Machado Meyer

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MISSED OPPORTUNITIES

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BRAZIL BLOG: The construction work for the World Cup in 2014 in Brazil is being widely criticised as having been long on discussion, short on actual achievement. Has the predicted upturn in related legal work been just as laggardly, asks Clare Bolton in São Paulo Whichever way you look at it, football is a touchy subject at the moment in Brazil. The country's ignominious slide out of the Copa America last week left a nation red-faced with its inability to score a single penalty against Paraguay, teenage geniuses notwithstanding. But choosing to resolutely face the future is also a tricky option for a Brazilian football fan, as there looms another, if this time potential, national embarrassment: Copa 2014. According to Veja Magazine, if building continues at its current pace, Brazil will be ready by 2038; government sums released last month show Copa 2014 will cost more than the last three World Cups combined; and Fifa says Russia is more prepared for the 2018 event than Brazil is for June 13, 2014. While it seemed cynical, a few years ago, to say that Brazil would leave everything to the last minute, and then throw up very expensive and poor quality stadia and other infrastructure projects, that point of view has become increasingly widespread as time has passed with achingly slow progress. Of course, the fact that profit margins (both legitimate and not) are significantly wider on projects conducted under emergency procurement rules, and with no time for proper scrutiny, is a factor. But nonetheless, whatever the cost and however bad the work done, the fact remains that there is going to be a World Cup being held in Brazil in three years' time, and rather a lot needs to be done for it – or so went the thinking, probably, of Brazil's top law firms when a couple of years ago they began preparing for the predicted upturn in Copa-related work. Perhaps unsurprisingly given the national situation, for most the impact has been indirect at best, according to a straw poll of the infrastructure partners of Brazil's biggest firms. Pablo Sorj of Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados says there are simply not that many specific World Cup projects, but notes that for transport and hospitality clients, the Copa is one of many drivers. 'While they probably would have made the investment anyway, the Copa and the Olympics make clients more interested – although their investment of course looks far beyond the events themselves, which only last a month,' he explains. Antonio Felix de Araujo Cintra, co-head of TozziniFreire Advogados' 2014 World Cup and 2016 Olympic Games practice (and capital markets lawyer as his day job) says that directly related work has indeed been less than anticipated – they are working on one stadium project, in Porto Alegre; but while 'there has not been a clear boom of World Cup-related work, it is also difficult to measure, as the volume of work is growing overall.' The difficulty in defining what is and isn't World Cup-related is best illustrated by the high-speed train between São Paulo and Rio de Janeiro – originally touted as the solution for shuttling fans between the two cities, avoiding the already-busy and expensive plane journeys, the delays in planning and bidding have meant that it stands no chance of being ready on time and is officially no longer a Copa-related project. But, as Cintra points out, 'we're still advising clients, and that's still work for us' – and if one is conducting a business analysis of course, that is all that matters. The monorail projects in other cities are another, if slightly different, example – the monorails will be useful during the World Cup, but are being done because the cities in question need them; irrespective of that, it is work and income for the firms working on them. With a different perspective, and thus seemingly with the lion's share of directly-related work, is José Virgilio Lopes Enei of Machado, Meyer, Sendacz e Opice Advogados, who currently has six stadium projects on the go as well as a couple of related transport matters: 'in fact, for us the World Cup is generating even more work than the Olympics,' he says. The experience of working on long-delayed projects is obviously a familiar one to him: he acknowledges the challenges of projects 'with a strong degree of government involvement, as there just aren't the same resources there as there are at private parties', and describes how banks in the sector, unused to the financing models, have taken a more conservative and thus slower approach than perhaps was expected. 'The good news is that everyone knows there is a deadline, and the cities will just have to manage,' he says. However, all the firms featured here are seeing an increase in work advising clients on Copa-related advertising and marketing campaigns, and there is a general if not enormous upswing in IP work related to the Copa and the Olympics (for example, it was Pinheiro Neto Advogados' analysis which pierced the illusions of the International Olympic Committee that trademarking '2016' would be permissible under Brazilian law). Júlio Cesar Bueno of Pinheiro Neto also sees other indirect but positive effects. 'The World Cup and the Olympics are attracting attention from companies which otherwise would stay within certain geographic areas – but now they are sending people to Brazil to find out about the opportunities here, and even if they realise that direct involvement is more difficult than expected, they divert and find another project here,' he says. He also thinks the influx of foreign investors into new projects here has exposed the Brazilian industry to higher standards in, for example, contract drafting, which is also benefitting law firms. There is probably more work to come too – São Paulo has yet to put some urban transport projects which will be useful during the Copa out to bid; Bueno foresees some second-level financing work, bringing on board some more local banks, in the first half of 2012. However, in the best possible outcome, the Copa would have set real deadlines for Brazil to sort out its very serious infrastructure issues, for example and perhaps most notably in airports – but that is looking increasingly unlikely. 'There's a huge infrastructure bottleneck, and upgrades have to be done – but the question is whether they are to be palliative measures or the definitive upgrade we need,' says Mattos Filho's Sorj. 'But, things are not moving at a pace to resolve the World Cup issues and leave a lasting infrastructure legacy, so we may have to do some emergency measures to cope with the World Cup and then have a second stage of

more definitive measures.' The fear is, of course, that that second stage may be postponed significantly – 40 per cent of the new terminal at Guarulhos will be World Cup-ready, but the cynics wonder about the remaining 60 per cent. Even the ever-positive Lopes Enei of Machado Meyer agrees that 'it may be too late to do the ideal solution, to resolve our problems for the next 10 to 20 years – but, at least the discussion over Infraero's role is now over, and the government has realised that the private sector has to have a role. It is a start.' Overall, it seems, the Copa has been better for law firms than the country – at best, profitable; at worst, mildly disappointing within a context of overall growth in business. That is of course deeply preferable to a slowly-evolving crisis and creeping embarrassment on a global scale. At least there is plenty of time to be working on the penalty shoot-outs. (Latin Lawyer 01.08.2011) (Notícia na Íntegra)

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