Machado Meyer

PRESS

TRANSGENIC: SUSTAINABLE PROVISIONAL MEASURE

27 DECEMBER 2006

The polemic Provisional Measure No. 113 ("MP") sets forth rules for the trade of the 2003 soy crop. The sale of that crop was suspended because the soy was transgenic. As a matter of fact, the MP solves the problem of the soy harvested in 2003, avoiding the risk of important losses in the event of its loss. To that purpose, Section 1 of the MP exempts the current crop from the requirements of Law No. 8794/95 (which deals with the procedures regarding the release of genetically modified organisms – OGM). At a first moment, thus, it could seem that we are in front of another legal inconsistency. However, in deeper analysis of the remaining sections, we realize that such is not the goal of the MP, which, if on one hand the MP allows trade of transgenic soy, on the other it imposes limits thereon, confirming what is established in other rules in force governing the matter, including Law 8974. Such conclusion may be drawn from the following aspects: (1) the MP is limited to the trade of the 2003 crop, exclusively under the form of grains (the trade of seeds is banned, avoiding the continuity of the production), and such trade can only occur up to January 31, 2004, any remaining stocks having to be destroyed thereafter; (2) the 2004 crop shall be subject to compliance with Law 8974 and other legal rules applicable; (3) the fines for noncompliance with the MP (R$ 20,000, approximately US$ 6,000) are irrelevant, but noncompliance triggers suspension of financing to producers in breach, preventing them from obtaining loans and tax benefits, as well as from participating in debt installment programs; (4) the MP incentives export of the 2003 crop; (5) the MP requires proper labeling, protecting publicity, information access. It is worth stressing that, in addition to the penalties set forth in the MP, other penalties set out in applicable rules remain in force, such as the Environmental Crimes Act (even though those penalties imposed by Law 8974 are temporarily suspended).

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