorial regimes in the region, such as in Cuba and Venezuela. It is critical to regional stability that agreements entered into with the U.S. Department of Justice are honored and enforced in good faith.

I appreciate your attention to this important matter.

Sincerely,



Marco Rubio  
United States Senator