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Mediation May be the Solution to Guarantee the Long Term Positive Impact of Beautiful Moments

Andrea Maia (Mediar360 – Dispute Resolution) · Monday, June 25th, 2012

Looking beyond the short term, the fun, and the parties, large international sports events are an opportunity for the host country to improve the life of its citizens on a permanent basis.

Large sport events may serve as a catalyst for political support around the solution of issues that otherwise might be unaddressed and, therefore, remain unsolved. The investment legacy of each event is perhaps the most attractive reason to promote a large event.

In the Brazilian case, for the first time, a country will have the opportunity to host the two largest sports events, separated only by a two-year period: FIFA World Cup 2014 and Summer Olympic Games 2016. It is an opportunity that transcends the country's love for soccer and sports in general.

Years of a disorganized economy with budgetary constraints and limited investments left Brazil with serious problems. Its lack of infra-structure which drives north the cost of doing business is well known. It is what the locals call "Brazil Cost", or, in Portuguese, "CustoBrasil".

The World Cup and the Olympic games are already working to improve the country's infra-structure. Amongst other investments, 12 stadiums are being either refurbished or built; major airports have been recently privatized or are in the process of privatization; urban mobility projects involving the expansion of subway networks and the contractions of sky trains are under way; and hotels are being built.

All these investments involve large construction contracts, sophisticated legal and operational structures, billions of dollars, impacts on local communities, and, of course, many potential disputes. The way these potential disputes are addressed will influence heavily the importance and the impact of these events' legacy.

The timely completion of the investments is of the essence if a legacy is to be left. In Brazil, where the court system is slow, the delays in investment could potentially result in delays in the delivery of the infra-structure the country desperately needs.

In order to protect the investments and guarantee the best legacy of each event, the arising disputes should be addressed in an efficient and expedite way. The ADR field, therefore, has a critical contribution to offer.

In this scenario, mediation, arbitration and med-arb may be the most efficient way to guarantee that the disputes are quickly resolved, allowing the investments to be completed in a timely manner.

The London Olympic Games may serve as an inspiration to the use of ADR in large events. In the UK, the Olympic Delivery Authority established an independent dispute avoidance panel to seek pragmatic solutions to construction disputes and avoid judicial resolution. Contractors for the ODA, the body responsible for the building of games venues, will sign up to participate in the panel should the need arise.

The implementation of alternative forms of dispute resolution that may quickly address and resolve the unavoidable disputes that are and will arise are critical to the success of the World Cup and the Olympic Games in Brazil.

There is no doubt these events will be a sporting success. Brazil's passion and tradition in soccer and the warm welcome the Olympic Games are receiving in Rio are a guarantee of fun, interest, happiness and beauty. However, the legacy, to a large extent, will depend upon the country's ability to work consensual solutions to the disputes that will inevitably happen during the preparations for the games. Mediation may well be, when all is said and done, the solution to guarantee the long term positive impact of these beautiful moments.

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