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“Development on the margin”

Transaction Costs Arising from Breaches of Legal Contracts - The Case of Judicial Breaches of Contracts of Anticipated Sale Contracts of Soybeans in Brazil

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Abstract

Anticipated sales of commodities reached a significant importance in modern economics. They represent the main mechanism of economic exchange and of guarantee of fulfilment of mutual obligation commitments. In Brazil, the anticipated sale of commodities is one of the main funding mechanisms of agribusiness, particularly for commodities like soybeans and corn. In this scheme, part of the production is bought and paid by the buyer during planting of the crops. Contracts are instruments designed to ensure greater legal certainty to economic transactions. Efficient economies are governed by rules of public and private character, but private arrangements have special focus on these scenarios, and its efficiency is directly proportional to the degree of reliability in fulfilling obligations. Brazil's agribusiness is one of the economic sectors most susceptible to the effects of judicial decisions, because it is also highly regulated in comparison to other areas like trade and services. It is noticeable that judicial decisions related to those contracts generate direct effects on markets, increasing or decreasing transaction costs, since in Brazil the Judicial Power represents the main arena to solve conflicts of interest. In this scenario, the Brazilian judges tend to be tolerant with the relativising of the effects of laws and contracts, modifying agreed obligations in order to generate equity and pursue social justice. Knowing this reality, Brazilian soybean growers show opportunistic behaviour breaking anticipated sale contracts avoiding delivery of their soybean production to buyers, generating instability in agricultural sector, producing additional costs to production and causing loss of competitiveness.

Keywords: Contracts, judicial breaches, transaction costs