

biosafety commission in 1998, but objections from both environmental and peasant groups—and a subsequent injunction from a local judge—put the product in legal limbo. Although the court order made it illegal for Monsanto to sell its Roundup Ready soybeans in Brazil, the product was widely used in southern Brazil, where farmers purchased smuggled seeds from Argentina. Monsanto tried to approach the problem through government relations but succeeded only when it worked to change the context (see table 4-8).

TABLE 4-8

Monsanto in Brazil: Responding to institutional voids

Spotting void question	Specific void	Response
Are the country's government, media, and people receptive to foreign investment? Do citizens trust companies and individuals from some parts of the world more than others?	Objections from peasant groups fearful of multinational role in agriculture	Attempted to change context: Launched major communication effort to farmers
Do the courts adjudicate disputes and enforce contracts in a timely and impartial manner? How effective are the quasi-judicial regulatory institutions that set and enforce rules for business activities?	Slow resolution of legal matters, including the legal limbo of Monsanto's Roundup Ready soybean seed (adjudicators)	Attempted to change market context: Borrowed global market institutions
Do the laws articulate and protect private property rights?	Underdeveloped intellectual property rights enforcement regime (regulators)	Attempted to change market context: Devised point of delivery (POD) system to collect on technology and "borrowed" intellectual property protections in destination markets in Europe
How effective are the country's banks, insurance companies, and mutual funds at collecting savings and channeling them into investments?	Limited access for farmers to capital and insurance (aggregators and distributors; transaction facilitators)	Attempted to change market context: Became risk-sharing partner and credit provider, in effect, through POD program

Monsanto challenged the injunction, but institutional voids in Brazil's court system delayed adjudication. In the face of legal and regulatory uncertainty—and pressure from U.S. customers complaining about their Brazilian competitors using the smuggled seed—Monsanto looked to devise a way to collect on its technology. Because Monsanto was barred from selling Roundup Ready soybeans and collecting payment up front, the company sought to collect payment after harvest. The company developed a point of delivery (POD) collection system, which charged farmers an indemnification fee, clearing them of future legal challenges to their unlicensed use of the Roundup Ready patented technology.

Executing this system required Monsanto to engage and incentivize relevant stakeholders and borrow market institutions based outside Brazil. The primary customers of the Brazilian farmers using Roundup Ready were large developed market-based multinationals such as Archer Daniels Midland (ADM), Bunge, and Cargill. Monsanto told these companies that it would collect on its technology, even through customs enforcement in destination markets in Europe if necessary. This threat was credible only because Roundup Ready was patented both in Brazil and in Europe.

However, "borrowing" developed market institutions in this way was not sufficient for Monsanto to collect on Roundup Ready. The company succeeded only by convincing the farmers that POD would fill a void for their businesses. As one company executive described it, "The breakthrough came when we sat down with the farmers' groups and the cooperatives. We explained that since we were collecting at harvest, we would actually be sharing in both the production risk and the price risk."⁵³ Farmers using Roundup Ready paid only for what they produced in the POD system. By offering to share in the risks of farming, Monsanto exploited its relative advantage as a large multinational that could afford to do so. Monsanto also served as a de facto credit provider for farmers by charging farmers who self-declared their use of Roundup Ready a lower price than farmers were charged in the United States. (Farmers who volunteered that they used Roundup Ready seeds were charged a lower indemnification fee than those who did not volunteer but whose produce tested positive for the presence of Roundup Ready seeds.)