

III. LEGAL FRAMEWORK OF CONCESSIONS IN CHILE

28. There is a wide system of concessions to develop the basic infrastructure in the country. Apart from a general law of concessions, there are several additional laws of a specific or sectoral type.

29. **The General Law of Concessions** is valid for infrastructure works of the Ministry of Public Works (MOP). These are: urban and interurban roads, irrigation, airports⁵. When there exist specific laws, the latter prevail over the General Law of Concessions.

30. The regime for concessions of the **sanitary services** (potable water, sewers and sewage water) is regulated by DFL No. 382 of 1988. DFL No. 70 regulates the application of tariffs. There is a Superintendency of Sanitary Services which controls the sector. Besides, there is a Law of Subsidies for low income residential users.

31. On the other hand, there is a specific law of concessions for the development of port infrastructure (law of Maritime Concessions: DFL No. 340 of 1960 and DS of Defence NO. 660 of 1988, which approved the regulations on concessions). The same holds in connection with development of railroads. Recently, Law NO. 19,170 of 1992, established the system for concessions in the sector.

32. Due to the scope of this study, the analysis will only address the General Law of Concessions. Notwithstanding this, in Section IV, the main port development projects are included.

III.1 The General Law of Concessions

33. The framework of the General Law of Concessions includes DFL NO. 164 of 1991 which establishes the general rules and DS No. 240 of 1991 which is concerned with regulating the execution, repair or maintenance of public fiscal works on the basis of a system of concessions.

34. It is estimated that by 1998, the private sector will finance between 30 and 40% of the infrastructure of the country, as compared to a scanty 7% of participation at present.

35. Additionally, the concession contracts must be governed by: (i) The Terms of Reference of the Bidding and their clarification, (ii) the technical and economic offer submitted by the bidder who wins the bid as approved by the MOP, and (iii) the decree granting the bid and the corresponding contract as such.

III.1.A Market Access

⁵ With respect to airport infrastructure, MOP must coordinate its actions with the Directorate of Civil Aeronautics