

Agribusiness Opportunities In Australia

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Large, business practices provide favorable climate for acquiring and supplying technology in Australia.

Australia is a country of urban dwellers engaged essentially in industrial and tertiary occupations, but its soil depends on its agricultural and extractive industries for its export earnings. Australia has an area approximately that of the United States and a population not much greater than that of Shanghai or Cairo. Approximately two-thirds of the land in the western and central areas is arid or semi-arid.

The majority of the population is of United Kingdom or of Irish origin, but in the years since the end of the Second World War, when the population has more than doubled, substantial numbers of Italian, Greek, other European, Turkish and Chinese migrants have added to the population mix.

Historically, Australia is a stable democratic federation of six states (formerly British colonies) and two federal territories. It follows a Westminster system of government with a Federal Constitution that borrows heavily from that of the United States.

As a trading nation, Australia stands 28th by value in the world trade table, both in respect of its imports and its exports. It is the world's largest exporter of wool, sheep meat, beef, coal and alumina. It is the second largest exporter of iron ore. It is also a large exporter of many other minerals and of dairy produce.

Manufactured goods account for approximately 25% of exports and of these about a quarter are sold in New Zealand. Our major trading partners are Japan, USA, the EC, and the developing countries of

Asia and the Western Pacific, including China. We have an unfavorable balance of trade (ie, an excess of imports) with the USA and with each of the EC countries, except the Netherlands, offset by large favorable balances with Japan, China, the USSR and the countries of the Asia-Pacific region.

Australia is 80% self sufficient in oil and is both an importer and exporter of petroleum products.

AGRICULTURAL TECHNOLOGIES IN AUSTRALIA

Research and development in agricultural industries is carried out in Australia through a variety of organizations including the universities and colleges of agriculture. The largest single research organization is the Commonwealth Scientific and Industrial Research Organization. It is funded by the Commonwealth Government and by grants from state, private and industry organizations. The State and Federal Departments of Agriculture and private companies and industry associations and institutes also carry out research or fund it. Substantial funds are granted for research and development in industry areas by research bodies or sales.

For example, the levy imposed on the sale of wool raises \$17 million annually for research relating to the production and utilization of wool and wool products.

Australia is a substantial importer and exporter of agricultural technology in the following areas:

- Land reclamation programs, particularly in irrigation and rehabilitation of land areas denuded of vegetation during mining operations.
- Dry land farming of arid and semi-arid areas including methods and equipment for tillage to avoid

soil erosion, drought-resistant plants, and animal stock breeding techniques.

- Irrigation systems and equipment with special attention to design and construction of low water utilization systems and control of water-table and salinity problems.

- Storage and handling systems for large-volume commodities such as wool and bulk handling of wheat.

- Plant and animal breeding programs employing genetic engineering techniques, artificial insemination, in vitro fertilization and embryo transfer as well as conventional selective breeding programs.

- Biological and chemical control of parasites and diseases in livestock and the production of vaccines.

- Plant breeding and seed production.

- Agricultural, horticultural, veterinary and management consulting services.

- Wine-making and viticulture.
- Hydraulic engineering.
- Business and financial management and planning.

FOREIGN INVESTMENT IN AUSTRALIAN AGRIBUSINESS

Australian agriculture has always had a significant foreign investment component. Though the initial development of Australian agricultural settlement was by immigrant farmers who brought and farmed their own land, some large-scale holdings were, and still are, held by British interests who also held significant interests in marketing, and

* Curtis Ryan Jeffrey, Melbourne, Australia paper presented at ILSA/Asia '87 Annual Pan-Company Conference, Brisbane, Australia, September 1986.

estate and supply organizations such as the House of Deputy. More recently there has been substantial American investment in beef production, and in cotton growing, in areas such as the Murrumbidgee (New South Wales) and in the Old River (Western Australia). Most recently there has been growing Japanese investment in the cattle industry and in agriculture generally including viticulture. In the latter area there is increasing interest from France.

Australian agriculture is highly developed and efficient. Its productivity (per hectare) is cheap by comparison to that in many other developed agricultural areas. Sheep and cattle, both beef and dairy, are almost always range fed, though there is an increasing trade in fed beef to Japan.

The Australian wine industry, though small both on a world scale and in comparison to Australian major agricultural industries of wool, beef, grains and dairy produce, provides useful examples of foreign investment, technological growth and technology transfer in Australia.

♦ Wine Industry ♦

The wine industry is long established. The first vines came to Australia via South Africa with the convict fleet in 1788. Many animals unlabelled and accounted for the very confused state of oenology in Australia, which persisted until recent times.

Wine making and viticulturalism were brought to Australia from Europe by the colonial governors and by private individuals. Migrant groups that followed established extensive wine growing settlements. They were notably the German settlers in the Barossa Valley in South Australia, Sicilians in Victoria and Italians in New South Wales and Victoria.

Notably absent in the 19th Century migration were the French, but that absence has been compensated in the late 20th Century, not so much by migration but by direct investment of French wine producers in Australian vineyards and wineries. It is estimated that 20% of Aus-

tralian total annual wine production of around 500 million litres is produced from vineyards that are foreign owned or in which foreigners have an interest. Significant among these are: Louis Vuitton Most Herveaux, Louis Brodeur, Rene Martin, Thevenin Bizard and Credit Agricole of France, Cassaro of Italy and Kinross of Scotland.

While some of this investment is in high production irrigated areas much of it is in premium wine areas, particularly in the case of LMH, Louis Brodeur, and Rene Martin. The cost of establishing or purchasing established vineyards in the coldest premium areas of southern Victoria and Tasmania is about US\$50,000 per hectare, so production of quality wine in these areas is attractive. With these investments, particularly those of the French companies mentioned above, has come improved viticultural and wine making technology. This, together with enlarged planting of classic grape varieties has had a marked impact on quality, particularly in the production of sparkling wine.

THE REGULATION OF INVESTMENT IN AUSTRALIA

Australia is an OECD Member country. It operates its foreign investment policy in accordance with the OECD Declaration on International Investment and Multinational Enterprises. The policy is regulated principally by the Foreign Investment Review Board, which administers the Foreign Acquisitions and Takeovers Act and other, non-statutory, policy guidelines. These provisions permit the Treasurer to prohibit certain acquisitions by foreign persons, which would have a result contrary to the national interest.

A foreign person for the purpose of the Act is broadly defined and includes non-resident foreign citizens, foreign corporations and companies incorporated in Australia in which a foreign person (together with "associates") effectively controls 10% or more of the voting power or has or exercises such powers (together with "associates") control 40% or more of the voting power of the company.

The Act empowers the Treasurer to prohibit:

1. Acquisitions by foreign persons of shares in Australian corporations;
2. Acquisitions of assets of Australian businesses carried on solely by corporations or foreign corporations having a prescribed level of Australian assets;

3. Acquisitions of interests in Australian urban land, and certain other arrangements relating to the control of Australian businesses or companies by non-Australian interests.

Acquisitions of shares by foreign persons and acquisitions of Australian urban land by foreign persons are, *prima facie*, compulsorily notifiable to the Treasurer under the Act. The Act and the Regulations made under it contain a large number of exemptions that must be considered in any proposal. Unless exempted, a failure to notify an acquirer of shares or an acquisition of urban land renders the person failing to notify liable for significant penalties. Threshold exemptions apply in respect of acquisitions other than of interests in urban land. These are currently \$1 million in respect of rural land and \$2 million in respect of other interests.

The policy guidelines administered by the Foreign Investment Review Board also embrace proposals to establish "new businesses" as defined in the guidelines. Where the value of the investment in the new business exceeds A\$50 million the government expects prior notification that such investment is to be made.

PROTECTION OF INTELLECTUAL PROPERTY

Australia protects all forms of intellectual property under its patent, trademark, designs, copyright, plant variety rights, and trade practice legislation as well as its common law. Agricultural and veterinary processes and products are patentable and patents are granted for plant and animal organisms, provided they meet the requirements of novelty, inventiveness and industrial applicability.

Australia strongly opposes restrictions from patentability of plant

and animal inventions. It considers that patents and plant variety rights should freely co-exist in cases where new plant material can satisfy the criteria for protection under both titles. Patents have been granted in Australia for a number of plants including trees, potatoes, peach trees, grasses and other species.

The common law relating to breach of confidence has been invoked to restrain the continued use of fruit trees grown from illegally obtained bud wood. Trade and geographic names are protected in common law and under the trademark, trade practice and unfair trading laws. Of special interest is the recent successful settlement obtained by the Queensland shippers in an action to restrain the improper use of the word *Bananas*.

On the negative side in this area is the current debate in Australia concerning the protection of clinical trial data given to regulatory authorities to obtain registration of drugs and agricultural chemicals. While there is some statutory restriction on the disclosure of such data, there is no restriction on its use by the regulatory authorities in other subsequent evaluations. A recent decision of the Federal Court of Australia in respect of the activities of the Department of Health has confirmed the obligation of the authorities to maintain confidentiality and refrain from such use when a specific claim to confidentiality is made and limitation on use imposed. However, the present stance of the Department of Health is to refuse to accept data supplied subject to a condition prohibiting use by the department. Similar difficulties have arisen in relation to data supplied for the registration of agricultural chemicals. A recent Senate committee inquiry failed to reach a conclusion on the protection to be afforded to proprietary data. It did, however, recommend a five-year extension to the term of patents for chemicals subjected to regulatory delay.

REGULATION OF SUPPLY AND USE OF AGRICULTURAL AND VETERINARY CHEMICALS

The manufacture, importation,

sale and use of medicines including veterinary medicines is regulated under the Therapeutic Goods Act, which is administered by the Minister of Health. That Act provides for the registration of veterinary products and the issue of licenses for their manufacture. It provides standards and procedures for such registration and licensing. A discussion of these is beyond the scope of this paper, but they include the familiar requirements for the establishment and maintenance of standards, evaluation for quality, safety, efficacy, presentation, quality control and other incidental matters.

The Agricultural and Veterinary Chemicals Act operates in addition to the Therapeutic Goods Act in relation to all agricultural and veterinary chemical products. The legislative framework, providing a federal regulatory system and a combination of the registration and controls exercised by the states.

The Agricultural and Veterinary Chemicals Council set up under the legislation is responsible for establishing and administering procedures for clearance and registration of chemical products. Data required for clearance includes, data relating to manufacturing chemical and physical properties, toxicology, metabolism residues, environmental effects chemical and toxicological, efficacy and phytoxicity.

Data produced in corresponding registration procedures overseas may be used in clearance applications in Australia, but the data must be verified for Australia by, for example, clinical trials and growing trials carried out under Australian conditions.

REGULATION OF TECHNOLOGY TRANSFER

There are no laws in Australia directed specifically to the regulation of technology transfer. Technology transfer agreements are not required to be registered or lodged for examination. Such agreements are subject to the general laws of contract and competition, but they are not subject to special treatment or regulation. Agreements relating solely to licensing a patented article are exempt from certain of the pro-

visions of the Trade Practice Act, and certain tying provisions in patent licenses are prescribed under the Patents Act.

There is no restriction on repatriation of royalty income or on the level of royalties unless it appears that the arrangement is one having the purpose or effect of avoiding those laws.

Australia has double-tax agreements with most of the industrialized countries including the United States and most EEC countries. Under most of these agreements, withholding tax is levied on royalties and interest at the rate of 10% and on dividends at the rate of 15%.

TECHNOLOGY TRANSFER OPPORTUNITIES

With the sole exception of the import of marine mammals and marine mammals there are no prohibitions on the export of agricultural or veterinary technology from Australia. Imports of plant and animal materials or tissue or animal gametes is subject to quarantine restrictions depending on the species and place of origin of the material.

There is, in general, an absence of restriction on technology transfer and there is a large and skilled rural work force. Substantial research is carried out in Australia in all fields, particularly in the fields of plant and animal genetics.

Collaborative research and development carried out between Australia and northern hemisphere organizations can often take advantage of opposite seasons in the two hemispheres with the result that two sets of seasonal trials may take place within one year. An example is a long-term program of research and development carried out in relation to wine breeding and grape harvesting between the University of California at Davis and growers and equipment manufacturers at Mildara in Victoria.

The focus of Australian agricultural trade is the increasingly affluent market of the Asia Pacific region. Market opportunities for traditional products such as wheat and wool and new products are expanding. The character of Austral-

in's rural industry is changing from the traditional family farm to large-scale corporate agribusiness enterprises employing more highly skilled operators and large-scale, sophisticated equipment.

◆ Business Climate ◆

The climate for collaboration and technology transfer between Australian and European enterprises is becoming favorable. It presents opportunities for technology trade in both directions.

There are, however, some particular problems to be taken into account. These arise primarily out of what has been termed "the tyranny of distance" and the relative market size.

Although modern communications have eliminated many of the problems of doing business at a distance, the fact remains that an Australian farmer or livestock carer, not simply take a half day trip to his German associate to set out a problem. It is important in any technology transfer arrangement to make adequate provision, both financially and in terms of personnel, for the proper instruction of staff and equip-

ment to technical information to ensure that the technology is properly understood and effectively transferred. In this regard, it should be borne in mind that very few Australian executives or technical personnel speak a language other than English.

Market size and distribution has a significant effect on the way in which business is carried out and the costs and returns that may be expected. A relatively affluent market of some 17 million people is certainly not small, but when it is realized that this market is spread over an area almost the size of the United States, the problems of distribution and servicing are accentuated.

This problem is comparatively greater in many agribusiness areas than in, for example, the area of industrial chemicals and equipment. In the latter the greater proportion of the market is concentrated on the western and eastern seaboard. The agricultural market, though similarly concentrated to some extent, is in general much more widely spread. Agriculture is largely extensive rather than intensive in Australia.

◆ Distribution ◆

The channels of distribution of agricultural products are also markedly influenced by the size and spread of the market. Large, rural trading companies such as Hodge Pty. Ltd. and Elders (A) Ltd., and some farmers and traders' co-operatives control most of the distribution networks for rural supplies such as agricultural and veterinary products. Access to these networks is therefore essential for widespread distribution of product.

Arrangements for distribution, financing, joint ventures and manufacturing of agricultural technology products in Australia need to be structured with these factors in mind.

In conclusion, I can say that I believe that Australia presents substantial opportunities to European agribusiness enterprises for both the acquisition and supply of technology. The business environment is relatively free of excessive regulation, but there are special factors involved in the market that need to be addressed if agricultural technology ventures in Australia are to succeed.