

Engagement Request: BHP

This request was submitted to CWC participant trustees by the Australian Council of Trade Unions (ACTU) on behalf of Australian maritime labour union affiliates, and the International Transport Workers Federation (ITF). The material presented in this brief summarizes a document provided courtesy of the ACTU and ITF.

About BHP

BHP (formerly BHP Billiton) is the leading global mining company based on market capitalisation of US\$132.31B (at June 2018). Headquartered in Australia, BHP is listed on the Australian, London and Johannesburg Stock Exchanges and is a constituent of the FTSE 100 Index. BHP employs approximately 62,000 employees and contractors worldwide.

The issue

In January 2019 BHP announced the withdrawal of its two remaining locally-crewed ships that supply iron ore for BlueScope Steel's production site in Port Kembla, Australia. The carriers will be replaced by Flag of Convenience (FOC) ships. The crews on FOC ships receive wages as low as \$2 per hour, as documented in a [2016 Parliament of Australia report](#).

BHP has failed to respect the human rights of both Australian and international seafarers in its bulk commodity supply chains by:

- i. Failing to **inform or consult the current workforce and their labour unions** on the employment impacts of its decision;

- ii. Inadequately engaging with the International Transport Workers Federation (ITF) and national seafarer unions on appropriate **labour standards relating to wages, training and safety for seafarers on FOC ships** it charters.

BHP's actions may constitute a breach of Australia's national shipping laws, which could generate legal and reputational risks with impacts on long-term value.

Human rights commitments

BHP [recognizes](#) human rights as critical to the sustainability of its business and [articulates](#) a commitment to international standards, including the UN Guiding Principles on Business and Human Rights and the UN Global Compact. It extends this commitment to its contractors in its supply chain.

Australian legislation

The key provisions in the 2012 Australian *Coastal Trading Act* [Object](#) include promoting a viable shipping industry that contributes to the broader Australian economy and facilitates the long-term growth of the industry. The Act is accompanied by significant tax incentives aimed at generating decent work in the shipping industry in Australia. The withdrawal of two carriers from Australian coastal trading is contrary to the Object of the Act and represents a failure to benefit from the opportunities presented through compliance.

ESG Risks

BHP faces risks that could impact the company's future valuation, including:

- **Legal risks:** BHP faces two class actions, one relating to underpayment of casual mine workers, and one relating to a mine disaster in Brazil. The company's actions in the case at hand could place it at risk of further lawsuits that would require company resources and participation in a legal process.
- **Reputational risks:** As one of the largest global mining companies with a reputation of a strong ESG performance and a flagship of the Australian economy, BHP is particularly vulnerable to reputational risk.

Scrutiny following the Samarco mine dam collapse in Brazil has already resulted in significant reputational damage for the company.

BHP's withdrawal of two ships is a topic of discussion in Australia's May 2019 election campaigning. The [strongly-polling](#) Labor Party is [pointing to the issue](#) as an example of company practices that contribute to rising inequality.

- **Tax risks:** BHP is facing additional scrutiny due to [alleged tax avoidance](#) in Australia, and underpayment of iron ore royalties.

Responsibilities under international norms, standards and frameworks

- The UN Guiding Principles on Business and Human Rights asks corporations to identify and assess potential adverse human rights impacts of their activities, which entails meaningful consultation with potentially affected stakeholders.

The withdrawal of the two ships without adequate stakeholder consultation and their replacement with carriers whose workers may be facing wage exploitation and dangerous conditions is contrary to the company's stated commitments.

What can trustees do?

On behalf of the ACTU and ITF, we kindly invite trustees to:

- Request that their funds, directly or through their relevant investment manager(s), **engage with BHP and/or their asset managers to convey their concerns about the ESG risks associated with BHP's decision to withdraw its two iron ore carriers.**

Trustees may request that their funds highlight BHP's failure to conform to its responsibilities as a signatory to the United Nations Global Compact, which requires conformity with the UN Guiding Principles on Business and Human Rights.

Resources

[ABC: BHP allegedly underpaid up to \\$300 million in iron ore royalties to WA Government](#)

[ITF Press Release: ITF opposes BHP's decision to end 100 years of Australian shipping](#)

[Labor's Bill Shorten ramps up class warfare with attacks on BHP, business](#)

[BHP and BlueScope to Axe Last Two Australian Iron Ore Vessels](#)

[BHP willing to head to court against ATO tax bill](#)

[Employers facing '\\$8b back pay bill' for casuals after 'double dip' ruling](#)

[ITUC joins opposition to BHP's decision to end 100 years of Australian shipping](#)
['Ground-breaking' class action launched over casuals in mining](#)

Contact

ACTU - smcdine@actu.org.au

ITF – anderson_jeremy@itf.org.uk

CWC - therman@share.ca