

1. BHP Billiton: An Introduction

BHP Billiton is a leading Anglo-Australian multinational corporation in the mining, metals and petroleum industry. It primarily operates in mining, processing and oil and gas production operations, and to meet the ever growing demands in developed and emerging economies. With its headquarters in Melbourne, Australia, BHP is the world's largest diversified resources company, and is among the top producers of major minerals such as iron ore, metallurgical and energy coal, oil and gas, copper, aluminium, manganese, uranium, nickel and silver.

Presently, BHP Billiton is:

- The leading supplier of raw materials for steelmaking,
- World's second largest producer of copper
- World's third largest producer of nickel metal
- Second largest exporter of energy coal,
- Fourth largest producer of uranium,
- Fifth largest producer of aluminum,
- Significant interests in oil, gas, diamonds, silver and titanium metals.

Measured by market capitalization, BHP was Australia's 4th largest company and the world's largest mining corporation in 2015. BHP Billiton was formed in 2001, through the amalgamation of Australian BrokenHill Proprietary Company Limited and the Anglo-Dutch Billiton plc. It is headed by Andrew Mackenzie as the CEO, and provides employment to approximately 129,000 employees and contractors, out of which 42829 employees are stationed in Australia. Its operations reaches out to 26 countries, including the states of United Kingdom, United States, Brazil, Canada, Colombia and Chile.

BHP Billiton is currently registered in two stock exchanges: The Australian chapter being in the Australian Securities Exchange, and the UK chapter having a primary listing on the listing on the London Stock Exchange. Apart from its core functions of mining and extraction, BHP Billiton has also undertaken programmes for the promotion of economic development, education and training, health, protection of interests of indigenous communities, and disaster relief.

2. Regulatory Framework under which BHP Billiton Operates: Analysis of Three Prominent Australian Competition Laws

The current Australian competition law has complex structure that concentrates primarily upon statutory form. BHP being one of the major players in the market, it deals with the provisions pertaining to competition on a regular basis. The prominent provisions which impact BHP's operations are:

- *The Australian Jobs Act, 2013*

Under the Australian Jobs Act of 2013, manufacturers and developers of major products and projects with a capital expenditure exceeding \$500 million are mandatorily required to draft and execute an 'Australian Industry Participation Plan'. Such plan has to be presented with the object of ensuring "full, fair and reasonable" opportunity to Australian industry to supply goods and services to the project.

While worthy in its intent, the legislation imposes an unnecessary administrative and regulatory burden upon companies such as BHP. The corporation itself has claimed to have been subject to high compliance costs, lower business confidence and issues with consistency with international regulations pertaining to competition. The regulations run parallel to the state provisions and

have, thus, duplicated the obligations imposed upon companies. It has undermined productivity, further increased costs of projects with high expenditure, and contributed to project delays. BHP might also fall subject to a detrimental impact upon its potential suppliers or other third parties, due to disclosure of sensitive information.

- *The Coastal Trading (Revitalising Australian Shipping) Act, 2012*

The Coastal Trading Act of 2012 has devised a new system of licensing, whereby ships registered in non-Australian countries are to undertake a minimum of 5 voyages in twelve months, and are obligated to provide the loading dates, destination, cargo types, volumes and other necessary information at the beginning of the period. More importantly, the Act bars these foreign-registered ships to operate unless there are no Australian-flagged ships that can carry cargo.

The new legislation has instituted a system of licensing which makes it more difficult for non-Australian ships to provide interstate and intrastate shipping services. Despite the object of bringing Australian vessels at par with foreign registered vessels, it has caused a significant growth in the cost of shipping material in Australian coast in a very short time, which has led to severe complexity and administration hindrances. For instance, BHP Billiton the surge in the coastal shipping costs, which is one of the prominent factors for a mining corporation, caused a detrimental effect on its profitability in the country. Apart from Australia, the increase in prices also led to its products being less competitive in the global market. It also requested for a revision of the legislation to in order to relieve it of its administrative and compliance burdens.

- *Western Australia's Domestic Gas (Domgas) Policy, 2006*

The newly introduced Western Australia Domestic Gas Policy intends to lower the domestic gas prices below free market equilibrium prices. BHP being one of Australia's largest oil and gas producers, will get directly affected by the policy. The policy is bound to add to the economic burden on LNG projects of companies such as BHP, which will consequently reduce investment in gas production and supply. Such effect would lead to lesser competition, and cause a significant negative impact upon the economy.

3. Conventions or Agreements that has Impacted BHP Billiton: ISO 14001 for Environmental Management Systems

Unregulated mining has the potential of leading to irreparable environmental degradation. It is of paramount importance for states to implement appropriate legislations for the preservation of biological diversity. Australia and its states have a detailed regime of legislations relating to conservation, with most proposed mining projects being approved to operate only after relevant assessment of its environmental impact. Apart from the domestic framework, Australia has not entered into any specific international treaty that applies to the mining industry for environment protection. Still, Commonwealth laws, such as the Environment Protection and Biodiversity Conservation Act 1999, apply to mining projects whereby proposed projects upon the Commonwealth land are to follow a specific planning regime which is designed keeping the environment in mind.

Australian mining companies, such as BHP Billiton, are required to adhere to international standards such as ISO 14001 for Environmental Management Systems. The ISO 14001 provides for certain tools whereby organizations can manage their environmental responsibilities while carrying on their usual course of business operations. The framework is voluntary, and aims to

assist companies and organizations of all kinds and scales to improving their environmental performance. It is advisable for BHP Billiton to keep these standards in mind while running their mining and extracting activities.

BHP has devised an Environmental Management Strategy certified under the ISO 14001 for various projects it has undertaken, for instance, its coal mine located in Mt Arthur. Its strategies usually comprise of three major components, i.e. the Environment and Community Improvement Programs, the Environment and Community Management Plans and EMS System and Operational Procedures. Such programs include its management plans for site water, noise pollution, air quality, blasts, European heritage, aboriginal heritage, biodiversity and rehabilitation, etc. BHP manages, regulates and monitors the actual performance of the EMS through:

- System Monitoring and Maintenance
- Environmental and Social Monitoring
- Inspections
- Non-conformance and Corrective and Preventative Actions
- EMS Records and Information Management
- Audits

BHP also aims at continuously improving these standards through implementation of preventative and corrective actions, and communication with internal and external stakeholders. The policies and procedures of the strategy and also reviewed periodically, with an independent environmental audit.

Effect of ISO 14001 on BHP Billiton's Services:

BHP Billiton has constantly been in the limelight for activities that have been known to have caused significant detrimental effect upon the environment. The major incidents of such nature have been provided below:

- On 5 November 2015, BHP played a leading role for what was called as the worst environmental disaster in Brazil's history. The collapse of a BHP Billiton owned iron ore mine dam devastated an entire town, and released a torrent of toxic mining waste, which contaminated the water supply of more than 200 towns BHP Billiton is facing a £30bn for the environmental detriment it has caused.
- For two decades, BHP Billiton were known to have slowly damage the environment surrounding its Ok Tedi mine in Papua New Guinea. Their extraction activities had resulted in damaged waterways and impacted livelihoods of thousands.
- The company has been known for lobbying against carbon pricing in Australia.
- A 2011 report by the London Mining Network and other groups highlighted environmental problems relating to BHP's coal mining and extraction on Indonesian islands, and coal and uranium mining in Australia.
- BHP Billiton is one of the 90 listed countries that are responsible for two-thirds of the total greenhouse emissions since 1751, making it the 19th largest corporate polluter.

BHP's primary field of operation being heavy mining and extractions, it is bound to have major implications upon the environment. For instance, its recently approved plan for the expansion of operations on its Olympic Dam uranium mine has been predicted to be capable of causing a catastrophe in the ecology. It is said to bring a manifold increase the production of radio-active tailing wastes, which will result in spills, leaks and a surge in the number of bird deaths.

A multinational corporation that disregards its social responsibilities would also bring a polar shift in the behavior of the people: customers and employees alike. It would result in the reduction of the goodwill of the organization, and investors would be less likely to engage with the company. It would also result in higher inconsistencies by the employees of the company, which would lead to undue pressure at work, lack of motivation, and internal conflict in the organization. This would lead to reduction in the workplace harmony and an increase in the employee turnover of the company. Hence, in order to minimize the environmental damage it can potentially cause, it is paramount for BHP Billiton to operate in an ethical manner and comply to the ISO 14001 to frame its production plans after incorporating the Environmental Management System.

The ISO 14001 does not merely state the requirements and standards for environmental performance, but provides for a comprehensive framework that a company can follow to set up an effective EMS. The companies are meant to set performance targets for themselves, while the standards help in meeting these targets and monitor them regularly. It can also be integrated with other administrative and managerial functions of the company, through which BHP can not only meet its environmental targets, but also its economic goals. BHP must institute an EMS, in order to improve resource efficiency, reduce the detriment it causes, which would consequently result in the reduction of its costs. With the aid of the ISO 14001, BHP can provide assurance to its employees, clients, investors and stakeholders that it can improve the quality of its environmental impact.

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