

The Chilean economy is widely renowned for its track record of sustained growth. Between 1990 and 2008 it expanded at an average annual rate of 5.8% and was among the world's thirty fastest growing economies. This fact, as well as the country's political stability, their responsible macroeconomic management and fiscal discipline has inspired investor confidence in Chile. This confidence has brought in high levels of Foreign Direct Investment (FDI) to many industry sectors. For infrastructure, foreign investment has not only played a very significant role in its development, but has also contributed to Chile's international integration. This integration has been further enhanced by the vast network of trade agreements it has in place, covering 56 countries (including Australia), that effectively expands its domestic market to close to four billion potential customers. The openness of the Chilean economy and its non-discriminatory treatment of foreign investment, when added to the factors mentioned above create an exceptional business friendly environment for Australian firms, not only in infrastructure projects but also in, architecture/ design and associated technology and equipment.

Private-Public Partnerships – Chile's Concession System

The sustained growth in Chile's economy meant that the country's infrastructure had to be modernised, expanded and improved to not only maintain these increases but also to improve the competitiveness of their trade sector. Being aware that the country was unable to keep pace with the infrastructure needed by its industry and citizens through public means, in 1993 the government instigated a Private-Public Partnerships Programme to help entice private investment. The basic idea of the programme is that private investors are able to finance, build and operate public infrastructure under a long term concession (15 to 30 years), thereby freeing up much needed public resources for other uses. The concessionaire is able to collect tolls or direct payments over the period of the concession, thus recovering their investment and realising their profits. This programme, since its inception has realised:

- Direct investment of US\$7.3 billion
- Participation of over 120 local and foreign companies and consortiums
- Over 50 concession project contracts representing a global investment in public works that has exceeded US\$11 billion.
- Develop a highway system exceeding 2500 kilometres with high standards of quality and users safety.

According to the Chilean Ministry of Public Works, between the years 2009 and 2012 there will be a portfolio of 30 new concession

projects, requiring investment of US\$4.18 billion. These projects involve highways, roads and bridges, hospitals, airports, jails, ports, railways, public transportation and public infrastructure.

Australia Chile Free Trade Agreement

This agreement, signed between the two countries, came into effect on 6 March 2009 and covers trade in goods, services and investments. The intention of this agreement is trade liberalisation, through measures that include the elimination of all tariffs on existing merchandise trade by 2015 (Certificate of Origin required). Infrastructure is one sector, identified by the Australian government to which this agreement provides substantial opportunities in services and investment for Australian exporters. With this in mind the provisions of the agreement regarding investment include:

- National Treatment: Foreign investors shall receive treatment no less favourable than each party accords its own.
- Most Favoured Nation Treatment: Each party must accord to investors of the other party, treatment no less favourable than it accords investors of any non-party to the agreement.
- Performance Requirements: This means that certain requirements cannot be imposed by the parties on investors setting up in Australia or Chile. These include: a requirement to make a given level of exports; achieve a certain level of domestic content; purchase locally produced goods, etc.
- Senior Management and Board of Directors obligations: No party can require an enterprise that is a covered investment

to appoint individuals of any particular nationality to a senior management position. However they can require that a majority, or less, of the board of directors be a particular nationality or residents, but only if this does not affect the ability of the investor to exercise control.

These measures will help provide certainty, transparency and security for new and existing Australian investors in Chile, and will help to increase two-way investment flows.

The Chilean Earthquake – 27 February 2010

The recent earthquake and associated tsunami has been estimated to have caused approximately \$25 billion damage, with the country's infrastructure being damaged substantially. Damage has been experienced throughout the country (except in the northern mining region), across a whole range of institutions including hospitals, roads, bridges, schools, ports, etc. Investment opportunities were opened for private companies to bid to rebuild infrastructure, under the concession system, with the requirement being to 'build everything back better'. This opened opportunities for Australian construction companies and suppliers, specialising in technological innovations and products.

It must be noted that the earthquake has changed the government's priorities regarding infrastructure projects, available through the concession programme. Where information has been available, these changes have been noted under the relevant section. If information has not been available, then the author advises that there is the possibility that certain projects may have changed.

Seaports

Owing to Chile's long, thin geography and its location so far from its main export markets it relies almost exclusively on maritime transportation (approximately 95%) for its foreign trade. The country's recent growth in exports (exports increased by 252% between 2000 and 2007) has meant that it faces the constant challenge of financing and building port infrastructure and purchasing state of the art equipment and technology to improve its efficiency. Realising this challenge the government implemented projects under the Private-Public Partnership and concession programme that covered port infrastructure. This programme has seen the number of Chilean ports rise from ten, during the 1990s to thirty-three today, which includes both publicly and privately owned facilities. In the future, the Chilean Directorate of Ports' Works (DOP) hopes to spend US\$3 billion, by 2020 for the:

- Maintenance of past (DOP) projects
- Improvements upon coastal infrastructure
- Increased physical connectivity of area ports
- Development of port cities

These areas provide a wide variety of prospects for Australian investors, architects/ designers, construction companies and suppliers of advanced port related technologies. Projects currently in the bidding process include:

The building and operation of a new container terminal at Puerto San Antonio, in the central region of Chile, under a thirty year concession.

Also offering opportunities for Australian companies is Chile's increased focus on port security, through its implementation of the International Ship and Port Facility Code – ISPS. Training and education is still required to help comply with strict, terrorism related security measures and with new environmental regulations and requirements, that have increased significantly in recent years. Prospects also exist for Australian companies to supply related advanced technologies, such as:

- X-Ray detection equipment
- CCTV
- Access Control
- Signalling systems
- Fire fighting and encapsulated suits

Highways, Roads and Bridges

Of the portfolio of thirty new concession projects, to be implemented between 2009 and 2012, ninety-one percent involve the construction of highways, roads and bridges. These projects aim to sustain the country's economic growth by reducing the journey time between its industrial/ production centres and its cities and ports. This is made all the more important considering that 92% of shipping within Chile is done overland through ground transport (trucks). These concession projects hope to:

- Extend the scope of Chile's highways
- Raise security norms and standards, and service quality to improve the projects insertion into the surrounding area.
- Provide for the maintenance of the regional networks of paved roads
- Undertake a comprehensive evaluation of the current state of existing bridges and possible improvements or replacements.

Investment in the construction of public highways and bridges, although dominated by European investors provides significant opportunities and benefits for Australian companies, especially those involved within the Chilean mining and energy sectors, who are reliant on road transport for the movement of their products.

Hospitals

The country's concession system has primarily focused on transport infrastructure, but since the year 2000 this programme has gradually expanded to include social infrastructure, such as hospitals. The concession system was identified by the Chilean Ministry of Health as a useful way of resolving the breaches in infrastructure, equipment and

sanitary asset management within the health sector. Each concession project therefore includes not only construction, but also medical equipment outfitting and the provision of related support services. Prior to the earthquake of February 2010, the ministry had announced concession projects to replace three existing general hospitals and to construct a new hospital and an in and out-patient care centre, but the devastating effects of the earthquake on Chilean hospitals has forced the government to change its priorities. As a result of the Earthquake, more than fifteen hospitals are now non-operational or have been destroyed (Higher numbers have sustained structural damage). The government estimates that rebuilding, refurbishment and repair work will cost more than an estimated US\$3.6 billion. This means that the concession system will be expanded in order to reconstruct entire healthcare networks. This thereby indicates that there are numerous opportunities for Australian companies to invest in health sector infrastructure, or in the supply of health sector equipment, as well as the provision of support services.

Airports

Air travel has been of increasing importance to Chile in recent years, and has contributed to the development of the country's tourism and export sectors. To help accelerate the nation's decentralisation and international integration, a number of Private-Public Partnerships have been established which specifically aimed to provide larger terminals with higher service and safety standards. Recent projects offered under the concession scheme for construction and operations include:

- The new passenger terminal – Carlos Ibañez del Campo Airport in Punta Arenas
- The new passenger terminal – Cerro Moreno Airport in Antofagasta
- The new passenger terminal – El Loa Airport in Calama

For Australian companies, this translates into opportunities for investment in the construction of airport facilities and the provision of both airport services and relevant technologically advanced airport equipment.

Prisons

Until recently, Chile's prisons have been seriously overstretched resulting in security risks and overcrowding. The Ministry of Justice therefore tendered the construction and operation of new prisons, under concession contract arrangements, to help improve the inmates' quality of life and to have private companies contribute to the country's development. So far concession contracts have been awarded for eight prisons around the country.

Power Generation

Demand for electric power in Chile has risen steadily over the past ten years by about eight percent per year. This demand is expected to continue to increase inline with the country's

economic growth, and the increasing power demands of industry, such as the mining sector. Chile's electric power needs are supplied by a mixture of thermal (natural gas, coal, oil and diesel fired), hydro and a small number of wind power plants. For the expected future demand to be satisfied, new power generation projects have been identified that require investment of approximately US\$15 billion by 2012. This translates into investment in, not only new energy efficient hydro and thermal facilities but also into renewable-non-traditional sources of energy, such as wind, solar, geothermal and biomass. The private sector owns and operates one hundred percent of Chilean electric power generation, transmission and distribution and therefore has the final say on projects to be implemented to satisfy demand. The increased need for electric power provides opportunities for Australian companies, not only to invest in electric power generation facilities, but also in transmission and distribution related services and equipment, such as the provision of environmental solution services to assist with greenhouse gas abatement. Chile has very limited indigenous energy resources (apart from hydro) and therefore relies on imports to sustain this growth. Opportunities are therefore also present for Australian businesses to supply natural gas, coal and oil to operate these new facilities.

Construction sector equipment

The increase in infrastructure projects also offers prospects for Australian companies in the supply of related equipment, parts and services. The Australia Chile Free Trade Agreement means that import tariffs have been eliminated on these products, therefore providing greater incentives for Australian businesses. Best prospects are for products that offer high level of efficiency, reduced operational costs and easiness in getting the job done. These include:

- Earth moving equipment
- Concrete technology for high-rise building construction
- Consumables that accelerate the building process
- Environmental system solutions – energy efficiency and water treatment

Barriers

European firms, particularly Spanish, French, Italian and German, dominate investment within the Chilean infrastructure sector. To put into perspective, since 1974 Spain had been the dominant investor in infrastructure projects covering power generation, water and sewerage industries, construction, and transport and warehousing. In some sectors it has provided more than half of the total investment. They are also the first nationals present when investment is required in new technologies, such as renewable energy. Competition for Australian firms wanting market access can be extremely difficult, especially when compared to entrenched European firms, well known to the Chilean government and business, and also less reserved with their investments. That being

said, Australian investors are well represented in the mining, energy and business services sectors. Best advice for Australian companies is to search for a good joint venture partner.

Sales of infrastructure related products and services are also dominated by European firms. But in this case, the market leader is the United States, which provides the highest percentage of construction and energy industry machinery/equipment. The market is also beginning to see an increase in Asian suppliers entering the market. Competition is based not only on price, but mostly on the provision of value added service, such as providing finance arrangements with sales. Australian companies must adapt their entry strategies to suit these requirements. Use of a reliable local agent or distributor can be the best way of competing with other foreign firms.

Spanish and United States companies are also major owners of Chilean energy companies. It is customary practice of these companies head offices to use the same suppliers throughout their chain, including supplying local business. This thereby creates further barriers for Australian companies seeking entry.

The Chilean government applies an additional tax on profit remittances back to Australia of 35%. Allowance of this fact needs to be considered before your company chooses to invest. For remittance of funds up to the level of your initial investment, the tax does not apply (only for profits).

Best Advice

For Australian infrastructure companies seeking to invest in projects in Chile, best advice is to seek out local joint venture partners with good access to relevant buyers and solid technical expertise. This is because, even though a few Chilean companies have foreign participation, the majority wait for projects to be announced under the Private-Public Partnership Programme, then search for foreign partners bringing the necessary technology, management skills and finance to accomplish these large projects.

For any Australian company looking to enter the Chilean infrastructure sector note must be made of the fact that Chile places an emphasis on any relationship that adds value in the areas of technological innovation, production and environmental sustainability.

It is recommended that all business dealings in Chile are undertaken in Spanish. Even though many Chileans speak English, sound business practice requires that Spanish speakers should always be present during negotiations.

Australia has the fifth largest expatriate Chilean community in the world. Australian companies should therefore be able to utilise this vast network of residents with Chilean background to their advantage.

Companies who are exporting various infrastructure related products into Chile are advised to acquire the services of a reliable local representative, distributor or dealer, who has

access to various buyers and sound knowledge of the local market to achieve best results. If the sales volume is high, then a decision can be made as to whether it is justifiable to set up a local office. Sales in this sector should also have some sort of financing attached to them, to match the conditions offered by European suppliers.

It must be noted that all business dealings in Chile (as with other countries in Latin America) take a long time. Before entering Chile you must be prepared to be there for the long haul and to spend considerable time in country building a relationship of trust with the companies you are negotiating with. It may take a considerable amount of time and money before you begin to reap the rewards of your labour. Once they like and trust you business is assured. For infrastructure companies this involves demonstrating a commitment to Chile and the region in general. Australian companies already present in Chile have spoken of initiatives such as funding projects at local schools, etc. to prove to them that your company's intentions are genuine, and aimed towards the mutual benefit of everybody involved.

It is also advisable to acquire sound legal representation and advice before entering Chile. Chile has many complicated legal requirements and regulations for foreign companies that only lawyers with sufficient knowledge of the country will be able to fulfil correctly. In addition, they will be able to build you knowledge of the local market and how it operates, as well as advising your company of the benefits available through the Australia Chile Free Trade Agreement. For infrastructure companies selling new, advanced technologies, legal representatives, with sound local knowledge will also be able to advise you on the best way of protecting your intellectual property.

A double taxation agreement has been signed between Australia and Chile, so that the payment of double tax is avoided, with respect to taxes on income and fringe benefits and the prevention of fiscal evasion. This agreement will create certainty and stability, free up exchange of taxpayer information, and reduce tax related barriers to trade. For implementation of the agreement, it needs to be passed by the Australian Parliament. It will come into effect on 1 January the year after it is passed.

Chile also has a number of Free Trade Zones (Zonas Francas), which are areas, usually close to port or airport facilities where goods stored are considered to be outside of the national customs territory and therefore are free of import tariffs and the payment of the 19% Value Added Tax (VAT). The goods can be stored in these zones for how ever long is necessary, before being shipped to another country or into Chile. Customs taxes are only payable when the goods reach their final destination.