

# Latin America's Most Corrupt Highway: Colombia's Ruta del Sol 2

## 2009

### December, INCO Awards Ruta del Sol 2 Contract

- The National Institute of Concessions ("INCO") awards to Odebrecht and its Colombian partner, Grupo AVAL, the **\$2 billion**, 25-year Ruta del Sol 2 concession contract to build and operate the country's most important north-south toll road. Contract requires all risk associated with cost overruns to be assumed by concessionaire.

## 2010

## 2011

### August, Luis F. Andrade Appointed

- President Santos appoints Luis F. Andrade, a Wharton educated Senior Partner at McKinsey & Company, to run the new National Infrastructure Agency (ANI).

### December, INCO Replaced by ANI

- INCO is replaced by ANI through decree by President Santos. ANI assumes responsibility for all contracts underway and awarded by INCO.

## 2012

### July, Expansion of Ruta del Sol 2 Considered

- An additional road section, Ocaña-Gamarra, is proposed by ANI as a complement for the Ruta del Sol 2 contract to take advantage of higher than expected toll revenues.

### September, Ruta del Sol Gives Legal Green Light

- After an extensive review by Odebrecht's external counsel, Nestor Humberto Martinez (now Colombia's Attorney General), Ruta del Sol gives the project a green light from a legal point of view.

## 2013

### June, "Lava Jato" Comes to Colombia

- Andrade is warned by a World Bank official that Odebrecht was working to form a cartel among concessionaires. This is similar to what was revealed Odebrecht had done in Brazil, known as the "Lava Jato" scandal. Andrade contacts Colombia's Secretary for Transparency, Rafael Merchán and Eleuberto Martorelli, CEO of Odebrecht Colombia, to express concerns. As a result, Odebrecht does not participate in any of the bids of ANI's flagship program: the 4G Highway PPPs.

## 2014

### August, Odebrecht Lawyer Named Santos Chief of Staff

- Odebrecht's Colombian subsidiaries external counsel, Nestor Humberto Martinez, is named President Santos' Chief of Staff. In that capacity, Martinez approves in October 2nd, 2014 the Ocaña-Gamarra expansion to Ruta del Sol 2, as member of the National Council for Economic and Social Policy.

### November, Ruta del Sol Addendum Receives Green Light

- After more than 2 years, having obtained all necessary approvals, ANI gives authorization to Odebrecht and AVAL to start building the **\$400 million** Ocaña-Gamarra road as an addendum to their existing Ruta del Sol 2 contract, without increasing the government payments or timeline of the original project. This is possible due to additional toll income from higher traffic volumes than initially forecasted.

## 2015

### June, Marcelo Odebrecht Arrested in Brazil

- Marcelo Odebrecht, the CEO of Odebrecht, is arrested in Brazil and charged with running a massive bidding cartel, rigging contracts and massive bribes to the country's politicians.

### August, Odebrecht Colombia sues over Cost Overruns

- No sooner had Marcelo Odebrecht been arrested, Odebrecht and Grupo AVAL sue ANI before an arbitration tribunal, after Andrade rejects their claims for over **\$350 million** in cost overruns.

## 2016

### March, Marcelo Odebrecht Convicted of Corruption

- Marcelo Odebrecht is convicted of corruption in Brazil.

### March, Odebrecht and AVAL sign "hush" agreement

- A "Transaction Contract" is signed by Odebrecht and Grupo AVAL where it is agreed that neither of the parties can take legal action with regards to the illegal payments made by Ruta del Sol and CONSOL. This confidential contract was revealed in August 2017 by Maria Jimena Duzán, a Colombian investigative journalist.

### March, Martinez postulates his name for Attorney General

- Martinez enters in the running for the position of Attorney General.

### July, Martinez Named Attorney General

- Martinez is named Colombia's Attorney General.

### December, Odebrecht – US DOJ Plea Agreement

- Odebrecht enters into a plea agreement with the U.S. Department of Justice where the company admits to **\$1 billion** in bribes across Latin America, including in Colombia.
  - Odebrecht confessed to paying **\$11 million** in bribes in Colombia.
    - › **\$6.5 million** to win the Ruta del Sol 2 project from INCO.
    - › **\$4.5 million** to former Senator Otto Bula to lobby for the Ocaña-Gamarra Addendum.
  - Odebrecht failed to disclose and confess more than **\$30 million** in illegal payments made by Ruta del Sol and CONSOL, a construction company owned by the same shareholders, as well as **\$3 million** in campaign contributions to President Santos and others paid from offshore companies.

## 2017

### January, Andrade Moves to Terminate Odebrecht Ruta del Sol 2 Contract

- Andrade asks the arbitration tribunal to declare null and void the Ruta del Sol 2 contract in response to the Odebrecht's confession to the US DOJ. He cannot act alone. The termination requires the approval of the arbitration tribunal and an agreed upon liquidation settlement.

### January, DEA Signed Memorandum Purportedly Written by Agent Cartagena Written and Approved in Hours

- The DEA memo was purportedly written by Agent Cartagena on 1/14/17 and sent to Mauricio Rojas. The memo then served as the basis for the wiretap application signed by a woman named Matilde Vega Fonseca, who said she submitted the application at 8:30am on 1/14/17. This is curious timing – especially since 1/14/17 was a Saturday. This means that Agent Cartagena would have had to have drafted the memo very early on 1/14, the memo would have had to have been forwarded from Rojas to Fonseca, and then Fonseca would have had to have drafted her application, all before 8:30am. That chain of events and passing along of information seems improbable.

### March, Andrade Terminates Odebrecht Contract with CORMAGDALENA

- Andrade declares Odebrecht in "Breach of Contract" in a PPP contract awarded by CORMAGDALENA in 2014. Andrade had been put in charge of CORMAGDALENA temporarily as a result of its Director's resignation in September of 2016.

### April, Odebrecht Reveals Illegal Campaign Contributions

- Martorelli, Odebrecht's CEO in Colombia, reveals Odebrecht illegally laundered **\$3 million** to influence Colombian presidential elections.
  - **\$400,000** for the 2010 election campaign of President Santos.
  - **\$1 million** for the re-election campaign in 2014 of President Santos.
  - **\$1.6 million** for the 2014 election campaign of Oscar Ivan Zuluaga.

### June, Former Colombian Senator Bula Reveals Millions in Illegal Payments from Ruta del Sol and Consol

- Former Senator Bula reveals illegal payments in excess of **\$22 million** by Ruta del Sol and CONSOL orchestrated by Odebrecht's and AVAL. This had been concealed from Colombian and American authorities.

### June, Andrade opposes liquidation formula proposed by Ruta del Sol

- Andrade testifies in late June to the arbitration tribunal why he cannot accept the liquidation formula proposed by Odebrecht and Grupo AVAL. Under Colombian law contracts obtained through bribes cannot generate profits to the contractors. The proposed formula implied recognizing **\$150 million** in profits. Andrade also testifies a few weeks later before a judge denouncing irregularities in payments to suppliers by Ruta del Sol and requests a court order to make prompt payments. These actions infuriate Odebrecht and AVAL.

### July, Odebrecht's former lawyer & Attorney General Martinez Announces Charges Against Andrade

- In late July, the Communications Office of Attorney General Martinez fires off a tweet declaring he will file criminal charges against Andrade. Andrade is forced to resign as head of ANI.

### August, Former Presidents Pastrana & Uribe Demand Investigation into Odebrecht Scheme

- Former Presidents Pastrana and Uribe send Attorney General Martinez a letter requesting he fully investigate the Odebrecht bribery scheme, revealing specific payments made by Ruta del Sol and CONSOL. Odebrecht's lawyer, and now Attorney General, Martinez, refuses to respond.

### December, Home Detention Ordered for Andrade

- A Judge agrees to preventive detention, based on testimony provided by Juan Sebastian Correa, a low-level ANI staffer, given under a questionable plea-bargaining agreement in August. Andrade can point to inconsistencies in Correa's testimony and Correa's clear motive to placate prosecutors given his clear involvement in Odebrecht's graft. Further, Correa's testimony contradicts hard evidence, statements under oath made by Odebrecht executives in the context of their own plea bargain agreements, and Correa's own previous testimonies under oath.

## 2018

### August, Odebrecht Sues in Spain

- In preparation for a potential adverse decision by the arbitration tribunal in Colombia, Odebrecht files a lawsuit in Spain for **\$1.3 billion**, now claiming the country is violating an international investor protection treaty.

### August, "Hush" agreement revealed

- Investigative Journalist Maria Jimena Duzán reveals the "Transaction Contract" signed by Odebrecht and AVAL after Marcelo Odebrecht's conviction, to keep illegal payments confidential. She also reveals that Jorge E. Pizano, the AVAL appointed internal auditor of Ruta del Sol, testified under oath that executives of the AVAL group knew of the illegal payments since June of 2015.

### August, Attorney General announces more charges Against Andrade

- After a El Tiempo newspaper, owned by AVAL, reports that several U.S. congressmen are concerned about the conflicts-of-interest in Andrade's testimony and that Andrade's wife will be travelling to the United States to talk to U.S. authorities about the case, the Communications Office of the Attorney General holds a press conference to announce new charges against Andrade, in apparent retaliation.